

IMPORTANT

1. The Guidelines applies to all ordinary elections and by-elections of the Election Committee subsectors to be held after publication, subject to any subsequent revisions.
2. In the Guidelines, “he” means “he” or “she” as far as the context permits.
3. The law stated in the Guidelines is that prevailing as at the date of publication (unless otherwise specified).
4. All specified forms referred to in the Guidelines are obtainable from the Registration and Electoral Office. You may contact the office by phone (2891 1001), fax (2891 1180), or e-mail (reoenq@reo.gov.hk), or visit its website at www.reo.gov.hk.
5. Electioneering, campaigning and canvassing activities referred to in the Guidelines include any positive and negative campaigning conducted for the purpose of promoting or prejudicing the election of a candidate or candidates at the election.
6. In the event that future amendments to the Guidelines are necessary, the updated Guidelines will be uploaded to the website of the Electoral Affairs Commission (www.eac.hk).

11 June 2026

Message from the Chairman

The Proposed Guidelines on Election-related Activities in respect of the Election Committee Subsector Elections for Public Consultation

The 2026 Election Committee Subsector (“ECSS”) Ordinary Elections will be held in the end of 2026. The Electoral Affairs Commission (“EAC”) is empowered under section 6(1)(a) of the Electoral Affairs Commission Ordinance (“EACO”) (Cap. 541) to issue guidelines to facilitate the conduct or supervision of an election. These guidelines aim to explain in simple language the provisions under current electoral legislation with a view to reminding candidates and other relevant persons of the regulations and requirements of the electoral legislation; and to promulgate a code of conduct based on the fair and equal treatment principles in respect of election-related activities which are not covered by the legislation.

The EAC has at all times made its best endeavours to refine and improve the electoral arrangements for public elections. To this end, the EAC has drawn up a new set of the proposed guidelines for the 2026 ECSS Ordinary Elections and all subsequent ECSS by-elections that may be held. Based on the existing guidelines for the ECSS elections (July 2021 edition), the proposed guidelines were prepared by incorporating appropriate amendments with reference to the relevant guidelines and supplementary information issued by the EAC for 2025 ECSS By-elections and 2025 Legislative Council General Election. The amendments mainly include:

- (a) amendments to the subsidiary legislation under the EACO and other legislation in relation to electoral matters, including:
 - (i) in accordance with the amendments made to section 4 of the Schedule to the Chief Executive Election Ordinance (Cap. 569)

and section 24 of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B), updating the criterion for the Electoral Registration Officer to compile and publish a provisional register of members of the Election Committee (“EC”) (para. 2.11);

- (ii) in accordance with the Safeguarding National Security Ordinance which came into effect on 23 March 2024, adding “has been convicted of an offence endangering national security” as a ground for disqualifying a person from being registered as an ex-officio member/being nominated as a candidate at the ECSS election(s)/being a nominee and from being elected as a member of the EC (paras. 3.11(b) and 4.4(d)), and adding a prohibition that election mails sent by free postage service should not contain anything which would constitute an offence endangering national security (para. 8.59(g));
 - (iii) in accordance with the amendments made to Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541I), updating the purpose of the ballot paper account prepared by the Presiding Officers (para. 5.49), and updating the arrangement of ballot counting by the Returning Officers (“ROs”) (para. 5.54); and
 - (iv) in accordance with the amendment made to section 13B of the Independent Commission Against Corruption Ordinance (Cap. 204), updating the penalty for false reporting from \$20,000 to \$25,000 (para. 20.18).
- (b) new or enhanced election-related arrangements, including:

- (i) voters/authorised representatives (“ARs”) can check their latest registration particulars via “iAM Smart” (para. 3.29);
- (ii) candidates can pay the election deposit through the Faster Payment System (para. 4.27);
- (iii) candidates can submit information for the Introduction to Candidates by electronic means and use the electronic version of the input form (paras. 4.45 and 4.46);
- (iv) voters/ARs may access the Online Voter Information Enquiry System (www.voterinfo.gov.hk) via “iAM Smart” to check their allocated polling stations and relevant polling information (para. 5.11);
- (v) if there is a ballot paper checking machine in the polling station, voters/ARs may choose to use the ballot paper checking machine to check whether the ballot paper was marked in accordance with the relevant electoral law (para. 5.33);
- (vi) the EAC could, depending on the circumstances, decide whether the votes of a subsector would be counted by an electronic counting system or manually, and the related procedures (para. 5.53);
- (vii) revising the deadline for candidates to upload or submit the relevant documents and information for public inspection after the publication of election advertisements (“EAs”) (paras. 8.2, 8.39 and Appendix 4);
- (viii) revising the deadline for ROs to allocate the designated spots for EAs (para. 8.26);
- (ix) to protect the personal data privacy of the voters/ARs, candidates must sign the “Undertaking on Proper Use of Voters’

Information”, undertaking that the relevant personal data will be used solely for the relevant electioneering activities of the election, and all relevant personal data will be properly safeguarded and duly destroyed after the election (para. 9.16); and

- (x) to handle complaints more effectively, adding a recommendation to complainants on using the designated complaint form on the EAC website (para. 20.7).
- (c) further elaborating the contents of the guidelines to enable candidates and relevant persons to more easily grasp the areas which they should pay attention to, including:
- (i) stating that the joint election mails arrangement does not apply to subsector(s) with only one vacancy (para. 8.57);
 - (ii) adding “Frequently Asked Questions and Answers for Completing the Return and Declaration of Election Expenses and Election Donations (“election return”)” to facilitate candidates to understand the requirements for completing election returns (Appendix 15); and
 - (iii) adding a court case to reiterate to candidates that the court shall impose severe penalties on persons who commit corrupt or illegal conduct at an election, to safeguard the fairness and impartiality of the election (para. 17.24).
- (d) reorganising where appropriate the structure and content of all chapters and appendices by removing obsolete or repetitive content, explaining the relevant electoral arrangements in the form of lists and flowcharts, consolidating the content of the chapters, etc., with a view to making the content more concise and easier to comprehend and thereby enhancing the public’s reading experience.

Before finalising and publishing the guidelines, we shall, in accordance with section 6(2) of the EACO, consult the public on the proposed guidelines from **11 June to 10 July 2026** (both dates inclusive). At this stage, the EAC has not made any decision with respect to the issues addressed in the proposed guidelines (except for those under the requirements of the relevant legislation). The EAC will make a final decision in the light of the responses received in this public consultation.

During the consultation period, members of the public may submit written representations on the proposed guidelines. Written representations could be sent to the EAC Secretariat at 8/F, Treasury Building, 3 Tonkin Street West, Cheung Sha Wan, Kowloon by post, by facsimile transmission (fax no.: 2511 1682) or email (eacenq@eac.hk). For written representations submitted by post, **the postmark date will be taken as the submission date. Late submissions will not be considered.** For enquiries, please call 2891 1001.

The EAC has always made its best endeavours to ensure that all public elections are held in an open, honest and fair manner. Formulating electoral guidelines plays an important role in the conduct of the 2026 ECSS Ordinary Elections. The EAC wishes members of the public could actively participate.

All written representations will be treated as open information for public perusal unless otherwise specified. If you wish to keep your name or views confidential, please indicate so clearly in your representations.

Yours faithfully,



(David Lok)

Chairman

Electoral Affairs Commission

ABBREVIATIONS

AR, ARs	authorised representative, authorised representatives
ARO, AROs	Assistant Returning Officer, Assistant Returning Officers
Association	Friends of Hong Kong Association Limited
Basic Law	Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China
Candidate's Platform	an open platform maintained by the candidate(s) or a person authorised by the candidate(s)
CAS	Civil Aid Service
CE	Chief Executive
CEEO	Chief Executive Election Ordinance (Cap. 569)
Central Platform	an open platform maintained by the Chief Electoral Officer or a person authorised by the Chief Electoral Officer
CEO	Chief Electoral Officer
CERC	Candidate Eligibility Review Committee
CMLS	Candidate Mailing Label System
CFI	Court of First Instance
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
DC	District Council

EA, EAs	election advertisement, election advertisements
EAC	Electoral Affairs Commission
EAC (EP) (EC) Reg	Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541I)
EAC (NAC) (EC) Reg	Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) Regulation (Cap. 541H)
EAC (ROE) (FCSEC) Reg	Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B)
EACO	Electoral Affairs Commission Ordinance (Cap. 541)
EC	Election Committee
EC (Appeals) Reg	Election Committee (Appeals) Regulation (Cap. 569A)
EC Subscribers & Deposit Reg	Election Committee (Subscribers and Election Deposit for Nomination) Regulation (Cap. 569C)
ECICO	Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554)
election return	return and declaration of election expenses and election donations
EPR	Electronic Poll Register
ERO	Electoral Registration Officer
FPS	Faster Payment System
FR	final register
GC	geographical constituency

HKID	Hong Kong Identity Card
HKPF	Hong Kong Police Force
HKSAR	Hong Kong Special Administrative Region
Hong Kong National Security Law	Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region
HYK	Heung Yee Kuk
ICAC	Independent Commission Against Corruption
IR	interim register
LCO	Legislative Council Ordinance (Cap. 542)
LegCo	Legislative Council
members to be elected	members of the Election Committee being elected by eligible corporate voters or individual voters in the subsectors
members to be nominated	members of the Election Committee being nominated by the designated bodies of the subsectors
NAC, NACs	Nominations Advisory Committee, Nominations Advisory Committees
National Security Committee	Committee for Safeguarding National Security of the Hong Kong Special Administrative Region
NCZ, NCZs	no canvassing zone, no canvassing zones
NPC deputy, NPC deputies	Hong Kong Special Administrative Region deputy to the National People's Congress, Hong Kong Special Administrative Region deputies to the National People's Congress
NSZ, NSZs	no staying zone, no staying zones

OL	omissions list
OVIES	Online Voter Information Enquiry System
PD(P)O	Personal Data (Privacy) Ordinance (Cap. 486)
PHMSO	Public Health and Municipal Services Ordinance (Cap. 132)
PLBs	public light buses
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
TD	Transport Department

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PROLOGUE

ROLE OF THE ELECTORAL AFFAIRS COMMISSION AND THE GUIDELINES ON ELECTION-RELATED ACTIVITIES

1. Under the Electoral Affairs Commission Ordinance (Cap. 541) (“EACO”), the Electoral Affairs Commission (“EAC”) is an independent, impartial 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, honesty and fairness. Although the EAC is responsible for making the subsidiary legislation on electoral procedures, the guidelines on election-related activities, and the related practical arrangements, it is not part of the government structure. 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 of the 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 shall not act beyond the power conferred by the primary legislation. Where necessary, the EAC would provide its advice from practical and operational points of view for reference of the Government.

3. The EAC is empowered by the law to issue guidelines on election-related activities. The guidelines on election-related activities 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. The EAC is not a court of law. It has no authority to make judicial interpretation for disputed legal provisions; and (2) with regard to the election-related activities not stipulated by the law, to promulgate a code of conduct based on the principles of fairness and equality.

Legislation Aspect

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

5. In order to ensure the fairness of an election, safeguarding the autonomy and secrecy of voting are the most important principles of the electoral law. The voters 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 voters 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 a voter to disclose his voting preference. In any case, the voting choice must ultimately

be made by the voter voluntarily and under the protection of secrecy. Nevertheless, voters may well discuss among themselves their voting preference, but in no case should any corrupt or illegal conduct be involved.

6. Nomination of candidates is an important part of an election. According to Annex I 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 members of the Election Committee ("EC") (for details of the CERC, see Part VI of Chapter 4). 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 ("National Security Committee"). The National Security Committee shall, on the basis of the review status by the department for safeguarding national security of the Hong Kong Police Force ("HKPF"), make findings regarding candidates' compliance with the legal requirements and conditions of "upholding the Basic Law and swearing 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 Hong Kong Special Administrative Region ("Hong Kong National Security Law"), no institution, organisation or individual in the Region shall interfere with the work of the National Security Committee. Information relating to the work of the National Security Committee shall not be subject to disclosure. As stipulated in Annex I 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 National Security Committee.

7. Whether the nomination of a candidate/nominee 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 list of validly nominated candidates determined by the CERC.

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 within a reasonable level of expenditures. According to the law, election expenses mean the expenses in promoting or prejudicing the election of a candidate, whereas candidate is defined as 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 issue 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 a return and declaration of election expenses and election donations (“election return”) after the election to rigorously declare all the election expenses incurred by him; otherwise, he commits an offence.

9. For the effective sanction of the maximum 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, with regard to the opinions published on the Internet, even though they are to promote or prejudice the election of a candidate and amount to election advertisements (“EAs”), if the publisher is a third party (i.e. neither

the candidate nor the election expense agents) and the only expenses incurred are electricity charges and/or charges for accessing the Internet, he is exempted from the relevant criminal liability. However, if the publisher is a candidate or his election expense agent, the exemption does not apply. Candidates should declare election expenses in their election returns, including election expenses incurred in relation to the Internet and all other media.

10. EAs have always been an important part of election expenses, and therefore the publication of EAs should be regulated 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. Therefore, when determining whether certain statements are EAs and whether election expenses are involved, the overall circumstances and evidence must be taken into consideration, including the nature of those statements, the expenses involved and the intention of promoting or prejudicing the election of any candidate.

11. As the EAC is not a law enforcement agency, if a complaint involves any offence, the EAC will refer it to the law enforcement agencies for follow-up and investigation. Any disputes 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 how to comply with the electoral law. However, the EAC is not the legal advisor for candidates. Any person who has any questions on any particular matter should seek independent legal advice.

Code of Conduct

13. Apart from the electoral law mentioned, the EAC has established a code of conduct in the guidelines based on the principles of fairness and

equality. However, the code of conduct set out by the EAC is not legally binding. Any breaches of the code of conduct will not constitute a legal offence. However, where necessary, the EAC may issue a public reprimand or censure in order to inform the voters and the general public of important matters that have occurred during the elections. An important application of the principles 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 and owners' corporations should observe the principles 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 organisations mentioned under (c) of this paragraph should handle applications from the candidates fairly and equally. If an organisation allows a particular candidate to conduct electioneering activities in the common parts of the buildings under its management, it should apply the same standard to allow other candidate(s) in the same subsector election to conduct electioneering activities in the common parts of building under its management

(if other candidate(s) make(s) the same request). On the contrary, if an organisation rejects an application from a candidate, the same applications (if any) from other candidate(s) in the same subsector election should also be rejected. However, this principle does not apply to election-related activities and EAs concerning private properties.

14. It is noteworthy that Hong Kong is a pluralistic society with different sectors of people who may have different pursuits. There are often conflicting views on whether a particular matter is fair or not. Achieving absolute fairness is ideal but not always feasible. The bottom line is to guard against serious and critical unfairness.

15. The EAC will solemnly handle complaints against any breach of the principles of fairness and equality as set out in the electoral guidelines. However, investigation must be based on factual evidence and be in accordance with the principle of procedural justice. Therefore, the parties concerned must be given the opportunity to make representations in defence, and the EAC will make a decision after duly taking into account all relevant circumstances. If the conduct does not contravene any law, when considering whether the conduct concerned is unfair, the EAC would not make a judgement recklessly without careful consideration of all relevant matters and circumstances. Furthermore, while complaints are often made shortly before the polling day, the EAC would not 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 would, where necessary, issue a public reprimand or censure in order to inform the voters and the general public of important matters that have occurred during the elections. The EAC would 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. Voters 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. Therefore, 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 code of conduct and good practices provided in the guidelines on election-related activities in order to ensure that the elections are conducted in an open, honest and fair 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 the elections can be conducted smoothly in a fair and equal manner.

CHAPTER 1

INTRODUCTION

PART I : THE ELECTION COMMITTEE AND THE SUBSECTOR ELECTIONS

1.1 According to Annex I and Annex II to the Basic Law, the EC shall be composed of 1 500 members, who shall be responsible for nominating candidates for the Chief Executive (“CE”) election and electing the CE designate, as well as returning 40 Legislative Council (“LegCo”) members and nominating candidates for the LegCo election. After the CE is elected by the EC, he will be appointed by the Central People’s Government. [S 7 of the Chief Executive Election Ordinance (Cap. 569) (“CEEEO”)]

1.2 Members of the EC must be Hong Kong permanent residents. The EC has 5 sectors, each comprising a number of subsectors (40 subsectors in total). The members of the EC would be returned by the following three methods: ex-officio members, members of the Election Committee being nominated by the designated bodies of the subsectors (“members to be nominated”) and members of the Election Committee being elected by eligible corporate voters or individual voters in the subsectors (“members to be elected”). For details of the composition of the EC, see Chapter 2.

1.3 Annex I to the Basic Law stipulates that the term of office of the EC is five years. The EC shall be constituted on 1 February in the year in which the term of office of the CE is to expire. [S 9 of the CEEEO]

1.4 According to the circumstances stipulated by the law, before a CE by-election or a new term of the LegCo General Election is held, if there are vacancies among the members of the EC, a subsector by-election and/or supplementary nomination will be held to fill vacancies in the membership of the relevant subsector. [S 6 of the CEEO and ss 4 and 5 of the Schedule to the CEEO]

PART II : GOVERNING LEGISLATION

1.5 The following ordinances govern the EC subsector elections and matters related to nominations of the designated subsectors:

- (a) the CEEO provides for the constitution, membership and term of office of the EC, the establishment of the CERC, registration of voters, conduct of subsector elections, election appeals and other related matters;
- (b) under the EACO, the EAC is responsible for the conduct and supervision of EC subsector elections and matters incidental thereto; and
- (c) the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) (“ECICO”) provides for prohibition of election-related corrupt and illegal conduct, and is administered by the Independent Commission Against Corruption (“ICAC”).

1.6 In addition, the following subsidiary legislation provides the detailed procedures for the conduct of the EC subsector elections:

- (a) the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541I) (“EAC (EP) (EC) Reg”) sets out the electoral procedures for conducting EC subsector elections, the procedures for nominating members of the EC by the designated bodies, and the registration procedures of ex-officio members of the EC;
- (b) 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”) governs the registration of voters for the EC subsectors;
- (c) the Election Committee (Registration) (Voters for Subsectors) (Members of Election Committee) (Appeals) Regulation (Cap. 569B) sets out the procedures for hearing and ruling by Revising Officers¹ concerning the registration of voters for the EC subsectors;
- (d) the Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) Regulation (Cap. 541H) (“EAC (NAC) (EC) Reg”) stipulates the appointment and functions of the Nominations Advisory Committees (“NACs”) and the procedures for seeking the NAC’s advice on the eligibility of the prospective candidates/prospective nominees/designated bodies for nomination for the EC subsector elections;

¹ The Revising Officer may be any magistrate, former magistrate, retired magistrate, or any legal officer as defined by s 2 of the Legal Officers Ordinance (Cap. 87) appointed by the Chief Justice. [S 46 of the Schedule to the CEEO]

- (e) the Election Committee (Subscribers and Election Deposit for Nomination) Regulation (Cap. 569C) (“EC Subscribers & Deposit Reg”) sets out the requirements for subscribers, and the payment and return of election deposit for the EC subsector elections;
- (f) the Election Committee (Appeals) Regulation (Cap. 569A) (“EC (Appeals) Reg”) sets out the procedures for appeal against the results of EC subsector elections to the Revising Officer, and for appeal in relation to the declaration and registration of nominees as members of the EC and the registration of ex-officio members as members of the EC; and
- (g) the Maximum Scale of Election Expenses (Election Committee) Order (Cap. 554I) sets out the maximum scale of election expenses that may be incurred by or on behalf of a candidate for an EC subsector election.

PART III : THE GUIDELINES

1.7 The EAC is empowered by the legislation to issue guidelines on the following matters related to an election:

- (a) the conduct, supervision of, or procedure at an election;
- (b) the activities, in connection with an election, 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 in connection with an election; and
- (e) the procedure for making a complaint.

[S 6 of the EACO]

1.8 The aims of the Guidelines are: (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 establish standard of good practices as regulations. 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 elections are conducted in an open, honest and fair manner.

1.9 The Guidelines apply to EC subsector ordinary elections and by-elections. For the 2026 EC Subsectors Ordinary Election, candidates should also refer to the “Action Checklist for Candidates” issued by the REO, see **Appendix 1**.

1.10 In the context of the Guidelines, the term “election” means an ordinary election or a by-election, as appropriate.

PART IV : SANCTION

1.11 Voters/authorised representatives (“ARs”) of the EC subsectors, candidates and their agents, government officials engaging in election-related

duties, and other persons involved in election-related activities should strictly observe the Guidelines.

1.12 If the EAC comes to know that a candidate or a person has breached the Guidelines, in addition to notifying the relevant authorities for action, the EAC might issue a **reprimand** or **censure** in a public statement and publish the name of the candidate and/or the person concerned in the public statement. Should the candidate and/or the person concerned breach the electoral law, he shall incur related criminal liability accordingly.

CHAPTER 2

COMPOSITION OF THE ELECTION COMMITTEE

PART I : THE SECTORS AND SUBSECTORS

Composition of the Election Committee

2.1 The EC is composed of 1 500 members from 5 sectors, with 40 subsectors in total.

2.2 The five sectors are as follows:

- (a) First Sector: Industrial, commercial and financial sectors;
- (b) Second Sector: The professions;
- (c) Third Sector: Grassroots, labour, religious and other sectors;
- (d) Fourth Sector: Members of the LegCo, representatives of district organisations and other organisations; and
- (e) Fifth Sector: Hong Kong Special Administrative Region deputies to the National People's Congress (“NPC deputies”), Hong Kong Special Administrative Region members of the National Committee of the Chinese People's Political Consultative Conference (“CPPCC members”), and representatives of Hong Kong members of relevant national organisations.

The subsectors under the five sectors are as follows:

Sector	Subsector
<p>First Sector: Industrial, commercial and financial sectors (18 subsectors with 300 seats)</p>	<ul style="list-style-type: none"> (i) Catering (ii) Commercial (first) (iii) Commercial (second) (iv) Commercial (third) (v) Employers' Federation of Hong Kong (vi) Finance (vii) Financial services (viii) Hotel (ix) Import and export (x) Industrial (first) (xi) Industrial (second) (xii) Insurance (xiii) Real estate and construction (xiv) Small and medium enterprises (xv) Textiles and garment (xvi) Tourism (xvii) Transport (xviii) Wholesale and retail
<p>Second Sector: The professions (10 subsectors with 300 seats)</p>	<ul style="list-style-type: none"> (i) Accountancy (ii) Architectural, surveying, planning and landscape (iii) Chinese medicine (iv) Education (v) Engineering (vi) Legal (vii) Medical and health services (viii) Social welfare (ix) Sports, performing arts, culture and publication (x) Technology and innovation
<p>Third Sector: Grassroots, labour, religious and other sectors (5 subsectors with 300 seats)</p>	<ul style="list-style-type: none"> (i) Agriculture and fisheries (ii) Associations of Chinese fellow townsmen (iii) Grassroots associations (iv) Labour (v) Religious

Sector	Subsector
Fourth Sector: Members of the LegCo, representatives of district organisations and other organisations (5 subsectors with 300 seats)	(i) Members of the LegCo (ii) Heung Yee Kuk (“HYK”) (iii) Representatives of associations of Hong Kong residents in the Mainland (iv) Representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of Hong Kong and Kowloon (v) Representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of the New Territories
Fifth Sector: NPC deputies, CPPCC members, and representatives of Hong Kong members of relevant national organisations (2 subsectors with 300 seats)	(i) NPC deputies and CPPCC members (ii) Representatives of Hong Kong members of relevant national organisations

[S 2 of the Schedule to the CEEO]

Method for Returning Members of the Election Committee

2.3 Members of the EC are returned by three methods, namely ex-officio members, members to be nominated and members to be elected.

The details are as follows:

(a) Ex-officio members

The subsectors with ex-officio members and their respective numbers are as follows:

Subsectors	Number of Ex-officio Members
Engineering	15
Architectural, surveying, planning and landscape	15
Legal	6
Education	16
Medical and health services	15
Social welfare	15
Members of the LegCo	90
NPC deputies and CPPCC members	190 ²
Total	362³

(b) Members to be nominated

The subsectors with members returned by nomination by designated bodies and their respective numbers are as follows:

Subsectors	Number of Members to be Nominated
Technology and innovation	15
Accountancy	15
Legal	9
Sports, performing arts, culture and publication	15

² If the total number of NPC deputies or CPPCC members who are eligible to be registered as ex-officio members exceeds 190, an NPC deputy or CPPCC member may be registered as an ex-officio member of a subsector other than the NPC deputies and CPPCC members subsector with which he has a substantial connection (excluding the members of the LegCo subsector, the religious subsector and the representatives of associations of Hong Kong residents in the Mainland subsector) in accordance with s 5I(4) of the Schedule to the CEEO. In such case, the number of seats of ex-officio members of that subsector will be increased while the number of seats to be returned by election will be reduced accordingly. Within the same term of office of the EC, the number of ex-officio members and members to be returned by nomination or election for each subsector shall remain unchanged. Regarding the number of members to be returned by election for each subsector in the EC subsector ordinary elections, the notice published in the Gazette by the CEO under s 4(3) of the EAC (EP) (EC) Reg shall prevail.

³ See footnote 2.

Subsectors	Number of Members to be Nominated
Chinese medicine	15
Religious	60
Representatives of associations of Hong Kong residents in the Mainland	27
Total	156

(c) Members to be elected

Apart from ex-officio members and members to be nominated as mentioned in (a) and (b) of this paragraph, the remaining members of the EC are returned through election by eligible corporate voters or individual voters in the relevant subsectors (a maximum of 982 seats⁴).

2.4 See **Appendix 2** for the methods for returning members and the composition of each subsector.

PART II : COMPILATION OF INTERIM REGISTER OF MEMBERS OF THE ELECTION COMMITTEE AND FINAL REGISTER OF MEMBERS OF THE ELECTION COMMITTEE AFTER THE CONDUCT OF SUBSECTOR ORDINARY ELECTIONS

2.5 Before the expiry of the five-year term of office of the CE, ordinary elections for the subsectors and subsector nominations must be conducted by the EAC to constitute the EC of a new term, which will then elect the CE of a new term. If the subsector ordinary elections for all subsectors are

⁴ See footnote 2.

held on the same day, an interim register (“IR”) of members of the EC for a new term shall be compiled and published within seven days after the results of the EC subsector ordinary elections are published. If the subsector ordinary elections for different subsectors are held on different days, the relevant parts of an IR of members of the EC shall be compiled and published within seven days after the results of the relevant elections are published. An IR of members of the EC shall include the particulars of the following persons:

- (a) persons who have been registered as ex-officio members;
- (b) nominees who have been declared validly nominated as members of the EC; and
- (c) persons who have been declared as duly elected for a subsector.

[S 40 of the Schedule to the CEEO and s 37(1) of the EAC (ROE) (FCSEC) Reg]

2.6 After the publication of the IR of members of the EC, the member-elect must submit the signed written oath to the Electoral Registration Officer (“ERO”) seven days before the date of publication of the final register (“FR”) of members of the EC for that term of office; otherwise, the ERO cannot include the name of that member-elect in the FR of members of the EC for that term of office. [S 42A of the Schedule to the CEEO]

2.7 The ERO shall compile an FR of members of the EC for a new term on the basis of the IR of members of the EC, incorporating any amendments made, and publish the FR of members of the EC for a new term on the date on which the EC of a new term is constituted (i.e. 1 February in the year in which the term of office of the CE is to expire). The FR of members

of the EC for the current term will still have effect upon publication of the IR of members of the EC⁵, but shall cease to have effect on the publication of the next FR of members of the EC. [S 9 of the CEEO and ss 40 and 43 of the Schedule to the CEEO]

2.8 The ERO will make available a copy of the IR of members of the EC or FR of members of the EC for inspection by specified persons (see **Appendix 3**) at the offices of the REO during ordinary business hours. The time and place for inspection of the copy of the IR of members of the EC and FR of members of the EC will be published in the Gazette and newspapers, and the publication of the notice is to be treated as the publication of the IR of members of the EC or FR of members of the EC. Upon request by a person imprisoned or held in custody by a law enforcement agency, the ERO may make available, at a penal institution or premise of a law enforcement agency, a copy of the IR of members of the EC and FR of members of the EC for his inspection if the ERO considers it appropriate to do so. The ERO may require a person who wishes to inspect the copy of the IR of members of the EC and/or FR of members of the EC to produce his identity document and complete a form furnished by the ERO. [S 39(1), (2), (3), (4), (4A) and (5) of the EAC (ROE) (FCSEC) Reg]

2.9 The ERO may from time to time amend the IR of members of the EC or FR of members of the EC to reflect changes in the ex-officio membership of the EC by publishing a notice listing the names so added or removed. [Ss 41, 42A and 43A of the Schedule to the CEEO]

2.10 A person will be regarded as having resigned from the membership of the EC under the following circumstances:

⁵ The current-term EC was constituted on 22 October 2021, and its term of office will end on 21 October 2026.

- (a) if a person is registered as an ex-officio member by virtue of holding a specified office of a subsector (i.e. “specified person”), and that person ceases to hold the specified office;
- (b) if a person is designated to register as an ex-officio member to substitute a specified person, and that specified person ceases to hold the specified office concerned;
- (c) if a person is designated to register as an ex-officio member to substitute a specified person not eligible to be so registered, and that specified person ceases to hold the specified office concerned; or
- (d) if a person is registered as an ex-officio member, and then ceases to hold an office in the relevant body, or ceases to hold the office of Council Chairman or the office of Chairman of the Board of Governors.

(Unless the cessation is due to the expiry of the person’s term of office and he holds the specified office again immediately after the cessation.)

[S 3(1), (1AA), (1AAB) and (1AAC) of the Schedule to the CEEO]

PART III : COMPILATION OF PROVISIONAL REGISTER OF MEMBERS OF THE ELECTION COMMITTEE AND FINAL REGISTER OF MEMBERS OF THE ELECTION COMMITTEE FOR SUBSECTOR BY-ELECTIONS

Provisional Register of Members of the Election Committee and Omissions

List

2.11 The ERO must compile and publish a provisional register (“PR”) of members of the EC within the stipulated period under the following circumstances:

- (a) within 14 days from the date of the vacancy when a vacancy arises in the office of the CE otherwise than due to the expiry of the term of office; or
- (b) within the period from 210 days to 165 days before the end of the current term of office of the LegCo. (The relevant arrangement is not applicable to LegCo by-elections)

However, if the date on which the EC was constituted or the date on which the PR of members of the EC for the previous subsector by-election was published is not more than 12 months from the first day of the period as mentioned in (a) and (b) of this paragraph, the compilation and publication of a PR of members of the EC is not required. In compiling the PR of members of the EC, the ERO shall scrutinise the existing FR of members of the EC, and strike out the names and other relevant particulars of the members of the EC (other than ex-officio members) whom the ERO is satisfied on reasonable grounds as being

dead, having resigned or being deemed to have resigned from the EC⁶, or having ceased to be eligible to be registered or having been disqualified from being registered under the Legislative Council Ordinance (Cap. 542) (“LCO”) as an elector for a geographical constituency (“GC”) on the date of the making of the CE vacancy declaration or on the date that is 14 days before the date of notice in the Gazette of publication of the PR of members of the EC (whichever is earlier). Those names and other relevant particulars of members excluded from the PR of members of the EC will be entered on an omissions list (“OL”).

[S 4(1), (2), (3), (4)(a) and (b) of the Schedule to the CEEO, and s 24(3A) of the EAC (ROE) (FCSEC) Reg]

2.12 The ERO will make available a copy of the PR of members of the EC and that OL for inspection by specified persons (see **Appendix 3**) at the offices of the REO during ordinary business hours for a period of seven days. The time and place for inspection of the copy of the PR of members of the EC and OL will be published in the Gazette and newspapers, and the publication of

⁶ (a) A member of the EC (other than an ex-officio member) is deemed to have resigned from the membership as a non ex-officio member if he is concurrently registered as an ex-officio member of the EC. [S 3(2) of the Schedule to the CEEO]

(b) If a member of the EC representing the HYK subsector; representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of Hong Kong and Kowloon subsector or representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of the New Territories subsector ceases to be the Chairman, Vice-chairman or a Councillor of the Full Council of the HYK, or ceases to be a member of the relevant Area Committees, District Fight Crime Committees, and District Fire Safety Committees, then he is deemed to have resigned from the membership of the EC, unless the cessation is due to the expiry of his term of office in the representing body and he holds the relevant office again for the new term immediately after the cessation. [S 3(1A), (1B) and (1C) of the Schedule to the CEEO]

(c) If a member of the EC representing the education subsector, accountancy subsector, Chinese medicine subsector, legal subsector or technology and innovation subsector ceases to hold the office in the relevant body, or ceases to be the Council Chairman or Chairman of the Board of Governors of the relevant body, a Hong Kong Accounting Advisor appointed by the Ministry of Finance of the People’s Republic of China, a Hong Kong member of the Council of the World Federation of Chinese Medicine Societies, a Hong Kong member of the Council of the China Law Society, or a Hong Kong academician of the Chinese Academy of Sciences or the Chinese Academy of Engineering, then he is deemed to have resigned from the membership of the EC, unless the cessation is due to the expiry of his term of membership or office in the representing body and he holds the relevant office again or continues to be that member for the new term immediately after the cessation. [S 3(1), (1AAC), (1AAD), (1AAE), (1AAF) and (1AAG) of the Schedule to the CEEO]

the notice is to be treated as the publication of the PR of members of the EC. Upon request by a person imprisoned or held in custody by a law enforcement agency, the ERO may make available, at a penal institution or premise of a law enforcement agency, a copy of the PR of members of the EC and OL for his inspection if the ERO considers it appropriate to do so. The ERO may require a person who wishes to inspect the copy of the PR of members of the EC and/or OL to produce his identity document and complete a form furnished by the ERO. [S 4(5) of the Schedule to the CEEO and ss 25(1), (2), (4), (5), (6), 29(1), (1A), (2), (3), (4), (5) and (7) of the EAC (ROE) (FCSEC) Reg]

Appeal – Claims and Objections

2.13 On or before the last day of the specified period for inspection of the PR of members of the EC and OL, any person may use the specified form to lodge in person with the ERO a notice of objection in respect of the entries on the PR of members of the EC; and any person whose name and other relevant particulars have been included in the OL may use the specified form to lodge in person⁷ with the ERO a notice of claim in respect of the omission of his name. [S 48 of the Schedule to the CEEO and ss 30 and 31 of the EAC (ROE) (FCSEC) Reg]

Final Register of Members of the Election Committee

2.14 Based on the PR of members of the EC published, the EAC will ascertain the number of members for each subsector of the EC (other than the ex-officio members), so as to identify any shortfall in the number of members representing a particular subsector as compared to the number of members allocated to that subsector. If any vacancy is identified in the membership of a

⁷ To facilitate a person who is imprisoned or held in custody by a law enforcement agency to lodge a claim or objection, the person concerned may send a notice of claim/objection to the ERO by post. [Ss 30(2A) and 31(8A) of the EAC (ROE) (FCSEC) Reg]

subsector, a supplementary nomination and/or a subsector by-election must be arranged to fill such vacancy or vacancies. [S 5 of the Schedule to the CEEO]

2.15 **Within seven days after the publication of the result of a subsector by-election, the ERO shall compile and publish the FR of members of the EC for the current term.** For supplementary nominations, the ERO shall compile and publish the FR of members of the EC within seven days after a nominee is declared as a member of the EC, unless the period during which the nomination is to be made and the nomination period for a subsector by-election coincide or partly coincide. The ERO will make available a copy of the FR of members of the EC for inspection by specified persons (see **Appendix 3**) at the offices of the REO during ordinary business hours. The FR of members of the EC shall include:

- (a) changes (if any) in the membership of the EC (see para. 2.9 of this chapter); and
- (b) new members returned by the supplementary nomination and/or subsector by-election (see para. 2.14 of this chapter).

The time and place for inspection of the copy of the FR of members of the EC will be published in the Gazette and newspapers, and the publication of the notice is to be treated as the publication of the FR of members of the EC. Upon request by a person imprisoned or held in custody by a law enforcement agency, the ERO may make available, at a penal institution or premise of a law enforcement agency, a copy of the FR of members of the EC for his inspection if the ERO considers it appropriate to do so. The ERO may require a person who wishes to inspect the copy of the FR of members of the EC to produce his identity document and complete a form furnished by the ERO. [S 40(2) and (3) of the Schedule to the CEEO, and s 39(1), (2), (3), (4), (4A) and (5) of the EAC (ROE) (FCSEC) Reg]

CHAPTER 3

REGISTRATION OF ELECTION COMMITTEE EX-OFFICIO MEMBERS AND VOTERS, AND VOTING SYSTEM

PART I : GENERAL

3.1 Only registered voters whose names are contained in the subsector FR of voters may vote at the EC subsector elections. Registered voters/ARs may check their registration particulars at any time via “iAM Smart” or the Online Voter Information Enquiry System (“OVIES”) (www.voterinfo.gov.hk). The FR of voters is updated in every voter registration cycle. For a subsector PR of voters and a FR of voters to be compiled and published in a year in which a LegCo General Election is held, the ERO may, by notice published in the Gazette, specify an earlier date in the year by which the said registers must be so compiled and published. [S 14(1AB) of the Schedule to the CEEO]

PART II : REGISTRATION OF EX-OFFICIO MEMBERS

3.2 As mentioned in para. 1.2 of Chapter 1, part of the members of the EC are returned by ex-officio membership, and are not subject to election or nomination. Ex-officio members must submit the specified form⁸ to the ERO for registration, and the validity of the relevant registration will be

⁸ The application forms for “Application by the NPC Deputy and CPPCC Member for New Registration as Ex-officio Members of the Election Committee” (REO-EC(X1)), “Application by Specified Person for New Registration as Ex-officio Members of the Election Committee” (REO-EC(X2)) or “Application by Designated Person/Council Chairman or Chairman of the Board of Governors of the Relevant University for New Registration as Ex-Officio Members of the Election Committee” (REO-EC(X3)), are available at the REO website (www.reo.gov.hk).

determined by the CERC. For the registration arrangement of ex-officio members, see paras. 3.3 to 3.11 of this chapter.

Registration of 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

3.3 All NPC deputies and CPPCC members are the ex-officio members of the EC. Their registration forms must be submitted by the Friends of Hong Kong Association Limited (“the Association”) on their behalf to the ERO. The form must contain a declaration by each NPC deputy or CPPCC member to the effect that he is eligible to be registered as an ex-officio member, and is not disqualified from being so registered. The declaration must be personally signed by each NPC deputy or CPPCC member, and also be signed on behalf of the Association by a person authorised by the Association for that purpose.

- (a) (i) if an NPC deputy or a CPPCC member is also a holder of a “specified office” in another subsector (“specified subsectors”) (i.e. not the NPC deputies and CPPCC members subsector), he may only register as the ex-officio member of that specified subsector;
- (ii) if he holds more than one “specified office” in the subsectors that are not the NPC deputies and CPPCC members subsector, then he may choose to be the ex-officio member of one of the specified subsectors, and designate a person to be the ex-officio member of the remaining specified subsectors (if applicable⁹) in accordance with the requirements; and

⁹ This arrangement to designate a person to be the ex-officio member does not apply to the ex-officio seats in the legal subsector nor the members of the LegCo subsector.

- (b) a total of 190 seats is assigned to the NPC deputies and CPPCC members subsector according to Annex I to the Basic Law and the CEEEO. If the total number of NPC deputies or CPPCC members who are eligible to be registered as ex-officio members, after deducting the number of ex-officio members being registered in the specified subsectors per (a)(i) and (ii) of this paragraph, exceeds the total 190 seats, then those NPC deputies or CPPCC members may choose to register as extra ex-officio members in relevant subsectors that they have substantial connection with. If there are NPC deputies or CPPCC members who choose to register in other subsectors as described in this paragraph, then the number of ex-officio members of those subsectors will increase and the number of members to be returned by election of those subsectors will decrease accordingly. After the NPC deputies or CPPCC members are registered as the ex-officio members of the relevant subsectors, the number of ex-officio members, members to be nominated and members to be elected for those subsectors shall remain unchanged during that term of office of the EC.

[S 2B of the EAC (EP) (EC) Reg and ss 2, 5I and 5J of the Schedule to the CEEEO]

Registration of Other Ex-officio Members

3.4 Generally speaking, the holders of the “specified offices” in the subsectors (i.e. “specified persons”) may register as the ex-officio members of that subsector. If a specified person makes such a registration, he must indicate in the specified form to the effect that he chooses to be registered as an ex-officio member as the holder of the specified office, and make a declaration

specifying that he is eligible to be registered as an ex-officio member and is not disqualified from being so registered. [S 2C of the EAC (EP) (EC) Reg]

3.5 However, under the following circumstances, the specified person may designate another person (i.e. “designated person”) who is holding an office in a relevant body to be registered as an ex-officio member of that subsector:

- (a) the specified person is not eligible to be registered as an ex-officio member, including:
 - (i) he has not been registered as an elector under the LCO for a GC (or has not made a relevant application), or is disqualified from being registered as an elector for a GC; or
 - (ii) he is a principal official appointed pursuant to a nomination under Article 48(5) of the Basic Law, a prescribed public officer¹⁰ or any other civil servant who is holding a specified office in his official capacity; or
- (b) the specified person is a holder of more than one specified office.

[Ss 5J(3) and 5L of the Schedule to the CEEO]

3.6 Regarding the substitution arrangement for the ex-officio member in the education subsector, if the specified person is the Vice-Chancellor or President of a university but is not eligible to be registered as an ex-officio member of the education subsector, then the Council Chairman or the

¹⁰ Prescribed public officers include directorate officers, Administrative Officers and Information Officers of the Government, and police officers.

Chairman of the Board of Governors of that university will be registered as such. This substitution arrangement is inapplicable to the seats of ex-officio members in the legal subsector, members of the LegCo subsector and the NPC deputies and CPPCC members subsector. [S 5J(4) of the Schedule to the CEEO]

3.7 A designated person (including the Council Chairman or the Chairman of the Board of Governors mentioned in para. 3.6 of this chapter) must complete the specified form for registration as an ex-officio member of the relevant subsector. The form must include a declaration made by the relevant specified person stating that due to his/her ineligibility to be registered as an ex-officio member, or holding more than one specified office, and having applied for the registration or having registered as an ex-officio member of another subsector, therefore he designates another person to be registered as an ex-officio member of the relevant subsector. The form must also contain a declaration made by the designated person specifying the office held by the designated person in a relevant body in relation to the specified office, and that the designated person is eligible to be registered as an ex-officio member and is not disqualified from being so registered. In addition to the inclusion of these declarations, the registration form must also be personally signed by the specified person and the designated person. [S 2C of the EAC (EP) (EC) Reg]

3.8 An ex-officio member or a holder of a specified office cannot be a member returned by nomination or election. A specified person will be regarded as having resigned from the membership of the EC if he ceases to hold the specified office concerned. Each person may only be registered as an ex-officio member of one subsector only. [S 3 of the Schedule to the CEEO]

3.9 The above registration forms must be submitted to the ERO by 2 June in the year immediately before the relevant year of constituting a new term of office of the EC. In other circumstances, after a person has become an

NPC deputy, CPPCC member or a holder of a specified office, his application for registration should also be submitted as soon as possible with the form specified by the ERO. [Ss 2B(11) and 2C(10) of the EAC (EP) (EC) Reg]

3.10 If the registration by a specified person or designated person has been determined by the CERC to be invalid, the specified person may submit another registration form to designate another person to be registered as ex-officio member. The registration form must be submitted to the ERO within seven days after the date on which the subsector ordinary election is to be held for the term of office of the EC concerned¹¹. [Ss 2A and 2C(11) of the EAC (EP) (EC) Reg]

Disqualification from being Registered as an Ex-officio Member

3.11 A person is disqualified from being registered as an ex-officio member if the person:

- (a) has in Hong Kong or in any other place been sentenced to death or imprisonment (by whatever name called) and has not either served the sentence or undergone such other punishment as a competent authority may have substituted for the sentence or received a free pardon;
- (b) has been convicted of an offence endangering national security;
- (c) on the date of submission of the registration form, is serving a sentence of imprisonment;
- (d) without limiting (a) of this paragraph, where the registration form is submitted within five years after the date of the person's conviction, is or has been convicted:

¹¹ If different subsector ordinary elections are to be held on different dates for that term of office, the last of those dates shall be referred to.

- (i) of having engaged in corrupt conduct or illegal conduct in contravention of the ECICO;
 - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap. 201); or
 - (iii) of any offence prescribed by s 7 of Schedule 4A to the District Councils Ordinance (Cap. 547) or the EAC Regulations¹²;
- (e) is found for the time being under the Mental Health Ordinance (Cap. 136) to be incapable, by reason of mental incapacity, of managing and administering his property and affairs;
- (f) is a member of the armed forces of the People's Republic of China or any other country or territory; or
- (g) within five years before the date of submission of the registration form, has vacated an office, or has been disqualified from entering on an office, under the law, for declining or neglecting to take a specified oath¹³, 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.

[S 5M of the Schedule to the CEEO]

¹² EAC Regulations mean regulations made under s 7 of the EACO.

¹³ 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 : REGISTRATION OF VOTERS FOR SUBSECTORS

3.12 Only a registered voter for a subsector is entitled to vote at the respective subsector election. [S 28(1) of the Schedule to the CEEO]

Qualifications for Registration as a Voter

3.13 There are two kinds of voters for the EC subsectors, namely a natural person (i.e. an individual) and a body (i.e. a corporate voter). A specified entity of a subsector, or a person who has already been registered for a subsector in the existing FR of voters without being disqualified from being so registered, is eligible to be registered as a voter for that subsector. In the case of an individual, only a person who is registered, or is eligible to be registered and has made an application to be so registered, as an elector for a GC, and is not disqualified from being so registered, is eligible to be registered as a voter. All corporate voters are required to appoint an eligible person to be its AR for casting a vote of that corporate voter at the election. A person is eligible to be appointed as an AR of a corporate voter only if he:

- (a) is registered, or is eligible to be registered and has made an application to be so registered, as an elector for a GC;
- (b) has a substantial connection with the corporate voter concerned (a person has a substantial connection with a corporate voter, e.g. the AR is a member, partner, officer or employee of the body);
and
- (c) is not disqualified from registration or voting under s 31 or 53 of the LCO.

[Ss 12(1), 13(2), (3) and 28(3) of the Schedule to the CEEO]

3.14 A person who has been appointed as the AR of a corporate voter is not eligible to be appointed as the AR of another corporate voter. [S 13(3) of the Schedule to the CEEO]

3.15 A corporate voter must register its AR with the ERO. **The corporate voter must give notice of the appointment of its AR to the ERO in its application form for registration as a corporate voter.** A decision to appoint or replace an AR of a corporate voter may only be made by the governing authority (by whatever name called) of the corporate voter. The corporate voter may from time to time replace its AR by the specified form but the form must reach the ERO not later than 14 days before the polling date for the subsector concerned. If the ERO is satisfied that the AR has died or has suffered a serious illness or has suffered physical or mental incapacity, the 14-day deadline for the replacement of AR may be relaxed to not later than 3 working days before the polling date for the subsector concerned. [S 13(4), (5), (6) and (8) of the Schedule to the CEEO, and s 20(5) and (6) of the EAC (ROE) (FCSEC) Reg]

3.16 If a person is eligible to be registered as a voter for the HYK subsector, the representatives of Hong Kong members of relevant national organisations subsector, representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of Hong Kong and Kowloon subsector or representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of the New Territories subsector, then he may only be registered as a voter for the relevant subsector. If a person is eligible to be registered as a voter of the above subsectors at the same time, he may only be registered as a voter for one of the subsectors in accordance with the priority as set out in the CEEO. [S 12(11) and (12) of the Schedule to the CEEO]

3.17 An individual/corporate voter must not be registered as a voter for more than one subsector.

3.18 Any person must provide true and accurate information when submitting an application for new registration or change of registration particulars. It is an offence for any person to make any statement which the person knows to be false in a material particular, or recklessly make any statement which is incorrect in a material particular, or knowingly omit any material particular from the application, and is liable to a fine at level 3 (\$10,000) and to imprisonment for 2 years. If that person does vote at an election subsequently, he may also contravene s 16 of the ECICO and is liable to a more serious penalty. It is also an offence for a voter to vote despite knowing that he is disqualified from being registered as a voter, even if his name is still contained in the FR of voters. [S 42 of the EAC (ROE) (FCSEC) Reg]

Key Dates in Voter Registration

3.19 The registration of voters for subsectors is conducted in accordance with the requirements of the EAC (ROE) (FCSEC) Reg. Any individual/body may, at any time, submit a completed specified form to the ERO to apply for registration as a voter. However, if they wish to have their names and addresses to be included in the PR of voters and FR of voters for a particular year, the form must be submitted on or before the statutory deadline for that year (i.e. 2 June of that year). If such applications are received by the ERO after the statutory deadline, their names and addresses will not be included in the PR of voters and FR of voters until the following year when the registers are published.

3.20 The law sets out clear registration procedures and deadlines for the annual publication of the FR of voters, with key dates as follows:

Voter Registration Procedures	Statutory Deadline¹⁴
Submission of application for change of registration particulars	2 June
Application for de-registration	
Submission of application for new registration	
Respond to inquiry letters to retain voter registration	
Publication of PR of voters and OL	1 August
Claims and objections period	1 to 25 August
Publication of FR of voters	25 September

Disqualifications from Registration and Voting

3.21 A person is disqualified from being registered as an individual voter and voting at the relevant subsector election or voting as an AR if he:

- (a) is no longer eligible to be registered as an elector for a GC (see para. 3.13 of this chapter);
- (b) has ceased to be eligible to be registered as a voter for the relevant subsector (this item is inapplicable to ARs);

¹⁴ The ERO may, by notice published in the Gazette, advance the dates or periods for the relevant acts in relation to the compilation and publication of the PR of voters or FR of voters. [S 41A of the EAC (ROE) (FCSEC) Reg and s 10 of the Election Committee (Registration) (Voters for Subsectors) (Members of Election Committee) (Appeals) Regulation]

- (c) is found to be incapable, by reason of mental incapacity, of managing and administering his property and affairs under the Mental Health Ordinance¹⁵; or
- (d) is a member of the armed forces of the People's Republic of China or any other country or territory.

[S 30(1)(a), (e) and (f) of the Schedule to the CEEO]

3.22 A body is disqualified from being registered as a corporate voter if it:

- (a) is a consular post to which any privilege or immunity is accorded under the Consular Relations Ordinance (Cap. 557); or
- (b) is 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).

[S 12(21) and (22) of the Schedule to the CEEO]

Deregistration

3.23 For de-registration as a voter for a subsector, the voter may make an application in person at the REO or submit a written request. If the voter chooses to request de-registration in writing, he must provide the particulars

¹⁵ Except for the condition stipulated in this paragraph, the law imposes no restrictions on the voting right of a person who is or claims that he is incapacitated from voting due to other physical cause, provided that he must cast the vote on his own. If a voter/an AR is unable to mark the ballot paper on his own, he may request the Presiding Officer ("PRO") or the PRO's deputy to mark the ballot paper on his behalf according to his voting preference in the presence of one polling staff as a witness (see Part X of Chapter 5).

including name and respective subsector and signed by the relevant voter¹⁶. The REO will not process the de-registration immediately after receiving the request, and will contact the voter concerned to verify the request for de-registration. After verification, only the voters who submit the request for de-registration on or before 2 June will be included in the OL for the subsector of that year. Otherwise, the registration particulars will be used to compile the PR of voters for the relevant subsector of that year. The voter so included in the OL for the relevant subsector may inspect his/its voter registration particulars starting from the day of publication of the PR of voters and OL till the end of the inspection period. If necessary, the voter can lodge a claim with supporting proof to request for reinstatement of his/its voter status. The REO will continue to process the relevant request in the next voter registration cycle.

Inquiry Procedures

3.24 **If it comes to the knowledge of the ERO or if the ERO is satisfied on reasonable grounds that a voter is no longer eligible to be registered in the relevant subsector,** the ERO will initiate the statutory inquiry procedure to ascertain whether the voter is still eligible to be registered as a voter for the relevant subsector. If the voter fails to provide the information requested by the ERO in response to the inquiry, or if the ERO, based on the information so received or otherwise obtained, is satisfied on reasonable grounds that the voter is no longer eligible to be registered, **then the registration particulars of the voter will be contained in the OL for the relevant subsector, and may be removed from the next FR of voters.** Before the publication of the next FR of voters, a person whose name is recorded in the existing FR of voters is still a registered voter for the relevant subsector. [Ss 22(1), (2) and 24 of the EAC (ROE) (FCSEC) Reg, and s 15 of the Schedule to the CEEO]

¹⁶ In the case of a corporate voter, the application for de-registration as a voter for a subsector must be signed by the person-in-charge.

Subsector Provisional Register of Voters and Omissions List

- 3.25 The content of the PR of voters includes:
- (a) the names and principal residential addresses/business addresses of those eligible voters included in the FR of voters in use 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 individuals/bodies that have submitted application for registration in the respective subsectors on or before the statutory deadline for new registration in that year; and
 - (c) the names of the ARs of the corporate voters.

A copy of the PR of voters is available for inspection by specified persons (see **Appendix 3**) at the dedicated offices of the REO during ordinary business hours. Only the first character/word of the name (whether in Chinese or English) of an individual voter and his registered residential address will be shown on the PR of voters for inspection. Members of the public may inspect the copy of the PR of voters containing the entries of corporate voters as mentioned in (b) and (c) of this paragraph. [Ss 28 and 29 of the EAC (ROE) (FCSEC) Reg]

3.26 When publishing the PR of voters, the ERO will also publish a copy of the OL for inspection by specified persons (see **Appendix 3**). The OL includes individual/corporate voters and ARs who are disqualified from or no longer qualified for registration (e.g. persons who have died, individuals/bodies that have submitted request for de-registration, individuals who have not

informed the ERO of their new residential addresses, or bodies that are no longer an eligible member of a prescribed body in the relevant subsector, etc.). However, inclusion of a voter in the OL does not mean that the voter status is invalidated with immediate effect. If the voter concerned lodges a claim to the ERO and the Revising Officer¹⁷ accepts the grounds submitted and approves the claim, that voter status will be retained (see paras. 3.30 to 3.31 of this chapter). [S 14(4)(a) and (b) of the Schedule to the CEEO, and s 24(1) and (3) of the EAC (ROE) (FCSEC) Reg]

3.27 The REO will issue reminder letters to voters included in the OL. A message “Immediate action required – Your voting right is at stake” will be printed in red on the envelope, so as to remind the voters that they must submit a notice of claim or provide valid documentary proof by the specified deadline to confirm the concerned individuals/bodies are still eligible for registration as voters in the relevant subsectors. In addition, when the voter logs on to the OVIES (www.voterinfo.gov.hk) to inspect his registration particulars, the system will prompt the voter to respond to the reminder letter issued by the REO as soon as possible.

3.28 The time and place for inspection of the copy of the PR of voters and the OL will be published in a notice in the Gazette and newspapers, and the publication of the notice is to be treated as the publication of the PR of voters. [Ss 25 and 29 of the EAC (ROE) (FCSEC) Reg]

Inquiry of Voter Information

3.29 Registered voters and ARs can check their latest registration particulars, including registered addresses and respective subsectors, and find out whether they are included in the statutory inquiry procedure via “iAM

¹⁷ The Revising Officer may be any magistrate, former magistrate, retired magistrate, or any legal officer as defined by s 2 of the Legal Officers Ordinance appointed by the Chief Justice. [S 46 of the Schedule to the CEEO]

Smart”, the OVIES (www.voterinfo.gov.hk), or by calling the REO hotline (2891 1001).

Appeals – Claims and Objections

3.30 Members of the public may deliver in person¹⁸ at the office of the ERO a notice of claim/objection in the specified form to lodge a claim in respect of his own entry or an objection in respect of the entry of another voter in the PR of voters within the claims and objections period. The detailed procedures for lodging claims or objections are set out on the REO website (www.reo.gov.hk) during the claims and objections period. Claimable matters include:

- (a) an applicant who claims to be entitled to be registered as a voter/an AR and has submitted an application for registration but his name and/or the body’s name has not been recorded in the PR of voters;
- (b) the name of a person and/or a body has been included in the OL;
or
- (c) the particulars of an individual and/or a body have not been correctly recorded in the PR of voters.

Any person may lodge an objection to the following matter if he:

- (d) believes that a registered voter/AR is not eligible to be so registered, or that a person who has been registered as an AR has been wrongly so registered.

[Ss 30(1), (2), 31(1), (2), (3), (4), (7) and (8) of the EAC (ROE) (FCSEC) Reg]

¹⁸ Imprisoned persons or persons held in custody by law enforcement agencies may deliver a notice of claim/objection to the ERO by post. [Ss 30(2A) and 31(8A) of the EAC (ROE) (FCSEC) Reg]

3.31 Cases of claims and objections will be referred to the Revising Officer for consideration. The Revising Officer will deliberate on each case of claim and objection and make a ruling on whether there should be an inclusion, exclusion or revision of the entry concerned in the relevant FR of voters. The claimant or objector must provide sufficient information to inform the Revising Officer of the grounds of the claim or objection. The claimant or objector is also required to attend the hearing¹⁹, otherwise the Revising Officer may dismiss the claim or objection. [Part VI of the EAC (ROE) (FCSEC) Reg and ss 2(5A) and 2B of the Registration of Electors (Appeals) Regulation]

Subsector Final Register of Voters

3.32 The FR of voters contains entries shown in the relevant PR of voters, including the names and principal residential addresses/business addresses of voters based on applications for new registration and change of registration particulars for that year, as well as the names and principal residential addresses/business addresses of persons making the claim or being objected, which have also been updated or corrected in accordance with the Revising Officer's decisions. The ERO will also take the opportunity to remove the entries of voters who are known to have died and to correct any wrong information in the PR of voters. The FR of voters shall remain in effect until the publication of the FR of voters in the following year. [S 36(1) of the EAC (ROE) (FCSEC) Reg]

3.33 A copy of the FR of voters is available for inspection by specified persons (see **Appendix 3**) at the dedicated offices of the REO during ordinary business hours. Only the first character/word of the name (whether in Chinese or English) of an individual voter and his registered residential address will be

¹⁹ The Revising Officer has the power to direct that the claim or objection be determined without a hearing on the basis of written submissions only. [S 2A of the Registration of Electors (Appeals) Regulation (Cap. 542B)]

shown on the FR of voters for inspection. [S 38(2), (3) and (4AA) of the EAC (ROE) (FCSEC) Reg]

NOTE:

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

Personal data relating to a person (as a data subject) contained in any PR of voters or FR of voters or in any extract from any PR of voters or FR of voters shall not, without the prescribed consent²⁰ of the data subject, or if the exemption under Part 8 of the PD(P)O is not applicable, be used for a “new purpose”²¹. Moreover, if a person (as a discloser) discloses any personal data relating to a person (as a data subject) contained in any PR of voters or FR of voters or in any extract from any PR of voters or FR of voters without the relevant consent of the data subject with an intent to cause any specified harm²² 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 is liable to a fine of \$100,000

²⁰ “Prescribed consent” means the express consent given voluntarily, and not withdrawn in writing, by the data subject. [S 2(3) of the Personal Data (Privacy) Ordinance (Cap. 486) (“PD(P)O”)]

²¹ “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. [S 3(4) of Schedule 1 to the PD(P)O]

²² “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. [S 64(6) of the PD(P)O]

and to imprisonment for 2 years. Additionally, if the disclosure causes any specified harm to the data subject or any family member of the data subject, the discloser is liable on conviction to a fine of \$1,000,000 and to imprisonment for 5 years. [S 64(3A), (3B), (3C) and (3D) of the PD(P)O and s 3 of Schedule 1 to the PD(P)O]

3.34 The time and place for inspection of the copy of the FR of voters will be published in a notice in the Gazette and newspapers, and the publication of the notice is to be treated as the publication of the FR of voters. [S 38(1) and (6) of the EAC (ROE) (FCSEC) Reg]

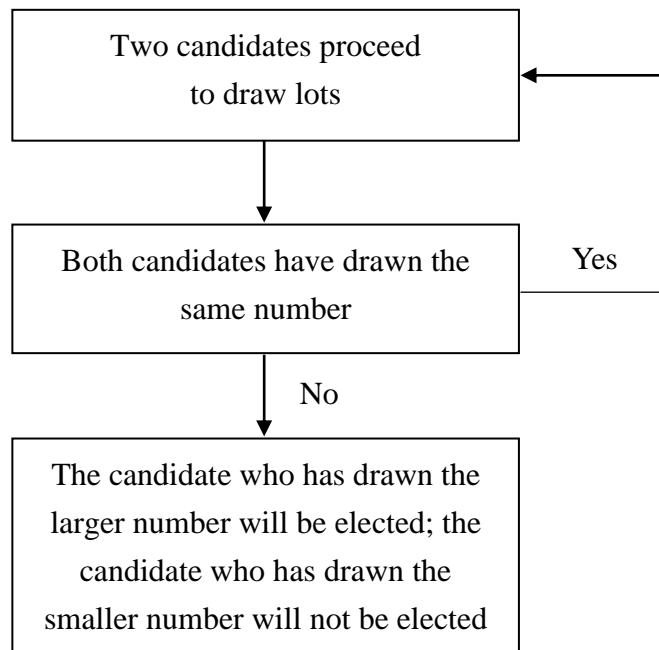
PART IV : THE VOTING AND COUNTING SYSTEMS FOR SUBSECTOR ELECTIONS

3.35 The “first past the post” voting system is adopted in the EC subsector elections. A voter/an AR may vote for as many candidates as the number of members to be returned by the subsector concerned at the election 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 members have been returned. [S 29(1), (2), (3), (4) and (5) of the Schedule to the CEEO]

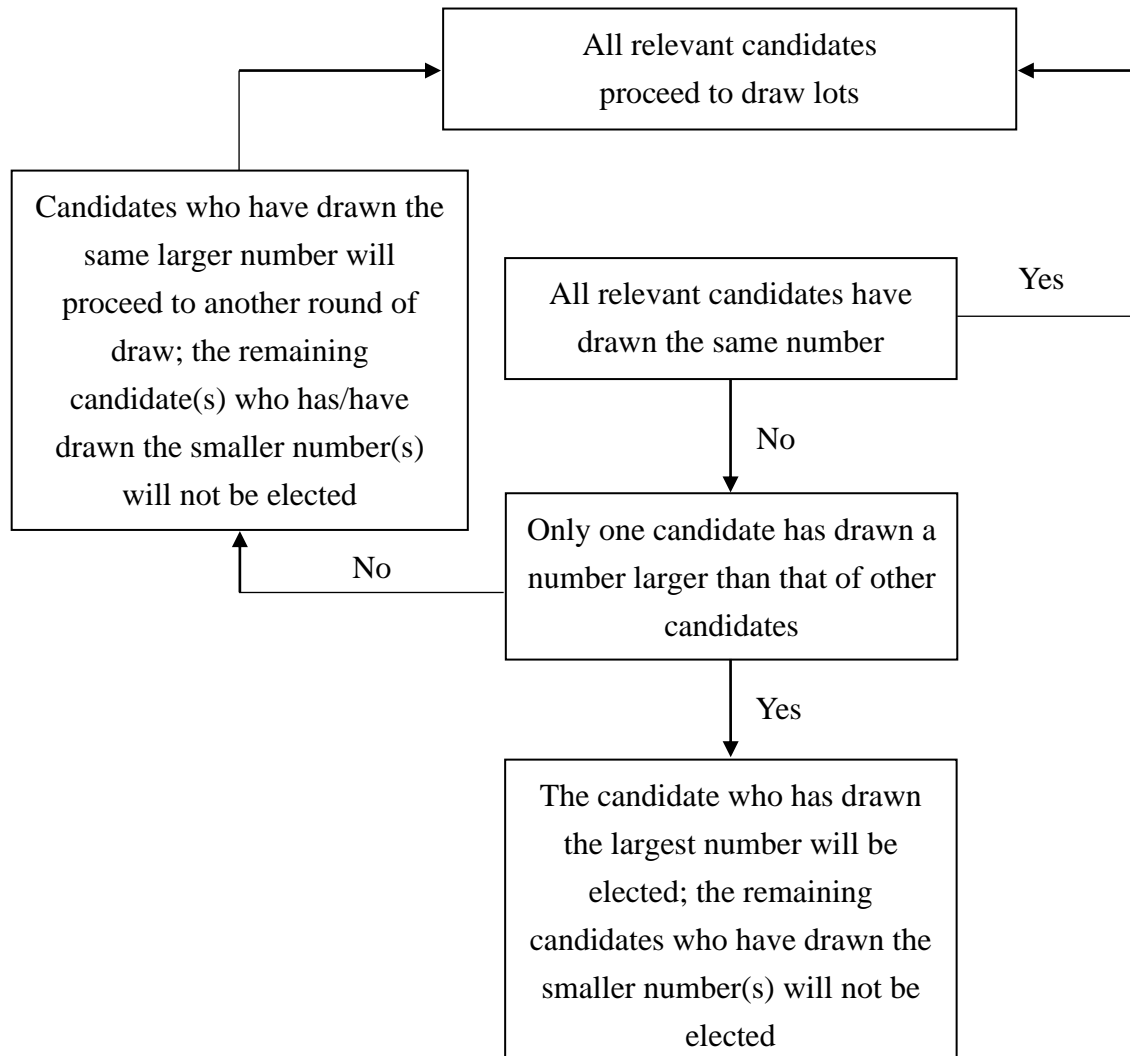
3.36 After the counting of votes is finished at an election for a subsector, if the number of candidates having the equal greatest number of votes exceeds the number of members to be returned, the RO shall determine the result of the election by drawing lots, and the candidate(s) on whom the lot falls is/are to be elected. [S 29(6) of the Schedule to the CEEO]

3.37 When the election result has to be determined by the drawing of lots, the RO will provide 10 table-tennis balls each marked with a number from 1 to 10 (1 is the smallest and 10 is the largest), and then put all table-tennis balls into an empty opaque bag. One of the candidates will first draw one ball from the bag, and then give the ball to the RO to note down the relevant number. Afterwards, the ball should be put back into the bag. The procedures are repeated for the other candidates with an equal number of votes until all candidates have drawn the table-tennis ball. The RO will draw the lot on behalf of the candidate if the candidate is absent at the time of the draw. The arrangements for the result of the draw are as follows:

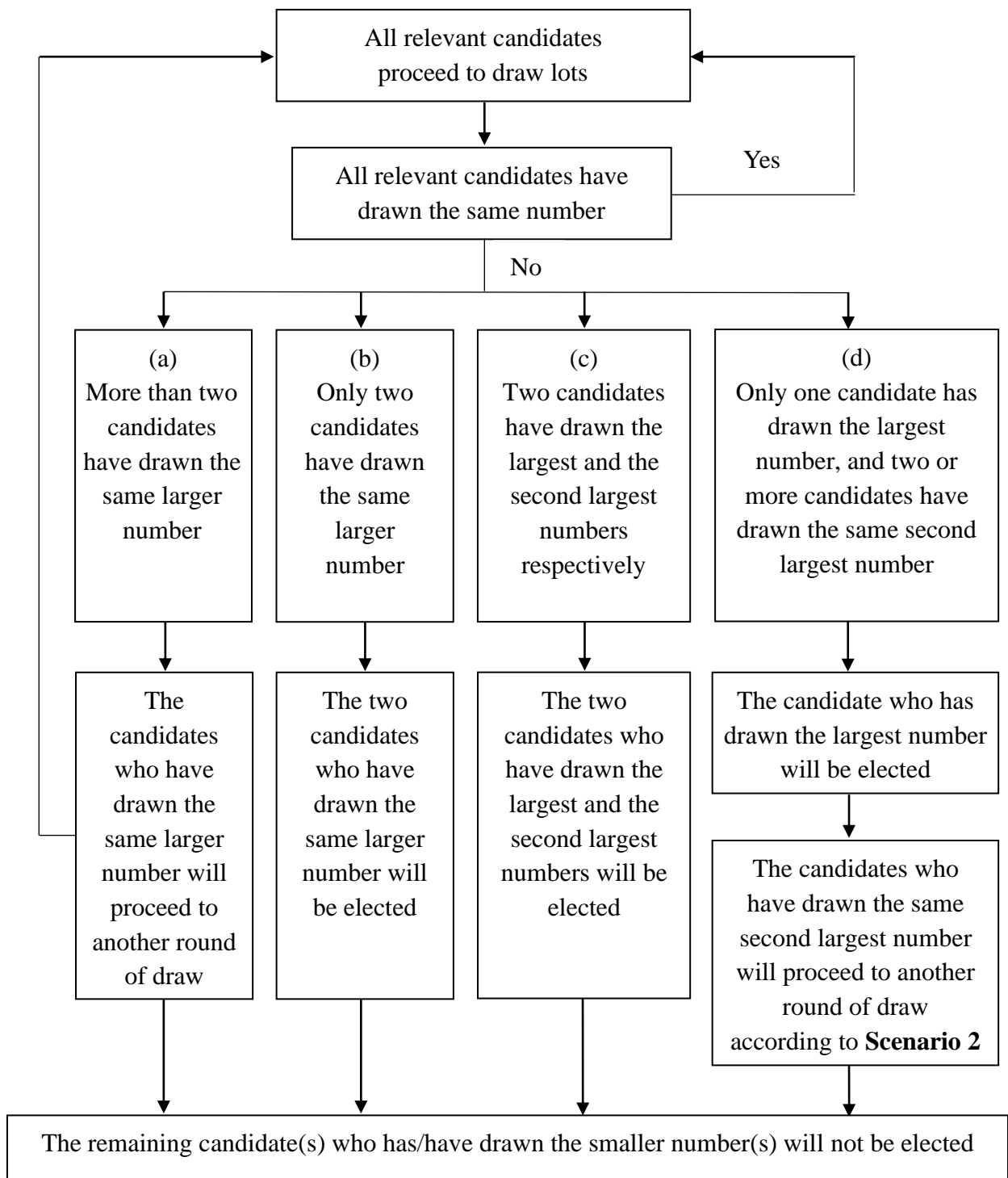
Scenario 1: Where there is only one vacancy to be filled but there are two candidates with an equal number of votes



Scenario 2: Where there is only one vacancy to be filled but there are more than two candidates with an equal number of votes



Scenario 3: Where there are two vacancies to be filled but there are three or more candidates with an equal number of votes



Note: The same drawing principle also applies to scenarios where N number of candidates have the same greatest number of votes, and the number of vacancies to be filled is less than N.

3.38 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

3.39 The subsisting electoral law stipulates corresponding arrangements for the following situations:

	Death of a Candidate	Disqualification of a Candidate from being Nominated as a Candidate
After the CERC has decided that a candidate is validly nominated and before the polling day	<ul style="list-style-type: none"> The RO must give notice of the death of the candidate. <p>Where the CERC has already published the notice stating which persons are validly nominated as candidates:</p> <ul style="list-style-type: none"> The RO must publicly declare that the candidate has died, and further declare which candidate(s) is/are validly nominated for the relevant subsector election. 	<ul style="list-style-type: none"> The CERC must vary the decision to the effect that the candidate is not validly nominated; and The RO should give a notice to the CEO and each candidate who is validly nominated for the relevant subsector election. <p>Where the notice of validly nominated candidates has already been published by the CERC:</p> <ul style="list-style-type: none"> The CERC must publicly declare to vary the notice and further announce a list of validly nominated candidates.

	Death of a Candidate	Disqualification of a Candidate from being Nominated as a Candidate
On the polling day but before the election result is declared	<ul style="list-style-type: none"> • The proceedings for the subsector election shall continue; and • After the counting of votes is finished, if the candidate concerned is found to be successful but there is no other candidate who can be returned in place of that candidate, the RO must publicly declare that no candidate is returned at the subsector election, or that the number of members returned at the election is less than the number of members to be returned. 	

[Ss 23 and 26 of the Schedule to the CEEO, and ss 20 and 21 of the EAC (EP) (EC) Reg]

CHAPTER 4

NOMINATION OF CANDIDATES/NOMINEES

PART I : GENERAL

4.1 This chapter outlines the eligibility for nomination as a candidate/nominee in an EC subsector election, the nomination procedures, and related matters, as well as the legal provisions that candidates/nominees must comply with, including the CEEO, EAC (EP) (EC) Reg, EAC (NAC) (EC) Reg, EC Subscribers & Deposit Reg, and relevant guidelines issued by the EAC.

4.2 The EAC will make arrangements for the election according to the list of validly nominated candidates determined by the CERC. If the CERC decides that a nomination is invalid, the CERC must endorse on the relevant 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 10 of the EAC (EP) (EC) Reg. By virtue of Annex I to the Basic Law and s 9B of the CEEO, no legal proceedings may be instituted in respect of a decision made by the CERC on the eligibility of a candidate/nominees pursuant to the opinion of the National Security Committee. [S 16(1) of the EAC (EP) (EC) Reg]

PART II : ELIGIBILITY AND DISQUALIFICATION FOR NOMINATION

Eligibility for Nomination

4.3 The eligibility requirements for nomination as a candidate/nominee at an EC subsector election are as follows:

Candidate ²³	Nominee ²⁴
Be 18 years of age or over	
Be both registered and eligible to be registered as an elector for a GC	
Be both registered and eligible to be registered as a voter for the relevant subsector or satisfies the RO for the subsector that he has a substantial connection with the subsector	Has a substantial connection with the relevant subsector

Disqualification for Nomination

4.4 A person is disqualified from being nominated as a candidate/nominee at a subsector election, and from being elected as a member of the EC if he:

- (a) has ceased to have a substantial connection with the subsector concerned;
- (b) has ceased to be registered or eligible to be registered as an elector for a GC;
- (c) has in Hong Kong or in any other place been sentenced to death or imprisonment (by whatever name called) and has not either served the sentence or any substitute sentence, or received a free pardon²⁵;

²³ S 17(1) of the Schedule to the CEEO.

²⁴ S 8(1) of the Schedule to the CEEO.

- (d) has been convicted of an offence endangering national security;
- (e) on the date of nomination or on the date of the election, is serving a sentence of imprisonment;
- (f) is or has been convicted of the following offences within the five years immediately before the date of nomination (for nominees) or the polling day (for candidates):
 - (i) having engaged in corrupt conduct or illegal conduct in contravention of the ECICO;
 - (ii) an offence against Part II of the Prevention of Bribery Ordinance; or
 - (iii) any offence prescribed by s 7 of Schedule 4A to the District Councils Ordinance or the EAC Regulations²⁶;
- (g) is found to be incapable, by reason of mental incapacity, of managing and administering his property and affairs under the Mental Health Ordinance;
- (h) is a member of the armed forces of the People's Republic of China or any other country or territory; or

²⁵ 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 s 39(1)(b) of the LCO (similar to relevant provisions in para. 4.4(c) of this chapter or ss 9(1)(a) and 18(1)(c) of the Schedule to the CEEO) to be unconstitutional. On 12 July 2012, the Government announced its decision not to appeal against the judgment. The future EC subsector elections will be conducted in accordance with the prevailing legislation. Any person who wishes to be nominated as a candidate/nominee for an EC subsector election and is doubtful about his eligibility for nomination may seek independent legal advice and, where appropriate, apply to the NAC appointed by the EAC for advice in an EC subsector ordinary election.

²⁶ EAC Regulations mean regulations made under s 7 of the EACO.

(i) has vacated an office, or has been disqualified from entering on an office, under the law, for declining or neglecting to take a specified oath²⁷ within the five years before the date of nomination, 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.

[Ss 9 and 18 of the Schedule to the CEEO]

4.5 Any person who is not a specified entity of the HYK subsector, the representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of Hong Kong and Kowloon subsector, or the representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of the New Territories subsector, is disqualified from being nominated as a candidate for the subsector concerned at the respective subsector election, or from being elected as a member of the EC representing the above subsectors concerned. [S 18A of the Schedule to the CEEO]

4.6 In addition, a person is disqualified from being a nominee for certain subsectors:

- (a) the accountancy subsector if the person is not a Hong Kong Accounting Advisor appointed by the Ministry of Finance of the People's Republic of China;

²⁷ 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.

- (b) the Chinese medicine subsector if the person is not a Hong Kong member of the Council of the World Federation of Chinese Medicine Societies;
- (c) the legal subsector if the person is not a Hong Kong member of the Council of the China Law Society; and
- (d) the technology and innovation subsector if the person is not a Hong Kong academician of the Chinese Academy of Sciences or the Chinese Academy of Engineering.

[S 9A of the Schedule to the CEEO]

PART III : NOMINATION PERIOD AND NOMINATION FORM

Members to be Elected

Nomination Period

4.7 The nomination period will be published in the Gazette. The ROs shall receive nomination forms during ordinary business hours (i.e. from 9 am to 5 pm from Monday to Friday, and from 9 am to 12 noon on Saturday) within the nomination period (except public holidays). Candidates must submit their nomination forms **in person** to the RO for the relevant subsector during the nomination period. Late submissions will not be accepted. In exceptional circumstances, such as a candidate's incapacity due to illness, the CEO may authorise other manners of submission of the nomination form to the RO. **Candidates are advised to submit their nomination forms in good time before the end of the nomination period to allow time for any errors in their nomination forms to be corrected.** Prospective candidates should read

carefully and comply with the “Points to Note for Submission of Nomination Forms for Candidates” and the “Action Checklist for Candidates” which are uploaded to the dedicated election website (www.elections.gov.hk). [Ss 4 and 8(13) of the EAC (EP) (EC) Reg]

Nomination Form

4.8 Nomination forms are available free of charge at any District Office, the RO’s office or the REO, and may also be downloaded from the REO website (www.reo.gov.hk).

4.9 The nomination form comprises:

(a) The Nomination

It must be subscribed by not less than **five voters registered for the EC subsector concerned** (other than the candidate himself). Nomination must be made by ARs in the case of corporate voters. For each subsector, each voter may only subscribe **nominations up to the number of members required to be elected for that subsector**. Once the number of the nomination forms subscribed by a certain voter and delivered to the RO has reached the above-mentioned statutory limit (i.e. the number of members to be elected for a particular subsector), that voter’s signature on any other nomination forms will be inoperative.

If, however, the nomination subscribed by a voter is determined as invalid, or the candidate has withdrawn his candidature or has died, the voter may make another nomination instead before the end of the relevant nomination period, and his signature shall be operative on the latter nomination form.

[S 8(1), (2), (3) and (4) of the EC Subscribers & Deposit Reg]

NOTE:

- (i) 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 nomination, so as to avoid the risk of invalidation of the nomination should any of the subscribers be subsequently found not qualified as subscribers.
- (ii) A candidate should ensure that the voters subscribing his nomination form are eligible to do so and that the voters have not subscribed more nomination forms than the number of members required to be elected for that subsector.
- (iii) Each voter subscribing a nomination shall sign the nomination form **personally**.
- (iv) A candidate must not sign as a subscriber in his nomination form.
- (v) No unlawful means shall be used to procure a voter 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 two years, or on conviction upon indictment to imprisonment for five years. Engaging in bribery, which is a corrupt conduct, is also liable to a fine and to imprisonment (see Chapter 17).
- (vi) Candidates are also required to observe Data Protection Principle 4 of Schedule 1 to the PD(P)O in safeguarding the

personal data of subscribers to the nomination form held by them. They shall take all practicable steps to ensure that the aforesaid personal data are protected against unauthorised or accidental access, processing, erasure, loss or use.

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

A candidate must duly complete the nomination form, ensuring it is signed by the subscribers, and the candidate shall sign a declaration, which shall be attested by a witness²⁸. The content of the declaration includes the following:

- (i) a declaration to the effect that the candidate will uphold the Basic Law and pledge allegiance to the HKSAR of the People's Republic of China;
- (ii) a declaration to the effect that the candidate is eligible to be nominated as a candidate for the particular subsector, is not disqualified from being nominated as a candidate or from being elected as a member of the EC, and consents to being so nominated; and
- (iii) a declaration to the effect that the candidate has not been nominated as a candidate at another subsector, or if he has been so nominated, he has withdrawn all such prior nomination(s) according to the electoral legislation.

Otherwise, the candidate will not be validly nominated. [Ss 17A and 20 of the Schedule to the CEEO, and s 8(4) and (4A) of the EAC (EP) (EC) Reg]

²⁸ A witness can be any person aged 18 years or above and in possession of an identity document.

NOTE:

- (i) At an EC subsector ordinary election, a person is not eligible to be nominated as a candidate for that ordinary election if he is a specified person, a designated person or a nominee of a designated body.

- (ii) Regarding by-election, a person is not eligible to be nominated as a candidate for that subsector by-election if he is a member of the EC, or a nominee of a designated body and the period during which the supplementary nomination is to be made and the nomination period for the by-election coincide or partly coincide.

[S 17(2) and (3) of the Schedule to the CEEEO]

4.10 In the nomination form, a candidate may choose whether to disclose his occupation and/or political affiliation. If a candidate mentions the name of any organisation when disclosing his political affiliation, he must seek the consent of the organisation concerned beforehand. If a candidate provides information on occupation and/or political affiliation in the input form for Introduction to Candidates, the relevant information should be true and should not be inconsistent with that in the nomination form, in particular, when a candidate claims to be an “independent candidate” or “non-affiliated candidate” (or other similar descriptions), he must ensure that the claim has a factual basis. Candidates may refer to the court’s opinion on an election petition case concerning the political affiliation of candidates (HCAL 3665/2019). Candidates are advised to seek independent legal advice if they are in doubt about the information on political affiliation to be provided in their nomination form and Introduction to Candidates.

4.11 Until the relevant notice of the election results is published, members of the public could inspect copies of the nomination forms free of charge during ordinary business hours at the address specified by the RO. [S 10 of the EAC (EP) (EC) Reg]

Members to be Nominated

Nomination Period

4.12 The nomination period will be published in the Gazette. The ROs shall receive nomination forms during ordinary business hours (i.e. from 9 am to 5 pm from Monday to Friday, and from 9 am to 12 noon on Saturday) within the nomination period (except public holidays). A designated body must nominate all its nominees on **one** designated nomination form for submission to the RO within the nomination period at the specified address. **Designated bodies are advised to submit their designated nomination forms in good time before the end of the nomination period to allow time for any errors in their designated nomination forms to be corrected.** [Ss 3, 7(3) and (7) of the EAC (EP) (EC) Reg]

Designated Nomination Form

4.13 The designated nomination forms are available free of charge at the RO's office or the REO, and may also be downloaded from the REO website (www.reo.gov.hk).

4.14 The designated nomination form comprises:

- (a) The Nomination

The designated nomination form must be signed by each nominee. It must also be signed on behalf of the designated body by a person authorised by the designated body for that purpose.

If the number of persons to be nominated by a designated body exceeds the assigned number for the body or the number of vacancies to be filled, the designated body shall indicate which of the nominees are to be given preference in making up the assigned number or in filling the vacancy; and then rank the excess nominees, if more than one, in order of priority. If the CERC determines that any of the nominees to be given preference is not validly nominated, the assigned number is to be made up or the vacancy is to be filled from the excess nominees (subject to their being validly nominated) in their order of priority.

If the number of persons nominated by a designated body exceeds the assigned number for the body or the number of vacancies to be filled but the body has not indicated which of the nominees are to be given preference; or the number of nominees to whom preference is given is less than the assigned number for that body or the number of vacancies to be filled, the RO must determine, by drawing lots, the order of priority in which the nominees of that body are to make up the assigned number or to fill the vacancy.

The CERC shall decide whether the nomination of a nominee is valid according to the order of priority indicated by the designated body or determined by drawing lots. When the assigned number for the body or the number of vacancies to be filled is filled, the

CERC shall no longer have to decide on the validity of the nomination of the remaining nominees.

[S 7(4), (5), (6) and (6A) of the Schedule to the CEEO, and s 7(4) of the EAC (EP) (EC) Reg]

(b) Nominees' Consent to Nomination and Declaration of Eligibility

The designated nomination form submitted by a designated body must contain a declaration completed and signed by each nominee, and be attested by a witness²⁹. The nominee must duly complete and sign the **declaration** which includes the following:

- (i) a declaration to the effect that the nominee will uphold the Basic Law and pledge allegiance to the HKSAR of the People's Republic of China; and
- (ii) a declaration to the effect that the nominee is eligible to be selected as a nominee, is not disqualified in this nomination from becoming a nominee, consents to being so nominated, and consents to the order of priority (if any) in which he is ranked in the designated nomination form.

Otherwise, he is not validly nominated as a nominee. [S 7A of the Schedule to the CEEO and s 7(2) and (2A) of the EAC (EP) (EC) Reg]

²⁹ See footnote 28.

NOTE:

- (i) At an EC subsector ordinary election, a person is not eligible to be a nominee of a subsector at that ordinary election if he is a specified person, a designated person or a candidate at an election.
- (ii) Regarding supplementary nomination, a person is not eligible to be a nominee of a subsector under the supplementary nomination if he is a member of the EC, or a candidate at an EC subsector by-election where its nomination period coincides or partly coincides with the nomination period during which the supplementary nomination of the relevant subsector is to be made.
- (iii) A person who is selected as a nominee by a designated body is not eligible to be nominated by another designated body as a member of the EC if the period during which the nominations are to be made coincides or partly coincides.

[S 8(2), (3) and (4) of the Schedule to the CEEO]

4.15 Until the relevant notice of valid nominations is published, members of the public could inspect copies of the designated nomination forms free of charge during ordinary business hours at the address specified by the RO. [S 7(8) of the Schedule to the CEEO and ss 10 and 19(1) of the EAC (EP) (EC) Reg]

Criminal Liability of Making False Declarations

4.16 The RO may refuse to accept any nomination form bearing material alteration to its content. A person who, in an election-related document,

makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is incorrect in a material particular, or knowingly omits a material particular, commits an offence. Moreover, making a false statement in any statutory document is in breach of s 36 of the Crimes Ordinance, and a violation against the requirements of the above electoral legislation is a prescribed offence, meaning that a person will be regarded as having been convicted of a corrupt or illegal conduct under the ECICO, and will therefore be disqualified from being nominated as a candidate/nominee and from being elected as a member of the EC (see Chapters 16 and 17). [S 101 of the EAC (EP) (EC) Reg]

PART IV : NOMINATIONS ADVISORY COMMITTEES

4.17 The EAC may appoint NACs, and the NACs may provide advice, upon request, to prospective candidates/prospective nominees/designated bodies and ROs on whether a candidate/nominee is eligible for nomination. In line with the established practice, each NAC consists of a barrister or solicitor of not less than ten years' standing who, in the opinion of the EAC, is independent and impartial without any connection with any candidate/nominee or political organisation in Hong Kong. [Ss 2, 3 and 4 of the EAC (NAC) (EC) Reg]

4.18 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/nominee or from proceeding with the nomination of a candidate/nominee. [S 10 of the EAC (NAC) (EC) Reg]

4.19 NACs are not empowered to advise on matters under ss 7A, 17A and 19 of the Schedule to the CEEO (including the declarations by candidates/nominees on upholding the Basic Law and pledging allegiance to the HKSAR of the People's Republic of China, and the lodging of deposit by

candidates). The NAC provides advice on the eligibility of a prospective candidate/prospective nominee for nomination. However, the relevant advice does not indicate the validity of the nomination. The validity of the nomination is ultimately decided by the CERC. [S 2(2) of the EAC (NAC) (EC) Reg and ss 12 and 13 of the EAC (EP) (EC) Reg]

The Nominations Advisory Committee's Service to Prospective Candidates/Prospective Nominees/Designated Bodies

4.20 The NAC provides service to prospective candidates/prospective nominees/designated bodies **at EC subsector ordinary elections only**. During a period specified by the EAC (which generally ends before the commencement of the nomination period), a prospective candidate/prospective nominee/designated body may, by completing a specified form, apply for the advice of the NAC as to whether the prospective candidate/prospective nominee is eligible to be, or is disqualified from being, nominated at the EC subsector ordinary election. The form can be obtained free of charge at the REO or any District Offices, or downloaded from the dedicated election website (www.elections.gov.hk). Each prospective candidate/prospective nominee/designated body can only make one application in respect of a particular subsector/his intended designated nomination/a prospective nominee proposed to be nominated. For the avoidance of doubt, a prospective candidate may apply for the advice of the NAC in respect of more than one EC subsector. [Ss 4(4), 6(6), (7), (8) and (9) of the EAC (NAC) (EC) Reg]

4.21 The completed application must be submitted to the CEO **within the application period specified by the EAC**. [S 6(4) of the EAC (NAC) (EC) Reg]

4.22 The NAC may, before giving its advice, require the applicant to provide information, particulars and evidence relating to his intended

candidature/his intended designated nomination/the intended nomination of the person proposed by the applicant, or require the applicant (or, in the case of a designated body, a representative authorised by that body in writing) to attend a meeting with the NAC to assist in the consideration of his application. [S 6(12) and (13) of the EAC (NAC) (EC) Reg]

4.23 Where an applicant does not respond to the NAC's requests, 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 the following:
 - (i) the NAC has not been provided with (in part or in full) the information, particulars or evidence; and/or
 - (ii) the applicant does not attend the meeting with the NAC.

[S 6(14) of the EAC (NAC) (EC) Reg]

4.24 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 6(15) of the EAC (NAC) (EC) Reg]

The Nominations Advisory Committee's Service to Returning Officers

4.25 The NAC also provides service to the ROs **at both EC subsector ordinary elections and by-elections**, during a period specified by the EAC (which generally spans from the commencement of the nomination period to one

day after the end of the nomination period), by offering advice on the eligibility for nomination of the candidates who have submitted their nomination forms and nominees of designated bodies. [S 7 of the EAC (NAC) (EC) Reg]

4.26 When considering whether a person is eligible to be, or is disqualified from being, nominated as a candidate/nominee, the RO must take into account any advice given by the NAC. However, the decision on the validity of nomination is ultimately decided by the CERC. [Ss 13 and 14 of the EAC (EP) (EC) Reg, and s 7(5) of the EAC (NAC) (EC) Reg]

PART V : ELECTION DEPOSIT

Lodging of Election Deposit

4.27 When submitting a nomination form, each candidate must lodge an election deposit of \$1,000, otherwise the nomination form will not be accepted. [S 19 of the Schedule to the CEEO and s 3 of the EC Subscribers & Deposit Reg]

NOTE:

- (i) Candidates should pay their election deposits by **cash** or **cashier order** as far as practicable and should avoid using crossed cheques since in the event that a cheque is dishonoured and the unpaid amount is not settled before the end of the nomination period, the nomination will be ruled invalid. In addition, candidates using the Faster Payment System to pay the election deposit must note that banks have defined different limits for various types of payments or transfers. If the transfer limit of the candidate's bank account

is lower than the prescribed election deposit payable, the transaction of paying the election deposit will fail, and the nomination form will not be accepted.

- (ii) Candidates must retain the original receipt of the election deposit (including that paid electronically) for the purpose of applying for its return.

Return of Election Deposit

4.28 The election deposit will be returned to the candidate if:

- (a) he is not validly nominated;
- (b) he withdraws his candidature (see Part 8 of this chapter);
- (c) he has died or has been disqualified from being validly nominated after his nomination is confirmed valid for the election and before the specified date of the election;
- (d) he is elected; or
- (e) the number of votes received by the candidate in his favour is either not less than 2.5% of the total number of valid ballot papers received in the relevant EC subsector election or not less than 5 such ballot papers, whichever is the greater.

Candidates are required to, as soon as possible, complete a specified form for the return of the election deposit, and submit it together with the original receipt of the election deposit to the RO for action. The RO will forfeit the deposit in

accordance with ss 4 and 5 of the EC Subscribers & Deposit Reg, if none of the above conditions is satisfied.

PART VI : CANDIDATE ELIGIBILITY REVIEW COMMITTEE

4.29 As stipulated in Annex I to the Basic Law and the CEEO, the CERC shall be responsible for reviewing and confirming the eligibility of candidates/nominees for members of the EC. The CERC may request the ROs to provide advice regarding the nominations of candidates. It may also make decisions pursuant to the opinion of the National Security Committee. The National Security Committee shall, on the basis of the review by the department for safeguarding national security of the HKPF, make findings as to whether a candidate/nominee meets the legal requirements and conditions of “upholding the Basic Law and swearing allegiance to the HKSAR of the People’s Republic of China”, and will issue an opinion to the CERC in respect of candidates/nominees 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 National Security Committee. Information relating to the work of the National Security Committee shall not be subject to disclosure.

4.30 The CERC consists of the chairperson, at least two but not more than four official members and at least one but not more than three 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. In addition, the CE must report any appointment made to the Central People’s Government for record. [S 9A of the CEEO]

PART VII : VALIDITY OF NOMINATIONS

4.31 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 at the relevant subsector election and which nominees are validly nominated as the members of the EC within 14 days after the close of the nomination period. [Ss 7(8) and 22 of the Schedule to the CEEO, and ss 18(1) and 19(1) of the EAC (EP) (EC) Reg]

4.32 In determining whether a candidate/nominee is validly nominated, the CERC may request the RO to advise on whether the candidate/nominee is eligible to be nominated or disqualified from being nominated under the EAC (EP) (EC) Reg and the CEEO. [Ss 12(6) and 13(3A) of the EAC (EP) (EC) Reg]

4.33 If the RO discovers an error which may amount to a ground for deciding that the nomination form is invalid, and the error can be rectified within 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/nominee/designated body a reasonable opportunity to rectify it. 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. No substitution of subscriber or re-submission of a nomination form is allowed for the prospective candidate/prospective nominee/designated body after the close of the nomination period. A nomination may be ruled invalid if the errors on the nomination form are still not rectified. [S 15 of the EAC (EP) (EC) Reg]

4.34 To enable the CERC to be satisfied that the candidate/nominee of the relevant subsector is eligible to be nominated as a candidate/member of the EC, or otherwise as to the validity of a nomination, the CERC or RO may require

a candidate/nominee/designated body to furnish any supplementary information.
[Ss 7(6), 8(10), 12(6) and 13(3A) of the EAC (EP) (EC) Reg]

4.35 A nomination will be invalid unless the nomination form contains all information and signatures required or supplementary information required by the RO and the candidate/nominee has made the declarations mentioned in paras. 4.9(b) and 4.14(b) of this chapter.

4.36 Without prejudice to ss 17, 17A, 18 and 18A of the Schedule to the CEEO, the CERC may determine a nomination of a candidate to be invalid only when:

- (a) the number and qualifications of subscribers on the nomination form do not meet the requirements under s 8 of the EC Subscribers & Deposit Reg;
- (b) the nomination form, including the parts on nomination and declaration thereof, has not been completed or signed as required under the EAC (EP) (EC) 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 Schedule to the CEEO;
- (d) the candidate has not lodged the appropriate election deposit; or
- (e) the RO is satisfied that the candidate has died.

[S 13(3) of the EAC (EP) (EC) Reg]

4.37 Without prejudice to ss 7A, 8, 9 and 9A of the Schedule to the CEEO, the CERC may determine a nomination of a nominee to be invalid only when:

- (a) the designated nomination form or the nomination of a nominee on the form has not been completed or signed as required under the EAC (EP) (EC) Reg;
- (b) the CERC is satisfied that the nominee is not eligible to be, or is disqualified from being, nominated as a member of the EC under the Schedule to the CEEO; or
- (c) the CERC is satisfied that the nominee has died.

[S 12(5) of the EAC (EP) (EC) Reg]

PART VIII : WITHDRAWAL OF CANDIDATURE

4.38 A candidate may withdraw his candidature only before the close of the nomination period. He shall complete and sign the “Notice of Withdrawal of Candidature” and deliver the notice to the RO concerned in person or through the election agent. 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 “abandonment of election”. Even if a candidate has made public his claim about the “abandonment of election”, his name will still be shown on the ballot papers for voters/ARs to vote for, and the candidate concerned must comply with the election-related legislation, including reporting all election expenses. [S 21 of the Schedule to the CEEO and s 17 of the EAC (EP) (EC) Reg]

NOTE:

It is an offence for a person to offer advantage, or to use or threaten to use force or duress, or by a deception, to induce a candidate to withdraw his candidature, or for a candidate to solicit or accept an advantage to withdraw his candidature. [Ss 7, 8 and 9 of the ECICO]

PART IX : NOTICE OF VALID NOMINATIONS

4.39 For subsectors for which the members of the EC are to be nominated, the CERC must, within 14 days after the close of the nomination period, publish a notice in the Gazette declaring the nominee or nominees who is or are validly nominated as a member of the EC or members of the EC. The RO concerned will send the decision as to whether a nominee is validly nominated to the nominee concerned, the designated body that nominated the nominee concerned and the other nominees who are nominated by that designated body. [Ss 16(3) and 19(1) of the EAC (EP) (EC) Reg]

4.40 For subsectors for which the members of the EC are to be returned by election, the CERC must publish a notice in the Gazette within 14 days after the close of the nomination period, stating the name and address³⁰ of each of all the validly nominated candidates for the subsectors. In the case of validly nominated candidates of a contested subsector, the RO will draw lots for them to determine the order of candidates' names on the ballot papers (which may not correspond to the candidate number) and the list number of the designated spots allocated for displaying EAs. The candidate number will be officially confirmed only after the CERC has determined the validly nominated candidates and

³⁰ The name and address of the candidate are the information provided by the candidate in the nomination form. For details, see the notes on completion of the nomination form.

published a notice in the Gazette. After the end of the nomination period, the RO will inform the relevant candidates of the date, time and place of the lots drawing session and the Candidates' Briefing. The CERC will publish, in accordance with the order determined by drawing of lots, the number allocated to each candidate which will be shown on the ballot papers, in the notice of valid nomination. [Ss 18 and 49 of the EAC (EP) (EC) Reg]

4.41 Moreover, in the case of validly nominated candidates of an uncontested subsector, the RO must also publish a notice in the Gazette to declare the candidates as being duly elected as the members of the EC for that subsector. [S 19(2) of the EAC (EP) (EC) Reg]

4.42 The RO must also send a notice to each validly nominated candidate in the subsector, stating whether the candidate is validly nominated. [S 16(4) of the EAC (EP) (EC) Reg]

4.43 The EAC will conduct a briefing for all validly nominated candidates on important matters related to the election.

PART X : INTRODUCTION TO CANDIDATES

4.44 The REO will publish an **Introduction to Candidates**, and the candidate number allocated to each candidate by drawing of lots, which is to be shown on the ballot papers, will also be printed on the Introduction to Candidates. The Introduction to Candidates will be sent to voters/ARs (including the registered voters/ARs in custody) together with poll cards before the polling day. The Introduction to Candidates will also be uploaded to the dedicated election website for voters'/ARs' reference.

4.45 Candidates who wish to make use of the Introduction to Candidates for electioneering promotion must submit the required information to the relevant RO or the CEO **before the end of the nomination period** in one of the following manners:

Hard Copy Submission ^{Note}	Electronic Submission ^{Note}
<ul style="list-style-type: none"> • A duly completed input form affixed with a colour photo of the candidate taken within the last six months in specified size; and • Two copies of photo identical to the one affixed to the input form, with a label affixed on the back of each photo stating the candidate’s name and name of subsector in which the candidate stands for election. 	<ul style="list-style-type: none"> • Upload a digital photo of the candidate to the specified section of the electronic input form. The digital photo must comply with the file format specified in the electronic form (including image type, file size, and photo dimensions), otherwise the photo concerned will not be accepted; and • The electronic input form must be uploaded to REO’s designated e-Form Upload Platform.

Note: If a candidate does not submit the input form, the Introduction to Candidates will only show his name and candidate number allocated, with the statement “Relevant information has not been provided by the candidate” printed in the space provided for the electoral message.

4.46 Candidates should understand the different needs of voters/ARs (including those voters/ARs with visual impairment) and therefore, in the course of their electioneering activities, should make sure that voters/ARs can have reasonable access to the electoral messages. The EAC encourages candidates to

submit an electronic version of the input form (including the text version part) by the specified deadline to enable the production of a text version of the Introduction to Candidates which is readable by computers or smartphones for visually impaired voters/ARs. If a candidate does not provide the electronic version of text information, only an image-based version of the Introduction to Candidates will be available on the dedicated election website, and the text version will only show the candidate's name, personal particulars (if relevant information has been provided in the input form by the candidate), and the allocated number, with a remark that the candidate has not provided a text version of his electoral message. The EAC appeals to all candidates to make use of the text version to convey their electoral messages to persons with visual impairment.

4.47 The content, nature and presentation of an electoral message in the Introduction to Candidates are exclusively the idea and work of the candidate himself. They will not be subject to alteration or editing by the REO unless the content is considered unlawful, obscene, immoral, indecent, offensive, defamatory or containing information irrelevant to the promotion of the candidate's standing for election.

CHAPTER 5

POLLING AND COUNTING ARRANGEMENTS

PART I : GENERAL

5.1 A voter/AR can only vote at the polling station allocated to him by the REO. In general, the REO will assign voters/ARs to vote at the polling stations close to their registered residential addresses³¹.

5.2 If voters/ARs with mobility difficulty are allocated to a polling station that is not accessible for them, the voters/ARs may apply to the REO for re-allocation to a barrier-free special polling station to cast their votes.

5.3 A **No Canvassing Zone** (“NCZ”) will be designated for each polling station, and a **No Staying Zone** (“NSZ”) will also be designated immediately adjacent to the entrance/exit so as to avoid any obstruction of entrance/exit of the polling station (see Part V of this chapter).

5.4 Only voters/ARs and designated or authorised persons are allowed admission to a polling station. If voters/ARs need assistance from others for entering a polling station, they may make a request to the PRO, who will handle it with discretion.

5.5 Depending on the circumstances of individual polling stations, polling staff will issue ballot papers through the Electronic Poll Register (“EPR”) System or the printed copy of FR of voters. Upon entry to a polling

³¹ The retention of previously used polling stations is subject to various factors, such as the willingness of the venue owners or management to provide the location and whether other more suitable venues are identified by the REO.

station, voters/ARs should follow the instructions on site to collect ballot papers at any of the ballot paper issuing desks (see Parts VII to IX of this chapter).

5.6 The ballot is autonomous and secret. No one can use force or duress, or threaten to use force or duress, against a person to make him vote or not vote for any particular candidate at an election. No one is obligated to disclose which candidate he has voted for or is going to vote for.

5.7 After collecting the ballot paper, a voter/AR should immediately proceed to a voting compartment to mark his vote on the ballot paper. Each voting compartment can only be used by one voter/AR at any one time. Based on the principle of autonomous and secret ballot, it is prohibited by the law to have anyone (not even the relative or friend of the voter/AR) accompany or assist the voter/AR to vote. If a voter/AR is unable to mark the ballot paper on his own, he may, as stipulated under the law, request the PRO or the PRO's deputy to mark the ballot paper on his behalf according to his voting preference in the presence of one polling staff as witness (see para. 5.35 of this chapter).

5.8 No one is allowed to display or 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 a voter/AR to enter the polling station with a memorandum containing the name or number of the candidate of his 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 voter's/AR's own reference to mark the ballot paper inside the voting compartment.

PART II : TYPES AND ALLOCATION OF POLLING STATIONS

5.9 The CEO must by notice in the Gazette specify the polling hours and designate places as polling stations or counting stations at least 10 days before the polling day. The CEO may also designate the same place to serve as both a polling station and a counting station. [Ss 27(4), 28(1) and 29(3) of the EAC (EP) (EC) Reg]

5.10 There are three types of polling stations:

- (a) **Ordinary Polling Stations:** for use by general voters/ARs to cast their votes;
- (b) **Dedicated Polling Stations:** set up inside penal institutions and other suitable places for registered voters/ARs who are imprisoned or held in custody by law enforcement agencies to cast their votes on the polling day. Due to security reasons, there is a need for the penal institutions to separate some persons imprisoned or held in custody from others therein. Therefore, 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 a voter/AR allocated to that polling station to vote, and inform the voter/AR of the time slot assigned. The Commissioner of Correctional Services must assign time slots to those voters/ARs so as to give them a reasonable opportunity to vote, while the voter/AR to whom a time slot is assigned may only cast his vote during the time slot; and
- (c) **Special Polling Stations:** for use by voters/ARs with mobility difficulty to cast their votes. If voters/ARs with mobility difficulty are allocated to a polling station that is not accessible for them,

they may apply five days before the polling day for re-allocation to a special polling station that is equipped with barrier-free facilities to cast their votes.

[Ss 27(2A), (2B), (3A), (4A), 28(1)(a), (1A), 29 and 33(1) of the EAC (EP) (EC) Reg]

Central counting will be adopted for all EC subsector elections. Ballot papers cast at all polling stations will be delivered to the central counting station for counting after the close of poll.

PART III : POLL CARDS

5.11 At least five days before the polling day, poll cards will be sent to voters/ARs of contested subsectors at their registered addresses or correspondence addresses (if applicable) to notify them of the date, time and place of the poll. Voters/ARs may access the OVIES (www.voterinfo.gov.hk) via “iAM Smart” to check their allocated polling station and related polling information. If the CEO decides to change any polling station, the CEO must as early as practicable inform the voters/ARs, RO and PRO concerned in a manner he deems appropriate. In addition, the REO will send the poll cards to the penal institutions where the voters/ARs are serving their sentences insofar as practicable to allow voters/ARs serving a sentence of imprisonment on the polling day to receive the poll cards as early as possible. [S 31(1), (2A), (5) and (6) of the EAC (EP) (EC) Reg]

PART IV : HANDLING OF BALLOT BOXES

5.12 About 30 minutes before the commencement of the poll (or 15 minutes for dedicated polling stations situated in penal institutions), the PRO will allow the candidates, election agents and polling agents present to enter the polling station to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. For each candidate, only one person among the candidate himself, election agent(s) and polling agent(s) may be present to observe the aforesaid procedures. Similarly, after the close of poll, the PRO will lock and seal the ballot boxes in the presence of the candidates and their agents (if present). The count will commence when polling at all polling stations has closed. [Ss 48 and 61(1)(a) of the EAC (EP) (EC) Reg]

5.13 For dedicated polling stations situated in penal institutions, due to security reasons:

- (a) only a maximum of two candidates may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of the ballot boxes at a dedicated polling station situated inside a maximum security prison; and
- (b) only a maximum of two candidates, 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 the ballot boxes at a dedicated polling station situated in a penal institution (except maximum security prisons).

PART V : NO CANVASSING ZONE AND NO STAYING ZONE

5.14 To ensure that voters/ARs can access polling stations without interference/disturbance by electioneering activities, the ROs will designate an area outside the polling station as an NCZ according to the electoral legislation. **Electioneering activities are strictly prohibited within the NCZ. Otherwise, it will constitute an offence which may result in a fine and imprisonment.** Polling staff will display a notice of the designation of an NCZ and a map or plan with the boundary of the area at or near the polling station (see Chapter 14).

5.15 To ensure that voters/ARs can enter and exit polling stations safely in an unobstructed manner, the ROs will designate an area within the NCZ and adjacent to the entrance/exit (sometimes the entrance is the same as the exit) of the polling stations as an NSZ. **No person is allowed to stay or loiter inside the NSZ, except where a person has been expressly permitted to do so by the PRO. Otherwise, it will constitute an offence which may result in a fine and imprisonment** (see Chapter 14).

PART VI : PERSONS TO BE ADMITTED TO POLLING STATIONS

5.16 In addition to voters/ARs, only the following persons may be admitted to a polling station:

- (a) the PRO and polling staff;
- (b) members of the EAC;
- (c) the Chief Returning Officer (“CRO”) (Subsectors);

- (d) the ROs and Assistant Returning Officers (“AROs”) for the relevant subsectors;
- (e) public officers on duty at the polling station, including police officers, members of the Civil Aid Service (“CAS”), etc.;
- (f) officers of the Correctional Services Department (“CSD”) and other law enforcement agencies on duty at dedicated polling stations;
- (g) the CEO;
- (h) candidates and election agents of relevant subsectors and polling agents appointed for the polling station (not applicable to dedicated polling stations situated in maximum security prisons) in accordance with para. 5.17 of this chapter;
- (i) public officers authorised in writing by the CEO;
- (j) any person authorised in writing by a member of the EAC;
- (k) a person authorised in writing by the RO for liaison duties; and
- (l) children accompanying a voter/AR who enters the polling station for the purpose of voting (if the PRO considers that the children should not be left unattended while the voter/AR is in the polling station, and that the children will not disturb or cause inconvenience to the persons in the polling station).

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

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

5.17 For the purpose of keeping order at the polling station, the PRO may regulate the number of voters/ARs, candidates, election agents and polling agents allowed to enter the polling station at any one time. Details are as follows:

- (a) for each candidate, only one person among the candidate himself, election agent and polling agent may enter and be present in the polling station at any one time;
- (b) a notice will be displayed outside each polling station specifying the capacity of the designated area inside the polling station for candidates, election agents and polling agents. The PRO will arrange them to enter the polling station on a **first-come-first-served basis**;
- (c) any candidate, election agent or polling agent who is allowed to enter the polling station may only stay for a maximum of one hour each time. He must then leave the polling station on time unless there is no other candidate, election agent or polling agent waiting for admission. He may apply for admission to the polling station again on a first-come-first-served basis;
- (d) if no one among a candidate or any of his agents has earlier entered the polling station to observe the poll on the polling day, the PRO concerned will endeavour to give the candidate or his 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, if a candidate or any of his agents who has been allocated the last waiting slot for admission to the polling station has already observed the poll in that polling station, the person will have to yield his slot to a candidate or his agent who has not observed the poll in that polling station;

- (e) anyone who is allowed to enter a polling station has to sign and register his time of entry on a log sheet. A candidate, election agent or polling agent who has to queue outside the polling station for his turn to observe the poll at the designated area will be given a number chit that indicates the order of admission. A person who has lost his place due to his absence will have to obtain a new number chit when he returns; and
- (f) for security reasons, only a maximum of two 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 two candidates, election agents or polling agents may enter a dedicated polling station situated in a penal institution (except maximum security prisons) at any one time. Observers will have to take turn in case more than two candidates or their agents intend to observe the poll at the same time (see Chapter 7).

[S 44(2), (6), (7), (8) and (9) of the EAC (EP) (EC) Reg]

5.18 Except for voters/ARs, and those police officers, officers of the CSD, officers of any law enforcement agencies and members of the CAS on duty, all other persons permitted to enter a polling station are required to make a

Declaration of Secrecy³² on a specific form before entering the polling station and need to adhere to the regulations on the secrecy of voting. [S 92 of the EAC (EP) (EC) Reg]

PART VII : QUEUING ARRANGEMENTS

5.19 If voters/ARs have to queue up to enter the polling station, the PRO may make special queuing arrangements for voters/ARs with special needs, Voters/ARs with special needs include:

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

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

5.20 The PRO may, having regard to the actual situation, set up two queues at the polling station, one for voters/ARs with special needs and the other for ordinary voters/ARs. Besides, seats may be provided in the polling station for voters/ARs with special needs to rest while waiting to join the special queue later for collecting ballot papers.

³² 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.

(a) **Queuing Arrangement When the Electronic Poll Register System Is Used**

Each ballot paper issuing desk is installed with tablets to enable voters/ARs to flexibly collect their ballot papers at any one desk.

The PRO will assign a number of ballot paper issuing desks as special ballot paper issuing desks for use by voters/ARs with special needs (see para. 5.19 of this chapter) while other ballot paper issuing desks are available for use by ordinary voters/ARs.

Nevertheless, the PRO may adjust the number of special ballot paper issuing desks according to the actual situation to shorten the waiting time.

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

(b) **Queuing Arrangement When Printed Copy of Final Register of Voters Is Used**

If the printed copy of FR of voters is used for issuing ballot papers, the printed copy will be split and allocated to the ballot paper issuing desks according to the alphabetical prefixes of the Hong Kong Identity Card (“HKID”) numbers to avoid duplicate issuance of ballot papers. The PRO may, having regard to the actual situation, set up a special queue for each ballot paper issuing desk to shorten the waiting time of the persons with special needs.

(c) **Queuing Arrangement When Printed Copy of Final Register of Voters Is Used in the Event of Electronic Poll Register System Failure**

The special queuing arrangement is the same as that stated in (b) of this paragraph.

5.21 To facilitate the polling staff to cast their votes, the PRO will arrange for the polling staff to leave their posts briefly to visit their allocated polling stations. To ensure the polling staff return to work promptly, the polling staff who are going to cast the votes may present to the staff of the allocated polling station their polling staff identification to request priority queuing for collecting ballot papers and casting their votes.

PART VIII : COLLECTING BALLOT PAPERS

5.22 A voter/AR should present 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 can be issued with the ballot paper(s):

- (a) the original of the voter's/AR's valid HKID;
- (b) alternative documents:
 - (i) a document issued by the Commissioner of Registration to the voter/AR certifying that the voter/AR is exempt from registration;
 - (ii) a document issued by the Commissioner of Registration acknowledging that the voter/AR has applied:

- (1) to be registered under the Registration of Persons Ordinance; or
 - (2) for a new HKID and is awaiting its issuance;
 - (iii) a valid HKSAR Passport;
 - (iv) a valid HKSAR seaman's identity book;
 - (v) a valid document of identity; or
- (c) a document evidencing that the voter/AR has reported to a police officer the loss or destruction of the document referred to in (a), (b)(i) or (ii) of this paragraph, together with the original of a valid passport or similar travel document (not being one referred to in (a), (b)(i) to (v) of this paragraph) issued to him showing his name and photo.

[Ss 13, 14, and 25 of the Registration of Persons Regulations (Cap. 177A), Hong Kong Special Administrative Region Passports Ordinance (Cap. 539), s 3 of the Immigration Regulations (Cap. 115A), and s 50 of the EAC (EP) (EC) Reg]

5.23 For a voter/AR applying for a ballot paper at a dedicated polling station situated in a penal institution, the document to be presented is a document issued by the Commissioner of Correctional Services showing the voter/AR's name, photograph and prisoner registration number allocated by the Commissioner to the voter/AR for identification purpose. [S 50(1B) of the EAC (EP) (EC) Reg]

5.24 If the PRO has reasonable grounds to doubt the true identity and eligibility of a voter/AR, he shall ask the voter/AR concerned the following

questions when that person applies for a ballot paper (but not after the ballot paper has been issued):

- (a) “Are you the person registered in the subsector final register now in effect for this subsector, as follows (the PRO to read out the whole entry as it is recorded in the register)?”
- (b) “Have you already voted for this subsector?”

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

5.25 Where there is a reasonable cause to believe that a person has engaged in corrupt conduct by impersonating a voter/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) (EC) Reg]

PART IX : HOW TO ISSUE BALLOT PAPERS

5.26 Depending on the circumstances of individual polling stations, polling staff will issue ballot papers using the EPR System or a printed copy of FR of voters. The relevant procedures are as follows:

- (a) **Use of Electronic Poll Register System in Issuing Ballot Papers**

The polling staff will scan the HKID presented by the voter/AR with a tablet, or, with the PRO’s authorisation, manually input the

voter's/AR's HKID number into the EPR System to verify whether the person is a registered and eligible voter/AR allocated to the polling station concerned, so as to ascertain the number and type(s) of ballot paper(s) to be issued.

Upon confirmation, the polling staff will read out the name of the voter/AR as stated in the entry in the EPR System, show and issue the unmarked ballot paper(s) to the voter/AR, and record the number and type(s) of ballot paper(s) issued and the time of issuance in the EPR System, but will not record which particular ballot paper(s). The voter/AR may view his name, partial HKID number and type(s) of ballot paper(s) issued to him as shown on the screen of the EPR System during the issuance process.

(b) **Use of Printed Copy of Final Register of Voters in Issuing Ballot Papers**

The polling staff will check the voter's/AR's identity document against the entry in the printed copy of FR of voters to verify whether the person is a registered and eligible voter/AR allocated to the polling station concerned, and to ascertain the number and type(s) of ballot paper(s) to be issued.

Upon confirmation, the polling staff will softly read out the name of the voter/AR as stated in the entry in the printed copy of FR of voters, and, under the observation of the voter/AR, draw a line across the name and the HKID number therein to indicate that the ballot paper(s) has/have been issued to the voter/AR concerned. The polling staff will then show and issue the unmarked ballot paper(s) to the voter/AR, but will not record which particular ballot paper(s). To safeguard the personal data privacy of other

voters/ARs, the polling staff will cover up the entries of other voters/ARs in the printed copy of FR of voters while conducting the line-drawing under the observation of the relevant voter/AR.

(c) **Use of Printed Copy of Final Register of Voters in the Event of Electronic Poll Register System Failure**

In case the EPR System fails while in use on the polling day and cannot continue to operate, the polling staff will activate the fallback arrangement and use the printed copy of FR of voters (as stated in (b) of this paragraph) to issue ballot papers until the close of poll. When activating the fallback arrangement, the polling staff should activate the fallback mode of the EPR System, and cross-check against the “local storage device” inside the polling stations before issuing the ballot papers, so as to confirm that the voters/ARs concerned have not collected any ballot papers when the EPR System was in use. The “local storage device” will only record in an encrypted form the HKID numbers of voters/ARs who have collected their ballot papers, but will not record their names and other personal particulars.

[S 53 of the EAC (EP) (EC) Reg]

5.27 To facilitate the verification of the total number of ballot papers issued, the counterfoil of each ballot paper bears a serial number printed on its front. However, the serial number will not appear on the ballot paper. Neither the polling staff nor the EPR System will record the serial numbers of the ballot papers issued to voters/ARs. The serial numbers will only be used to count the quantity of ballot papers issued at the ballot paper issuing desks to estimate the voter turnout. Statistics of the hourly voter turnout and cumulative voter turnout

will be posted outside the polling stations for the public's reference.
[Ss 49(11) and 53(6) of the EAC (EP) (EC) Reg]

5.28 In general, ballot papers are issued at the ballot paper issuing desks. However, "TENDERED" ballot papers and ballot papers issued to voters/ARs in replacement of "SPOILT" ballot papers must be issued by the PRO at the PRO desk or the ballot paper changing desk. Please see paras. 5.42 and 5.43 of this chapter for the arrangement.

PART X : VOTING METHODS

5.29 When issued with the ballot paper(s), a voter/AR will be issued with a colour cardboard according to the number of ballot paper(s) issued to him. After inserting his ballot paper(s) into the ballot box(es), the voter/AR must return the cardboard to the polling staff before leaving the polling station. This arrangement helps the polling staff ensure that each voter/AR has cast all ballot papers issued to him before leaving the polling station, thereby preventing any ballot paper from being taken away from the polling station.

5.30 After having collected the ballot paper(s) and the cardboard, the voter/AR should immediately proceed to a voting compartment to mark the ballot paper(s) as instructed. One voting compartment can only be used by one voter/AR at one time.

5.31 The subsector elections adopt the "first past the post" voting system. Unless otherwise instructed by the EAC, the number of candidates marked by each voter/AR on the ballot paper(s) must be either equal to or less than the number of seats to be returned for that subsector. The ballot paper(s) should be marked in the following manner as appropriate:

- (a) the voter/AR must mark the ballot paper(s) by filling the ovals opposite the names of the candidates of his choice with the black pen provided by the polling station; **or**
- (b) the voter/AR must mark the ballot paper(s) by affixing the chop provided by the polling station to give a “✓” in the circles opposite the names of the candidates of his choice. Please note that only a single “✓” should appear within the circles.

[S 56 of the EAC (EP) (EC) Reg]

5.32 After marking the ballot paper in the manner as described in para. 5.31 of this chapter, voters/ARs should follow the instruction of polling staff and insert the unfolded ballot paper into the ballot box with the marked side facing down. [S 54(1A) and (1B) of the EAC (EP) (EC) Reg]

5.33 If there is a ballot paper checking machine in the polling station, before putting the ballot paper into the ballot box, voters/ARs may choose to use the ballot paper checking machine to check whether the ballot paper was marked in accordance with the relevant electoral law, e.g. whether the number of candidates marked is either less than or equal to the number of seats to be returned, so as to avoid invalidation of the ballot paper on account of the number of candidates marked exceeding the number of seats to be returned. The ballot paper checking machine will not record or count voters’/ARs’ choices marked on their ballot papers. Whether or not a voter/AR uses the machine is entirely voluntary.

5.34 The voter/AR should immediately leave the polling station without undue delay after putting his marked ballot paper(s) into the ballot box and returning the cardboard to the polling staff. [S 54(2) and (3) of the EAC (EP) (EC) Reg]

NOTE:

A person who fails to obey any order of the PRO or misconducts himself commits an offence and is liable to a fine and imprisonment. The PRO may seek assistance from the police and order the person to leave the polling station immediately.

If the PRO has reason to believe that a voter/AR deliberately makes an error in marking the ballot paper and requests the issuance of a new ballot paper repeatedly, the PRO may reject his request. If the PRO has reasonable grounds to believe that a person applies for or has applied for a ballot paper by impersonating a voter/AR, the PRO may request the police to arrest that person.

A person engages in corrupt conduct if he 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.

It is an offence for a person to take away a ballot paper from a polling station.

It will be a corrupt conduct if any person, without lawful authority, destroys, defaces, takes or otherwise interferes with a ballot paper in use or 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.

Candidates or their agents and voters/ARs should lodge a complaint to PROs, ROs, law enforcement agencies or the EAC in

the case of any possible contraventions of the electoral law. All complaints will be treated in strict confidence. Any complaints of suspected violation of the law will be referred to the law enforcement agencies for follow-up actions.

[Ss 46(2), (3), 52(2), (2A) and 54(4) of the EAC (EP) (EC) Reg, and ss 14, 17(1)(c), (d) and (e) of the ECICO]

A Voter/AR Claiming That He Is Unable to Read or Is Incapacitated from Marking His Vote by Himself due to Visual Impairment or Other Physical Conditions

5.35 In general, a voter/AR must mark the ballot paper **by himself** as described in para. 5.31 of this chapter and **must not** ask another person to do it for him. If a voter/AR claims that he is unable to read or is incapacitated from casting his vote by himself due to visual impairment or other physical conditions, only the PRO, the Deputy PRO or an Assistant PRO may, in the presence of one of the polling staff as witness, help mark the ballot paper. The polling staff should inform the candidates or their agents who are present when such a request for assistance is received. A candidate or his agent in the polling station may suggest that the PRO, the Deputy PRO or an Assistant PRO choose a polling staff not working at the ballot paper issuing desk as the witness, but the final choice should be determined by the PRO, Deputy PRO or Assistant PRO. Other than the children accompanying voters/ARs admitted by the PRO, no voters'/ARs' relatives, friends or any other persons are permitted to accompany the voters/ARs in the course of voting. [S 57(1) and (2) of the EAC (EP) (EC) Reg]

5.36 A voter/AR with visual impairment who so requests, having regard to the actual situation, will be provided with a **braille template** to

facilitate his marking of the ballot paper(s) by himself. The template should be returned to the polling staff after use. The features of the template are as follows:

- (a) the template is of the same width and length as the ballot paper for the relevant subsector;
- (b) the template contains numbers in braille and Arabic numerals printed in relief which are arranged from the top downwards in ascending order according to the candidate numbers assigned to the candidates of the relevant subsector; on the left hand side against each of the number is an oval or round hole;
- (c) the **top left hand corner** of the ballot paper as well as that of the template are cut so as to guide the person with visual impairment to place the template on top of the front side 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 relevant subsector; and each of the oval or round holes on the template corresponds with the oval or the circle on the ballot paper against the candidate.

[S 57(3) of the EAC (EP) (EC) Reg]

5.37 **The ballot is secret. No one is required to disclose which candidate he has voted for or is going to vote for.** A person who, without lawful authority, requires or purports to require a voter/AR to disclose the candidate, or any particulars relating to the candidate for whom the voter/AR has voted commits an offence and is liable to a fine at level 2 (\$5,000). The law also prohibits acts which may infringe the secrecy of vote during the polling and

counting processes. If a person contravenes any of the relevant legislation prohibited under this section, he commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. [S 13 of the ECICO, s 37 of the Schedule to the CEEO, and s 93 of the of the EAC (EP) (EC) Reg]

5.38 To protect voting secrecy of voters/ARs, no one may, at any time, divulge whether a voter/AR has or has not applied for a ballot paper or voted, or divulge the identity of a voter/AR at a dedicated polling station. Anyone who makes such divulgence, unless otherwise permitted by the law, commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. [S 93(1), (1A), (2) and (10) of the EAC (EP) (EC) Reg]

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

5.39 A voter/AR who has been issued with a ballot paper but has left the polling station without casting all his ballot paper(s) is not allowed to return to the polling station again to cast the remaining ballot paper(s). Nevertheless, if there is a justified reason for a voter/AR not to mark the ballot paper(s) immediately, or the voter/AR has become incapacitated from completing the voting by physical illness, with the permission of the PRO, the voter/AR could return to the polling station before the close of poll to cast his vote(s) after giving back the ballot paper(s) to the PRO:

- (a) the PRO, upon receiving the ballot paper(s) that is/are given back, must keep the relevant ballot paper(s) in his custody and, when the voter/AR returns to the polling station to vote before the close of poll, the PRO should return such ballot paper(s) to the voter/AR in the presence of a police officer; and
- (b) where the voter/AR has not returned to the polling station at the close of poll, the PRO must endorse on the front of the ballot

paper(s) the words “**UNUSED**” and “**未用**” and show it/them to each candidate or his election agent or polling agent who is present at the time. Such ballot paper(s) must not be put into the ballot box and will not be counted.

[Ss 55(2), (4), (6), 59 and 77(1)(c) of the EAC (EP) (EC) Reg]

5.40 For the dedicated polling stations situated in a penal institution, if there is a justified reason for a voter/AR not to mark the ballot paper(s) immediately, or the voter/AR has become incapacitated from completing the voting by physical illness, with the permission of the PRO, the voter/AR could return to the polling station before the close of poll within the existing or any newly assigned time slot to cast his vote(s) after giving back the ballot paper(s) to the PRO:

- (a) the PRO, upon receiving the ballot paper(s) that is/are given back, must keep the relevant ballot paper(s) in his custody and, when the voter/AR returns to the polling station to vote before the close of poll, the PRO should return such ballot paper(s) to the voter/AR in the presence of an officer of the CSD or any law enforcement agencies;
- (b) the Commissioner of Correctional Services or his officer(s) must as far as practicable assign a new time slot during the polling hours for the voter/AR to cast his vote(s) and notify the voter/AR; and
- (c) where the voter/AR has not returned to the polling station at the close of poll, the PRO must endorse on the front of the ballot paper(s) the words “**UNUSED**” and “**未用**” and show it/them to each candidate or his election agent or polling agent who is present

at the time. Such ballot paper(s) must not be put into the ballot box and will not be counted.

[Ss 55(2), (3A), (3B), (4), (6), (6A), 59 and 77(1)(c) of the EAC (EP) (EC) Reg]

5.41 If anyone finds an issued ballot paper (whether marked or unmarked) left behind in a voting compartment or any areas inside the polling station, he must hand it in to the PRO. The PRO must endorse on the front of the ballot paper(s) returned the words “**UNUSED**” and “**未用**” and should keep it/them in his custody. Such ballot paper(s) must not be put into the ballot box and will not be counted. [Ss 59 and 77(1)(c) of the EAC (EP) (EC) Reg]

5.42 Any voter/AR who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper may ask the PRO to exchange it for a new ballot paper. If the PRO considers the request reasonable, he will take back the ballot paper previously issued, then issue a new ballot paper. The PRO must endorse on the front of the ballot paper(s) returned the words “**SPOILT**” and “**損壞**” and keep it/them in his custody. Such ballot paper(s) will not be counted. [Ss 60 and 77(1)(d) of the EAC (EP) (EC) Reg]

5.43 If a person, claiming to be a particular voter/AR on the FR of voters, applies for a ballot paper at the polling station after a person has been issued with a ballot paper earlier with the same identity as per records, the PRO may issue to the voter/AR a ballot paper with the words “**TENDERED**” and “**重複**” endorsed on the front **only** in the circumstances that the PRO is not certain whether the person has been issued with a ballot paper earlier, and that the person has answered the questions set out in para. 5.24 of this chapter to the satisfaction of the PRO. Such ballot paper will not be counted. [Ss 58 and 77(1)(b) of the EAC (EP) (EC) Reg]

PART XI : ACTS PROHIBITED INSIDE POLLING STATIONS

5.44 Inside a polling station, no person should interfere with or attempt to influence other voters/ARs. In particular, a person must not:

- (a) communicate with any voter/AR in contravention of the direction of the RO, ARO, PRO or any polling staff;
- (b) attempt to obtain or disclose any information acquired about the vote of voters/ARs;
- (c) display or distribute any canvassing material;
- (d) display or wear any promotional material, e.g. 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 political body in Hong Kong or to a body any member of which is standing as a candidate in the election; or
- (e) use a mobile phone, paging machine or any other form of electronic communication device in contravention of the direction of the RO, ARO, PRO or any polling staff.

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 months or 6 months (as the case may be). [Ss 45 and 93 of the EAC (EP) (EC) Reg]

5.45 Inside a polling station, only the following persons may communicate with voters/ARs and use a mobile phone, paging machine or any other form of electronic communication device:

- (a) the PRO and polling staff;
- (b) the ROs and AROs for the relevant subsectors;
- (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 a 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) (EC) Reg]

5.46 The RO or the PRO shall not exercise his power to order a voter/AR to leave the polling station or remove a voter/AR from the polling station for the purpose of preventing the voter/AR from voting at the polling station allocated to him. However, any person who misconducts himself in or in the vicinity of a polling station (including disrupting the voting process, or disturbing or causing inconvenience to other persons in the polling station), or

votes with undue delay, or fails to obey any lawful order of the RO or the PRO, commits an offence. The relevant person may be ordered by such officers to leave the polling station or the vicinity of the polling station. If the relevant person fails to leave the polling station immediately as ordered by the RO or the PRO, he may be removed by:

- (a) a police officer (if it is not a dedicated polling station);
- (b) an officer of the CSD or other law enforcement agencies (if it is a dedicated polling station); or
- (c) a person authorised in writing by the RO or the PRO to order the relevant person to leave.

The person who is removed may not enter the relevant polling station again on that day, unless the RO or the PRO permits him to do so.

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

5.47 A person commits an offence if he takes photos, films or makes any video or audio recording within a polling station without the express permission of the PRO, the relevant RO or a member of the EAC and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. Generally speaking, the relevant permission is only granted to government photographers for performing publicity duties. [S 45(2) and (8) of the EAC (EP) (EC) Reg]

PART XII : CLOSE OF POLL AND PREPARATIONS FOR COUNTING

5.48 If a voter/AR has not arrived at the designated entrance of the polling station by the close of poll, he will not be allowed to enter the polling station. When the close of poll approaches but there is a long queue of voters/ARs outside the polling station waiting to vote, the PRO will arrange for polling staff to hold up a signboard to direct voters/ARs to proceed to the end of the queue to wait for their turn to vote. If there are still voters/ARs queuing outside the entrance of the polling station at the close of poll, polling staff will stand at the end of the queue to stop latecomers from joining the queue and, as far as practicable, let voters/ARs already in the queue enter the polling station to queue so as to close the entrance of the polling station. The PRO will close the entrance of the polling station when all the relevant voters/ARs have entered the polling station.

5.49 In short, all voters/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 a voter/AR has arrived at the building by the close of poll but has neither arrived at the entrance of the polling station nor queued up outside the entrance, he will not be allowed to enter the polling station to vote. At the close of poll, the PRO will display a notice at a prominent place outside the polling stations as soon as practicable (except for dedicated polling stations) to inform the public that the poll has been closed. Moreover, if EPR System is used at the polling station, the PRO must confirm the close of poll through the system. Candidates, election agents and polling agents may stay in the polling station to observe the process of locking and sealing the ballot boxes. The PRO will lock and seal the ballot boxes in the presence of the candidates or their agents (if present) and will also inform them of the numbers of unissued, spoilt and unused ballot papers in his possession. In addition, all such ballot papers and the marked

printed copies of the FR (if having been used) will be packed into separate sealed packets. The PRO must also prepare a ballot paper account to show the total number of ballot papers issued by the polling station, as well as the numbers of unused, spoilt and tendered ballot papers. [Ss 61(1), (3) and 62 of the EAC (EP) (EC) Reg]

5.50 Only not more than two persons among the candidates, election agents or counting agents may be allowed to accompany the polling staff in the delivery of the sealed ballot boxes and the ballot paper account from the polling station to the central counting station under police escort. If more than two of them wish to accompany in the delivery, the PRO will draw lots to determine the accompanying persons. Other candidates and their agents are allowed to remain in the polling station only until the arrival of police officers for escorting the delivery of sealed ballot boxes and ballot paper account. Thereafter, all other persons must leave the polling station. The PRO will arrange for the delivery of the sealed packets to the central counting station separately after the sealed ballot boxes and ballot paper account have been properly dispatched.

PART XIII : COUNTING ARRANGEMENTS

5.51 The REO will set up a central counting station to count the ballot papers for the subsectors and announce the election results. The RO for each subsector must, at least 10 days before the polling day, give notice of the time and place of counting of votes to the candidates. The CRO (Subsectors) is to keep order at the central counting station. ROs for the respective subsectors are in charge of the count for the relevant subsector, with the assistance of their AROs and counting staff. [S 63(4) of the EAC (EP) (EC) Reg]

5.52 All ballot boxes and ballot paper accounts delivered to the central counting station from the polling stations will be transferred to the relevant RO

in charge. The staff will first check whether each ballot box is properly sealed and the relevant RO will, in the presence of the candidates, election agents or counting agents (if present), break the seal on the ballot boxes, then immediately open the ballot boxes and empty all contents in the ballot boxes onto a counting table. After the RO has opened the ballot boxes, the candidates and their agents may request to inspect any paper other than the ballot papers taken out from the boxes before the paper is disposed of by the RO. **At no time should a candidate or his agent touch any of the ballot papers.** [S 72 of the EAC (EP) (EC) Reg]

5.53 The EAC will, depending on the circumstances³³, indicate whether the counting of votes of the subsectors is to be conducted by an electronic counting system or manually. If electronic counting is adopted, counting staff will count the total number of ballot papers for all subsectors in the ballot boxes after opening the ballot boxes collected from each polling station, and compare and verify the total number of ballot papers for all subsectors against the ballot paper accounts. The ballot papers from not less than two polling stations will then be mixed. The counting staff will put the mixed ballot papers, without sorting them by subsector beforehand, into the electronic counting machines for counting. The RO will eventually examine the clearly invalid ballot papers and determine the validity of the questionable ballot papers (see paras. 5.62 and 5.63 of this chapter). With the assistance of the counting staff, the RO will count the valid votes obtained by each candidate under the “first past the post” system and compile the final counting results. If the electronic counting system fails to operate normally, the counting staff will either activate the contingency plan to continue with automatic counting, or input the votes on each ballot paper manually into another independent computer system for counting (as the case may be). If manual input is adopted, counting staff will work in pairs to ensure data accuracy by performing “double entry”.

³³ For example, electronic counting is not adopted in subsector by-elections considering that the number of vacancies to be filled/number of voters is relatively small.

5.54 Moreover, if the count is conducted manually, the relevant RO, assisted by the counting staff, will:

- (a) arrange for the ballot papers to be sorted by subsector;
- (b) count and record the number of the ballot papers of each subsector, verify the relevant total number of ballot papers by comparing it with the ballot paper account for that relevant polling station, and prepare a statement in writing as to the result of the verification;
- (c) hand over ballot papers for subsectors for which he is not appointed, together with the relevant record prepared under (b) (i.e. the record on the number of ballot papers for the respective subsectors) to the ROs who are appointed for those subsectors;
- (d) count the votes recorded on the ballot papers for the subsector for which he is appointed;
- (e) count the votes recorded on the ballot papers for the subsector (for which he is also appointed) handed over to him from other ROs;
- (f) determine the validity of questionable ballot papers; and
- (g) compile the final counting results.

[Ss 73 and 74 of the EAC (EP) (EC) Reg]

5.55 Only the following persons may be present at the counting of votes at the counting station:

- (a) the CRO (Subsectors);
- (b) the ROs, AROs and counting staff for the relevant subsectors;
- (c) candidates, their election agents and counting agents for the relevant subsectors;
- (d) members of the EAC;
- (e) the CEO;
- (f) police officers and members of the CAS on duty at the counting station;
- (g) public officers authorised in writing by the CEO;
- (h) any person authorised in writing by any member of the EAC; and
- (i) any person permitted by the CRO (Subsectors) or the ROs in charge of the counting zone of the central counting station.

The CRO (Subsectors) 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 CRO (Subsectors) or the RO will also designate an area inside the counting station where members of the public may observe the counting of votes (“the public area”), unless the CRO (Subsectors) or the RO considers that the presence of a person may cause

disorder or disturbance in the counting station, or prejudice the secrecy of individual votes. [S 66(1), (2) and (6) of the EAC (EP) (EC) Reg]

5.56 Members of the public and the media may enter the public area of the counting station to observe the counting of votes but are not allowed to enter the counting zone. In order to keep order at the counting station, the CRO (Subsectors) or RO will set a maximum capacity of the public area and display a notice setting out such capacity outside the counting station. Once the maximum capacity is reached, the CRO (Subsectors) or the RO shall cease to admit any further members of the public.

5.57 Besides, members of the public (including the media) may take photos and/or videos inside the public area of the counting stations (excluding the counting zone). On the other hand, video recording systems will be installed at counting stations (including the counting zone) to record the actual situation of the counting stations (including the public area) for record purposes.

5.58 Except with the express permission of the CRO (Subsectors), the relevant RO or a member of the EAC (as the case may be), a person commits an offence if he takes photos, films or makes any audio or video recording within the counting zone during the period from the commencement of the count until the completion of the count and re-count (if any) taking place in that counting zone. [S 67(1) and (2) of the EAC (EP) (EC) Reg]

5.59 Except for police officers, officers of the CSD or any law enforcement agencies and members of the CAS on duty, every person permitted to stay in a counting zone must make a **Declaration of Secrecy** on the specified form before entering the counting zone, and comply with the regulations on the secrecy of voting. Members of the public and the media inside the public area are not required to make a Declaration of Secrecy. [S 92 of the EAC (EP) (EC) Reg]

5.60 Any person who misconducts himself or fails to obey the lawful orders of the CRO (Subsectors) or the RO 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 may be ordered by the CRO (Subsectors) or the RO (as the case may be) to leave the area immediately. A person misconducts himself if he disrupts the counting of votes, or disturbs or causes inconvenience to other persons in the counting station. The CRO (Subsectors) or the RO may also order a person to leave the counting station immediately if a person's conduct at the counting station is not in line with the purpose authorised or permitted for his entry to or stay at the counting station. If the person fails to leave immediately, he may be removed by a police officer or by a person authorised in writing by the CRO (Subsectors) or the RO. The person who is removed may not enter that counting station again on that day, unless the CRO (Subsectors) or the RO permits him to do so. [Ss 67(3), (4) and 68 of the EAC (EP) (EC) Reg]

5.61 The cumulative voter turnout announced on polling day is an estimated figure based on the statistics on ballot papers issued to voters/ARs by polling staff at the ballot paper issuing desks (see para. 5.27 of this chapter). The relevant number may not tally with the number of ballot papers in the ballot boxes for different reasons. For instance, it does not take into account the numbers of ballot papers endorsed as "TENDERED"³⁴ issued at the PRO desks, the "UNUSED"³⁵ ones which were left behind and not put into the ballot boxes (see paras. 5.41 and 5.43 of this chapter), etc. After adding the number of "TENDERED" ballot papers and deducting the number of "UNUSED" ballot papers, the cumulative voter turnout should, in principle, tally with the number

³⁴ "TENDERED" ballot papers are issued at the PRO desks. They are not counted in the cumulative voter turnout, but are put into the ballot box and included in the number of ballot papers actually counted from the ballot box.

³⁵ Ballot papers may occasionally be left behind in the polling stations. The PRO will endorse such ballot papers the words "UNUSED" and "未用", and keep them in his custody. These ballot papers have been counted in the cumulative voter turnout although they will not be put into the ballot boxes.

of ballot papers in the ballot boxes³⁶. However, a discrepancy may occur between the two numbers if any ballot paper was taken away without authorisation and consequently not put into a ballot box. In any event, the counting results will only be based on the actual number of ballot papers in the ballot boxes, while the cumulative voter turnout is for reference only.

Invalid Ballot Papers

5.62 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is endorsed on the front the words “**TENDERED**” and “重複”;
- (c) it is endorsed on the front the words “**SPOILT**” and “損壞”;
- (d) it is endorsed on the front the words “**UNUSED**” and “未用”; or
- (e) votes on it are recorded for a number of candidates exceeding the number of EC members to be returned by the subsector concerned.

The above-mentioned ballot papers will be set aside and will neither be counted nor 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

³⁶ See para. 5.28 of this chapter. Ballot papers issued to voters/ARs in replacement of “SPOILT” ballot papers are also issued at the PRO desk. Since the “SPOILT” ballot papers to be kept in PRO’s custody were issued at the ballot paper issuing desks, and therefore they have been counted in the cumulative voter turnout. As for the ballot papers issued to voters/ARs by the PRO in replacement of “SPOILT” ballot papers, they will be put into the ballot box and hence subsequently be included in the number of ballot papers actually counted from the ballot boxes.

representations to the RO concerning these ballot papers. [Ss 74A(b) and 77 of the EAC (EP) (EC) Reg]

Questionable Ballot Papers

5.63 Ballot papers which appear to fall under the following categories will be considered as questionable ballot papers, and must be separated and forwarded to the RO to determine whether the votes are to be considered as valid and to be counted. 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 voter/AR can possibly be identified;
- (b) it is not marked by filling in black the oval(s) on it opposite the name(s) of the candidate(s) of the voter/AR's choice;
- (c) for subsector by-elections, it is not marked by affixing the chop provided by the polling station, or by giving a single "✓" in the circle(s) on the ballot paper opposite the name(s) of the candidate(s) of the voter/AR's choice as instructed by the EAC. However, the RO may count the vote on these ballot papers if he is satisfied that the intention of the voter/AR is clear, notwithstanding that the way in which the chop is affixed deviates from the requirements above;
- (d) it is substantially mutilated; or
- (e) it is void for uncertainty.

[Ss 56(1), (2), 74A(a), 77(1), (2) and 78(4) of the EAC (EP) (EC) Reg]

5.64 The validity of all questionable ballot papers shall be determined by the RO. The RO will invite the candidates, election agents or counting agents present to participate in the determination process of questionable ballot papers. [S 78(3) and (4) of the EAC (EP) (EC) Reg]

5.65 When deciding on the validity of the ballot papers as mentioned in para. 5.63(a) of this chapter, the RO should 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 on the ballot paper in the said election petition was considered a mark by which the identity of the elector could possibly be identified. However, the validity of ballot papers with any other writings or marks will remain to be determined by the RO on a case-by-case basis. The specific determination process will be conducted in the following manner:

- (a) the RO will inform the candidates, election agents or counting agents of his initial decision on the validity of each questionable ballot paper. The candidates and their agents (if present in the counting zone) may inspect and make representations concerning the questionable ballot papers;
- (b) the RO will consider their representations and make a final decision on the validity of these questionable ballot papers (see para. 5.66 of this chapter);
- (c) if the RO decides that a particular questionable ballot paper is invalid and therefore not to be counted, he must endorse on the front of the ballot paper the words “不獲接納” and “rejected”. In that case, if any candidate or his agent objects to the RO’s final decision, the RO must also endorse the words “反對此選票不獲接納” and “rejection objected to” on that ballot paper;

- (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; and
- (e) the RO shall prepare a statement to record his decisions made in respect of all questionable ballot papers.

[Ss 78(3), (4), (5), (6) and 78A of the EAC (EP) (EC) Reg]

5.66 The decision of the RO for a particular subsector in regard to any question arising in respect of any ballot paper relating to that subsector shall be **final**, but the relevant persons may lodge an appeal against that decision to the Revising Officer³⁷ (see Part I of Chapter 6). [S 79 of the EAC (EP) (EC) Reg and s 39 of the Schedule to the CEEO]

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

Request for a Re-count

5.68 After vote counting is completed for a particular subsector, the RO for the relevant subsector will make known the counting results to the candidates, election agents or counting agents (if present). The candidates or election agents may request the RO to re-count the votes. The RO shall comply with such request unless in his opinion that request is unreasonable. [S 76 of the EAC (EP) (EC) Reg]

³⁷ The Revising Officer may be any magistrate, former magistrate, retired magistrate or any legal officer as defined by the Legal Officers Ordinance appointed by the Chief Justice. [S 46 of the Schedule to the CEEO]

PART XIV : DECLARATION OF RESULTS

5.69 When the counting of votes and re-counts (if any) are completed and the results are obtained, the RO for the relevant subsector shall declare the candidate(s) elected for the relevant subsector. In the event that a vacancy is still to be filled for a subsector 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 counting station (see para. 3.37 of Chapter 3 for procedures for the drawing of lots). The candidate(s) on whom the lot fall(s) is/are to be returned at the election. The relevant RO shall display a notice of result of the election of that subsector at a prominent place outside the counting station and publish the result of the election in the Gazette within seven days of the declaration of the result. [Ss 80 and 81 of the EAC (EP) (EC) Reg]

PART XV : DISPOSAL OF DOCUMENTS AND BALLOT PAPERS

5.70 After ascertaining the result of the poll, the RO shall pack all the relevant documents and ballot papers into sealed packets as soon as practicable. Candidates and their agents may be present to observe the relevant process. These sealed packets and other documents including nomination forms, notices of appointment of agents, etc. will then be delivered to the CEO for his safe custody for at least six months from the date of the subsector election to which they relate before destruction. Except **pursuant to an order made by a Revising Officer in an appeal under s 39 of the Schedule to the CEEO or an order of court** made in criminal proceedings, **no person may inspect any ballot paper in the custody of the CEO.** [Ss 82(1), (4), 83, 84 and 85 of the EAC (EP) (EC) Reg]

PART XVI : POSTPONEMENT OR ADJOURNMENT OF THE ELECTION, THE POLL OR THE COUNT OF VOTES

5.71 The Schedule to the CEEO and the EAC (EP) (EC) Reg provide for the postponement or adjournment of the subsector election, or the election, the poll or the count for an individual polling station.

5.72 Regarding the postponement or adjournment of a subsector election and the poll at all the polling stations and/or the count at all the counting stations for the relevant subsector, if, during or before a subsector election, or at any time during the poll or the counting of votes in respect of a subsector election, it appears to the EAC that the election, the poll or the count is likely to be obstructed, disrupted, undermined or seriously affected by any of the prescribed occurrences including (a) a typhoon or other climate 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, the EAC may postpone or adjourn the holding of the election, the poll or the count in respect of the election. [S 24(1) and (2) of the Schedule to the CEEO, and s 1 of Schedule 1 to the EAC (EP) (EC) Reg]

5.73 For the **poll** at a particular polling station, if, at any time during the poll of a subsector election, it appears to the PRO that the poll at the polling station is likely to be obstructed, disrupted, undermined or seriously affected by any of the prescribed occurrences mentioned in para. 5.72 of this chapter, the PRO may announce the adjournment of the poll at that polling station. [S 2 of Schedule 1 to the EAC (EP) (EC) Reg]

5.74 If a subsector election or by-election, or the poll or count has to be postponed or adjourned, 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 on the following Sunday. There is no provision in the relevant electoral law and regulations regarding further postponement or adjournment of an already postponed or adjourned election, poll or count. [S 24(4) of the Schedule to the CEEO and s 6 of Schedule 1 to the EAC (EP) (EC) Reg]

PART XVII : SUPPLEMENTARY NOMINATIONS OR SUBSECTOR BY-ELECTIONS TO BE HELD

5.75 Regarding supplementary nominations and subsector by-elections, in case the number of members representing a particular subsector is confirmed to be less than the number of members allocated to the subsector concerned after the ERO has published the PR, the EAC will, in accordance with regulations in force under the Schedule to the CEEO:

- (a) arrange for a supplementary nomination if members of the subsector are returned by nomination; or
- (b) arrange for a subsector by-election if members of the subsector are returned by election,

to fill the vacancies of members representing the subsector concerned in EC.

[S 5 of the Schedule to the CEEO]

5.76 There is no provision in the subsisting law regarding the holding of any subsector by-election to cater for the event that a subsector election, poll or count has to be postponed or adjourned due to the circumstances mentioned in paras. 5.72 to 5.73 of this chapter but cannot be held within 14 days after the scheduled date as stipulated in the law.

CHAPTER 6

APPEALS

PART I : APPEALS AGAINST RESULT OF AN ELECTION

6.1 Any person claiming to be a candidate at an EC subsector election may appeal to a Revising Officer³⁸ against the result of that election (including the decision of the CERC) by lodging an appeal notice. However, 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 National Security Committee. An appeal to question a subsector election may be lodged only on the ground that the person declared by the RO in accordance with the regulations in force under the EACO to have been elected as a member of the EC at that subsector election was not duly elected because:

- (a) the person was ineligible to be, or was disqualified from being, a candidate at the election; or
- (b) material irregularity occurred in relation to the election or to the polling or counting of votes at the election.

[S 9B of the CEEO and s 39 of the Schedule to the CEEO, and s 3 of the EC (Appeals) Reg]

6.2 The appeal notice may only reach the Revising Officer not later than seven days after the date on which the RO has published in the Gazette the

³⁸ The Revising Officer may be any magistrate, former magistrate, retired magistrate, or any legal officer as defined by s 2 of the Legal Officers Ordinance appointed by the Chief Justice. [S 46 of the Schedule to the CEEO]

result being appealed against. If the deadline for lodging appeal notices falls on an inclement weather warning day, it will be extended to the next working day which is not an inclement weather warning day. [S 39(2) of the Schedule to the CEEO and ss 2A and 3(4) of the EC (Appeals) Reg]

PART II : APPEALS IN RELATION TO DECLARATION AND REGISTRATION OF NOMINEES AS MEMBERS OF THE ELECTION COMMITTEE

6.3 Subject to s 9B of the CEEO³⁹, if any person considers that a nominee who has been declared as a member of the EC is not eligible to be declared and registered as a member of the EC on the ground that:

- (a) the nominee was ineligible to be selected as, or was disqualified from being, a nominee;
- (b) material irregularity occurred in relation to the process of nomination;
- (c) a processing error occurred in relation to the process of registration;
- (d) material irregularity occurred in relation to the determination of the CERC as to the validity of the nomination of the nominee; or
- (e) material irregularity occurred in relation to the determination of the RO under s 7(6) of the Schedule to the CEEO,

³⁹ No legal proceedings may be instituted in respect of a decision made by the CERC on the eligibility of a candidate for the membership of the EC pursuant to the opinion of the National Security Committee. [S 9B of the CEEO]

he may, by a written representation, object to the declaration and registration of the nominee as a member of the EC in the IR of members of the EC or the FR of members of the EC (as the case may be)⁴⁰. The above written representation must reach the Revising Officer not later than seven days after the date of the publication of the IR of members of the EC or the FR of members of the EC concerned. If the deadline for submitting written representations falls on an inclement weather warning day, it will be extended to the next working day which is not an inclement weather warning day. [Ss 2A and 4 of the EC (Appeals) Reg]

PART III : APPEALS IN RELATION TO REGISTRATION OF EX-OFFICIO MEMBERS AS MEMBERS OF THE ELECTION COMMITTEE

6.4 Subject to s 9B of the CEEO⁴¹, if any person considers that an ex-officio member is not eligible to be registered as a member of the EC on the ground that:

- (a) the ex-officio member was ineligible to be registered as, or was disqualified from being, a member of the EC;
- (b) a processing error occurred in relation to the process of registration; or
- (c) material irregularity occurred in relation to the determination of the CERC as to the validity of the registration of the ex-officio member,

he may, by a written representation, object to the registration of the ex-officio

⁴⁰ IR of members of the EC applies to subsector ordinary elections, and FR of members of the EC applies to subsector by-elections.

⁴¹ See footnote 39.

member as a member of the EC in the IR of members of the EC or the FR of members of the EC (as the case may be)⁴². [S 4A(1) of the EC (Appeals) Reg]

6.5 In addition, a person whose registration as an ex-officio member has been determined by the CERC to be invalid may, subject to s 9B of the CEEO, claim that he is eligible to be, and is not disqualified from being, registered as an ex-officio member by submitting a written representation. [S 4A(2) of the EC (Appeals) Reg]

6.6 The written representation mentioned in paras. 6.4 and 6.5 of this chapter must reach the Revising Officer not later than seven days after the relevant date, where “relevant date” means:

- (a) the date of publication of the IR of members of the EC concerned;
or
- (b) if the relevant determination of the CERC is made after the date of publication of the IR of members of the EC concerned,
 - (i) (if the registration is determined as valid) the date of publication of the relevant notice under s 41(4) of the Schedule to the CEEO; or
 - (ii) (if the registration is determined as invalid) the date of issuance of the notice informing the relevant person of the determination.

[S 4A(3) of the EC (Appeals) Reg]

⁴² See footnote 40.

If the deadline for submitting written representations falls on an inclement weather warning day, it will be extended to the next working day which is not an inclement weather warning day. [S 2A of the EC (Appeals) Reg]

PART IV : HEARING OF APPEALS AND RULING OF REVISING OFFICER

6.7 When the Revising Officer receives an appeal notice or a written representation (as the case may be), he shall arrange to hold a hearing as soon as practicable. At the hearing, the appellant, the person whose election is questioned, the nominee who has been declared as a member of the EC concerned or the ex-officio member concerned (as the case may be) may appear in person at the hearing and make representations to the Revising Officer, or be represented at the hearing and make representations by a legal practitioner, or by any other person authorised in writing by him. For cases in which a person whose election, declaration or registration as a member of the EC is questioned, the Revising Officer shall determine whether the person concerned was or was not duly elected or should have been registered as a member of the EC at the end of the hearing. The determination of the Revising Officer on an appeal shall be final. If necessary, the Revising Officer shall direct the ERO to incorporate his ruling in the IR of members of the EC or the FR of members of the EC (as the case may be)⁴³ after the hearing. Moreover, the Revising Officer may review any ruling made, and for that purpose may rehear or redetermine (as the case may be) the matter wholly or in part and reverse or confirm his previous ruling. [S 39 of the Schedule to the CEEO and ss 5, 6, 8 and 10 of the EC (Appeals) Reg]

⁴³ See footnote 40.

CHAPTER 7

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

PART I : GENERAL

7.1 This chapter illustrates the appointment of the following four types of agents at an election and their roles:

- (a) election agent;
- (b) election expense agent;
- (c) polling agent; and
- (d) counting agent.

The REO will remind all candidates of the deadline for appointing agents about ten days before the polling day and will also provide all candidates with name lists of all types of agents received by the REO for their reference about two days before the polling day.

7.2 To ensure the secrecy of voting, except for a voter/AR, a police officer, an officer of the CSD, an officer of any law enforcement agency or a member of the CAS on duty, every person authorised to enter a polling station or a counting station must make a declaration of secrecy on the specified form before entering the station and observe the requirements governing the secrecy of voting. [S 92(1), (2) and (5) of the EAC (EP) (EC) Reg]

7.3 If a candidate or his agent(s) wishes to lodge any complaint about whatever happens inside a polling station, he should follow the procedures laid down in Chapter 20 on Complaints Procedures.

PART II : TYPES AND NUMBERS OF AGENTS

7.4 A candidate may appoint the following four types of agents to assist him in standing for election:

- (a) election agent: **one**;
- (b) election expense agents: **any number**;
- (c) polling agents:
 - (i) a maximum of **two** for **each polling station**, other than a dedicated polling station situated in a penal institution, for the subsector for which he is nominated;
 - (ii) **one** for **each dedicated polling station** situated in a penal institution other than a maximum security prison; and
- (d) counting agents: not more than the number specified by the EAC⁴⁴.

[Ss 23(1), 25, 42(3), (5A) and 64(2) of EAC (EP) (EC) Reg]

⁴⁴ The number of counting agents to be specified by the EAC will be stated in the specified form for the appointment of counting agents.

PART III : QUALIFICATIONS OF AGENTS

7.5 The election agents, polling agents and counting agents must be holders of HKID and have attained the age of 18 years, while an election expense agent must have attained the age of 18 years. [Ss 23(2), 25(1), 42(4) and 64(3) of the EAC (EP) (EC) Reg]

PART IV : CIVIL SERVANTS ACTING AS AGENTS

7.6 When acting as an agent for a candidate or participating in his electioneering activities, civil servants and non-civil service government staff⁴⁵ should see Part I of Chapter 19.

PART V : ELECTION AGENTS

Appointment and Revocation

7.7 When appointing an election agent, a candidate must note the following:

- (a) after submitting his own nomination form, a candidate may appoint **one** election agent to assist him and to act on his behalf to handle affairs related to his standing for election;

⁴⁵ For the purpose of the 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 Circular No. 2/2001;
- (b) those employed under the Post-Retirement Service Contract Scheme pursuant to Civil Service Bureau Circular No. 13/2015; and
- (c) those employed on non-civil service terms holding public offices that do not fall under (a) or (b) above.

- (b) the notice of appointment of an election agent must be in the specified form, signed by both the candidate and the election agent, and delivered to the RO by hand, by post, by email or by fax transmission. If the notice of appointment is given on the polling day, it could not be delivered to the RO by post;
- (c) if a candidate wishes to replace or revoke the appointment of an election agent, he must complete the specified form and deliver it in the manner as described in (b) of this paragraph; and
- (d) the appointment or revocation of an election agent is not effective until such notice is received by the RO.

[S 23(1), (3), (4), (5), (6), (8), (9), (10), (11), (12) and (13) of the EAC (EP) (EC) Reg]

Notification

7.8 Within five days after the end of the nomination period (except the appointment of the election agent is made five days after the end of the nomination period), each validly nominated candidate 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 subsector concerned. The RO must also display outside his office a notice of the particulars of the election agents. [S 24(1), (2), (3), (4) and (5) of the EAC (EP) (EC) Reg]

Role

7.9 An election agent ranks in the **most important position** amongst all types of agents of a candidate. Except the following matters, he has the

authority to handle all matters a candidate is authorised to handle for the election under the EAC (EP) (EC) Reg:

- (a) to sign the nomination form or make any requisite declaration;
- (b) to withdraw the candidate's candidature;
- (c) to incur election expenses (unless he is also appointed as an election expense agent by the candidate);
- (d) to authorise an election expense agent to incur election expenses;
and
- (e) to enter a dedicated polling station situated in a maximum security prison.

[S 23(14) and (15) of the EAC (EP) (EC) Reg, and s 23(1) of the ECICO]

NOTE:

An election agent and the candidate must share the responsibility for managing the electioneering activities. A candidate is responsible for all the acts of the election agent. If the election agent fails to perform his duties, contravenes the ECICO or commits other criminal offences, the candidate may also be held responsible for serious consequences.

7.10 Election agents are allowed admission to the polling stations and counting stations of the subsector of the candidates concerned and have the right to observe the polling and counting of votes. However, they must comply with the requirements applicable to polling agents and/or counting agents (see Parts VII and VIII of this chapter).

7.11 To maintain order inside the polling station and ensure that polling is conducted smoothly, the PRO of a polling station may regulate the number of candidates, election agents and polling agents who may enter the polling station at any one time. [S 44(2) of the EAC (EP) (EC) Reg]

Arrangements for Entering Dedicated Polling Stations

7.12 The procedures and arrangements for entering a dedicated polling station situated in a penal institution are as follows:

- (a) due to security reasons, only candidates can enter dedicated polling stations situated in maximum security prisons to observe the poll;
- (b) only **one** election agent or polling agent can be appointed to enter a dedicated polling station situated in a penal institution which is not a maximum security prison to observe the poll. Hence, (i) if the Commissioner of Correctional Services has already given consent to allow an election agent of a candidate to enter a dedicated polling station situated in a penal institution which is not a maximum security prison, the same candidate cannot appoint a polling agent in respect of that polling station; and (ii) if a candidate has appointed a polling agent for a dedicated polling station situated in a penal institution, the election agent cannot enter the polling station;

An application for an election agent or a polling agent to enter a dedicated polling station situated in a penal institution must be in the specified form, signed by the candidate and/or the election agent, and delivered to the CEO by hand, by post, by email or by fax transmission at least one week before the polling day. The

application shall come into effect only after obtaining the consent of the Commissioner of Correctional Services; and

- (c) if the Commissioner of Correctional Services refuses to give consent to the application mentioned in (b) of this paragraph, he will notify the candidate or the election agent as soon as practicable.

[Ss 23(15), (16), (18), 42(5), (5AA), (5A), (5C) and (8) of the EAC (EP) (EC) Reg]

7.13 During the week before the polling day, if the Commissioner of Correctional Services is satisfied that:

- (a) an imprisoned or detained voter/AR in the subsector to which the candidate belongs is admitted or transferred to a penal institution;
- (b) the voter/AR concerned is entitled to vote at the dedicated polling station situated in the penal institution; and
- (c) after the voter/AR had been admitted or transferred to a penal institution, the notice of appointment of an election agent or a polling agent was submitted by the candidate concerned without undue delay,

then the Commissioner may give consent to the application for appointment mentioned in para. 7.12(b) of this chapter. [Ss 23(17) and 42(5B) of the EAC (EP) (EC) Reg]

7.14 The REO will post and update on its website the number of registered voters/ARs who are imprisoned or held in custody in individual penal institutions daily from Monday to Friday (except general holidays) starting from

three weeks before the polling day and the Saturday immediately before the polling day for the reference of candidates or election agents.

PART VI : ELECTION EXPENSE AGENTS

Authorisation and Revocation

7.15 When authorising an election expense agent, a candidate must note the following:

- (a) a candidate may authorise **any number** of election expense agents to incur election expenses on his behalf in an election;
- (b) unless revoked, the relevant authorisation will remain in force until the end of the polling day, or the end of the last polling day if there is more than one polling day;
- (c) the notice of authorisation of an election expense agent must be in writing and in the specified form, signed by the candidate, and delivered to the RO (or the CEO if the RO has not been appointed) by hand, by post, by email or by fax transmission;
- (d) if a candidate wishes to revoke the authorisation of an election expense agent, he must complete the notice of revocation and deliver it in the manner as described in (c) of this paragraph;
- (e) the authorisation or revocation of an election expense agent is not effective until such notice is received by the RO or the CEO (as the case may be);

- (f) no election expenses should be incurred by a person purporting to be authorised as an election expense agent before the authorisation of an election expense agent becomes effective; and
- (g) the election expenses already incurred before the revocation of an election expense agent takes effect will still be counted as election expenses of the candidate.

[Ss 2 and 23(7) of the ECICO, and s 25(2), (4), (5), (6), (7), (8), (9), (9A) and (10) of the EAC (EP) (EC) Reg]

7.16 It is an **offence** for any person other than a candidate or an election expense agent to **incur election expenses**. The expenses so incurred may also be counted as the candidate's election expenses. [S 23(1) of the ECICO]

Role

7.17 An election expense agent is authorised to **incur election expenses on behalf of the candidate**. It is important to note that the aggregate amount of election expenses incurred by a candidate and 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; otherwise he commits a criminal offence. [Ss 23(4) and 24 of the ECICO]

Details of Declaring Election Expenses

7.18 A candidate⁴⁶ (whether elected or not or returned uncontested, or having withdrawn the candidature before the close of nominations, or been decided as not validly nominated, or not having incurred any election expenses) **must**, subject to criminal penalty for breach, submit to the CEO an election return with supporting documents as prescribed by the law. The candidate must ensure that the election return is lodged before the expiry of the period of 30 days after the election is settled in relation to the subsector concerned (or, if the subsector elections become settled on different dates, the last of those dates) or within such extended period as may be allowed by the Court of First Instance (“CFI”) under the relevant law (see Part V of Chapter 16). An election is settled in relation to a subsector on the date on which any of the following events occurs:

- (a) the result of the election is notified in the Gazette; or
- (b) a declaration that no candidate was validly nominated is made.

[S 37(1), (1D), (1E) and (1N) of the ECICO]

7.19 When declaring election expenses, candidates and election expense agents must note the following:

- (a) the candidate must **make sure** that election expense agents will keep account of all election expenses incurred on his behalf and will provide him as soon as possible, not later than the deadline

⁴⁶ 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, regardless of whether he has submitted his nomination form, whether he has withdrawn his nomination after submission of the nomination form, or whether his nomination is ruled invalid by the CERC. Regarding what constitutes “publicly declared an intention to stand as a candidate”, it depends on the overall circumstances as well as the objective facts and evidence.

specified in para. 7.18 of this chapter, with 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;

- (b) if any item of expenditure incurred by the election expense agents is paid or defrayed or contributed to by a donor, the candidate must **make sure** that the election expense agent will provide him with a report stating the expenses. If any item is not explicit in monetary terms, it should be assessed at a reasonable value; and
- (c) for any donation of \$1,000 or more, a copy of the receipt for the donation (in a standard form signed by the candidate) issued by the candidate to the donor must be submitted together with the election return as proof.

Should any election expense agents fail to provide such statements together with the invoices and receipts issued by goods or service suppliers or the copies of the receipts given to donors (as the case may be), the candidate will have difficulty in discharging his duty to lodge the election return, and he may violate s 38 of the ECICO. [S 37(2)(b) of the ECICO]

Public Inspection of Authorisation of Election Expense Agents

7.20 The RO or the CEO (as the case may be) will make all copies of authorisation of election expense agents available for public inspection until the deadline for which copies of the election return are available for inspection, i.e. ending with the 30th day before the first anniversary of the date of the deadline for lodging the relevant election return. [Ss 37(1D) and 41(6) of the ECICO]

PART VII : POLLING AGENTS

Appointment and Revocation

7.21 When appointing a polling agent, a candidate or an election agent must note the following:

- (a) a candidate or an election agent may appoint **a maximum of two polling agents** for each polling station (other than a dedicated polling station situated in a penal institution) of the subsector for which the candidate is nominated;
- (b) the persons appointed as polling agents may also be appointed as counting agents;
- (c) the notice of appointment of a polling agent must be in the specified form, signed by the candidate or the election agent, and delivered to the CEO by hand, by post, by email or by fax transmission at least **seven days** before the polling day;
- (d) upon the expiry of the deadline specified in (c) of this paragraph, if a candidate or an election agent wishes to appoint a polling agent, he must deliver it **in person** to the relevant PRO **on the polling day**;
- (e) the appointment of polling agents may be revoked by the candidate or the election agent at any time:
 - (i) if the appointment is revoked before the polling day, the candidate or the election agent must complete the specified form and deliver it in the manner as described in (c) of this paragraph;

- (ii) if the appointment is revoked **on the polling day**, the candidate or the election agent must complete the specified form and deliver it in the manner as described in (d) of this paragraph. If the candidate or the election agent gives notice of revocation for a polling agent appointed for a dedicated polling station situated in a penal institution on the polling day, such notice must be delivered to the CEO by hand, by email or by fax transmission; and
- (f) the appointment or revocation of a polling agent is not effective until such notice is received by the CEO or the PRO (as the case may be).

[S 42(2), (3), (5), (5AA), (6), (7), (8), (9), (10), (11), (11A) and (12) of the EAC (EP) (EC) Reg]

Role

7.22 Polling agents are appointed to **assist a candidate in observing the conduct of the poll** in order to avoid impersonation or other irregularities at polling stations.

Requirements that must be Aware of

7.23 Polling agents must note the following:

- (a) each candidate may only have one polling agent as his representative to enter the polling station for which he has been appointed at one time;

- (b) inside a polling station, polling agent is required to stay and keep his movements within the area designated for observation of the poll and not outside;
- (c) where a candidate or an election agent is present within a polling station, a polling agent of that candidate will not be allowed to stay within the polling station at the same time; and
- (d) In respect of the procedures and arrangements for entering a dedicated polling station situated in a penal institution, see paras. 7.12 to 7.14 of this chapter.

[S 44(6), (7) and (8) of the EAC (EP) (EC) Reg]

7.24 Generally speaking, a polling agent may observe the whole conduct of the poll in the polling station for which he has been appointed and record his observations but shall not 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 name in block letters beneath his signature for easy identification. Candidates are advised to keep a list of their own polling agents for easy verification when the sealing certificate is broken at the counting station.

- (b) leave the polling station at any time within the one-hour slot after he is admitted to the polling station, in which case his 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. 7.23 of this chapter);
- (c) subject to para. 7.25(b) of this chapter, observe the issue of ballot papers to voters/ARs, 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 genuine identity of a person and the qualification of a voter/AR, request the PRO to ask the appropriate questions prescribed in para. 5.24 of Chapter 5 to that person at the time of his application for a ballot paper (but not afterwards); and

NOTE:

The person will not be issued with any ballot paper unless he has answered the prescribed questions to the satisfaction of the PRO.

- (e) where there is a 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 provide evidence to substantiate the allegation in a court.

[Ss 51(3), (4), (5), and 52(1) of the EAC (EP) (EC) Reg]

- 7.25 Inside a polling station, a polling agent **must not**:
- (a) interfere with or attempt to influence any voter/AR;
 - (b) communicate with any voter/AR, or attempt to interfere with any ballot boxes, ballot papers, the EPR System and its “local storage device”, the marked copy of the FR in printed form or other election materials. 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 adhesive tapes around the voting compartments;
 - (c) ask a voter/AR about his HKID number or check his HKID;
 - (d) attempt to obtain information or disclose any knowledge acquired, concerning the vote of any voter/AR. A polling agent should read and observe carefully the requirements governing the secrecy of voting issued with the form of declaration of secrecy;
 - (e) exhibit, leave or distribute any electioneering promotion materials;
 - (f) display or wear any promotional materials; and
 - (g) use a mobile phone, paging machine or any other form of electronic communication device.

[Ss 45 and 93 of the EAC (EP) (EC) Reg]

7.26 Polling staff, candidates, election agents and polling agents must wear an identification article 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 of any person, including voters/ARs who are about to vote or have voted. [S 93(8) of the EAC (EP) (EC) Reg]

7.27 Polling agents should see Parts II to XI of Chapter 5 on matters relating to polling and, in particular, the relevant part for activities that are prohibited, and the consequences of conducting such activities in a polling station.

PART VIII : COUNTING AGENTS

Appointment and Revocation

7.28 When appointing a counting agent, a candidate or an election agent must note the following:

- (a) a candidate or an election agent may appoint not more than such number of counting agents as specified by the EAC. Counting agents may attend at a counting station to observe the counting of votes;
- (b) the persons appointed as counting agents may also be appointed as polling agents;
- (c) the notice of appointment of a counting agent must be in the specified form, signed by the candidate or the election agent, and delivered to the RO by hand, by post, by email or by fax transmission at least **seven days** before the polling day;
- (d) upon the expiry of the deadline specified in (c) of this paragraph, if a candidate or an election agent wishes to appoint a counting agent, he must deliver it **in person** to the RO **on the polling day**;

- (e) the appointment of a counting agent may be revoked by the candidate or the election agent at any time:
 - (i) if the appointment is revoked before the polling day, the candidate or the election agent must complete the specified form and deliver it in the manner as described in (c) of this paragraph;
 - (ii) if the appointment is revoked **on the polling day**, the candidate or the election agent must complete the specified form, and deliver it in the manner as described in (d) of this paragraph; and
- (f) the appointment or revocation of a counting agent is not effective until such notice is received by the RO.

[S 64(1), (2), (4), (5), (5A), (6), (7), (8), (9), (10), (10A), (11) and (12) of the EAC (EP) (EC) Reg]

Role

7.29 Counting agents are appointed to assist the candidates in observing in the counting stations the breaking of the seals on the ballot boxes, the sorting, separation and counting of ballot papers, and the counting of votes recorded on the valid ballot papers.

Requirements that must be Aware of

7.30 A counting agent may be present throughout the count to observe the entire procedures of counting of votes but must not touch, handle, separate or arrange any ballot papers. A counting agent in a counting station **may**:

- (a) observe the procedures of breaking the seals on the ballot boxes and opening the ballot boxes for the subsectors;
- (b) inspect any papers other than ballot papers taken from the ballot boxes which are intended to be disposed of;
- (c) observe the conduct of the count by counting staff including how ballot papers are separated by subsectors and how votes recorded on individual ballot papers are counted;
- (d) observe the determination of ballot papers as questionable ballot papers and make representations on behalf of the candidates; and
- (e) observe the packing of ballot papers at the conclusion of the count.

[S 78(3) of EAC (EP) (EC) Reg]

7.31 Counting agents should see Part XIII of Chapter 5 on matters relating to counting of votes and, in particular, the relevant part on activities that are prohibited, and the consequences of conducting such activities in a counting station.

CHAPTER 8

ELECTION ADVERTISEMENTS

PART I : GENERAL

8.1 EAs refer to publicity materials which are published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. Whether an individual statement constitutes an EA must be taken into account the overall circumstances, including the background and time of publication (e.g. whether the candidate has publicly declared his intention to stand for election or whether it happens during the election period) etc., so as to infer whether there is any intention to promote or prejudice the election of a candidate or candidates. If the statement is just for expression of views and comments based on facts without the above-mentioned intention, then the relevant statement is not regarded as an EA.

8.2 In accordance with the legislation and the requirements of the EAC, a candidate must upload an electronic copy of EA as well as the relevant information/documents to an open platform⁴⁷ 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”)⁴⁸ (see **Appendix 4**), or submit a copy to the RO for public inspection within three working days after publication of the EA (see para. 8.39 of this chapter).

⁴⁷ An open platform means an Internet platform that the public can access without having to go through an access control process.

⁴⁸ Interactive EAs disseminated via the Internet may have continuous updates. Where it is technically infeasible to upload each EA individually to the Candidate’s Platform or the Central Platform, the law permits candidates to upload the relevant hyperlinks to the above platforms to facilitate public inspection.

8.3 It is an illegal conduct to publish false statement that a person is or is not a candidate or to publish false or misleading statements of fact about a candidate (see Part III of Chapter 17). Therefore, candidates must ensure that the contents of their EAs (including any statements that involve other candidates) are based on facts⁴⁹. The EAC particularly reminds candidates to comply with the requirements of obtaining prior written consent of support from other persons or organisations as stipulated in Chapter 18. Candidates should seek independent legal advice if they are in doubt about the statutory requirements on EAs and election expenses. (For criminal sanctions, see ss 25, 26 and 27 of the ECICO.)

8.4 Generally, any form of publication issued by a third party, except a candidate, an election expense agent or a person authorised by them, with the purpose of promoting or prejudicing the election of a candidate at the election is regarded as an EA. The third party must obtain prior written authorisation from the candidate for the expenses incurred in producing the EA, and the candidate must include such expenses in his election expenses; otherwise, it is an offence.

8.5 At present, online platforms are widely used to publish election-related opinions. Such opinions may constitute EAs and involve election expenses. In order to prevent such publishers from committing the offence of incurring election expenses without the candidate's prior written consent, the relevant legislation stipulates that if the only expenses incurred in publishing such messages are electricity charges and/or charges for the Internet access, such publishers are exempted from the criminal liability for the offence of incurring election expenses illegally. However, **it must be noted** that the exemption does not apply to candidates or election expense agents. All expenses incurred in publishing an EA on an Internet platform by a candidate, an election

⁴⁹ 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 the EAs was not duly elected.

expense agent or a person authorised by them, including electricity charges and charges for the Internet access, must be counted as the candidate's election expenses. [S 23(1) and (1A) of the ECICO]

PART II : WHAT CONSTITUTES AN ELECTION ADVERTISEMENT

8.6 An EA means:

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

published, in any form⁵⁰, for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. [S 2 of the ECICO and s 1 of the EAC (EP) (EC) Reg]

⁵⁰ The forms include, but are not limited to, the following:

- (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 and any material;
- (b) audio/video cassette tape or disc, diskette, electronic message (e.g. messages published through social media, mobile messaging apps, communication networks, etc.), website, fax transmission, balloon, badge, emblem, carrier bag, head-dress and clothing; and
- (c) any message or object published by any person or organisation to support a candidate, or to promote the organisation's work programmes or services by referencing the name, photo, or any other forms of a candidate or candidates.

8.7 In a contested election, the concepts of “promoting” and “prejudicing” a candidate’s election can be relative. Any kind of publication with the intent to influence voters/ARs not to vote for a candidate would have the effect of improving the chances of success of the other candidate(s), and could therefore be regarded as having the intent of promoting the election of other candidates.

8.8 Therefore, messages published by any person (including a candidate) with the purpose of prejudicing the election of other candidates, and which contains references that enable the identification of the candidate(s) being prejudiced, will be regarded as an EA.

NOTE:

“Candidate” refers to a person who stands nominated as a candidate at an election and includes a person who has publicly declared an intention to stand as a candidate at the election before the close of nominations, whether or not he has submitted a nomination form, has withdrawn the nomination after submission, or has been determined by the CERC to have an invalid nomination. The “public declaration of the intention to stand as a candidate” must be determined on the basis of overall circumstances, actual facts and evidence.

“Publish” means print, display, exhibit, distribute, post up, publicly announce or make publicly known by any other means, and includes continue to publish. Therefore, for any person who intends to stand as a candidate at the election, if he continues to publish any previously published publicity materials, with an intent to promote his election, once he has been nominated as a candidate or has publicly declared an intention to stand as a

candidate at the election, such materials **may** be regarded as EAs. For the sake of prudence, the person concerned should remove all the publicity materials previously published before he is nominated as a candidate or publicly declares an intention to stand for election.

Besides, any candidate has authorised the publication of an EA by another person, the EA is taken to have been published by that candidate.

[S 2 of the ECICO and ss 1(2), 107(1) and (2) of the EAC (EP) (EC) Reg]

8.9 Any person or organisation, during or before the election period (i.e. from the first day of the nomination period to the day on which the polling ends, or to the day on which the RO must make the relevant declaration under s 25 of the Schedule to the CEEO or s 22 of the EAC (EP) (EC) Reg⁵¹), any direct or indirect appeal, by any means, to voters/ARs to vote or not to vote for certain candidates or organisations or bodies which certain candidates belong to or are affiliated with, irrespective of whether they contain the names or photos of candidates, may also be regarded as EAs depending on the overall circumstances (e.g. such messages may enable voters/ARs to reasonably identify the candidate(s) referred in the messages).

⁵¹ According to s 22 of the EAC (EP) (EC) Reg, if the following circumstances arise after the death or disqualification of a candidate for a subsector election, the RO must declare that no poll is to be held for the subsector election concerned:

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

8.10 Besides, a document published by a candidate **during** the election period that provides details of the work done by the candidate in the following capacity is also regarded as an EA:

- (a) the CE;
- (b) a member of the EC;
- (c) a member of the LegCo;
- (d) a member of a District Council (“DC”);
- (e) a member of the HYK;
- (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.

Therefore, candidates must comply with the requirements on EAs by including the relevant expenses into election expenses. If the relevant person has publicly declared his intention to stand as a candidate at the election before the election period and published such documents, the same requirement applies. However, if the document is published before the relevant person submits a nomination form or publicly declares his intention to stand as a candidate at the election, and the purpose of publication is not to promote or prejudice a candidate’s/candidates’ election, it will not be regarded as an EA. [S 107(4) of the EAC (EP) (EC) Reg]

8.11 There is no restriction on the quantity of EAs to be published by a candidate, but the relevant expenses incurred, together with other election expenses, must not exceed the prescribed maximum amount; otherwise, it is an offence. The maximum amount of election expenses for EC subsector elections is specified in s 2 of the Maximum Scale of Election Expenses (Election Committee) Order (see Part III of Chapter 16). [S 24 of the ECICO]

8.12 If the election expenses of a candidate are in excess of the prescribed maximum amount, he may apply to the CFI for a relief order according to the relevant legislation. The CFI may grant an order relieving the candidate from his relevant criminal liabilities if it is satisfied that the illegal conduct caused by the elections expenses of a candidate being in excess of the prescribed maximum amount 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 (see Part VI of Chapter 17). [S 31 of the ECICO]

PART III : PERIOD AND AREA OF DISPLAY

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

8.14 There are two types of display spots for EAs:

- (a) **designated spots** are located on government or privately owned land/property allocated by the Government to candidates; and

- (b) **private spots** are located on government land/property and outside designated spot areas in respect of which written permission or authorisation for display must be obtained from the owner or occupier concerned by the candidate himself.

8.15 If the display of the relevant EA involves carrying out of building works (including erection of any signboard) in private premises/land, the building works must comply with the relevant requirements of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121), or the Buildings Ordinance (Cap. 123) and the subsidiary regulations. Therefore, candidates are advised to consult building professionals on the compliance with the requirements of relevant legislation, and to carry out minor works in accordance with the simplified requirements under the “Minor Works Control System”, depending on the nature, scale, complexity and safety risks of the works, or submit prescribed building plans to the Buildings Department and commence the works after obtaining approval for the plans and written consent from the Buildings Department. Besides, the provisions which require prior approval and consent to the commencement of works from the Buildings Department under the “Minor Works Control System” and the Buildings Ordinance do not apply to any of the exempted buildings specified in a “Certificate of Exemption”. However, any building or drainage works carried out in such exempted buildings must comply with all relevant conditions of the lease. If the lease stipulates that approval and/or consent is/are required for the works, the candidate must submit an application to the relevant District Lands Officer prior to the commencement of works. [S 7(1)(a) of the Buildings Ordinance (Application to the New Territories) Ordinance]

8.16 Except for the static display of EAs authorised by the RO (e.g. EAs displayed at designated spots) on the polling day, no EA could be displayed within the area of a polling station or within the **NCZ** (see Chapter 14). Where there are buildings situated within the NCZ, the ROs should issue a notice in

advance to all candidates of the relevant subsector reminding them to remove all the EAs displayed at the buildings within the NCZ before the polling day. Besides, displaying EAs on vehicles (whether the vehicles are moving or parked within the NCZ), or carrying portable EAs by persons, is also regarded as a canvassing activity prohibited within the NCZ. Therefore, if a candidate has arranged to display EAs on the windows or bodywork of any public service vehicles (e.g. public light buses, taxis, etc.) and such vehicles will move or be parked within the relevant NCZ on the polling day, the candidate must arrange for the removal of such EAs before the polling day. If the candidate fails to remove the relevant EAs as requested by the RO, the RO may issue a warning, requesting him to remove the unauthorised EAs immediately. If the candidate does not comply, the EAC may issue a **reprimand** or **censure**. The RO will provide each candidate with one set of sketch maps or plans showing the areas of all polling stations in respect of the relevant subsector and all NCZs outside those polling stations.

Designated Spots

8.17 Designated spots are allocated by the relevant ROs for the candidates of **contested** subsectors to display their EAs, including the government land/property which have been allocated to public bodies (e.g. the Housing Authority) and are under their respective control. The ROs may draw up the designated spots on such land/property in coordination with those bodies. **Each candidate contesting in the same subsector** who has registered his interest in displaying EAs at designated spots, will be allocated **the same number of designated spots**.

8.18 Prospective candidates and political bodies are welcome to suggest to the ROs or the CEO (if RO has yet been appointed) the locations for displaying EAs for the ROs' consideration when drawing up the list of "**designated spots**", but the ROs have the absolute discretion to decide whether

to adopt the suggestions. Such suggestions should reach the ROs or the CEO **not later than eight weeks before the polling day.**

8.19 **No display of EAs will be allowed at any designated spots before the allocation.** Other than EAs displayed at designated spots and in electioneering activities separately approved by the relevant authorities, the display of any EAs by candidates on other government land/property will be regarded as unauthorised display and subject to removal. Candidates will be provided with a list of the designated spots allocated to them, and a set of maps to help identify the locations for displaying EAs.

8.20 Candidates using the designated spots must read in detail and comply with the “Conditions for Display of Election Advertisements at Designated Spots”, which will be included in the candidate’s folder and uploaded to the EAC website. To safeguard the safety of road users, candidates must ensure that EAs displayed do not distract motorists or interfere with the sight lines of motorists and pedestrians, or obscure any traffic signs or traffic light signals in a manner that obstructs the mobility of pedestrians.

8.21 The ROs will obtain prior approval from the relevant authorities for candidates to display their EAs at designated spots. After the allocation of designated spots, the ROs of the subsectors concerned will provide the candidates with a copy of that written permission or authorisation as required under the relevant statutory requirements immediately (see Part IV of this chapter). It is an offence for a person to display an EA without the necessary written permission or authorisation and is liable to a fine at level 4 (\$25,000) and, where the offence continues, an additional daily penalty of \$450 in the period during which the court believes that the offence has continued. A candidate must publish a copy of all the permissions or authorisations obtained by himself, as opposed to those provided by the ROs, for public inspection in the manner as set

out in para. 8.39 of this chapter. [Ss 104A(1), (2), 150 of and Schedule 9 to the PHMSO, and s 4 of the Land (Miscellaneous Provisions) Ordinance]

Private Spots

8.22 If candidates display their EAs at places other than government land/property and designated spots, they must seek and **obtain written permission or authorisation** from the owner or occupier of those places by themselves. The relevant arrangement is solely a private arrangement between the candidate and the owner or occupier. However, copies of such permissions or authorisations must be published by the candidate for public inspection in the manner as set out in para. 8.39 of this chapter (see para. 8.21 of this chapter). [S 104A(1) of the PHMSO]

8.23 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 EAs forms part of his election expenses. If the private spot secured for displaying the EA:

- (a) is normally used for commercial purposes; or
- (b) is not used for commercial advertising but similar spots held by other owners or occupiers are normally used for commercial purposes,

the actual rent charged or the rent or market rent that would generally be charged must 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).

8.24 If a private owner or occupier provides a non-commercial advertising spot for a candidate to display EAs, but similar spots belonging to other owners or occupiers are used for commercial advertising, under this circumstance, the provision of this kind of rent-free space should be regarded as election donation, and its market value should be counted as the candidate's election expenses. This requirement ensures that the candidate concerned will not have unfair advantage over the others who are unable to use the spot. For details on how the estimated value of the rent should be assessed, see Chapter 16.

8.25 If a spot is not the type normally used by its private owners or occupiers for commercial advertising, the candidate is not required to account for its rental value.

PART IV : ALLOCATION OF DESIGNATED SPOTS

8.26 When candidates submit the nomination forms, they can obtain from the ROs of the subsectors the general locations of the designated spots, which may include unleased government land, land and buildings managed by the Housing Bureau/Housing Department, and private land/property (if any). After the end of the nomination period, RO will, taking into account the number of candidates contested in the subsector, decide the number and size of designated spots available for allocation to candidates for the display of EAs. The allocation of designated spots would normally be held within 5 to 10 working days after the end of the nomination period.

8.27 To enable the ROs of the respective subsectors to ascertain the number and size of designated spots available for allocation, candidates wishing to display EAs at designated spots **must register their interests in writing by lodging a completed form to the relevant ROs within the nomination period. Candidates who fail to submit such form by the end of the**

nomination period will not be allocated any designated spots. Besides, only validly nominated candidates of contested subsectors will be allocated designated spots.

8.28 Designated spots are allocated by drawing of lots, or by agreement among the candidates or their representatives of all the contested subsectors. Each candidate contesting in the same subsector will be allocated the same number and equal area of designated spots.

8.29 Subject to para. 8.30 of this chapter, designated spots allocated are neither transferable nor exchangeable among candidates. Where a candidate of a particular subsector no longer wishes to use any designated spots allocated to him, he should inform the RO concerned in writing within one week after the allocation of those spots. Upon the request by other candidates filed in accordance with the procedures as set out in para. 8.27 of this chapter, the RO, if he considers appropriate, will re-allocate the designated spots by drawing of lots or by agreement to other candidates of the same subsector.

8.30 An EA advertising two or more candidates (whether from the same or different subsectors) jointly is allowed to be displayed separately at the designated spots allocated to the relevant candidates. Nevertheless, it is important to ensure that, for the relevant candidates, the total areas of all the spaces actually occupied for displaying all their EAs (including the joint EAs) at the designated spots (as measured by the dimension of EAs) should not exceed the total areas of the designated spots allocated to the candidates. A joint EA should not exceed the size restrictions specified in para. 8.32 of this chapter. As relevant candidates would all receive publicity benefits from the joint advertisement, the expenses incurred for the joint EA will in general have to be borne by the candidates concerned in proportional shares as their respective election expenses, to be calculated by the proportion of the size of the advertisement occupied. Each candidate or election expense agent must have

been mutually authorised by each other. Candidates must seek prior written consent of support from each other before publishing the joint EA (see Part I of Chapter 18). Besides, each of the candidates must make available a copy of the EAs, the written consent of support, and other relevant information/documents for public inspection in accordance with para. 8.39 of this chapter. [S 27 of the ECICO]

PART V : CONDITIONS AND LIMITATIONS ON DISPLAY OF ELECTION ADVERTISEMENTS

Name of the Subsector

8.31 To avoid confusion to voters/ARs, all candidates of a subsector must state in the EAs (including joint EAs) the name of the subsector in which they contest. Candidates may choose to use either the full name or the abbreviated name of the subsectors, as advised by the ROs. If EAs are illegally displayed at designated spots, the approval for the use of the relevant spots may be revoked.

Size

8.32 EAs at designated spots should not exceed 1 metre high and 2.5 metres long. If designated spots of the EAs are at roadside railings, the promotional messages printed on the relevant EAs must be **single-sided** and **facing the designated direction** in display.

Posting-up and Installation to Display Advertisements

8.33 The EAs must be separately and firmly fastened, posted up or displayed in such a way that they do not cause injury or death to any person or damage to any property. See the “Conditions for Display of Election Advertisements at Designated Spots” provided in the candidate’s folder and uploaded to the EAC website.

8.34 When processing candidates’ applications for displaying EAs, building management organisations should:

- (a) identify all the available locations within the building for candidates to display posters and banners;
- (b) determine the maximum size of posters and banners;
- (c) after the end of the nomination period, make enquiries to the ROs regarding the number of candidates contesting in the subsectors;
- (d) divide available spots equally to the number of candidates based on factors such as pedestrian flow, location and quantity, on the principle of fairness as far as practicable;
- (e) when one of the candidates of the relevant subsector applies to display EAs, allocate the display spots by drawing lots or by agreement; and
- (f) approve joint EAs if two or more candidates wish to display joint EAs, provided that the areas occupied do not exceed the size limits in (b) of this paragraph and the joint EAs are displayed only within the allocated spots.

8.35 Owners or occupiers of a property including a government body may specify the way in which EAs are displayed, and have the right to claim for an indemnity against any damage arising from the display of such EAs.

Re-use of Previous Publicity Boards

8.36 A candidate may re-use publicity boards used at a previous election. However, the candidate must ensure that the information on the publicity boards is accurate and relevant to the current election, and does not cause confusion to voters/ARs or breach any law due to failure in obtaining a written consent of support from relevant parties. The cost incurred in refurbishing as well as the estimated value of such publicity boards must be counted as the candidate's election expenses.

Removal of Election Advertisements

Government Land/Property

8.37 Candidates must remove all their EAs displayed on government land/property **within 10 days** following an election. Failure to do so within a specified period may result in prosecution against the candidates. Relevant authorities also have the rights to remove such EAs and issue demand notes for the removal costs to the candidates concerned within 21 days after the publication of the election results in the Gazette. The relevant **cost of removal of EAs** will be regarded as **election expenses**.

Private Land/Property

8.38 Candidates should notify the owners or occupiers of private land/property and the owners or operators of public service vehicles to arrange

prompt removal of EAs after the election to avoid misunderstanding or inviting complaints from the public due to display of outdated EAs.

PART VI : REQUIREMENTS RELATING TO PUBLICATION OF ELECTION ADVERTISEMENTS

Copies for Public Inspection

8.39 A candidate must make available a copy of each EA and the relevant information/documents, including the publication information, permission or Consent of Support, for public inspection in a way as stipulated in **Appendix 4 within three working days** (i.e. any day other than a general holiday or Saturday) **after the publication of the EAs**. The candidate must:

- (a) upload an electronic copy of each EA and the relevant information/documents to the Central Platform or the Candidate's Platform in accordance with the procedures set out in **Appendix 4**. If the candidate uses the Candidate's Platform, he must provide the **hyperlink** of the Candidate's platform to the CEO **at least three working days before the publication of the first EA** (see **Appendix 4**);
- (b) provide the RO or the CEO (if RO has yet been appointed) with two hard copies of each EA (or two identical full colour photos/printouts/photocopies if the EA cannot be practically or conveniently produced in specie) and one hard copy of the information/documents related to the EA; or
- (c) provide the RO or the CEO (if RO has yet been appointed) with two copies of a CD-ROM or DVD-ROM, each containing the

same EAs and one hard copy of the information/documents related to the EAs.

NOTE:

Candidates who fail to comply with the above requirements commit an offence, and are liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months.

[S 108(2), (3) and (9) of the EAC (EP) (EC) Reg]

Publication Details

8.40 When submitting the information of EAs, candidate should provide information related to the printing/publication (i.e. the name and address of the printer, date of printing/publication and number of copies printed), see para. 1(c) of **Appendix 4**. Candidates must ensure that all the information provided is accurate. [S 108(1)(a), (4) and (6) of the EAC (EP) (EC) Reg]

8.41 If the information of EAs submitted contains any mistake, the candidate should submit the relevant amended information in the manner as set out in para. 8.39 of this chapter for public inspection. All the amended information must be uploaded to the relevant platform or deposited with the relevant RO **within three working days at the latest after the polling day**. The relevant amended information will be used as the basis for checking the candidate's election return and for removing unauthorised display of EAs. For the avoidance of doubt, any amendment to the content of an EA will be regarded as the publication of a new EA, candidates must comply with the requirements mentioned in Part VI of this chapter. If only a candidate number or English alphabet is added to a published EA, only the copy of the EA bearing the newly

added content and the relevant amended information shall be made available for public inspection in accordance with this paragraph.

8.42 Speeches orally delivered by a candidate during election meetings or ad hoc visits will not be regarded as EAs, but speeches published in any form, such as distribution of copies of speeches to the audience or the media, will be regarded as EAs. The candidates concerned must comply with the requirements applicable for publishing EAs.

8.43 In the case where multiple candidates use identical copies of an EA, each of the candidates should, in accordance with the relevant requirements, submit the relevant copies and information/documents of that EA in a manner as specified in para. 8.39 of this chapter for public inspection. [S 108(2) and (3) of the EAC (EP) (EC) Reg]

NOTE:

A candidate who chooses to adopt the method set out in para. 8.39(a) of this chapter for submitting the copies and information/documents of EAs must ensure that his Candidate's Platform can operate properly and retains electronic copies of all EAs until the end of the public inspection period⁵², see **Appendix 4** (including the important notes in paras. 16 to 19). [S 41(6) of the ECICO and s 108(2) and (7) of the EAC (EP) (EC) Reg]

⁵² The public inspection period ends on the day which is 30 days before the first anniversary of the deadline for lodging election returns.

PART VII : TEMPORARY OCCUPATION OF GOVERNMENT LAND AT PUBLIC PLACE FOR HOLDING ELECTIONEERING ACTIVITIES

8.44 For temporary occupation of government land (including any public street, pavement, footbridge, public escalator system and pedestrian tunnel) for holding electioneering activities (e.g. setting up a manned street counter and displaying EAs which may include banners, roll-up banners and vertical flying posters or bunting), validly nominated candidates are required to submit applications specifying the scheduled date, time, location/spot and brief description of the proposed set-up to the relevant District Lands Office of the Lands Department for consideration. Applications from uncontested candidates will not be considered. The site approved for free occupation must not exceed 2 m² (i.e. 1 m x 2 m) in area and 2 m in height. The respective District Lands Office will consult other government departments in considering the applications, and adjust the approved location in light of the onsite physical setting and actual situation, and its decision shall be final.

8.45 The Lands Department will issue detailed guidelines to candidates, setting out the arrangements for applications to temporarily occupy government land for electioneering activities during the election period. Candidates must observe the specified deadlines to submit applications. If necessary, the District Lands Office will allocate spots by drawing lots. If an allocated spot falls within the NCZ on the polling day, the approval is deemed to have been revoked.

8.46 The District Lands Offices will not consider applications for holding electioneering activities on government land outside the designated periods. Display of EAs will not be permitted for a street counter not manned by staff.

PART VIII : PRINTED ELECTION ADVERTISEMENTS

Printing Details

8.47 All printed EAs, with the exception of those printed in registered local newspapers, must 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. This requirement applies to all EAs reproduced by any method of making copies (e.g. using printing machines, duplicators or photocopiers). The followings are some suggested formats for the printing details:

- (a) Printed by ABC Printing Works
 [Full address]
 Date: _____
 Number of copies: _____

or

- (b) Printed by the machine in candidate's office
 [Full address]
 Date: _____
 Number of copies: _____

[S 108(4), (5) and (6) of the EAC (EP) (EC) Reg]

Election Advertisements Published through Print Media

8.48 Where an EA is published through the print media, 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

8.49 A candidate who has inadvertently omitted the printing details from his printed EAs can make a statutory declaration to give the omitted details, and deposit such declaration with the RO **within seven days after the publication** of the relevant EA. Candidates who take this remedial step will not be prosecuted for contravention of s 108(4) of the EAC (EP) (EC) Reg. Such statutory declaration will be made available for public inspection by the relevant ROs till the end of the period in which copies of election returns are available for inspection as stipulated under s 41(6) of the ECICO. [S 108(6) and (7) of the EAC (EP) (EC) Reg]

PART IX : VIOLATION OF THE LAW AND CONSEQUENCES

Enforcement and Penalty

8.50 A candidate who fails to comply with the requirements set out in Parts VI and VIII of this chapter commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. [S 108(9) of the EAC (EP) (EC) Reg]

8.51 Any person who discovers any illegal display of EAs violating the relevant provisions should report to the RO, and such EAs may be seized, disposed of, destroyed, obliterated or covered by the RO or any person authorised by him. The candidate or his agent may be prosecuted, and if convicted, may be liable to a fine and to imprisonment. The cost of removal, being a civil debt, must be declared as the candidate's election expenses. The seized articles may be kept as evidence and will be disposed of or returned upon

application, in accordance with the procedures of the responsible authority. [Ss 108(9) and 110 of the EAC (EP) (EC) Reg, s 104C of the PHMSO, and s 24 of the Housing Ordinance (Cap. 283)]

8.52 Additional costs or compensations incurred by a candidate due to breaching agreements with the owners or occupiers of the private land/property in relation to the display of EAs, or for other reasons, may be regarded as election expenses.

8.53 The EAC may also issue a public statement regarding such complaints, **reprimand** or **censure** any non-compliance with the Guidelines and/or refer the matter to relevant departments for follow-up.

Relief for Election Advertisements

8.54 Candidates and their agents are responsible for understanding and complying with the requirements of the relevant legislation and the Guidelines. Any person who publishes an EA without complying with the requirements as set out in paras. 8.39 (except for the written permission/authorisation obtained as required under s 104A(1) of the PHMSO), 8.40, 8.41, and 8.47 of this chapter may apply to the CFI for an order allowing him to be excepted from the relevant requirements and relieving him from the relevant penalties. The CFI may grant an order of relief 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. The judgment of precedent court decisions⁵³ regarding applications for the relief of election-related criminal liabilities is as follows:

“if an applicant did not place enough significance on the obligation to file an election return, the court

⁵³ *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).

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.”

[S 109 of the EAC (EP) (EC) Reg]

PART X : FREE POSTAGE FOR ELECTION ADVERTISEMENTS

Conditions for Free Postage

8.55 A candidate of a subsector who has been validly nominated in the Gazette is permitted to send **one** letter free of postage to each voter/AR of the subsector in which he contests. Before the publication of the notice of valid nominations in the Gazette, a candidate who wishes to use the free postage must furnish the Postmaster General with a security (i.e. the postage of election mails in that bulk to be posted) in default of the postage payment in the event that he is not subsequently validly nominated. In the case of joint election mails, a candidate whose letters contain the information on any other candidate(s) is liable for payment of postage for the whole batch of mails if any of such candidate(s) is/are not subsequently validly nominated. Under such circumstances, the security paid by the candidate will not be refunded and the relevant joint election mails will not be regarded as postage-free election mails

of the candidate. [S 38(1) and (2) of the Schedule to the CEEO, and s 6(2)(a) of the Post Office Regulations (Cap. 98A)]

8.56 The purpose of free postage is to enable candidates to promote or advertise himself to voters/ARs concerned. Candidates must not abuse the free postage arrangement, or use it for any other purpose or any other election, or for promoting or advertising any other person. **EAs with illegal content** must not be posted through free postage.

8.57 A candidate may send joint election mails with other candidate(s) of the same subsector. However, the number of candidates sending joint election mails must not exceed the number of vacancies in that subsector. Therefore, the joint election mails arrangement **does not apply** to subsector(s) with only one vacancy.

8.58 The joint election mails posted by a candidate containing the information of other candidate(s) will not be regarded as election mails posted by the other candidate(s) through free postage. The other candidate(s) is/are still entitled to send one election mail to the voters/ARs of the subsector concerned free of postage. [S 38(2A) of the Schedule to the CEEO]

8.59 Specifically, the mails posted through free postage service must:

- (a) only be posted and delivered to an address in Hong Kong;
- (b) only contain messages solely related to the candidates' standing for election at that election, or in relation to the joint election mails mentioned in this chapter, also contain information related to other candidate(s) of the same subsector about standing for election at that election;

- (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;
- (f) not contain any obscene, immoral, indecent, offensive or libellous writing, picture or other thing; and
- (g) comply with other requirements of the Post Office Ordinance (Cap. 98) in respect of prohibited articles, including not sending, tendering for posting or sending by post anything the publication of which constitutes an offence endangering national security.

NOTE:

A candidate sending postage-free election mails to voters/ARs in bulk is liable for payment of postage for whole batch of mails if any mail therein does not meet the requirements in paras. (a) to (e) above. Besides, paras. (f) and (g) above refer to prohibited articles.

In the case of joint election mails, the candidates concerned should comply with the following requirements: (i) obtaining prior written authorisation to act as election expense agents for one another; (ii) sharing the related expenditure in respect of the joint election mails when submitting election returns; and (iii) obtaining of written consent of support from others

before sending the joint election mails (see Part I of Chapter 18).

[S 99(1) and (3)(a) of the EAC (EP) (EC) Reg, s 38(2A) of the Schedule to the CEEO, and s 32(1)(f) and (h) of the Post Office Ordinance]

Postal Requirements

8.60 Detailed requirements for election mails are specified in the “Notes on Free Postage for Election Mail” issued by the Hongkong Post, which can be downloaded from the dedicated election website. For methods of folding of election mail, see **Appendix 5**.

8.61 Address labels may be used for the mailing of EAs, provided that they are legible and **securely affixed** to the election mails.

NOTE:

For the purpose of sending election mails, candidates may request the REO to provide one set of mailing labels in respect of the voters/ARs of the relevant subsectors and/or USB flash drives containing the “Candidate Mailing Label System”. To protect the environment and respect the wishes of voters/ARs, candidates will not be provided with mailing labels in respect of voters/ARs who have provided their email addresses for receiving EAs or who have indicated that they do not wish to receive any EAs.

8.62 Candidates who wish to send joint election mails must indicate their intention in the “Notice of Posting of Election Mail”, which should be signed jointly by the candidates or election agents concerned. The specimens of

joint election mails must also be submitted to the designated manager(s) of Hongkong Post for approval.

8.63 The Government reserves the right to charge a candidate postage if any of the requirements under s 99 of the EAC (EP) (EC) Reg is not met, or the free postage service is abused. Such charge will be counted as the candidate's election expenses and therefore must be included in the election return to be sent to the CEO. The EAC may issue public statements in such a manner as it deems fit to **reprimand** or **censure** any abuse of the free postage service.

Enquiries

8.64 For general enquiries relating the posting of EAs, please contact:

Assistant Manager (Retail Business Support/Hong Kong)

General Post Office

2 Connaught Place, Central

Hong Kong

Tel: 2921 2190

Fax: 2501 5930

PART XI : ELECTION ADVERTISEMENTS POSTED TO REGISTERED VOTERS/AUTHORISED REPRESENTATIVES IN CUSTODY

8.65 If registered voters/ARs in the custody of the penal institutions have provided the addresses of the penal institutions for receiving EAs, candidates may send EAs to them according to the guidelines laid down by the CSD (see **Appendix 14**).

8.66 Registered voters/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.

PART XII : COMMERCIAL ADVERTISEMENTS RELATING TO CANDIDATES

8.67 Any commercial advertisement 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, to avoid the possibility of gaining unfair publicity, candidates should make their best efforts to request the relevant persons or organisations to cease displaying such advertisements after they have declared an intention to stand for election or during the election period.

PART XIII : PROMOTION ADVERTISEMENTS OF POLITICAL BODIES, PROFESSIONAL BODIES, CHAMBERS OF COMMERCE OR OTHER ORGANISATIONS

8.68 Any form of publication published by any political body, professional body or chamber of commerce, owners' corporation, tenants' association, or 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 before the election period** by name or photograph or other information, with the intention to promote the election of the candidate at the election may be regarded as an EA published by, or on behalf of the candidate. If the advertisement has been authorised by the candidate or his

agent, the expenses incurred will form part of the election expenses; otherwise, the organisation will be regarded as having incurred election expense illegally. A candidate should inform affiliated organisations or bodies of the guidelines above as soon as he intends or plans to stand for election. However, if the message published by the organisation or body (as opposed to the candidate himself) advertises only a particular activity which:

- (a) is organised from time to time as part of the organisation's or body'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,

then even if the organisation or body publish the message with the name and/or photo of a candidate who is involved in organising the activity will not be regarded as an EA.

8.69 To conclude the above points, if any organisation (including a political body) publishes an EA to promote a candidate, it should note that:

- (a) the expenses incurred in the publication of EAs will be treated as the candidate's election expenses;
- (b) the officer-in-charge of the organisation must 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 108 of the EAC (EP) (EC) Reg; and
- (d) such advertisement can only be displayed at the locations with relevant written permission/authorisation.

CHAPTER 9

ELECTIONEERING ACTIVITIES IN BUILDINGS WHERE VOTERS/AUTHORISED REPRESENTATIVES RESIDE, WORK OR FREQUENT

PART I : GENERAL

9.1 This chapter aims to illustrate general guidelines to be observed by candidates when conducting electioneering activities in the following places:

- (a) the residing/working places of the voters/ARs;
- (b) the buildings where the organisations of the voters/ARs are located; or
- (c) the buildings which the voters/ARs frequent.

Electioneering activities may include conducting visits contacting voters/ARs; and using sound amplifying devices to advertise in the common parts of the buildings, displaying or distributing EAs and holding election meetings, at the above-mentioned places. **Building management organisations are responsible for observing the principle of fair and equal treatment, ensuring no candidate receives unfair treatment in an election. Chairmen or executive committee members of such organisations must not abuse their positions to provide unfair treatment to any candidate in conducting electioneering or canvassing activities within the buildings concerned.**

9.2 To ensure the smooth conduct of electioneering activities in public or private places, candidates should consult the relevant government departments/authorities or management organisations in advance and may only conduct the electioneering activities in the places within their jurisdictions after obtaining their approval.

PART II : GUIDELINES TO BE OBSERVED BY CANDIDATES

9.3 Candidates should note that voters/ARs have the right to allow or refuse visits by anyone to places where they reside or work for conducting electioneering activities. When accessing private offices, government offices or buildings where the organisations of the voters/ARs are located, candidates may also be required to obtain approval from the management organisations of the relevant office buildings or buildings, who have the authority to allow or refuse any person to conduct electioneering activities in such places.

9.4 For security reasons, arrangements will not be made for a candidate to conduct in-person electioneering activities in a penal institution and the premises of a law enforcement agency. A person, 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 thereby, to avoid causing unfairness to other candidates. It is an offence for any person who canvasses for votes during the visit for the above-mentioned purpose. [S 87A (1) of the EAC (EP) (EC) Reg]

9.5 A candidate and his supporters should respect and comply with the decision made by the relevant management organisation regarding electioneering activities and should not take advantage of or accept any unfair advantages over other candidates. If a candidate is dissatisfied with the relevant management organisation's decision or act, he may lodge a complaint to the EAC, who will determine whether the decision or act is fair or not.

9.6 Unless it is expressly agreed by the building management organisations, candidates and their supporters cannot use **the entrance intercom system** in a building to canvass for votes.

9.7 Before the commencement of the electioneering activities, candidates should inform the relevant building management office and at all times comply with the instructions of the venue manager during the activity, so as to ensure the safety of the people present. At the same time, in order to avoid conflicts, candidates and their teams should avoid publicity activities involving high volume or bright lights as far as possible, so as to avoid disturbing the owners, tenants and occupants of the premises.

Identification of Canvassers

9.8 For security reasons, the EAC suggests that a candidate may consider providing his electioneering team with an identification document bearing the name of the electioneering team/name of the candidate, the name and photo of the electioneering staff, so that he can produce the identification document together with his HKID for inspection when entering a building for electioneering activities. Candidates should note that the production costs of this kind of identification documents shall be counted as election expenses.

PART III : GUIDELINES TO BE OBSERVED BY OWNERS, MANAGEMENT BODIES AND ORGANISATIONS

Rights of Tenants and Owners

9.9 It is the exclusive occupier of a private property (houses, flats, shops, offices or factories), which means the tenant or user who has the exclusive right of occupancy, but not the owner, who has the right to decide whether to

allow individual candidates to display EAs or conduct electioneering activities in his property.

9.10 Candidates and tenants should note that, as a **tenant** has the exclusive right of occupancy of the flat that he resides, he **has the right to invite anyone to visit his flat for lawful purposes**, including conducting electioneering activities. However, he has no right to allow his invitees to approach other tenants, such as knocking on the doors of other flats or conducting any activities in the common parts of the building.

9.11 **Any decision made by the owner(s) or owners' corporations or building management companies is not legally-binding, it cannot restrict a tenant's right to invite lawful visitors (including candidates and/or their supporters) to his flat, shop, office, or factory.**

Decisions of Management Organisations for Common Parts of the Buildings

9.12 When handling candidates' applications for displaying EAs or conducting electioneering activities in the **common parts** of the buildings, the management organisations for common parts of the buildings must adhere to the **principles of fairness and equality** in treating all candidates, and should note the following:

- (a) the building management organisation should provide all candidates contesting in the same subsector **equal opportunity** to conduct electioneering activities;
- (b) if any common parts of a building are available for candidates to display EAs or conduct other electioneering activities, the building management organisation should ensure all candidates contesting in the same subsector are given **equal opportunity** to use these

spaces, and should establish rules for applying for use, and give reasonable notice to all candidates;

- (c) as motions on whether candidates' electioneering activities should be allowed in buildings involve tenants' and occupants' rights, the building management organisations should invite all tenants and occupants (including users who are not owners) to express their views or decide on the motions by secret ballot when processing such applications. The building management organisations may also consider conducting a questionnaire survey to collect views of the tenants and occupants, and make decisions according to the majority view;
- (d) when deciding on candidates' applications for electioneering activities in buildings, the building management organisations could also set out the time of the relevant activities as well as other reasonable rules to be observed by the candidates, such as not causing nuisance to users of the flats and the maximum number of persons allowed for home visits, so as to minimise the potential confrontation with or harassment of candidates by the attendees; and
- (e) the building management organisation may consider to formulate rules applicable to all candidates for processing relevant applications.

Notification of Relevant Decision

9.13 After a decision is made on candidates' electioneering activities, building management organisations should notify the relevant RO in writing as soon as possible, enabling the RO to provide the candidates or members of the public with accurate information upon receiving their enquiries. A form of

notifying the RO can be obtained from the REO or downloaded from the REO website. At the same time, building management organisations should also post a notice detailing the decision and the collateral conditions at the building entrance. If necessary, candidates may inquire with the RO concerned. However, if some building management organisations do not notify the ROs as they are unable to make a decision on candidates' electioneering activities, candidates should take that as such electioneering activities are not allowed.

PART IV : CONDUCT OF ELECTIONEERING ACTIVITIES IN HOUSING ESTATES MANAGED BY THE HOUSING DEPARTMENT AND THE HONG KONG HOUSING SOCIETY AND "LIGHT PUBLIC HOUSING" MANAGED BY THE HOUSING BUREAU

9.14 Candidates should observe the specific guidelines when conducting electioneering activities in housing estates managed by the Housing Department and the Hong Kong Housing Society and "Light Public Housing" managed by the Housing Bureau, see **Appendix 7**.

PART V : PROTECTION OF VOTERS/AUTHORISED REPRESENTATIVES' PERSONAL DATA PRIVACY

9.15 **Candidates and election agents should strictly comply with the requirements of the PD(P)O when conducting electioneering activities.** The Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations, and Members of the Public (see **Appendix 8**), prepared by the Office of the Privacy Commissioner for Personal Data, serves as a general reference, illustrating matters relating to the collection,

holding, processing and use of personal data that candidates should pay attention when conducting electioneering activities.

9.16 In addition, any validly nominated candidate who requests the mailing labels of voters/ARs for his subsector from the REO must sign the “Undertaking on Proper Use of Voters’ Information”, undertaking that the relevant personal data will be used solely for the relevant electioneering activities of the election, and will be duly safeguarded to prevent disclosure to unauthorised persons. All the relevant personal data will also be duly destroyed after the election.

9.17 When conducting election-related activities, candidates should take all practicable steps to prevent voters/ARs’ personal data from being accessed accidentally or without authorisation. The EAC particularly reminds candidates to use the “bcc” function or other proven means when sending mass election mails to voters/ARs by email, in order to ensure that individual voters/ARs’ email addresses are not disclosed to other recipients.

9.18 To avoid emails containing election mails being mistakenly detected as spam emails and blocked, candidates may consider checking with the relevant email service providers in advance about restrictions on sending mass emails before sending election emails in bulk.

NOTE:

Information relating to individuals contained in any FR of voters or its extracts **can only be used for election-related purposes** prescribed by the electoral law. Any **abuse** or **misuse** of such information is an **offence**. [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 of an individual (as a data subject)

contained in any FR of voters or its extracts shall not, without the prescribed consent⁵⁴ of the data subject or an exemption under Part 8 of the PD(P)O, be used for a “new purpose”⁵⁵. For example, the REO had received post-election complaints from electors who suspected that some candidates had continued to use the email addresses provided by the REO to the candidates to send emails containing their work reports to the complainants after the election. Since electors’ information provided by the REO to the candidates (including electors’ email addresses) can only be used for purposes related to electioneering activities of that election and the candidates under complaint were suspected to use the electors’ information provided to them by the REO for a “new purpose” after the election, the REO referred the relevant cases to law enforcement agencies for further investigation.

Moreover, if a person (as a discloser) discloses personal data of an individual (as a data subject) contained in any FR of voters or its extracts without relevant consent of the data subject with an intent to cause specified harm or being reckless as to whether specified harm⁵⁶ would be (or would likely be) caused to the data subject or his family member, the discloser commits an offence and is liable to a fine of \$100,000 and to imprisonment for 2 years. Besides, if

⁵⁴ In accordance with s 2(3) of the PD(P)O, “prescribed consent” means the express consent given voluntarily and not withdrawn in writing, by the data subject.

⁵⁵ In accordance with Data Protection Principle 3(4) of Schedule 1 to 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.

⁵⁶ 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.

the disclosure causes specified harm to the data subject or his family member, the discloser is liable on conviction to a fine of \$1,000,000 and to imprisonment for 5 years.

[S 64(3A), (3B), (3C) and (3D) of the PD(P)O]

PART VI : SANCTION

9.19 If the EAC receives a complaint of **unfair or unequal treatment** of candidates by any organisation, 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 issue a **reprimand** or **censure** in a public statement and publish the names of the candidates favourably and unfavourably treated. Candidates should therefore pass on the relevant information in the Guidelines to the persons concerned when they come into contact with the building management organisations or building owners. However, if it is proved that a complainant has made a false, unfounded or unreasonable allegation, the EAC may issue a **reprimand** or **censure** in a public statement against the complainant.

9.20 Candidates must not accept unfair advantages offered by the relevant management organisations. The EAC may issue a public **reprimand** or **censure** against the candidate who contravenes the Guidelines or whose act or behaviour results in unfair or unequal treatment to other candidates.

CHAPTER 10

ELECTION MEETINGS

PART I : GENERAL

10.1 An **election meeting** is a meeting held to promote or prejudice the election of a particular candidate⁵⁷ or particular candidates. Expenses incurred before, during or after an election period on account of an election meeting organised for the above purposes are election expenses. For the avoidance of doubt, election forums organised for all candidates in the same EC subsector are not regarded as election meetings (see Part III of Chapter 11), and related expenses are not regarded as election expenses. [Ss 2 and 12(5) of the ECICO]

10.2 Some meetings may not be organised for the above purposes but are used for such purposes by a candidate or any other person on his behalf. In such cases, the candidate must assess the expenses incurred for the above purposes by himself and include them in his election expenses (see Chapter 16).

10.3 If a candidate is invited to a non-election-related meeting, but someone acts on his own volition to promote or prejudice the election of a candidate at the election during the meeting, the candidate should immediately clarify that the relevant activity has nothing to do with him and request the organiser to stop any election-related acts. If the organiser fails to do so, the

⁵⁷ 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, regardless of whether he has submitted his nomination form, whether he has withdrawn his nomination after submission of the nomination form, or whether his nomination is ruled invalid by the CERC. Regarding what constitutes “publicly declared an intention to stand as a candidate”, it depends on the overall circumstances as well as the objective facts and evidence.

candidate should leave immediately. Otherwise, the meeting will become an election meeting, and the candidate must include the related expenses in his election expenses. The organiser will also contravene s 23 of the ECICO by incurring election expenses on behalf of the candidate without obtaining the candidate's prior appointment as the candidate's election expense agent. For requirements relating to election expenses, see Chapter 16.

10.4 Election meetings may take place in public places or private premises, including but not limited to public processions and exhibitions held for election campaigning purposes. In addition to the election expenses incurred, candidates are also responsible for the election meetings which they organise, including maintaining order and safety, controlling sound volume, ensuring cleanliness and bearing other legal liabilities.

10.5 Candidates should note that individual government departments and management authorities may have their own guidelines governing whether election meetings are permitted in the premises under their control. **Candidates should consult the relevant government departments/management authorities in advance to ensure that prior approval is obtained as required.**

PART II : ELECTION-RELATED TREATING

10.6 Any person who provides or pays for any food, drink or entertainment (e.g. singing performances) for another person at an election meeting as an inducement or a reward for that person or a third person to vote or not to vote for a particular candidate or particular candidates engages in corrupt conduct at an election. However, the mere act of serving only non-alcoholic drinks at an election meeting will not be deemed as corrupt conduct, unless the purpose of such treat is to influence the voters'/ARs' voting preferences. [S 12 of the ECICO]

10.7 If participants at an election meeting held by a candidate have consumed the food and drink at the meeting and shared the costs, the amount paid by each participant should be regarded as both election expenses and election donations. The candidate should comply with the requirements of the relevant electoral legislation (see Chapter 16).

PART III : ELECTION MEETINGS AND PROCESSIONS HELD IN PUBLIC PLACES

Election Meetings

10.8 Any person organising an election meeting in a public place must notify the Commissioner of Police in writing **not later than 11 am on a day (or, if the day falls on a general holiday, the first day immediately preceding that day which is not a general holiday) at least seven days prior to the day the meeting is intended to be held.** “Public place” means any place to which the public are entitled or permitted to have access, whether on payment or otherwise, and includes any place which is or will be, on the occasion and for the purposes of such meeting, a public place. [Ss 2 and 8(1) of the Public Order Ordinance (Cap. 245) (“POO”)]

10.9 The notification must be **handed in** in person to the officer-in-charge of any police station by the organiser of the election meeting or his representative and should contain the following particulars:

- (a) the name, address and phone number of the organiser of 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;

[s 8(4) of the POO]

- (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 matters, posters or banners intended for publication, distribution or display in respect of the meeting.

The guidance notes and a form on notice of the intention to hold a public meeting or procession issued by the HKPF will be given to a candidate for reference and use upon his submission of the nomination form.

10.10 Notice to the Commissioner of Police of an election meeting held in a public place is not required if the meeting is to be:

- (a) attended by not more than 50 persons; or
- (b) held at a school registered, provisionally registered or exempted under the Education Ordinance (Cap. 279), a college registered under the Post Secondary Colleges Ordinance (Cap. 320), or an educational establishment established under any Ordinance with the approval of an accredited society or similar body of such

school, college or educational establishment **and** the consent of the governing body of the organisation concerned.

[S 7(2)(a) and (c) of the POO]

Where in doubt, a candidate should consult the HKPF. For safety reasons, irrespective of whether an election meeting is required to be notified to the Police, candidates should be mindful of the reactions of attendees and the on-site situation at all times, so as to minimise the potential confrontation with or harassment of candidates by the attendees as far as possible. At the same time, candidates should consider communicating with the person in charge of the relevant premises or the building management office to make proper arrangements on the details of the meeting before the meeting, in order to ensure that the meeting can be conducted therein in a safe manner.

10.11 The Commissioner of Police may prohibit the holding of any public meeting notified if he reasonably considers it necessary in the interests of national security or public safety, public order or the protection of the rights and freedoms of others (see paras. 10.8 and 10.9 of this chapter). In such cases, the Commissioner of Police shall, not later than 48 hours before the time of commencement of such meeting:

- (a) notify in writing the organiser of the meeting or the person acting on his behalf, or the society or organisation promoting the meeting, of the prohibition and reasons;
- (b) publish a written notice of the prohibition and reasons in a manner the Commissioner of Police thinks fit; or
- (c) post a written notice of the prohibition and reasons in a place the Commissioner of Police thinks fit.

On the other hand, the Commissioner of Police may give notice to the organiser and impose conditions for the meeting concerned. The organiser must comply with such conditions and any directions given by police officers to ensure compliance with and fulfillment of the conditions and the requirements set out in para. 10.12 of this chapter. [Ss 9, 11(2) and (3) of the POO]

10.12 At any time during each public meeting:

- (a) the organiser or the person acting on his behalf must be present;
- (b) good order and public safety must be maintained; and
- (c) if the noise level produced by any sound amplifying device reaches a level that a reasonable person would find it intolerable, the control of such sound amplifying device must, upon the request of a police officer, be surrendered to the police officer during the meeting.

[S 11(1) of the POO]

Public Processions

10.13 A public procession for election campaigning purposes may be held without notice to the Commissioner of Police if:

- (a) it consists of not more than 30 persons;
- (b) it is held at a place other than a public highway, thoroughfare or public park; or

- (c) it is of a nature or description specified by the Commissioner of Police by notice in the Gazette.

[S 13(2) of the POO]

10.14 Any person organising a public procession (including a vehicle procession) or the person acting on his behalf must notify the Commissioner of Police in writing **not later than 11 am on a day (or, if the day falls on a general holiday, the first day immediately preceding that day which is not a general holiday) at least seven days prior to the day the public procession is intended to be held.** The notification must be handed in in person to the officer-in-charge of any police station by the organiser of the public procession or his representative and should contain the following particulars:

- (a) the name, address and phone number of the organiser of the procession, any society or organisation promoting or connected with the holding of the meeting/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) the location, time of commencement and duration of any meeting held in conjunction with the procession; and
- (e) an estimate of the number of people expected to attend the procession.

The notification mentioned in para. 10.9 of this chapter should be used.

[S 13A(1) and (4) of the POO]

10.15 The Commissioner of Police may object to the holding of a public procession if he reasonably considers it necessary in the interests of national security or public safety, public order or the protection of the rights and freedoms of others. In such cases, the Commissioner of Police shall, within the time limit specified under the POO and as soon as practicable:

- (a) notify in writing the person who gave the notice or the person acting on his behalf, or the organiser of the procession, of the objection and reasons;
- (b) publish a written notice of the objection and reasons in a manner the Commissioner of Police thinks fit; or
- (c) post a written notice of the objection and reasons in a place the Commissioner of Police thinks fit.

[S 14(1) and (2) of the POO]

10.16 At any time during each public procession:

- (a) the organiser or the person acting on his behalf must be present;
- (b) good order and public safety must be maintained; and
- (c) if the noise level produced by any sound amplifying device reaches a level that a reasonable person would find it intolerable, the control of such sound amplifying device must, upon the request of a police officer, be surrendered to the police officer during the procession.

[S 15(1) of the POO]

PART IV : ELECTION MEETINGS HELD IN PRIVATE PREMISES

10.17 Any person who organises an election meeting in private premises should consult the owner, occupier, owners' corporation or building management office concerned, etc. in advance in order to obtain prior approval as required. When making a decision regarding election meetings held in the common parts of the premises, the relevant persons or organisations of such premises must conform with the principle of fair and equal treatment to all candidates concerned. Specific guidelines for conducting election meetings in estates managed by the Housing Department and the Hong Kong Housing Society and "Light Public Housing" managed by the Housing Bureau are set out in **Appendix 7**.

10.18 If the attendance at the meeting exceeds 500 persons, written notice must be given to the Commissioner of Police by the organiser of the meeting. Regarding the procedures for issuance of the notice, see paras. 10.8 and 10.9 of this chapter. [S 7(2)(b) of the POO]

PART V : ELECTIONEERING EXHIBITIONS

10.19 If an exhibition for election campaigning purposes is to be held, the candidate should obtain prior approval from the estate manager/project manager or officer-in-charge, owner, occupier, owners' corporation or building management office concerned, etc. Candidates should also comply with the Guidelines and the regulations and conditions imposed by other relevant parties.

Estates Managed by the Housing Department and the Hong Kong Housing Society and “Light Public Housing” Managed by the Housing Bureau

10.20 Where approval has been given by an estate manager/project manager or officer-in-charge for an electioneering exhibition to be held in estates managed by the Housing Department and the Hong Kong Housing Society/“Light Public Housing” managed by the Housing Bureau, the candidate concerned may display EAs at the exhibition venue, provided that the EAs must normally be related to the exhibition and be displayed only for less than one day. Candidates should also comply with the guidelines in Chapter 8. The estate manager/project manager or officer-in-charge should send a copy of the approval letter to the relevant RO for record and public inspection (see **Appendix 7**).

PART VI : FUND-RAISING ACTIVITIES AT ELECTION MEETINGS

10.21 A permit is required for organising, participating in or providing equipment for any fund-raising activity, or selling of badges, tokens or similar articles, or exchanging such items for donations in a public place. Any person who wishes to conduct an electioneering activity in a public place or raise funds at an election meeting for non-charitable purposes (including election-related purposes) must first apply to the Secretary for Home and Youth Affairs. For application forms and details, please visit the website of the Home Affairs Department. [S 4(17) of the Summary Offences Ordinance (Cap. 228)]

CHAPTER 11

ELECTION BROADCASTING, MEDIA REPORTING AND ELECTION FORUMS

PART I : GENERAL

11.1 The EAC reminds broadcasters (covering television and radio stations licensed under the Broadcasting Ordinance (Cap. 562) and the Telecommunications Ordinance (Cap. 106) respectively) and the print media that, during the election period (i.e. from the first day of the nomination period to the day on which the polling ends), in handling any programmes and reports related to the election or candidates (including news reports, election forums and feature reports), they should treat all candidates in accordance with the **principle of fair and equal treatment**. Their comments and reports must be impartial to ensure that no favourable or unfavourable treatment will be given to any candidate, and voters/ARs should be able to obtain sufficient election information through media reporting so as to make informed choices.

11.2 This chapter is not intended to regulate the contents of media reporting. If the media has covered all the candidates fairly and equally, he can express opinions provided that the comments are based on facts.

11.3 **Most importantly, media must 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 s 23(1) of the ECICO because of incurring election expenses by the publishers who are not candidates or their authorised election expense agents.**

NOTE:

As there are various means and platforms for different persons to publicly declare their intention to stand for election, the media may have practical difficulties to fully grasp the information of all persons who have publicly declared their intention to stand for election. Therefore, this chapter specifically sets out a definition of “candidate” which is convenient for the media to apply in their operations.

In this chapter, “candidate” means a person whose nomination form has been received by the RO⁵⁸. **The above definition of “candidate” applies only to this chapter and it is not a definition under any legislation, including s 2 of the ECICO** in which “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 provision is applicable to the requirements on candidates’ EAs and election expenses or other requirements under the ECICO. See Chapters 8 and 16.

11.4 The media should act with self-discipline, goodwill and in a spirit of voluntary cooperation in publishing or broadcasting the results of exit polls and other election-related opinion polls. They must also refrain from announcing the results of related polls or making specific comments or projections on the performance of individual candidates before the close of poll, so as to prevent voters’/ARs’ voting behaviour from being unduly affected. See Part II of Chapter 15.

⁵⁸ Upon receiving a 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 concerned will be, on the same day when the RO receives the nomination form, uploaded to the relevant election website for public information.

PART II : NEWS REPORTS

11.5 For news reports related to the election, they could be reported independently even if they only cover an individual candidate. Due to the considerable number of seats and candidates in the EC subsectors, the media may have practical difficulties in mentioning all candidates of the subsector in the same programme or publication. Therefore, the media may provide in the programme or publication:

- (a) the total number of candidates in the subsector; and
- (b) the platform(s) maintained by the media (e.g. the webpage of the media organisation/programme/publication) on which the names of all candidates of the subsector are set out.

11.6 News reports unrelated to the election could be reported according to the facts, even if they involve an individual candidate but his candidature is not mentioned. There is no need to mention other candidates of the same subsector.

PART III : ELECTION FORUMS

11.7 Broadcasters should invite all candidates of the same subsector to participate in election forums. If an individual candidate chooses not to attend the forum, the broadcaster may continue to organise the forum concerned and this does not contravene the principle of fair and equal treatment. However, the broadcaster must keep a record of the date, time and contents of the invitation and notice, and such record should be kept until three months after the election.

11.8 The principle of fair and equal treatment does not require the time of expression for each participating candidate in the entire election forum to be the same, but requires broadcasters to give each candidate “equivalent time” in the session of presenting his election platform. For the sessions other than presenting election platforms, such as the debate session, each candidate may freely express his views according to specific issues. It is crucial that the host should, at any time throughout the programme, make his best effort to ensure that each candidate has the opportunity to express his views or make responses.

11.9 Other organisations or groups, such as professional bodies or chambers of commerce, academic institutions or schools should also act and keep relevant records in accordance with the principles in paras. 11.7 and 11.8 of this chapter when organising election forums.

11.10 Election forum organisers should take measures to ensure the forum is held in a safe and orderly manner. If an election forum is to be held at private premises, the election forum organiser should in advance arrange for appropriate security measures with the owners, occupiers, owners’ corporations, building management offices concerned, etc., which include consideration of hiring security guards to help maintain order at the venue.

11.11 The EAC appeals to all candidates to attend these election forums as far as possible so as to keep members of the public apprised of candidate’s election platforms.

PART IV : FEATURE REPORTS

11.12 When producing special programmes or interviews to introduce an individual candidate, the media should clearly provide, within the same feature report, the total number of candidates and the platform(s) on which the names of all candidates of the subsector are set out.

11.13 When inviting a candidate for an interview, broadcasters must invite all candidates contesting in the same subsector to be interviewed so that the invited candidates have an equal opportunity to appear. If some candidates choose not to accept the invitation, the broadcaster may still proceed with the production of the programme. However, all records must be kept for three months after the election. Broadcasters, regardless of their airtime, should provide equal opportunity and comparable time to each candidate in the same subsector.

11.14 Furthermore, to treat all candidates concerned fairly, broadcasters should in particular take heed of the opinions by the Court in an election petition relating to the 2010 LegCo By-election as set out in **Appendix 9**, and where appropriate, follow the arrangements set out in **Appendix 9** when producing an election-related feature report with more than one episode.

11.15 The print media should give all candidates contesting in the same subsector an equal opportunity to be interviewed, or mention other candidates of the same subsector in an appropriate way. The way of mentioning is not necessarily in the same article, but in principle should facilitate readers to know about other candidates. For instance, when an interview with a candidate is published on a newspaper, the names of other candidates of the same subsector may be listed on the same page of the report or on other pages. The print media may also refer to the interpretation in **Appendix 10** make his best effort to accord equal opportunity to all candidates, in order to ensure that the reporting will not cause unfairness to a particular candidate, or lead members of the public to perceive that such reporting is promoting a particular candidate.

PART V : NON-ELECTION-RELATED PROGRAMMES AND ARTICLES

11.16 During the election period, candidates or representatives of their

affiliated political parties, political organisations or prescribed bodies may in a non-candidate capacity participate in a broadcaster's/print media's interviews or programmes which are unrelated to the election. However, they must be invited by the broadcaster/print media to the programmes or interviews due to the close relationship of the invitees' professional knowledge or past experience and the topic of the programmes or interviews. The broadcaster/print media should keep a record of documents to support its decision to invite that person, including the fact that there are no other more suitable choices, etc. The broadcaster/print media must ensure that no election-related topics (including the election campaigns of candidates) would be mentioned in the programmes or articles, and no election-related materials (including badges and clothing) of the political parties, political organisations or prescribed bodies to which the representatives belong, nor any materials making direct reference to a body any member of which is standing as a candidate at the subsector election or any political body in Hong Kong would be displayed in order to avoid causing unfair situation.

PART VI : AVOIDING UNFAIR PUBLICITY

11.17 During the election period, candidates **must not accept** any form of favourable treatment from media organisations. If a candidate has more opportunities for publicity than others due to his background or occupation, he should make his best effort to refrain from participating in related publicity in order to avoid unfair publicity.

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

11.18 A presenter, including a guest presenter or a regular contributor, should not participate in any programme in such a capacity after he has publicly declared his intention to stand for election or during the election

period (if he becomes a candidate), so as to avoid the programme from becoming unfair publicity at the critical time. However, the person concerned may participate as a candidate in election forums as described in Part III of this chapter.

11.19 A person who, in order to fulfil a contract, appears as presenter, regular contributor, actor, musician, singer or any other forms of performer in a performance scheduled before he has publicly declared his intention to stand for election or before and after the election period may always do so and continue to do so. However, the person should make his utmost endeavours to request the person(s) in charge of the performance not to broadcast his appearance in any media after he has publicly declared his intention to stand for election or during the election period (if he 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 the performance concerned from becoming unfair publicity.

Candidates Appearing in Commercial Advertisements

11.20 If a person is involved in the production of an advertisement in which his image, name or voice appears, and he also knows that such advertisement will be broadcast on television/radio/cinema after he has publicly declared his intention to stand for election or during the election period (if he becomes a candidate), he should not participate in the production of such advertisement.

11.21 If a candidate decides to stand for election after the advertisement in which his image, name or voice appears has been made, and he also knows that such advertisement will be broadcast on television/radio/cinema after he has publicly declared his intention to stand for election or during the election period (if he becomes a candidate), he should make his utmost endeavours to request the person(s) in charge not to broadcast such advertisement after he has

publicly declared his 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 the advertisement concerned from becoming unfair publicity.

Candidates Contributing Regularly to Print Media

11.22 A regular columnist should not contribute articles to the print media after he has publicly declared his intention to stand for election or during the election period (if he becomes a candidate). A columnist who has to regularly contribute articles in order to fulfil a contract should make his utmost endeavours to request the person(s) in charge not to publish his articles in any media after he has publicly declared his intention to stand for election or during the election period (if he 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 the article concerned from becoming unfair publicity.

PART VII : PUBLISHING ELECTION ADVERTISEMENTS THROUGH MEDIA

11.23 Under the law, television stations licensed under the Broadcasting Ordinance are not allowed to broadcast advertisements of a political nature. According to the Code of Practice issued by the Communications Authority, radio stations licensed under the Telecommunications Ordinance are not allowed to broadcast advertisements with a political slant unless prior approval is obtained.

11.24 If a candidate publishes EAs through the print media, he must also comply with the provisions set out in Part VIII of Chapter 8. If the EA is published in 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. The expenses so incurred must be accounted for in the election return. The EAC appeals to all print media to give all candidates contesting in the same subsector **equal opportunity** for publishing EAs in the print media.

PART VIII : SANCTION

11.25 The EAC, when assessing whether a news report or feature report by the media (including broadcasters and the print media) violates the principle of fair and equal treatment, will take into account the overall reporting by that organisation during the election period.

11.26 If the EAC finds that any broadcaster, print media or election forum organiser has treated the candidates in an unfair or unequal manner, the EAC may issue a **reprimand** or **censure** in a public statement against the person concerned, and publish the names of the candidates who have received favourable or unfavourable treatment as well as the names of the broadcasters, the print media or election forum organisers concerned. The EAC may also refer the case to the relevant authorities for appropriate action to be taken. Moreover, the programmes, news reports or articles 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 EAs for the candidate(s) concerned. As such, it may contravene the statutory requirements on EAs and election expenses (see Chapters 8 and 16). Both the media and candidate(s) may be subject to criminal liability. The EAC will refer cases of possible breaches to the law enforcement agencies for follow-up. In view of the above, the EAC appeals to all broadcasters, print media, election forum organisers and candidates to strictly comply with the guidelines set out in this chapter to avoid any conduct which will cause concern from members of the public about the impartiality of the election.

CHAPTER 12

USE OF SOUND AMPLIFYING DEVICES AND VEHICLES

PART I : GENERAL

12.1 This chapter outlines the legal provisions that candidates must observe when using sound amplifying devices and vehicles for electioneering activities, including the POO, the Noise Control Ordinance (Cap. 400) and the Road Traffic Ordinance (Cap. 374), etc., as well as the relevant guidelines issued by the EAC.

12.2 Candidates are reminded that some members of the public may find the sound emitted by sound amplifying devices annoying and intrusive. Therefore, when using sound amplifying devices, candidates should particularly bear in mind possible annoyance caused to people in hospitals, homes for the elderly, kindergartens, nurseries, schools, domestic premises, etc. Furthermore, the use of sound amplifying devices 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.

12.3 Regarding the use of vehicles for electioneering activities, candidates must note that if any public service vehicles will pass through or be parked within the NCZ on the polling day, they should arrange the removal of EAs on the windows or bodywork of the vehicles concerned so as to avoid violation of the statutory requirements prohibiting canvassing in the NCZ (see Chapter 14).

PART II : USE OF SOUND AMPLIFYING DEVICES FOR ELECTIONEERING ACTIVITIES

12.4 Under the subsisting law, candidates are **not required** to apply to the Commissioner of Police for a permit to use sound amplifying devices. However, the Noise Control Ordinance stipulates that it is an offence for any person at any time of the day to use sound amplifying devices or other sound magnifying instruments to emit annoying noise in either domestic premises or public places.

12.5 Candidates using sound amplifying devices for electioneering activities should comply with the following statutory requirements and guidelines to reduce the nuisance caused to the members of the public:

- (a) sound amplifying devices **must not** be used for electioneering activities **between 9 pm and 9 am of the following day**;
- (b) if using sound amplifying devices near hospitals, homes for the elderly, kindergartens, nurseries, schools, domestic premises, etc., candidates should, as far as possible, keep the volume down to reduce the nuisance caused to nearby persons;
- (c) candidates should, as far as possible, stay away from areas equipped with audible signaling facilities, such as pedestrian crossings and escalators etc., to prevent interference with the safety of visually impaired persons; and
- (d) sound amplifying devices must not be used within the NCZ, if they are used outside the NCZ, and the sound emitted must not be audible within the NCZ.

12.6 Should any complaint be received by the HKPF concerning the volume of sound amplifying devices, the user must reduce the volume of sound amplifying devices on the instructions of police officers, or he may be prosecuted.

PART III : USE OF VEHICLES FOR ELECTIONEERING ACTIVITIES

12.7 All vehicles used for electioneering activities must comply with the requirements of the Road Traffic Ordinance. Candidates and their supporters must also observe the statutory requirements of the Road Traffic (Safety Equipment) Regulations (Cap. 374F), the Road Traffic (Traffic Control) Regulations (Cap. 374G), and the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374A), including those relating to seating requirement, use of seat belts and carriage of passengers, etc. Standing in moving vehicles is illegal except on trams, single-decked buses, and the lower deck of double-decked buses. If passengers wish to stand on a vehicle used as a float, the registered owner of the vehicle must submit an application to the Licensing Office of the Transport Department (“TD”) for exemption. Additionally, drivers of all vehicles must strictly comply with all the stopping and parking requirements of the Road Traffic Ordinance. Deliberate slow driving may constitute the offence of “careless driving”. [Ss 53(2), 53A and 61 of the Road Traffic (Traffic Control) Regulations]

12.8 For display of EAs on public light buses and taxis, their owners/operators (with owners’ permission) must obtain prior written approval from the TD and comply with the conditions as stipulated in the approval letter, particularly note the following conditions:

- (a) (i) for taxis, no EAs shall be displayed on windows;
- (ii) for public light buses, no EAs shall 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) displayed on each of the above-mentioned windows shall not exceed a total size of 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 reflective material shall be used for EAs; and
- (c) no EAs shall obstruct any lighting/label/markings required to be shown on the vehicle body as specified by the Commissioner for Transport or stipulated in the legislation.

12.9 TD has issued general approval to all franchised bus companies for displaying advertisements on the bodywork and windows of buses subject to conditions stipulated by the TD. Nevertheless, there are no specific guidelines regulating the display of EAs on buses. Approval from the TD must be obtained before displaying advertisements on the bodywork and

windows of non-franchised buses. Both franchised and non-franchised bus companies should comply with the conditions set out in the TD's approval letters when displaying advertisements.

12.10 For other public transports, candidates should check with the operators concerned on their procedures for displaying advertisements and the conditions that must be complied with.

NOTE:

As the definition of “publish” in the context of publication of EAs includes “continue to publish”, if any person who has been nominated as a candidate or has publicly declared the intention to stand for election continues to display publicity materials previously published (e.g. EAs displayed on public light buses at the previous election), such publicity materials may be regarded as EAs, and the relevant expenses will be counted as election expenses. Candidates must comply with the relevant requirements (see Chapters 8 and 16). For prudence's sake, the person concerned should remove the publicity materials previously published before being nominated as a candidate or has publicly declared the intention to stand for election.

12.11 Any vehicle modified into a float configuration for display or electioneering purposes must be approved in advance by the Commissioner for Transport, and a movement permit for a vehicle must be obtained. Application procedures for approval of float design are included in **Appendix 11**. [S 53A of the Road Traffic (Traffic Control) Regulations]

12.12 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. Otherwise, those vehicles will not be allowed to enter the NCZ on the polling day (see Chapter 14).

PART IV : SANCTION

12.13 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 taking actions, it may make a **reprimand** or **censure** in a public statement, and publish his name. Additionally, it is an offence to conduct canvassing activities unlawfully within the NCZ and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months upon conviction. Candidates should remind their supporters to observe the above-mentioned guidelines when conducting electioneering activities for the candidates. [S 45(7) of the EAC (EP) (EC) Reg]

CHAPTER 13

ELECTIONEERING ACTIVITIES CONDUCTED IN SCHOOLS OR INVOLVING SCHOOL PUPILS

PART I : GENERAL

13.1 The involvement of school pupils in electioneering activities has always been a matter of public concern. School administrators (e.g. school supervisors, principals and teachers) **must not** use their authority to exert undue influence on pupils in school under their charge (including those in pre-primary, primary or secondary schools) to recruit them to participate in electioneering activities. If the EAC comes to know that a school administrator has abused his power to involve pupils in school under his charge in electioneering activities, it may issue a **reprimand** or **censure** against the person. For regulatory provisions on use of force or duress to influence a person's voting preference, see s 13 of the ECICO.

13.2 School administrators, whether as candidates themselves or supporters of particular candidate(s), should not instruct pupils in school to help distribute candidate(s)' EAs to their parents, let alone instruct pupils to ask their parents to vote for particular candidate(s), so as not to mislead the public that the school authority has exerted undue influence on pupils in school.

PART II : SCHOOL PUPILS PARTICIPATING IN ELECTIONEERING ACTIVITIES

13.3 To promote civic education, schools should encourage pupils to care about social affairs (including elections). However, electioneering

activities often involve gathering of people in a crowded environment, which may more likely to pose a danger to the pupils themselves or others. Therefore, the EAC does not suggest pre-primary or primary school pupils participate in electioneering activities.

13.4 By law, pupils aged 18 or above are responsible for their own acts and can make decisions regarding election-related matters.

13.5 The EAC adopts the circular on electioneering activities issued by the Secretary for Education to all schools. If schools allow pupils to participate in electioneering activities, they must comply with the following guidelines:

- (a) pupils' participation in electioneering activities must be **entirely voluntary**;
- (b) the schools must obtain prior **written consent** from parents or guardians;
- (c) under no circumstances should schools recruit pre-primary or primary school pupils to participate in electioneering activities;
- (d) under no circumstances should schools interrupt normal lessons to allow pupils to participate in electioneering activities, as it affects pupils' learning progress; and
- (e) under no circumstances should schools instruct pupils to participate in electioneering activities in danger-prone areas, including areas where traffic accidents are likely to occur.

13.6 Pupils who participate in electioneering activities should pay attention to their own school regulation regarding the wearing of school uniforms when participating in electioneering activities.

PART III : ELECTIONEERING ACTIVITIES CONDUCTED IN SCHOOLS

13.7 To be in line with the principle of **fair and equal treatment** of candidates, the EAC appeals to all school administrators to provide all candidates of the same subsector with equal opportunities to conduct electioneering activities. If school administrators decide to allow particular candidate(s) to conduct electioneering activities in the schools (e.g. hosting talks for pupils, distributing campaign materials to pupils with a view to giving the campaign materials to their parents), they should also give the same opportunity to other candidates of the same subsector.

PART IV : SANCTION

13.8 If the EAC comes to know that a candidate or school administrator has breached the Guidelines, it may issue a public **reprimand** or **censure** against the relevant person, and publish the name of the candidate, school, or person concerned. The EAC may also refer the case to the Education Bureau for follow-up. Candidates should therefore inform the school administrator concerned who offers them assistance of the above guidelines.

CHAPTER 14

PROHIBITION AGAINST CANVASSING ACTIVITIES OUTSIDE POLLING STATIONS

PART I : GENERAL

14.1 This chapter provides guidelines on canvassing activities **outside polling stations** on the polling day. To ensure voters/ARs can access polling stations without interference, an NCZ will be designated outside each polling station. No canvassing activities or activities that may constitute disguised canvassing are allowed within the NCZ. In addition, to avoid any obstruction at the entrance/exit of a polling station, an NSZ will be designated immediately adjacent to the entrance/exit of a polling station, where no person is allowed to stay or loiter without the express permission of the PRO.

PART II : AREA AS NO CANVASSING ZONE AND NO STAYING ZONE

14.2 The RO will consider the characteristics and special environment of the polling stations for each subsector to designate an area outside the polling station as an NCZ and an area within the NCZ immediately adjacent to the entrance/exit (sometimes the entrance is the same as the exit) of the polling station as an **NSZ**. [S 40(1) of the EAC (EP) (EC) Reg]

14.3 After determining the NCZ and NSZ, the RO must, at least **seven days** before the polling day, give a written notice to the following persons:

- (a) the candidates, election agents or polling agents of the subsector for which the RO is responsible; and
- (b) the relevant ROs of other subsectors using the same polling station for voting.

Thereafter, each RO for the relevant subsector must, as soon as practicable, give the written notice by hand, post, email or fax transmission to the candidates, election agents or polling agents of the subsector for which he is responsible. [Ss 40(3), (4), (5), (6), (12) and 95(2) of the EAC (EP) (EC) Reg]

14.4 The RO may vary the area of NCZ or NSZ according to the circumstances. However, a written notice of variation must be issued as soon as practicable after the variation in the manner referred to in para. 14.3 of this chapter. If issuance of the notice of variation in the manner referred to in para. 14.3 of this chapter is not practicable or suitable, the RO may issue the notice of variation orally. If it is not reasonably practicable to notify candidates, election agents or polling agents before the close of poll, the RO is not required to give notice of variation to them. [Ss 40(7), (11) and 95(3) of the EAC (EP) (EC) Reg]

14.5 On the polling day, the RO must display the notice of determination or variation, together with the indication of the boundaries of the prohibited zones, at or near the polling station to inform candidates of the decision or variation. In addition, the RO authorised to determine the prohibited zones may delegate to his ARO or the PRO the authority to vary the prohibited zones and perform the related duties on the polling day so as to inform candidates of the decision or variation. [Ss 40(8), (9), (9A), (10) and 89 of the EAC (EP) (EC) Reg]

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

14.6 Except for the static display of EAs authorised by the RO (e.g. EAs at designated spots) and the permitted activities described in para. 14.7 of this chapter, no person may engage in canvassing activities within the NCZ (including displaying or wearing any promotional materials, or suggesting voting/not voting for any candidate). On the polling day, the PRO will make an effort to ensure that no person engages in any activities to persuade or induce any voters/ARs to vote or not to vote within the NCZ of his polling station (except those permitted activities as described in para. 14.7 of this chapter). [Ss 40(14) and 41(1) of the EAC (EP) (EC) Reg]

14.7 Within the NCZ, provided that permission has been obtained to enter a building other than the one housing the polling station for canvassing votes, candidates may conduct door-to-door canvassing on storeys above or below street level without obstructing others or using sound amplifying systems or devices. During door-to-door canvassing, candidates may display or wear any promotional materials (e.g. badge, emblem, clothing or head-dress that may promote or prejudice the election of a candidate or candidates) or any materials making direct reference to a body any member of which is standing as a candidate at the relevant subsector election or to any political body in Hong Kong. However, no canvassing activities may be conducted at the street level (i.e. ground floor) within the NCZ, and the above-mentioned materials must not be displayed at street level within the NCZ under any circumstances. [S 40(14), (15) and (16) of the EAC (EP) (EC) Reg]

14.8 On the polling day, the following canvassing activities are strictly prohibited within the NCZ, including (but not limited to):

- (a) displaying EAs within the NCZ;
- (b) displaying EAs on the windows or bodywork of public service vehicles (e.g. public light buses or taxis) travelling through or parked within the NCZ;
- (c) using sound amplifying systems or devices, or conducting any activities (e.g. lion dance) within the NCZ or conducting the above-mentioned activities in the vicinity where the sound can be heard within the NCZ; or
- (d) staying, loitering, smiling, and showing goodwill to voters/ARs within the NCZ for the purpose of canvassing votes.

There are many forms of canvassing activities. For the common canvassing activities that are strictly prohibited within the NCZ, see **Appendix 6**. [S 40(14) of the EAC (EP) (EC) Reg]

14.9 In addition, within the NCZ or NSZ, no person may:

- (a) obtain or attempt to obtain information from a voter/AR in the polling station about which candidate he is about to vote for or has voted for by any means (unless express permission of the EAC or the PRO has been obtained); or
- (b) misconduct himself, engage in strictly prohibited activities, or fail to obey the lawful orders of the PRO or the RO who determined the NCZ or NSZ.

[Ss 41(2), 45(4) and 93(7) of the EAC (EP) (EC) Reg]

14.10 The RO or PRO shall not exercise his powers to order a voter/AR to leave or remove a voter/AR from the NCZ or NSZ so as to prevent him from voting at his allocated polling station. [Ss 41(5), 44(14) and 46(5) of the EAC (EP) (EC) Reg]

PART IV : PENALTY

14.11 Any unauthorised display of EAs within the NCZ will be removed by the RO or other persons authorised by him. Any person who engages in any canvassing activities within the NCZ (except permitted activities) or conduct prohibited under para. 14.9(b) of this chapter commits an offence and is liable to a fine at level 2 (\$5,000) and imprisonment for 3 months. In addition, the related person may also be ordered by the RO or PRO to leave the NCZ or NSZ. If he fails to leave immediately, he may be removed by a police officer, an officer of the CSD or any other law enforcement agencies, or any other person authorised in writing by the RO or PRO. A person so removed may not re-enter the prohibited zone on that day without the permission of the RO or PRO. [Ss 41(2), (3), (4), 45(7) and 110 of the EAC (EP) (EC) Reg]

14.12 Besides, any person who attempts to obtain information as described in para. 14.9(a) of this chapter without necessary permission commits an offence under s 93(10) of the EAC (EP) (EC) Reg and is liable to a fine at level 2 (\$5,000) and imprisonment for 6 months.

CHAPTER 15

EXIT POLL

PART I : GENERAL

15.1 This chapter sets out the guidelines for the conduct, publication and broadcast of exit polls on the polling day. The EAC respects academic freedom and freedom of speech in the conduct of exit polls, and also strives to conduct public elections under the principles of openness, honesty and fairness, and strikes an appropriate balance between ensuring there is no undue influence on and interference with the voters/ARs, and maintaining the good order outside the polling stations.

15.2 Secrecy of voting is an important principle under the electoral system. It is entirely voluntary for the voters/ARs to participate in the exit polls.

15.3 Voting polls inside a polling station or an NSZ are strictly prohibited under the law. However, exit polls may be conducted within the NCZ outside the exit of the polling station if approval from the EAC is obtained. [S 93(7) of the EAC (EP) (EC) Reg]

15.4 Exit polls approved by the EAC must not be used for electioneering purpose to promote or prejudice the election of a candidate or candidates. The persons or organisations conducting exit polls must not be affiliated with the candidates, and have to ensure that the results of exit polls will not be disclosed to any candidate or person before the close of poll.

15.5 **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 as to avoid undue influence on voters'/ARs' voting behaviour.

PART II : SECRECY OF VOTING

15.6 **The ballot is secret.** A voter/AR does not have to disclose his choice of candidate if he does not want to. **It is a criminal offence for a person, without lawful authority, to require, or purport to require, a voter/AR to disclose the name of, or any relevant details relating to, the candidate for whom the voter/AR has voted. Interviewers conducting exit polls must respect the voters'/ARs' rights and their wish not to be disturbed,** and must inform the voters/ARs being interviewed explicitly that their participation in the exit poll is entirely voluntary prior to the conduct of the exit poll. [S 37 of the Schedule to the CEEO and s 93(7) of the EAC (EP) (EC) Reg]

15.7 **The EAC reminds the media and the persons/organisations concerned that they must not announce the results of exit polls or publish specific comments or predictions on the performance of individual candidates before the close of poll so as to avoid undue influence on voters'/ARs' voting behaviour. Additionally, interviewers conducting exit polls must not talk to or communicate with candidates or their agents when conducting the poll.**

PART III : CONDUCT OF EXIT POLLS

15.8 Any person aged 18 or above or any organisation may apply to the EAC via the REO to conduct exit polls within the NCZs on the polling day. The EAC will issue an approval letter to the above-mentioned person or organisation (referred to as “applicant or applicant organisation” in this chapter) as appropriate. The applicant or applicant organisation must make a statutory

declaration in accordance with the Oaths and Declarations Ordinance (Cap. 11) to abide by the terms and guidelines set out by the EAC. If the applicant or applicant organisation knowingly makes false statutory declaration, he is liable to imprisonment for two years and to a fine once convicted. [S 36 of the Crimes Ordinance]

15.9 To forestall public perception of unfairness and take into consideration the necessity to maintain the order at the polling stations, the EAC generally would not approve exit poll applications in any of the following circumstances:

- (a) the applicant or applicant organisation/the person(s) responsible for the exit poll or interviewer(s) conducting exit poll belong(s) to an organisation that has publicly expressed support for any candidate(s) contesting in the subsectors, of which any polling stations are covered by the exit poll;
- (b) the applicant or applicant organisation/the person(s) responsible for the exit poll or interviewer(s) conducting exit poll belong(s) to an organisation that has member(s) standing as candidate(s) contesting in the subsectors, of which any polling stations are covered by the exit poll;
- (c) the applicant or applicant organisation, the person(s) responsible for the exit poll, or the conduct of the proposed exit poll may cause embarrassment to the role of the EAC; or
- (d) 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.

The EAC will consider whether to approve an application on a case-by-case basis and there are no exhaustive lists of considerations. An application will generally not be approved if the background of the applicant or applicant organisation (including his/its affiliation) and the applicant or applicant organisation/proposed exit poll is connected with anyone or anything that may undermine or give the impression of undermining the role of the EAC and the credibility of the election.

15.10 For security reasons, exit polls shall not be conducted at dedicated polling stations.

15.11 Applicants or applicant organisations must provide the following information through the REO **at the latest 10 days before the polling day**:

- (a) the name and address of the applicant or applicant organisation, as well as the name, identity document number of the person responsible for the exit poll, and the phone number(s) at which he can be contacted during the polling hours;
- (b) the purpose of conducting the exit poll; and
- (c) a list of persons (including names and HKID numbers) who will be deployed for the conduct of the exit poll at each polling station on the polling day.

15.12 The names and contact phone numbers of applicants or applicant organisations who are approved to conduct exit polls will be uploaded to the dedicated election website and displayed at the respective polling stations.

15.13 If the applicants or applicant organisations who are approved to conduct exit polls fail to comply with the terms stipulated in the approval letter and the Guidelines, the approval may be revoked. The EAC may also publish the

names of the applicants or applicant organisations concerned, make a **reprimand** or **censure** in a public statement and publish the names of the applicants or applicant organisations who/which fail to comply with the terms stipulated in the approval letter and the Guidelines.

NOTE:

Applicants or applicant organisations must not collect or retain any personal data relating to the voters/ARs (i.e. any data relating directly or indirectly to the voters/ARs, from which their identities can be directly or indirectly ascertained, such as names, HKID numbers, phone numbers and addresses).

15.14 Exit polls shall not be conducted inside polling stations or the NSZ. However, with the EAC's approval, exit polls may be conducted within the NCZ outside the exit of the polling station. Interviewers conducting exit polls must note that canvassing is strictly prohibited within the NCZ, contravention is subject to criminal sanction. Interviewers conducting exit polls must therefore be extremely careful when conducting exit polls so as to avoid any suspicion that they are canvassing the voters/ARs inside the NCZ. Like others, interviewers conducting exit polls are not allowed to stay, loiter, or accost the voters/ARs in the NSZ. [Ss 41(1) and 93(7) of the EAC (EP) (EC) Reg]

15.15 The PRO may, if circumstances permit, designate an area **outside the exit of the polling station** for interviewers conducting exit polls to conduct exit polls in the designated area. Interviewers conducting exit polls should keep a reasonable distance from the entrance/exit of the polling stations, especially those with the entrance and exit at the same location, to ensure that the voters/ARs will not be affected when conducting the exit polls.

PART IV : IDENTIFICATION OF INTERVIEWERS CONDUCTING EXIT POLLS

15.16 After the applicant or applicant organisation has obtained the EAC's approval, the REO will notify the applicant or applicant organisation to collect a number of identification badges bearing the name of the applicant or applicant organisation. Interviewers conducting exit polls are required to wear the badges in a prominent position, showing the identity of the person or organisation conducting the exit poll so that the voters/ARs will not mistakenly believe that they are appointed by the Government or the EAC. Persons who violate this requirement will not be allowed to conduct the exit poll outside any polling station. In addition, the interviewers conducting exit polls are required to inform the voters/ARs that any response is entirely voluntary, and state at the start of the exit poll the name of the person or organisation conducting the exit poll and the fact that the exit poll is not commissioned by the Government or the EAC.

PART V : SANCTION

15.17 Apart from the criminal sanction stipulated under the CEEO and the EAC (EP) (EC) Reg, if the EAC comes to know that any broadcaster or organisation has failed to heed or comply with the Guidelines, it may make a **reprimand** or **censure** in a public statement and publish the name of the broadcaster or the organisation concerned.

CHAPTER 16

ELECTION EXPENSES AND ELECTION DONATIONS

PART I : GENERAL

16.1 The law has prescribed the maximum amount of election expenses aiming to ensure that all candidates can compete on a level playing field under a reasonable level of expenditures. Candidates must submit an election return to the CEO on time after the election and in accordance with the statutory requirements. All election expenses incurred and the election donations received by the candidates and election expense agents must be listed out in the election returns.

16.2 The law stipulates that only candidates and their authorised election expense agents can incur election expenses. Other persons commit an offence if they incur any election expenses. Nevertheless, other persons who publish EAs on the Internet are exempted from the relevant criminal liability if the election expenses incurred are only electricity charges and/or charges for the Internet access.

16.3 Election expenses incurred by other persons without the consent or knowledge of a candidate are not attributed to the candidate concerned and the relevant consequences will be borne by the persons. However, if the election expenses are incurred by a person under the instruction of the candidate, the candidate must declare such expenses in the election return, otherwise he will be held legally responsible.

16.4 **Voluntary service** is defined as any service provided by any person voluntarily, personally and free of charge in his own time for the

purpose of promoting the election of a candidate or prejudicing the election of other candidates. Voluntary service is the only free-of-charge service which can be exempted from being counted as election expenses. Nonetheless, any goods or materials given to the candidate incidental to the provision of voluntary service must be counted as election donations; such election donations must also be counted as election expenses after they are used.

PART II : WHAT CONSTITUTES ELECTION EXPENSES

16.5 Pursuant to s 2 of the ECICO:

- (a) **Election Expenses** — in relation to a candidate at an election, “election expenses” 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. Election expenses include the value of election donations consisting of goods and services used for the above purposes;

- (b) **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, regardless of whether he has submitted his nomination form, whether he has withdrawn his nomination after submission of the nomination form, or whether his nomination is ruled invalid by the CERC. Regarding what constitutes “publicly declared an intention to stand as a candidate”, it depends on the overall circumstances as well as the objective facts and evidence;

- (c) **Election Donation** — in relation to a candidate at an election, election donation means any of the following donations. All such donations, whether in cash or in kind, should all be counted as election expenses after they are spent or used, see Part IV of this chapter:
- (i) any money given to or in respect of the candidate for the purpose of meeting, or contributing towards meeting, the election expenses of the candidate;
 - (ii) any goods given to or in respect of the candidate for the purpose of promoting the election of the candidate or prejudicing the election of another candidate, and includes any goods given incidental to the provision of voluntary service; or
 - (iii) any service provided to or in respect of the candidate for the purpose of promoting the election of the candidate or prejudicing the election of another candidate, with the exception of voluntary service (see para. 16.4 of this chapter).

16.6 As to whether a particular item of expenditure would constitute an election expense, the CFA has pointed out in a judgement relating to the 2008 LegCo General Election (FACV 2/2012) that expenses are likely to qualify as “election expenses” if they meet the following five criteria:

- (a) they have been incurred by or on behalf of a candidate (as such a person is defined under s 2(1) of the ECICO);

- (b) having identified the activities or matters to which the relevant expenses relate, such activities or matters are referable to a specific election;
- (c) such activities or matters go to the conduct or management of the election, in particular to the machinery of the election;
- (d) the expenses were incurred for the purpose of promoting the election of the relevant candidate or prejudicing the election of another candidate; and
- (e) the activities or matters financed by the expenses have taken place or occurred either during the election period⁵⁹, or during the period when the relevant person was a candidate.

The person(s) concerned must also take note of the following two issues:

- (f) the date when the relevant expenses were incurred (although this is not a critical question since election expenses may be incurred before, during or after an election period); and
- (g) in relation to the relevant activities or matters, if the expense incurred is for more than one purpose, consideration should be given to whether an apportionment exercise appropriate between election expenses and non-election expenses is necessary.

16.7 Whether a particular item of expenditure should be regarded as an election expense depends on the actual use of each item of expenditure, and one should also take into account the nature, circumstances and context of the

⁵⁹ In relation to an election, election period means the period beginning with the nomination day for the election and ending with the polling day for the election, or the last polling day if there is more than one polling day.

expenditure incurred. If an expense is used for more than one purpose, the expense should be apportioned between election-related purpose and other purposes, and relevant particulars should be included in the election return. As a general principle, factors that can be considered when apportioning expenses include time and usage. The candidate may refer to the examples on the apportionment of expenses shown in the “Guide to Return and Declaration of Election Expenses and Election Donations” and the video on the completion of election returns provided by the REO. The candidate should consult independent legal advice in case of doubt on whether a particular item of expenditure should be counted as an election expense or on the apportionment of expenses. Any legal fees so incurred will not be regarded as election expenses.

16.8 Staff and other resources available for use by a candidate in his official capacity or when discharging his duties for the purpose of promoting his candidature in the election should be counted as an election expense. A list of common items to be counted as election expenses is at **Appendix 12**. The list serves only as an illustration and example, and should not be regarded as taking precedence over the relevant legislation.

16.9 A candidate misappropriates any public resources for election purposes may be in breach of the law.

PART III : WHO MAY INCUR ELECTION EXPENSES AND THE LIMIT

Maximum Amount of Election Expenses

16.10 The maximum amount of election expenses for the EC subsector elections is prescribed by the Maximum Scale of Election Expenses (Election

Committee) Order. Candidates and election expense agents must not incur election expenses in excess of that maximum amount. The relevant requirements would prevent candidates with ample financial resources from having an unfair advantage when conducting electioneering activities. [S 24(1) of the ECICO]

16.11 The maximum amount of election expenses is set out in the following table. For the number of registered voters for a specific subsector, you may approach the REO for enquiries or visit the Voter Registration website (www.voterregistration.gov.hk/eng/statistic.html).

Subsectors	Maximum Amount of Election Expenses
(a) for an election for an EC subsector with not more than 500 registered voters	\$100,000
(b) for an election for an EC subsector with more than 500 but not more than 5 000 registered voters	\$160,000
(c) for an election for an EC subsector with more than 5 000 but not more than 10 000 registered voters	\$320,000
(d) for an election for an EC subsector with more than 10 000 registered voters	\$480,000

[S 2 of the Maximum Scale of Election Expenses (Election Committee) Order]

Persons Authorised to Incur Election Expenses

16.12 Only a candidate or a person who is authorised by the candidate to act as the election expense agent may incur election expenses. For the authorisation matters, see Part VI of Chapter 7. [S 23(1) of the ECICO]

16.13 Any person who is going to carry out **negative campaigning (i.e. publicity activities to prejudice the election of other candidates)** against other candidates for promoting the election of a candidate and hence incurring expenses must obtain the prior authorisation of the candidate who benefits from it to act as the election expense agent. The expenses must be counted as the election expenses of the candidate. If the negative campaigning includes EAs, it must comply with the relevant requirements of the ECICO and EAC (EP) (EC) Reg.

16.14 Prospective candidates who have the plan to stand for an election should inform the organisations which they are associated with and may support their standing for election of the requirements relating to incurring election expenses as soon as possible, to prevent the relevant organisations from breaching the law by incurring election expenses without authorisations.

16.15 A candidate is responsible for the whole amount of his election expenses. If the aggregate amount of election expenses incurred by the candidate and/or the person acting on his behalf exceeds the maximum amount prescribed by law, the candidate is subject to criminal liability, unless he can prove that the excess amount is incurred without his consent or authorisation and is not due to his negligence. Besides, the election expense agents must not incur election expenses exceeding the maximum amount authorised by the candidate, or else they commit an offence. [Ss 23 and 24 of the ECICO]

PART IV : ELECTION DONATIONS

General Requirements

16.16 A candidate may accept election donations, but the 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 prejudicing the election of other candidates. [S 18 of the ECICO]

16.17 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 reward. 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, must be counted as the aggregate amount of election expenses, and are subject to the maximum amount prescribed by law.

16.18 Any election donations that are unspent, unused or exceed the maximum amount of election expense must be given to charitable institution(s) or trust(s) of a public character chosen by the candidate. The candidate must have disposed the above election donations before the election return is lodged. [Ss 19 and 37 of the ECICO]

16.19 On receiving an election donation of more than \$1,000 in value (whether in the form of money or in kind), a candidate must issue to the donor a receipt which specifies the name and address of the donor as well as the particulars of the donation. A standard form of donation receipt is made available at the REO for candidates to collect. Anonymous donations of more than \$1,000 in value must not be used for meeting election expenses. If the candidate fails to issue a receipt according to the above requirements for

election donations of more than \$1,000 in value (including cases where a receipt cannot be issued due to anonymous donations), such donations cannot be used for election-related purpose and must be disposed of in accordance with para. 16.18 of this chapter. [S 19(1) and (2) of the ECICO]

16.20 Any person or organisation (including a political party) acting as an election agent for one or more candidates must pay attention to the fact that the requirements for receiving election donations by an election agent on behalf of a candidate are the same as those when the election donations are received by the candidate(s) direct. They should also note the points and adopt the good practice suggested in **Appendix 13**.

Election Donations in Kind

16.21 Election donations in kind include goods and services obtained free of charge or at a discount. Candidates must declare according to the following principles:

Election Donations in Kind	Declaration Principle
Goods or services obtained free of charge (including loans obtained at no interest ^{Note} , premises provided free of charge for the conduct of electioneering activities)	(i) if the donor also offers similar goods or services to the public for a fee, the declared value shall be assessed based on the price charged by the donor to the public at that time; or (ii) if the donor does not offer similar goods or services to the public, the declared value shall be assessed based on the fair market price of similar goods or services provided by others.

Election Donations in Kind	Declaration Principle
Goods or services obtained at a discount not available to general customers (including loans obtained at an interest rate lower than usual ^{Note} , premises rented at below-market rates for the conduct of electioneering activities)	The declared value shall be assessed based on the differences between the market/regular price of the relevant goods or services and the price paid by the candidate.

Note: The waived/reduced interest must be declared as an election donation and election expense in the election return.

16.22 **Voluntary service** is the only free-of-charge service which can be exempted from being counted as election expenses. Nonetheless, any goods or materials given to the candidate incidental to the provision of voluntary service must be counted as election donations. In case the free service so provided is not offered by the supplier voluntarily and personally in his own time the relevant service should be treated as an election donation and must be counted as election expenses at a fair estimated value. [S 2 of the ECICO]

PART V : RETURN AND DECLARATION OF ELECTION EXPENSES AND ELECTION DONATIONS

16.23 A candidate must keep an accurate account of all election expenses incurred and election donations received (whether in cash or in kind), and must submit an election return to the CEO within 30 days after the election

is settled. **An election is settled on the date on which any of the following events occurs:**

- (a) the result of the election is by notice published in the Gazette;**
or
- (b) a declaration that no candidate was validly nominated is made.**

If all the EC subsector elections to be held on the same date settled on different dates, the 30-day period shall be counted from the last settling date. A candidate may also submit an election return within the extended period as permitted by the CFI under the relevant law. The election return must be completed in the specified form.

[S 37(1), (1D), (1E) and (1N) of the ECICO]

16.24 At the time when a candidate submits his nomination form, he will be given:

- (a) the specified form for election return and a standard form of receipt for election donations (see paras. 16.19 to 16.23 of this chapter);
- (b) the standard form for advance return of election donations (see Part VI of this chapter);
- (c) the “Guide to Return and Declaration of Election Expenses and Election Donations” on how to complete the election return (with a QR code linking to the relevant video on the front page); and

- (d) frequently asked questions 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 frequently asked questions before completing the election return. In addition, **Appendix 15** provides the frequently asked questions and answers concerning issues which candidates in the past found relatively confusing when completing the election returns for reference.

16.25 When completing the election return, the candidate must set out all the election expenses incurred by him and the election expense agents, and must be accompanied by an invoice and a receipt issued by the goods or service suppliers, for each paid expenditure of \$500 or more. In addition, the candidate must also set out the details of all the outstanding claim(s) and draw up the schedule for settlement of such claim(s) in the election return, and submit within 30 days from the payment date the invoice and receipt for each election expense of \$500 or more after settlement of the claim(s) with the relevant suppliers on the scheduled date(s). 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 must 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) providing the goods or services; and

- (d) information which proves that the organisation or person (other than the candidate himself) 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 receiving payment or signature of representative).

[S 37(2)(b) of the ECICO]

16.26 Furthermore, a candidate must also set out in the election return all election donations received by him, the election agent and other person(s) on the candidate's behalf, whether in cash or in kind, and must be accompanied by copies of receipts issued by the candidate for each election donation of more than \$1,000 in value. For any election donations which remain unspent, unused, or for which a receipt has not been issued in accordance with the above requirements (including those of more than \$1,000 in value but for which receipts cannot be issued due to anonymous donations), or election donations exceeding the maximum amount of election expenses, the candidate must also attach to the election return copies of receipts issued by the charitable institutions or trusts of a public character for the receipt of the election donations. The candidate must also submit, together with the election return, a declaration verifying the contents of the election return. [S 37 of the ECICO]

Simplified Relief Arrangement

16.27 If a candidate makes any error and/or false statement in the election return (for example, failing to declare one or more items of election expense or election donation, by mistake stating the amount of election expense or election donation, or failing to submit any relevant documents for the election expense or election donation as required), and the aggregate amount of value involved does **not** exceed \$5,000, he may seek to have the error(s) and/or false statement(s) rectified in accordance with a simplified

relief arrangement for minor errors or false statements as provided under the electoral law. If the CEO deems the simplified relief arrangement applicable, the CEO would issue a notice to the candidate. Upon receipt of the notice, the candidate must, within the specified period (see para. 16.28(a) of this chapter), lodge with the CEO a revised election return. In such revised election return, the necessary revision to the error(s) or false statement(s) should be marked on a copy of the originally submitted election return. An error or false statement made in an election return 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 of the ECICO and item 5 of the Schedule to the ECICO]

16.28 A revised election return lodged by a candidate must comply with the following requirements, otherwise it will be deemed invalid:

- (a) it must be lodged within 30 days after the date of receiving notice from the CEO relating to the error(s) and/or false statement(s) in the election return;
- (b) it is accompanied by all relevant documents (e.g. invoice and/or receipt) and an explanation (if applicable); and
- (c) it is accompanied by a declaration made by the candidate in a specified form verifying the contents of the revised election return.

[Ss 37(2)(b) and 37A(6) of the ECICO]

The revised election return made under the simplified relief arrangement cannot be withdrawn or further amended once it is lodged with the CEO. If

the candidate fails to correct the error(s) and/or false statement(s) within the specified period, the election return will be subject to the normal checking and investigation under the ECICO.

16.29 **If, after including the cumulative amount of errors and false statements, the aggregate amount of election expenses incurred by a candidate exceeds the maximum amount of election expenses prescribed for a particular election, the candidate engages in an illegal conduct at an election. In such case, the aforesaid simplified relief arrangement will not be applicable.** Additionally, a candidate engages in corrupt conduct at an election if he makes a statement in the submitted election return or revised election return that he knows or ought to know is materially false or misleading. The rectifications of the election return under the simplified relief arrangement will not exempt the candidate from being investigated or prosecuted. Moreover, the simplified relief arrangement will not relieve the candidate from the liabilities for committing the relevant offences if the election return of the candidate violates other statutory requirements. [Ss 20, 24 and 37A of the ECICO]

Statutory Relief Mechanism

16.30 If a candidate fails to send to the CEO the election return before the statutory deadline (see para. 16.23 of this chapter), he commits an offence (see para. 16.40 of this chapter for the relevant penalties). However, if a candidate fails to submit the election return before the deadline due to his 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 inadvertence or accidental miscalculation by the candidate or any other person, or any other reasonable causes (but not due to the candidate's bad faith), he may make an application to the CFI for an order allowing him to send the

election return to the CEO within a further period as specified by the CFI. [S 40(1) and (2) of the ECICO]

16.31 If a candidate notices an error or a false statement in the election return after the expiration of the statutory deadline, and it is due to misconduct of any agent or employee of the candidate, or inadvertence or accidental miscalculation by the candidate or any other person, or any other reasonable causes (but not due to the candidate's bad faith), he may apply to the CFI for an order allowing him 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]

16.32 The legal fees incurred for applying to the CFI for the aforementioned order will not be counted as election expenses.

16.33 If the candidate finds himself in any of the situations set out in paras. 16.30 and 16.31 of this chapter, unless the simplified relief arrangement mentioned in para. 16.27 is applicable, he should make an application to the CFI and inform the REO as soon as possible. For previous court rulings on applications for the relief of election-related liabilities, relevant judgements are set out in Part IX of Chapter 8.

PART VI : ADVANCE RETURN OF ELECTION DONATIONS

16.34 Any candidate who is an incumbent public servant under the Prevention of Bribery Ordinance, such as a serving member of the LegCo or a DC, etc., may disclose to the CEO in advance any election donations received. However, even though the above election donations have been disclosed in advance, candidates must still observe the general requirements regarding

election donations in Part IV and Part V of this chapter and set out the relevant information in the election return. [S 37(1) of the ECICO]

16.35 Any **advance declaration of election donations** must be made on the standard form mentioned in para. 16.24(b) of this chapter. A candidate may submit multiple advance returns of election donations as needed.

PART VII : ENFORCEMENT AND PENALTY

Enforcement

16.36 The election returns will be made available at the REO for public inspection up to the 30th day before the first anniversary of the date of the deadline for lodging the election return (any order made by the CFI allowing an extension of deadline will not be counted). Copies of the election returns will be furnished to any person upon request during the above period subject to the payment of a copying fee at a fixed rate. [S 41 of the ECICO]

16.37 The REO will check all election returns. Irregularities detected will be reported to the relevant government departments/authorities for investigation.

Penalty

16.38 Except the exemption mentioned in para. 16.39 of this chapter, it is an illegal conduct for a person other than a candidate or an election expense agent to incur election expenses. Besides, it is also an illegal conduct for a candidate to incur election expenses in excess of the maximum amount prescribed, or for an election expense agent to incur election expenses in excess

of the amount authorised. An offender is liable to a fine of \$200,000 and to imprisonment for 3 years. [Ss 22, 23 and 24 of the ECICO]

16.39 Any person other than a candidate or an election expense agent is exempted from the relevant criminal liability if the person publishes an EA on Internet, and the only election expenses incurred are electricity charges and/or charges for the Internet access. However, if a person who is authorised by a candidate or an election expense agent publishes an EA of the candidate on Internet platforms, even though the only election expenses incurred are electricity charges and/or charges for the Internet access, they must still be included in the election expenses of the candidate.

NOTE:

If a candidate or an election expense agent publishes an EA on Internet platforms, even though the only election expenses are electricity charges and/or charges for the Internet access, they must still be included in the election expenses of the candidate.

[S 23(1A) of the ECICO]

16.40 If a candidate fails to submit the election return before the statutory deadline, or fails to provide an accurate account of all election expenses incurred and all election donations received, or fails to provide the supporting invoices and receipts issued by the goods or service suppliers, he commits an offence and is liable to a fine of \$200,000 and to imprisonment for 3 years. Moreover, the candidate will also be subject to the same disqualifications from elections (for example, disqualification from being nominated as a candidate or elected at an election) as a person convicted of having engaged in illegal conduct (see Part VII of Chapter 17). [S 38(1) and (4) of the ECICO]

16.41 If a candidate who, having been elected as a member of the EC, acts as a member of the EC or participates in the affairs of the EC without lodging an election return before the statutory deadline, he commits an offence and is liable to a fine of \$5,000 for each day. [S 39(1) and (2) of the ECICO]

16.42 A candidate or other person who uses election donation for a purpose other than meeting or contributing towards meeting the election expenses, or fails to dispose of unspent or exceeded amount of election donations in accordance with s 19 of the ECICO engages in corrupt conduct and is liable to a fine of \$500,000 and to imprisonment for 7 years. [Ss 6, 18 and 19 of the ECICO]

16.43 If a candidate makes a statement that he knows or ought to know is materially false or misleading in his lodged election return or a copy of a revised election return, he engages in corrupt conduct and is liable to a fine of \$500,000 and to imprisonment for 7 years. [Ss 6 and 20 of the ECICO]

16.44 Any complaint or report of a breach of the relevant legislation may be made to the EAC or its Complaints Committee, the RO or the REO. The relevant cases may be referred to the relevant authorities for investigation.

CHAPTER 17

CORRUPT AND ILLEGAL CONDUCT

PART I : GENERAL

17.1 When conducting election-related activities, candidates must be mindful of situations that may involve corrupt and illegal conduct, and take appropriate precautions to avoid violation of law due to negligence.

17.2 The ICAC has compiled an information booklet titled “Clean Election Committee Subsector Elections” to help candidates and their agents to familiarise themselves with the key provisions of the ECICO. The content of the information booklet has also been uploaded to the ICAC website.

17.3 The ECICO applies to all election-related conduct within and outside Hong Kong. Under no circumstances is it permissible for any person to induce a voter/AR not to vote at an election, or to vote or not to vote for a particular candidate or particular candidates, by offering an advantage, food, drink or entertainment, or by using force or duress, or by a deception, and to wilfully obstruct or prevent a voter/AR from voting. Such acts violate the ECICO. For the penalties of violating the relevant legislation, see Part VII of this chapter. Voters/ARs may sometimes require assistance from others or transportation services in accessing a polling station. However, the persons concerned must not deliberately use the above-mentioned means during the process to induce a voter/AR to vote or not to vote for a particular candidate or particular candidates. [S 5 of the ECICO]

PART II : CORRUPT CONDUCT RELATING TO CANDIDATES TO STAND FOR ELECTION OR NOT

17.4 Specifically, any person who engages in or expressly or implicitly authorises another person to engage in the following acts engages in corrupt conduct at an election:

(a) Bribing Candidates or Prospective Candidates:

offering an advantage to another person as an inducement or reward for that person or a third person to, or soliciting or accepting an advantage to get that person or another person to:

- (i) stand or not stand as a candidate at the election;
- (ii) withdraw a nomination; or
- (iii) not to use his best endeavours to promote the election;

(b) Force or Duress:

using or threatening to use force or duress against another person to induce that person to, or induce that person to get a third person to:

- (i) stand or not stand as a candidate at the election; or
- (ii) withdraw a nomination (if the third person has been nominated as a candidate at the election);

(c) Deceptive Behaviour:

by a deception, inducing another person to, or inducing another person to get a third person to:

- (i) stand or not stand as a candidate at the election; or
- (ii) withdraw a nomination (if the third person has been nominated as a candidate at the election);

(d) Defacing or Destroying Nomination Papers:

defacing or destroying a completed or partly completed nomination paper in order to prevent or obstruct another person from standing for election.

For more information on upholding clean elections and examples of the above corrupt conduct in relation to election, see the “Information Booklet for Clean Election” compiled by the ICAC for the EC subsector elections and the Clean Election Website.

[Ss 7(1), 8(1), 9(1) and 10 of the ECICO]

PART III : ILLEGAL CONDUCT RELATING TO ELECTIONEERING ACTIVITIES

17.5 Candidates conducting electioneering activities must comply with the ECICO. Candidates and campaign helpers should note the following illegal conduct relating to electioneering activities. For the penalties for violating the relevant legislation, see Part VII of this chapter.

False Statement relating to a Candidate

17.6 A person engages in illegal conduct if he publishes a false statement relating to a candidate, including:

- (a) publishing a statement, knowing it to be false, that a person is or is no longer a candidate at the election; and
- (b) publishing a materially false or misleading statement of fact relating to a particular candidate or particular candidates, including but not limited to a statement concerning the character, qualifications or previous conduct of the candidate or candidates, for the purpose of promoting or prejudicing the election of the candidate or candidates. Any statement which calls into question the integrity of that candidate may also contravene the above-mentioned requirements. Therefore, before publishing a statement of fact about a candidate or candidates, every effort should be made to ensure the accuracy of the statement.

[Ss 25 and 26 of the ECICO]

Claim of Support

17.7 Unless with prior written consent from the relevant person or organisation, any person is not permitted to:

- (a) publish EAs containing the name, logo or pictorial representation of a person or an organisation in a manner that implies or is likely to cause the voters/ARs to believe that the candidate has obtained the support of that person or organisation; or

- (b) modify and authorise any person to modify EAs provided by a supporter or organisation, which contain the name, logo or pictorial representation of that supporter or organisation, and any content of the EAs provided by them.

For the detailed statutory requirements relating to claim of support, see Chapter 18.

Inciting Another Person Not to Vote or to Cast Invalid Vote by Activity in Public

17.8 A person engages in illegal conduct if he incites⁶⁰ another person not to vote or to cast an invalid vote by activity in public during the election period. Activity in public includes the following activities, whether or not the persons concerned are in a public place while carrying out such 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) except for (a) of this paragraph, any other conduct observable by the public, including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia; or
- (c) the distribution or dissemination of any matter to the public.

[S 27A(1), (2) and (5) of the ECICO]

⁶⁰ 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”, and the prosecution must prove that the defendant has the intention to incite others to do the incited act.

17.9 To determine whether an activity in public incites another person not to vote or to cast an invalid vote, considerations may be given to the contents and intended audience of the activity, and the circumstances in which the activity is carried out. Besides, it is a defence for a person if he had lawful authority or reasonable excuse for doing the act to which the charge relates. [S 27A(3) and (4) of the ECICO]

PART IV : CORRUPT CONDUCT RELATING TO VOTING

Bribing Voters/Authorised Representatives

17.10 As stated in para. 17.4 of this chapter, a person engages in corrupt conduct at an election if he affects a person's voting preference by offering, soliciting or accepting an advantage. For the penalties for violating the relevant legislation, see Part VII of this chapter. Voting preference covers voting for a particular candidate or particular candidates, not voting at the election or not voting for a particular candidate or particular candidates. [S 11 of the ECICO]

17.11 Besides, during the election period, any person should refrain from engaging in any act which may be perceived as electoral bribery, such as attaching election leaflets of candidate(s) when distributing leaflets of community activities on free medical check-up, free legal consultation, free classes or discounted meals, etc.

Treating

17.12 A person engages in corrupt conduct if he provides another person with food, drink or entertainment (e.g. singing performance) or pays all or part of the cost of providing such treating for the purpose of affecting that person's

or a third person's voting preference. It is also unlawful to solicit or accept any of such improper treating. [S 12 of the ECICO]

Force or Duress

17.13 It is a corrupt conduct if any person uses force or duress, or threatens to use force or duress to induce another person 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. Persons in a position which they can exert pressure and influence on others, such as employers over employees, school principals or teachers over students, religious advisers over believers and doctors over patients, etc., should be careful not to breach the relevant requirements. [S 13 of the ECICO]

Deception or Obstruction

17.14 It is a corrupt conduct if any person, 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. It is also a corrupt conduct if any person wilfully obstructs or prevents another person (or gets another person to obstruct or prevent a third person) from voting at an election. It is also an offence to aid, abet, incite or attempt the above corrupt conduct. [S 14(1) and (1A) of the ECICO]

17.15 Other corrupt conduct relating to voting includes, but is not limited to:

- (a) 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) vote knowing that he is not entitled to do so;
- (c) 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) vote more than once in the same subsector or vote in more than one subsector at an election, without being expressly permitted by an electoral law; or
- (e) to invite or induce another person to commit (b), (c) or (d) of this paragraph.

[Ss 2, 15, 16(1) and (2) of the ECICO]

17.16 For more details on other corrupt conduct, see the ECICO.

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

17.17 Candidates should be careful when handling election expenses and election donations as violation of the relevant requirements will also be a corrupt or illegal conduct. For the requirements that have to be observed by candidates and the penalties for conviction because of the relevant acts, see Chapter 16.

PART VI : POWER OF COURT TO EXEMPT UNWILFUL ACTS

17.18 A candidate, agent or other person may apply to the CFI for an order to relieve himself from criminal responsibility if he violates the requirements relating to illegal conduct due to inadvertence, an accidental miscalculation or any reasonable cause (but not due to bad faith). No prosecution against him may be instituted or carried on by relevant law enforcement agency, until the application for the relief of penalties and liabilities is disposed of by the CFI. The candidate, agent or other person will not be convicted of violation of law by the court if the relevant illegal conduct has been exempted by an order made by the court under s 31(2) of the ECICO. [S 31 of the ECICO]

17.19 If a candidate is unable or has failed to send to the CEO the election return before the expiry of the statutory deadline (see Part V of Chapter 16) due to the following reasons, but not due to the applicant's bad faith:

- (a) the candidate's own illness or absence from Hong Kong; or
- (b) the death, illness, absence from Hong Kong or misconduct of an agent or employee of the candidate; or
- (c) inadvertence or an accidental miscalculation by the candidate or any other person; or
- (d) any reasonable cause (but not due to bad faith),

the candidate can apply to the CFI for an order to allow him to send the election return to the CEO within a further period as specified by the CFI. [S 40(1) and (2) of the ECICO]

17.20 If, after the statutory deadline, a candidate spots an error or a false statement in the election return due to misconduct of an agent or employee of the candidate, or by reason of inadvertence or an accidental miscalculation by the candidate or any other person, or any reasonable cause (but not due to bad faith), he may apply to the CFI for an order to enable him to correct any error or false statement in the election return or in any document accompanying the election return. [S 40(3) and (4) of the ECICO]

17.21 When the candidate finds himself in any of the situations set out in paras. 17.19 and 17.20 of this chapter, other than the situations where correction of errors or false statements is allowed under the simplified relief arrangement in para. 16.27 of Chapter 16, he should apply to the CFI and inform the REO as soon as possible.

PART VII : VIOLATION OF THE LAW AND SANCTION

17.22 A person who engages in:

- (a) **corrupt conduct** at an election is liable to a fine of \$500,000 and to imprisonment for 7 years, and must pay to the court the amount or value of the money or anything worth money received by the person or the person's agents in connection with the conduct, or such part of the amount or value as that court specifies [s 6(1) and (3) of the ECICO]; and
- (b) **illegal conduct** at an election is liable to a fine of \$200,000 and to imprisonment for 3 years [s 22(1) of the ECICO].

17.23 A person convicted of a **corrupt or illegal conduct** within the meaning of the ECICO will, in addition to the penalties set out in para. 17.22 of this chapter, be disqualified:

- (a) if the election is held within five years after the date of conviction, from:
- (i) being nominated as a candidate for the election(s) of the CE, LegCo, DC, EC Subsector or a Rural Representative; or
 - (ii) being elected as the CE, a member of the LegCo, DC or EC, or a Rural Representative; and

[Ss 14, 20 of the CEEO and s 18 of the Schedule to the CEEO, s 39 of the LCO, s 21 of the District Councils Ordinance, and s 23 of the Rural Representative Election Ordinance (Cap. 576)]

- (b) within five years after the date of the person's conviction, be disqualified from:
- (i) being appointed as a member of the DC;
 - (ii) being nominated as a nominee for the EC subsector; or
 - (iii) being registered as an ex-officio member of the EC or DC.

[Ss 5M and 9 of the Schedule to the CEEO, and ss 14 and 19 of the District Councils Ordinance]

17.24 Election-related offences and violation of the ECICO are serious crimes. On 27 November 1997, the Court of Appeal laid down sentencing guidelines stating that a person who is convicted of any serious election-related offence should be sentenced to immediate imprisonment. In addition, the District Court also reaffirmed the relevant position in May 2022 when it

concluded a case of engaging in illegal conduct at an election by incurring election expense⁶¹. The reasons for sentence are extracted below:

“A clean election is essential for ensuring fair and just elections. It is also an important foundation for experiencing, practising and developing democracy and a prerequisite for maintaining the credibility of elections. The courts must take a serious view of all corrupt and illegal conduct in elections. *[Quoted from Secretary for Justice v. LEE YORK FAI and four others (CAAR 3/2011)]*

Corrupt and illegal practices in an election would ruin the integrity of the election...The court has the responsibility to convey to the public a clear and important message: that is, any person who has committed corrupt or illegal practices in any election will no longer receive lenient sentences as in the past and will be punished harshly. If lenient sentences continue to be imposed, this would lead to the breakdown of the whole election system. *[Quoted from Secretary for Justice v. LAI WAI CHEONG ([1998] 1 HKLRD 52)]*”

⁶¹ *HKSAR v. Tai Yiu Ting* (DCCC 683/2021).

CHAPTER 18

NAMEDROPPING

PART I : CLAIM OF SUPPORT

18.1 It is an offence if a candidate includes the name, logo or pictorial representation of a person or an organisation in his EA in such a way as to imply, or to be likely to cause voters/ARs to believe that the candidate (or anyone associated with him) has obtained the support of that person or organisation, unless the candidate meets and complies with the following conditions and requirements:

- (a) before publishing the EA, the candidate has obtained **written consent** from the relevant person or organisation to include his/its name, logo or pictorial representation in such advertisement; or
- (b) the candidate does not personally/authorise anyone to request or direct the inclusion of the name, logo or pictorial representation of the relevant person or organisation in that advertisement (e.g. the content of the EA is provided by the supporter on his own initiative).

If the EA meets the conditions in (a) or (b) of this paragraph, and the relevant person or organisation has provided any content of the advertisement, the candidate must not modify, or authorise any person to modify, the name, logo or pictorial representation or any provided content unless **written consent** has been obtained from the relevant person or organisation.

[S 27 of the ECICO]

18.2 It is still an offence even if the EA contains a statement to the effect that it does not imply support by the person or organisation for any candidate. [S 27(4) of the ECICO]

NOTE:

Oral consent or written consent obtained after the publication of the EA does not comply with the statutory requirements.

Additionally, a consent of support, regardless of the number of individual(s) by whom it is signed, has to be a single document and cannot be composed of multiple documents or inferred from a chain of correspondences or messages.

18.3 The EAC has prepared a sample form to facilitate candidates to seek **consent of support** in writing from **a person or an organisation**. The sample form will be provided to candidates upon their submission of nomination forms for the election. Candidates may also obtain the form from offices of the REO and the relevant ROs, or download it from the REO website.

18.4 If a supporter only provides the consent of support to a candidate in his personal capacity and he intends to mention his office title(s) or the name of his organisation, he should avoid giving the impression that the relevant organisation also supports the candidate. If the EA indicates support by the relevant organisation, approval given by the governing body of the organisation or a resolution passed at a general meeting is required.

18.5 Moreover, when including personal data⁶² (which may include the name, logo, pictorial representation and/or the content) of the relevant person in an EA, the candidate shall take all practicable steps to ensure that the

⁶² According to s 2(1) of the PD(P)O, 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.

relevant personal data is correct and accurate. Otherwise, it may contravene the Data Protection Principle 2(1)⁶³ of Schedule 1 to the PD(P)O.

18.6 Regarding EAs published by candidates on online platforms, some persons or organisations may show their support to a candidate out of their own initiatives by giving “like” or response to the EAs published by the candidates or including their names, logos or pictorial representations in the EAs. If the candidate has not requested or directed, or authorised any person to request or direct the relevant person or organisation to give support, then the candidate is not required to seek the prior written consent from the relevant person. Yet, the candidate is not allowed to modify the relevant EA before obtaining the consent from the relevant person or organisation. Nevertheless, if the candidate invites a person to show his support by giving response to an online EA or participating in a live streaming electioneering activity, the candidate should obtain the prior written consent from the person. [S 27(1) and (1A) of the ECICO]

18.7 It is an offence for a person to make false claim of support. It is also an offence for a person to give information to a candidate or candidates which he knows or ought to know is materially false or misleading for the purpose of promoting or prejudicing the election of the candidate or candidates. [S 27(6) of the ECICO]

Consent of Support

18.8 For the avoidance of doubt, the Consent of Support should set out clearly in what capacity the supporter is expressing support:

⁶³ 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.

- (a) support given in his personal capacity - the supporter's office title(s) should not be mentioned in the candidate's EAs or electioneering activities;
- (b) support where his office title(s) may be mentioned (without mention of the name of the organisation concerned) - the Consent of Support should indicate whether the supporter consents to the mention of his 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 ensure that the usage of the information does not give a wrong impression that the organisation(s) concerned support(s) that candidate.

For example, if an office title of "the school principal" (e.g. "Chan Tai Man, the Principal") or "chairman of an owners' corporation" (e.g. "Chan Tai Man, Chairman of Owners' Corporation") is to be included in an EA, and the EA is to be posted in the school or the building in which the person is serving, it will be more desirable for the candidate to seek the relevant organisation's prior written approval;

- (c) support where his office title(s) and the name of the organisation concerned may be mentioned - the candidate should ensure that the supporter has obtained the prior written approval of his organisation in accordance with the organisation's internal rules and procedures before using both the supporter's office title(s) and the name of the organisation. In case of doubt, the candidate or his supporter should consult the relevant organisation regarding its internal rules and procedures. The candidate should avoid giving a wrong impression that the whole organisation supports that candidate; and

- (d) support given in the capacity of an organisation - the Consent of Support should indicate that approval has been given by the governing body of the organisation or by a resolution passed at a general meeting. The Consent of Support must be signed by an authorised person of the organisation (such as the director, chairman or chief executive, etc. of that organisation).
[S 27(5) of the ECICO]

18.9 A person or an organisation may support more than one candidate (even candidates who are contesting in the same subsector), but the above situation must be stated in the Consent of Support.

Revocation of Consent of Support

18.10 A consent of support given to a candidate may be revoked by a person or an organisation. In order to avoid dispute, if the consent of support to a candidate is revoked, the person or organisation should send a notice of the revocation of the consent of support to the candidate concerned.

18.11 Candidates are required to upload the written consent for the relevant EAs to the Candidate's Platform or Central Platform or deposit a copy of the written consent with the relevant RO in the manner as set out in para. 8.39 of Chapter 8. Candidates are also **required to upload** the notice of revocation of the consent of support to the platforms concerned **or notify** the relevant RO that such consent of support has been revoked in the manner as set out in para. 8.39 of Chapter 8. Copies of the written consent and notice of revocation received by the RO will be made available for public inspection at a specified location. [S 108(2) and (3) of the EAC (EP) (EC) Reg]

18.12 After a consent of support for a candidate is revoked, the candidate concerned should immediately cease to publish any EA which contains the person or organisation that has revoked the consent. Moreover,

in accordance with the requirements of the Data Protection Principle 2(2) of Schedule 1 to the PD(P)O, the candidate should take all practicable steps to ensure that the personal data of the relevant person is not retained for a period longer than necessary⁶⁴. S 26 of the PD(P)O also requires candidates to take all practicable steps to erase personal data that is no longer required for the purpose for which it was used, unless any such erasure is prohibited under any law or it is in the public interest for the data not to be erased.

NOTE:

The costs incurred for the production of EAs bearing such claim of support should be regarded as the candidate's election expenses and be declared in the election return.

18.13 If the name or photo of candidate A appears in candidate B's EA to show support for candidate B, whether the expenditure incurred for the EA should be borne by candidate A will be subject to whether the publicity material in question has explicitly or implicitly promoted candidate A. There may be two different scenarios:

Scenario 1

If the appearance of the name and photo of candidate A in candidate B's EA is solely to show support for candidate B but not to promote the election of candidate A, that EA should not be regarded as a joint EA. The election expenses incurred should be counted towards candidate B's election expenses only. In such circumstances, candidate B has to obtain prior written consent of support from candidate A before using candidate A's name or photo in his EAs. [S 27 of the ECICO]

⁶⁴ That is the time required for retaining the personal data for the fulfillment of the purpose (including any directly related purpose) for which the data is or is to be used.

Scenario 2

If the EA published by candidate B is for promoting not only himself but also candidate A's candidature, the relevant EA will be regarded as a joint EA. Candidate A and candidate B should obtain prior written consent of support from each other before publishing the joint EA, and candidate B must also obtain the prior written authorisation from candidate A to be the election expense agent. The costs of the joint EA are generally shared by candidate A and candidate B in proportion to the size of the advertisement each occupies and counted towards their respective election expenses. [S 27 of the ECICO]

18.14 If a candidate uses photos in his EAs to show the activities he attended in the past and there are other persons in the photos (which may include other candidates in the same election), then publishing the EAs may imply or is likely to cause voters/ARs to believe that that candidate has obtained the support of those persons in the photos. Therefore, the candidate must obtain written consent from the relevant persons before publishing that EA; otherwise, the candidate should take effective measures to avoid making voters/ARs believe that the persons in the photos support the candidate. For instance, if an EA includes a photo of the candidate and other persons participating in an activity, the candidate may add a caption below the photo specifying the particular nature and relevant information of the activity, so as to ensure that any reasonable and neutral person would not mistakenly believe that the candidate has obtained the support of those persons in the photo. However, if the photo concerned is still likely to cause voters/ARs to believe that the candidate has obtained the support of the persons in the photo, even if the EA contains a statement to the effect that it does not imply the support of the persons in the photo has been obtained, the candidate still has to obtain the prior written consent of support from those persons. Failure to do so is an offence. [S 27(4) of the ECICO]

18.15 The law does not stipulate a minimum age for individuals signing the Consent of Support. However, if a supporter is under the age of 18, for prudence's sake, the candidate may arrange the parent or guardian of the supporter to co-sign the Consent of Support.

18.16 Unless a candidate has obtained the prior written consent of support from a person, body, government authority or government department, he should not attach any materials published by any such person, body, government authority or government department to his EA in order to avoid causing voters/ARs to believe that the candidate has obtained the support of the relevant person or organisation.

18.17 As images may be regarded as personal data, candidates should be mindful of whether the use of a person's image is consistent with or directly related to the original purpose of collecting such image. Additionally, the Privacy Commissioner for Personal Data has published the "Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations and Members of the Public" (see **Appendix 8**), which serves as a general reference on matters that candidates need to note in respect of the collection, holding, processing and use of personal data when conducting electioneering activities.

PART II : COURT'S POWER AND PENALTY

18.18 If a candidate contravenes any requirements relating to 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 from the criminal liability (see Part VI of Chapter 17 and para. 8.54 of Chapter 8). [S 31 of the ECICO]

18.19 The Court could grant an injunction to prohibit the publication of any materially false or misleading statement or claim of support. A candidate in the same subsector, an election agent, a voter/AR of the subsector concerned and the person or body to whom or which the false information is related could apply for the injunction. [S 28 of the ECICO]

18.20 It is an illegal conduct if any person makes a false claim of support, and he is liable to a fine of \$200,000 and to imprisonment for 3 years. [Ss 22(1) and 27 of the ECICO]

CHAPTER 19

PARTICIPATION OF CIVIL SERVANTS, NON-CIVIL SERVICE GOVERNMENT STAFF, AND POLITICALLY APPOINTED OFFICIALS IN ELECTION-RELATED ACTIVITIES AND ATTENDANCE OF PUBLIC FUNCTIONS WITH CANDIDATES

PART I : PARTICIPATION IN ELECTIONEERING ACTIVITIES BY CIVIL SERVANTS AND NON-CIVIL SERVICE GOVERNMENT STAFF

19.1 Civil servants and non-civil service government staff (for the definition of non-civil service government staff, see Part IV of Chapter 7) who wish to participate in electioneering activities should observe the regulations, rules and guidelines issued by the Civil Service Bureau. Directorate officers, Administrative Officers, Information Officers, police officers and those officers acting in the above grades or ranks with a view to substantive appointment are not allowed to act as agents for candidates or participate in their electioneering activities. Other civil servants and non-civil service government staff, **unless** being appointed as the CRO, ROs, AROs, PROs, or polling or counting staff, may act as agents for candidates or participate in their electioneering activities. However, they should bear in mind their duty to uphold political neutrality and take care to avoid creating possible embarrassment to the Government in its implementation of policies or acting in ways which could call into question the good name and impartiality of the civil service. They shall also ensure that there is no conflict of interest with their official duties and that no use of public resources (e.g. the Government's communication systems including email system) is involved. Additionally, when assisting in electioneering activities, they should not wear government uniforms. To prevent unfairness, potential

or perceived unfairness and to avoid conflict of interest, civil servants and non-civil service government staff working in a subsector or having extensive contacts with the public in a subsector should avoid acting as an agent for a candidate in that subsector or participating in the electioneering activities of the subsector concerned. Civil servants and non-civil service government staff who participate in electioneering activities (including seeking of election donations) for any candidates should not use or give the impression of using any public resources for such purpose.

PART II : ATTENDANCE OF PUBLIC FUNCTIONS BY CIVIL SERVANTS AND NON-CIVIL SERVICE GOVERNMENT STAFF

Being Invited to Attend Public Functions

19.2 From the time any person publicly declares an intention to stand for election in respect of a particular subsector or from the commencement of the nomination period of the election (whichever is earlier), until the end of polling day, if civil servants and non-civil service government staff are invited to attend public functions where candidates may also attend, they should consider and act prudently.

19.3 Before accepting an invitation to attend the public function concerned, civil servants and non-civil service government staff must ensure that:

- (a) attending the function concerned is performing an official duty normally required of the post he is currently holding; and

- (b) to his best knowledge, the organiser of the function has no intention whatsoever of making use of the function to promote or prejudice the election of any candidate.

During the Public Function

19.4 The EAC appeals to all civil servants and non-civil service government staff that they should avoid taking photos with any candidates at the function concerned to prevent giving the impression of lending support to the relevant candidates, except in the following circumstances:

- (a) taking such photos is needed for him to perform his official duty normally required of the post he is currently holding;
- (b) taking such photos is a natural part of that function, and his refusal would be seen as acting against the proper etiquette of that function; or
- (c) it is a group photo participated by all other candidates of the same subsector.

PART III : ATTENDANCE OF PUBLIC FUNCTIONS BY CANDIDATES

19.5 The EAC appeals to all candidates attending the function that they should avoid taking photos with any civil servants or non-civil service government staff to prevent giving the impression of receiving special advantages, except in the following circumstances:

- (a) taking such photos is needed for him to perform his role at the function as requested by the function organiser;
- (b) taking such photos is a natural part of that function, and his refusal would be seen as acting against the proper etiquette of that function; or
- (c) it is a group photo participated by all other candidates of the same subsector.

PART IV : POLITICALLY APPOINTED OFFICIALS

19.6 The term “civil servants” used in this chapter does not include politically appointed officials. Politically appointed officials are political appointees who may belong to or be affiliated with political bodies.

19.7 Nevertheless, politically appointed officials should exercise prudence when participating in election-related activities, and must comply with the “Code for Officials under the Political Appointment System”. They should not use any public resources, and have to ensure that there is no actual or potential conflict of interest between their participation in such activities and the business of the Government or their own official duties.

CHAPTER 20

COMPLAINTS PROCEDURES

PART I : GENERAL

20.1 The EAC is responsible for handling election-related complaints. This chapter sets out the procedures for making complaints regarding **any breach of or non-compliance with the provisions of the electoral legislation and the guidelines or the spirit of them**, and the arrangements for the EAC to handle such complaints. The EAC may set up a **Complaints Committee** to handle complaints, members of which consist of current EAC members and one or more independent and politically impartial professionals.

20.2 The EAC ensures that the complaints-handling process complies with the principle of procedural justice and is based on factual evidence. The party concerned shall be given the opportunity to defend himself, and the established procedures will not be circumvented or compressed because of time constraints.

20.3 If a complaint is substantiated, the EAC may, depending on the circumstances, issue a public **reprimand** or **censure** against the party involved to enable the public to be informed of the major occurrences during the election. The EAC may also, if necessary, issue press releases on matters of principle which have attracted widespread public concern in order to set the record straight.

20.4 Any complaint involving criminal, corrupt or illegal activities may be lodged directly to HKPF or ICAC. The EAC will also refer complaints possibly involving such activities to HKPF or ICAC for handling⁶⁵.

PART II : COMPLAINT CHANNELS

20.5 Without restricting the right of a citizen to lodge a complaint to HKPF, ICAC or other authorities, an election-related complaint can be lodged to one of the following bodies or persons:

- (a) the EAC or its Complaints Committee;
- (b) the RO of the relevant subsector appointed by the EAC;
- (c) the REO; or
- (d) the PRO (on the polling day).

NOTE:

If the complaint is against the conduct, behaviour or actions of the RO or REO officers, it must be submitted directly to the EAC or its Complaints Committee.

⁶⁵ Under s 58(2) of the PD(P)O, personal data is exempt from the provisions of Data Protection Principle 3 in any case in which the use of the data is for any of the purposes referred to in subsection (1), including the prevention or detection of crime, and the prevention, preclusion or remedying (including punishment) of unlawful or seriously improper conduct or dishonesty or malpractice, by persons.

PART III : DEADLINE AND PROCEDURES FOR LODGING COMPLAINTS

20.6 **Complaints must be lodged within the complaints-handling period⁶⁶ of the election concerned.** This is to ensure that remedial measures can be taken timely, and proper investigations and follow-up actions can be carried out by the bodies or persons responsible for handling complaints while the evidence is still available.

20.7 A complaint can be lodged either orally or in writing. Complainant who wishes to make an oral complaint can lodge it by calling the EAC Complaints Hotline. A written complaint can be submitted by post, email, or fax. In order to handle complaints more effectively, the EAC recommends the complainant to use the designated complaint form available on the EAC website (www.eac.hk).

20.8 The complainant should identify himself and provide his correspondence address, email address, phone number, or other means of communication. Failure to do so may make the EAC unable to notify the complainant of the investigation outcomes. The EAC will record oral complaints in writing and the complainant must confirm the written record afterwards to enable the EAC to further follow up the complaint. Complainants' personal data will be handled in accordance with the PD(P)O.

PART IV : COMPLAINTS INSIDE POLLING STATIONS

20.9 To lodge a complaint about matters happened inside a polling station, the complainant should follow the following procedures:

⁶⁶ Generally, the complaints-handling period of an election begins from the start of the nomination period and ends on the 45th day after the polling day.

- (a) lodge the complaint immediately to the PRO, the Deputy PRO or an Assistant PRO;
- (b) if the complainant considers the complaint matter is not resolved, or still feels aggrieved at the outcome of the complaint, or if the complainers are the PRO, the Deputy PRO or an Assistant PRO, the complainant may lodge the complaint to the RO of the relevant subsector of the polling station. The phone numbers of the ROs are listed in the guide on procedures for handling complaints displayed inside the polling station; and
- (c) if the complainant considers the complaint matter is still not resolved by the RO, he should without any delay call the EAC Complaints Hotline. The complainant should provide as much relevant evidence as possible in order to substantiate the complaint. As the complainant is not allowed to talk to or communicate with any voter/AR inside the polling station, the complainant may need to leave the polling station to gather necessary evidence. The EAC Complaints Hotline number is listed in the guide on procedures for handling complaints displayed inside the polling station.

20.10 The PRO or his Deputy PRO, or Assistant PRO will record complaints mentioned in para. 20.9(a) and (b) of this chapter.

PART V : HANDLING OF COMPLAINTS

20.11 The EAC or its Complaints Committee, the ROs of the relevant subsectors, the REO, and the PROs will handle complaints as soon as practicable.

20.12 The CEO, ROs and PROs are obliged to report irregularities in elections, polling, or counting to the EAC or its Complaints Committee. They must also 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, all complaints received by the RO or the REO will be forwarded to the EAC or its Complaints Committee with comments and the relevant information. The EAC or its Complaints Committee may seek further information or views from the relevant RO or the REO, if necessary. [S 98 of the EAC (EP) (EC) Reg]

20.13 The EAC or its Complaints Committee, the RO, or the REO 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 complaint or statement. If the complainant is unable to provide further information as required, or refuses to be interviewed or make the statutory declaration, the EAC or its Complaints Committee, the RO, or the REO may not be able to take further action on the complaint.

20.14 If a complaint is substantiated, appropriate action(s) will be taken, including one or more of the followings:

- (a) take remedial measures in response to the complaint matter, such as the removal of EAs in breach of the relevant guidelines;
- (b) after making reasonable attempts to contact the relevant person(s) and giving the relevant person(s) an opportunity to make representations, issue a warning to the relevant person(s) regarding the matter under complaint and, where necessary, require the relevant person(s) to take immediate rectification action;

- (c) after making a reasonable effort to contact the relevant person(s) and giving the relevant person(s) a reasonable opportunity to make representations, issue a public **reprimand** or **censure** against the acts or omissions and the relevant person(s) complained of; and
- (d) with or without comments, refer the complaint to the ICAC, the Secretary for Justice or HKPF for follow up, such as prosecution of the suspected person.

[Ss 5(e) and 6(4) of the EACO]

20.15 The EAC or its Complaints Committee will notify the complainant in writing of its decision, and provide explanation for unsubstantiated complaints. As each complaint must be examined in details, the EAC and/or other authorities need(s) some time to handle all complaints.

PART VI : ELECTORAL AFFAIRS COMMISSION'S REPORT ON COMPLAINTS RECEIVED

20.16 Unless otherwise required by law, the EAC is required to report to the CE on any complaint made to it in connection with an election within three months of the conclusion of the election. [S 8(1) and (2) of the EACO]

PART VII : SANCTION FOR FALSE COMPLAINTS

20.17 Any person who knowingly makes a false complaint and provides false information to the EAC or its Complaints Committee, the RO or the REO, knowing that such complaint and information will be referred to the ICAC or

HKPF, commits an offence. If a person knowingly and wilfully makes a false statement on a particular material matter in a statutory declaration submitted to the EAC or its Complaints Committee, the RO or the REO, the person concerned also commits an offence and is liable to a fine and to imprisonment for 2 years. [S 36 of the Crimes Ordinance]

20.18 Any person who knowingly makes or causes to be made to an ICAC officer a false report of the commission of any offence or misleads such an officer by providing false information or by making false statements or accusations commits an offence and is liable to a fine at level 4 (\$25,000) and to imprisonment for 1 year. Similarly, any person who makes a false report, provides false information, or makes false statements or accusations to mislead a police officer commits an offence and is liable to a fine at level 1 (\$2,000) and to imprisonment for 6 months. [S 13B of the Independent Commission Against Corruption Ordinance (Cap. 204) and s 64 of the Police Force Ordinance (Cap. 232)]

APPENDICES

Election Committee Subsector Elections
Action Checklist for Candidates

<u>Time</u>	<u>Action</u>
Before and during nomination period	<p>1. Obtain the following from the Returning Officers (“RO”), District Offices or the Registration and Electoral Office (“REO”):</p> <p>(a) nomination form for candidates;</p> <p>(b) electronic or paper versions of input form for Introduction to Candidates for the production of printed and text versions of the “Introduction to Candidates” and the “Guide on Completion of Input Form”; and</p> <p>(c) the form of Intention to Display Election Advertisements at Designated Spots.</p>
During nomination period	<p>2. 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 of \$1,000 in cash, via the Faster Payment System (“FPS”) using “Scan to Pay”, or by cashier order or crossed cheque made payable to “The Government of the Hong Kong Special Administrative Region”.</p>

Candidates using FPS to pay the election deposit should note that individual banks or their personal bank accounts may have defined different limits for various types of payments or transfers. If the available transaction limit of the candidate's bank account is lower than the prescribed election deposit payable, the transaction of paying the election deposit will fail, resulting in the nomination form not being accepted.

To avoid the risk of failure to lodge the election deposit due to dishonoured cheques or insufficient transaction limit of FPS, which would cause the nomination not to be accepted or to be ruled invalid, candidates should pay the election deposit in cash or by cashier order as far as practicable.

3. Candidate should submit the duly completed "Candidate Eligibility Review Supplementary Information Form" to the Candidate Eligibility Review Committee ("CERC") Secretariat as soon as possible and before the close of the nomination period.
4. 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 mails before deciding on the contents of their election mails and seek advice from Hongkong Post or the REO if in doubt; and

- (b) submit their election mail specimens to Hongkong Post for approval as early as possible to allow sufficient time for revising the contents of their election mail specimens when necessary.
5. Upon successful submission of the nomination form, candidate will receive a “Candidate Folder” containing various forms and reference materials for use by candidate.
6. Lodge with the RO a “Notice of Withdrawal of Candidature” in person before the end of the nomination period if the candidate wishes to withdraw his candidature.

Any time before, during or after handing in nomination form

7. Publication of Election Advertisements (“EAs”):
- (a) ensure that all printed EAs 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, permission, and/or authorisation have been obtained before the publication of EAs;
- (c) (i) candidates who choose to set up an open platform maintained by the candidate(s) or a person authorised by the candidate(s) (“Candidate’s Platform”) for public inspection should provide the Chief Electoral Officer (“CEO”) with the **electronic address** of the platform **at least three working days** (i.e. any day other than a general holiday or Saturday) before the publication of the first EA; and

- (ii) candidates who choose to use the open platform maintained by the CEO or a person authorised by the CEO (“Central Platform”) 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”; and
- (d) make available a copy of each of the EAs and relevant information/documents, including publication information, permission or Consent of Support, in any of the following ways for public inspection **within three working days** after the publication of the EA by:
- (i) uploading to the Central Platform;
 - (ii) uploading to the Candidate’s Platform;

Note: If an EA is published through an open platform on the Internet, the hyperlink to the specific EA published should be provided, rather than the hyperlink to the entire election website or social media page. However, if it is technically impracticable to upload hyperlinks to individual EAs (e.g. messages sent interactively and in real-time via social networks or communication websites on the Internet), the hyperlink to the open platform may be uploaded;

- (iii) providing two hardcopies of each of the EAs and one hardcopy of the related information/documents to the RO (or the CEO if the RO has not yet been appointed); or
 - (iv) providing two identical copies of a CD-ROM or DVD-ROM each containing the EAs and one hardcopy of the related information/documents to the RO (or the CEO if the RO has not yet been appointed).
8. Incurring election expenses and receiving election donations:
- (a) record details of all election expenses and election donations;
 - (b) keep original invoices and receipts for all election expenses of goods or service of \$500 or above;
 - (c) issue a receipt to the non-anonymous donor for election donations of more than \$1,000 and keep a copy of the receipt. (may use the “Standard Receipt for Election Donations” provided by the REO); and
 - (d) if necessary, submit to the CEO an “Advance Return and Declaration of Election Donations” when an election donation is received.

Any time before handing in nomination form till the end of the election period

9. Appointing election expense agent(s):

- (a) lodge with the RO (or the CEO if the RO has not yet been appointed) “Authorisation to Incur Election Expenses”; and
- (b) may authorise one person or more as the election expense agents, **may** also authorise the election agent as an election expense agent. The authorisation is not effective until it has been received by the RO or the CEO (if the RO has not yet been appointed).

Any time after handing in nomination form

10. Appointing election agent:

- (a) lodge with the RO a “Notice of Appointment of Election Agent”; and
- (b) each candidate can only appoint one election agent. An election agent **cannot** act on behalf of the candidate:
 - (i) to sign the nomination form or make any necessary declaration;
 - (ii) to withdraw the candidature;
 - (iii) to incur election expenses (unless separately authorised by the candidate);
 - (iv) to authorise an election expense agent to incur election expenses; and
 - (v) to be present at a dedicated polling station situated in a maximum security prison.

Any time after handing in nomination form, but before the end of the nomination period

11. (a) If a candidate wishes to use the “Introduction to Candidates” for promotion, he should, as soon as possible:

- (i) complete Part I and/or Part II of the electronic version of the input form (website: www.reo-form.gov.hk), and send it by email to e-intro_to_can@reo.gov.hk, or upload it to the REO’s e-Form Upload Platform; or
- (ii) lodge with the RO a duly completed paper version of input form affixed with a colour photograph of the candidate which must be in a specified size and taken within the last six months; and provide two additional copies of the photograph identical to the one affixed to the input form, with a label affixed on the back of each photo stating the candidate’s name and name of subsector in which the candidate stands for election; or

Note: For candidates submitting the paper version of input form, please refer to point 20 for submission of the electoral message in Part II of the electronic form.

(For detailed arrangements on the production of both printed and text versions of the “Introduction to Candidates”, please refer to the “Guide on Completion of input form for Introduction to Candidates”.)

- (b) Lodge with the RO the form “Intention to Display Election Advertisements at Designated Spots”.

- Any time after handing in nomination form, but not later than three weeks before the polling day
12. Obtain from the CEO a set of mailing labels of voters and/or “Candidate Mailing Label System” (“CMLS”) USB flash drives of voters in the relevant subsector, and must submit together with the “Undertaking on the Use of Voters’ Information”.

Note: Relevant voters’ information will only be provided to validly nominated candidates. To protect the environment and respect the preferences of the voters, the CEO will not provide mailing labels of voters 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 seven days before polling day
13. If necessary, lodge with the CEO the following documents:

- “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)”;
- “Notice of Appointment of Polling Agents for a Polling Station Not Situated in a Penal Institution”.

14. Lodge with the RO the “Notice of Appointment of Counting Agents”.

- Within five days after the end of the nomination period
15. Receive from the RO information about the election agents appointed by other candidates of the same subsector.

- Around six working days after the end of the nomination period
16. For contesting subsectors, attend the lots drawing session held by the RO to determine the order of candidate names on the ballot paper and the designated spots allocated for the display of EAs.

Note:

- (a) The order of the names of candidates appearing on a ballot paper determined by lots drawing may not be the same as the Candidate Number. After the determination of the order in which the names of candidates appear on a ballot paper by lots drawing, the RO will allocate a Candidate Number to each validly nominated candidate subject to the decision of the CERC on the validity of the nomination of the candidate;
- (i) if the CERC has decided the validity of the nomination of all candidates in a subsector before the Lots Drawing Session, the Candidate Number will be determined at the Lots Drawing Session; and
- (ii) if the CERC, before the Lots Drawing Session, has not yet decided the validity of nomination of all candidates in a subsector, the Candidate Number will be determined later; and
- (b) in order to avoid any confusion, a candidate should print his Candidate Number on the EAs only when he is certain of his Candidate Number.

17. Receive from the RO the permission/authorisation for the display of EAs at designated spots allocated to the candidate (candidates for uncontested subsectors will not be allocated with designated spots).

Note: Candidate could display EAs at designated spots only after the CERC has determined his nomination valid.

Within 14 days after the end of the nomination period

18. Receive from the RO the “notification on the validity of the candidate’s nomination” (validly nominated candidates will also receive a separate notification regarding the validity of nominations of other candidates of his subsector).

19. Validly nominated candidates and/or election agents attend the candidates’ briefing session.

Around 14 days after the end of the nomination period

20. Before the deadline specified by the REO, complete the electronic version of input form (available on website) by text input, and upload it to the designated e-Form Upload Platform, for REO to upload the text version of “Introduction to Candidates” to the dedicated election website.

Note: If a candidate fails to submit the electronic version of the text information by the above deadline, the relevant website will only display the graphic version of his “Introduction to Candidates”, and the text version will show only the candidate’s name, personal information (if provided in the input form) and candidate number, with a note stating that the candidate has not provided the text version of his electoral message.

At least ten days before the polling day

21. Receive notification from the ROs of the commencement time and place for the counting of votes.

- Not later than seven days before the polling day
22. Receive from the ROs information regarding the delineation of the no canvassing zones and no staying zones for the polling stations (including the dedicated polling stations), as well as the name badges for candidates and their agents.
- Within one week before the polling day
23. 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) within one week before the polling day, a voter/authorised representative (“AR”) of the subsector of the candidate, who was imprisoned or held in custody, is admitted or transferred to the penal institution, and such voter/AR is entitled to vote at the dedicated polling station situated in a penal institution; and
 - (b) the voter/AR lodges the application without undue delay.
- At least two clear working days before the deadline of posting postage-free election mails
24. When wishing to use postage-free to post election mails, fill in and submit the “Notice of Posting of Election Mail” in duplicate together with three specimens of unsealed election mail to the designated manager(s) of Hongkong Post for inspection and approval.

Before the deadline as specified by Hongkong Post

25. When posting the postage-free election mails at the designated post offices specified by Hongkong Post, submit the “Declaration for Posting of Election Mail” in duplicate and furnish a copy of the election mail to the designated manager(s) of Hongkong Post for record purpose.

Note: Election mails posted after the deadline are unlikely to be delivered to the voters/ARs before the polling day.

Before entering the polling/counting station

26. Complete the “Declaration of Secrecy” (such declaration should be made by all candidates, election agents, polling agents and counting agents).

Any time before the polling day

27. Lodge with the CEO or ROs the “Notice of Revocation of Appointment of Agent”, if required.

On the polling day

28. If candidates or election agents wish to submit the “Notice of Appointment of Polling Agents for a Polling Station Not Situated in a Penal Institution”, the “Notice of Appointment of Counting Agents” or the “Notice of Revocation of Appointment of Agent”, they should submit them in person to the relevant Presiding Officers (“PROs”) (except for penal institutions).

Within three working days after the polling day

29. If required, upload the corrected EA particulars to the Candidate’s Platform or the Central Platform; or submit the “Notification of Corrected Information in relation to Election Advertisements” to the ROs.

Within ten days after the polling day

30. Remove all EAs displayed on government land/property.

Note: EAs displayed on private land/property and public service vehicles should also be removed as soon as possible after the election.

Within two weeks after the polling day 31. Destroy the CMLS USB flash drives, unused mailing labels (if any), and all copies of voters' information (it is advised to use a data erasure software to erase the information completely), **and** return the "Reply Slip on Confirmation of Destruction of CMLS USB flash drives and the Relevant Voters' Information" to the REO or return the CMLS USB flash drives and unused mailing labels to the REO for destruction.

After the publication of the interim register of members of the Election Committee, but not later than seven days before the publication of the final register of members of the Election Committee 32. Submit the duly signed written Election Committee Oath to the Electoral Registration Officer.

Before the statutory deadline for lodging the Return and Declaration of Election Expenses and Election Donations ("election returns") as required under section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO") 33. (a) Lodge with the CEO an election return;

Note: Candidates are required to submit an election return even if they are returned uncontested, are not elected, have not incurred any election expenses or have not received any election donations.

(The REO will issue letters to inform candidates of the deadline for lodging the election returns)

(b) candidates should ensure that the election return is accompanied by an invoice and a receipt for each election expense of \$500 or more, copies of 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 receipt of the unspent election donations, anonymous donations of more than \$1,000 in value and election donations exceeding the limit of election expenses (see Chapter 16 of the "Guidelines on Election-related Activities in respect of the Election Committee Subsector Elections");

- (c) candidates must verify the contents of the election return and sign the declaration/supplementary declaration(s) in that return;
- (d) any candidate who fails to lodge the election return before the deadline commits an offence. Those who are unable to lodge the election return before the deadline may apply to the Court of First Instance (“CFI”) for an order allowing him to lodge at an extended deadline;
- (e) if a candidate wishes to make amendments to the submitted election return before the deadline, he may lodge with the CEO before the deadline a supplementary declaration stating the amendments, with attachment of the relevant supporting documents (if appropriate), such as receipts; and
- (f) if a candidate wishes to correct any error or false statement in the election return (including any document accompanying the election return) after the deadline, he must apply to the CFI for an order allowing him to do so. (Except the case where the aggregate amount of value involved in the error or false statement in the election return does not exceed the limit (i.e. \$5,000) of the relief arrangement for Election Committee subsector elections as prescribed in section 37A of the ECICO, and the candidate, upon receipt of notification from the CEO, rectifies the error or false statement in the election return within a specified period) (see Part V of Chapter 16 of the “Guidelines on Election-related Activities in respect of the Election Committee Subsector Elections”).

- Until the end of the period for which election returns are available for public inspection under section 41 of the ECICO
34. If hyperlinks to EAs have been uploaded to the Central Platform, ensure that the hyperlinks remain validly and operating throughout the whole public inspection period.
 35. Maintain the Candidate's Platform (if applicable) for public inspection.

Note:

Most of the forms mentioned in this checklist can be downloaded from the REO website (www.reo.gov.hk).

(This “Action Checklist for Candidates” is for reference only. Candidates should refer to the “Action Checklist for Candidates” included in the Candidate Folder for the respective Election Committee subsector ordinary elections/by-election, as well as the notification issued by the REO regarding the election from time to time.)

Methods for Returning Members and Composition of Election Committee Subsectors**First Sector - Industrial, Commercial and Financial Sectors**

	Subsectors	Method for Returning Members	Composition		Number of Seats
			Individuals	Bodies	
1.	Catering	Election		✓	16
2.	Commercial (first)	Election		✓	17
3.	Commercial (second)	Election		✓	17
4.	Commercial (third)	Election		✓	17
5.	Employers' Federation of Hong Kong	Election		✓	15
6.	Finance	Election		✓	17
7.	Financial services	Election		✓	17
8.	Hotel	Election		✓	16
9.	Import and export	Election		✓	17
10.	Industrial (first)	Election		✓	17
11.	Industrial (second)	Election		✓	17
12.	Insurance	Election		✓	17
13.	Real estate and construction	Election		✓	17
14.	Small and medium enterprises	Election		✓	15
15.	Textiles and garment	Election		✓	17
16.	Tourism	Election		✓	17
17.	Transport	Election		✓	17
18.	Wholesale and retail	Election		✓	17
Total					300

Second Sector - The Professions

	Subsectors	Method for Returning Members	Composition		Number of Seats
			Individuals	Bodies	
1.	Accountancy	Nomination	✓		15
		Election		✓	15
2.	Architectural, surveying, planning and landscape	Ex-officio	✓		15
		Election		✓	15
3.	Chinese medicine	Nomination	✓		15
		Election		✓	15
4.	Education	Ex-officio	✓		16
		Election		✓	14
5.	Engineering	Ex-officio	✓		15
		Election		✓	15
6.	Legal	Ex-officio	✓		6
		Nomination	✓		9
		Election		✓	15
7.	Medical and health services	Ex-officio	✓		15
		Election		✓	15
8.	Social welfare	Ex-officio	✓		15
		Election		✓	15
9.	Sports, performing arts, culture and publication	Nomination	✓		15
		Election		✓	15
10.	Technology and innovation	Nomination	✓		15
		Election		✓	15
Total					300

Third Sector - Grassroots, Labour, Religious and Other Sectors

	Subsectors	Method for Returning Members	Composition		Number of Seats
			Individuals	Bodies	
1.	Agriculture and fisheries	Election		✓	60
2.	Associations of Chinese fellow townsmen	Election		✓	60
3.	Grassroots associations	Election		✓	60
4.	Labour	Election		✓	60
5.	Religious	Nomination		✓	60
Total					300

**Fourth Sector - Members of the Legislative Council, Representatives of District Organisations
and Other Organisations**

	Subsectors	Method for Returning Members	Composition		Number of Seats
			Individuals	Bodies	
1.	Members of the Legislative Council (“LegCo”)	Ex-officio	✓		90
2.	Heung Yee Kuk	Election	✓		27
3.	Representatives of associations of Hong Kong residents in the Mainland	Nomination		✓	27
4.	Representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of Hong Kong and Kowloon	Election	✓		76
5.	Representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of the New Territories	Election	✓		80
Total					300

Fifth Sector - 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 Hong Kong Members of Relevant National Organisations

	Subsectors	Method for Returning Members	Composition		Number of Seats
			Individuals	Bodies	
1.	Hong Kong Special Administrative Region deputies to the National People's Congress (“NPC deputies”) and Hong Kong Special Administrative Region members of the National Committee of the Chinese People's Political Consultative Conference (“CPPCC members”)	Ex-officio	✓		190 ¹
2.	Representatives of Hong Kong members of relevant national organisations	Election	✓		110
Total					300

¹ If the total number of NPC deputies or CPPCC members who are eligible to be registered as ex-officio members exceeds 190, an NPC deputy or CPPCC member may be registered as an ex-officio member of a subsector other than the NPC deputies and CPPCC members subsector with which he has a substantial connection (excluding the members of the LegCo subsector, the religious subsector and the representatives of associations of Hong Kong residents in the Mainland subsector) in accordance with s 5I(4) of the Schedule to the Chief Executive Election Ordinance (Cap. 569). In such case, the number of seats of ex-officio members of that subsector will be increased while the number of seats to be returned by election will be reduced accordingly. Within the same term of office of the Election Committee, the number of ex-officio members and members to be returned by nomination or election for each subsector shall remain unchanged. Regarding the number of members to be returned by election for each subsector in the Election Committee subsector ordinary elections, the notice published in the Gazette by the Chief Electoral Officer under s 4(3) of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541I) shall prevail.

**Specified Persons Eligible to Inspect
Registers of Members of the Election Committee¹,
Subsector Provisional Register of Voters
and Subsector Final Register of Voters**

(I) Registers of Members of the Election Committee

Statutory Document	Specified Persons
<p>(1) EC Omissions List</p> <p>and</p> <p>(2) PR of Members of the EC</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 style="margin-left: 20px;">(i) was provided an extract by the Electoral Registration Officer (“ERO”) for a purpose related to a previous election²;</p> <p style="margin-left: 20px;">(ii) was represented by a validly nominated candidate at a previous election; or</p> <p style="margin-left: 20px;">(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 election³.</p> <p>[Ss 25 and 29 of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election</p>

¹ “Registers of members of the Election Committee (“EC”)” means a provisional register (“PR”) of members of the EC, an interim register of members of the EC or a final register (“FR”) of members of the EC.

² “Previous election” means:

- (a) the last Chief Executive election that was held before the publication date;
- (b) the last Legislative Council general election that was held before the publication date; or
- (c) the last Legislative Council by-election for the EC constituency that was held after the election mentioned in item (b) and before the publication date.

³ “Coming election” means:

- (a) the first Chief Executive election that is held after the publication date; or
- (b) any of the following elections that is held within the term of office of the EC to which the list or register relates:
 - (i) a Legislative Council general election;
 - (ii) a Legislative Council by-election for the EC constituency.

Statutory Document	Specified Persons
	Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B) (“EAC (ROE) (FCSEC) Reg”)]
<p>(3) Interim Register of Members of the EC</p> <p>and</p> <p>(4) FR of Members of the EC</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 by the ERO for a purpose related to a previous election⁴;</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 election⁵; or</p> <p>(c) a person who is a validly nominated candidate for a coming election.</p> <p>[S 39 of the EAC (ROE) (FCSEC) Reg]</p>

⁴ See footnote 2.

⁵ See footnote 3.

(II) Subsector Provisional Register of Voters and Subsector Final Register of Voters

Statutory Document	Specified Persons
<p>(1) Subsector Omissions List</p> <p>and</p> <p>(2) Subsector PR of Voters</p>	<p><u>Omissions list and PR of voters containing entries of individual voters:</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> <p style="margin-left: 20px;">(i) was provided an extract by the ERO for a purpose related to a previous election⁶;</p> <p style="margin-left: 20px;">(ii) was represented by a validly nominated candidate at a previous election; or</p> <p style="margin-left: 20px;">(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 election⁷.</p> <p><u>Omissions list and PR of voters containing only entries of corporate voters:</u></p> <ul style="list-style-type: none"> • Any member of the public <p>[Ss 25 and 29 of the EAC (ROE) (FCSEC) Reg]</p>

⁶ “Previous election” means:

- (a) the last subsector ordinary election that was held before the publication date; or
- (b) any subsector by-election that was held after the election mentioned in item (a) and before the publication date.

⁷ “Coming election” means any of the following elections that is held within one year after the publication date:

- (a) a subsector ordinary election; or
- (b) a subsector by-election.

Statutory Document	Specified Persons
(3) Subsector FR of Voters	<p data-bbox="579 331 1305 365"><u>FR of voters containing entries of individual voters:</u></p> <p data-bbox="579 443 1350 566">(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 data-bbox="579 622 1350 745">(b) a body or organisation that is incorporated, or is registered or exempt from registration, under any law of Hong Kong and:</p> <p data-bbox="643 768 1350 846">(i) was provided an extract by the ERO for a purpose related to a previous election⁸;</p> <p data-bbox="643 869 1350 947">(ii) was represented by a validly nominated candidate at a previous election; or</p> <p data-bbox="643 969 1350 1137">(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 election⁹; or</p> <p data-bbox="579 1216 1350 1294">(c) a person who is a validly nominated candidate at a coming election.</p> <p data-bbox="579 1361 1350 1440"><u>FR of voters containing only entries of corporate voters:</u></p> <ul data-bbox="579 1496 1010 1529" style="list-style-type: none"> • Any member of the public <p data-bbox="579 1585 1137 1619">[S 38 of the EAC (ROE) (FCSEC) Reg]</p>

⁸ See footnote 6.

⁹ See footnote 7.

**Submission Method, Format and Standard for Uploading
Electronic Copy of Election Advertisements and Relevant
Information/Documents to an Open Platform for Public Inspection**

1. Regarding the electronic submission of election advertisements (“EAs”) according to s 108(2) of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541I), in order to comply with the legislation and the requirements of the Electoral Affairs Commission (“EAC”), a candidate must upload the following EA particulars (if applicable), **within three working days**¹ after the publication of an EA, to either an **open platform**² maintained by the Chief Electoral Officer (“CEO”) or a person authorised by the CEO (“Central Platform”) or an **open platform** maintained by the candidate or a person authorised by him (“Candidate’s Platform”):

- (a) an electronic copy of an EA;
- (b) a hyperlink of each EA that is published through an open platform (the hyperlink to that EA published must be provided, rather than the hyperlink to the entire election website or to the dedicated social media page). Where it is technically impracticable to upload the hyperlink of every EA to the Central Platform or the Candidate’s Platform (e.g. when messages are disseminated in a real-time interactive manner through social network on the Internet such as Instagram, Facebook, blogs, etc.), a candidate may upload the hyperlink of the open platform and the information/documents related to the EAs to the Central platform or the Candidate’s platform. In this case, if the hyperlink of the related open platform has already been uploaded to the Central platform or the Candidate’s Platform, there is no need for the candidate to upload every comment separately. The candidate must however note that the related open platform of such hyperlink must be the dedicated election website of the candidate that all content within that website must be EAs. In addition, the candidate may only upload the hyperlink of the website instead of uploading each EA separately when it is technically impracticable to upload each EA separately to the Central Platform or the Candidate’s Platform, otherwise it is easy

¹ A “working day” means any day other than a general holiday and Saturday.

² An “open platform” means a platform on the Internet which can be accessed by members of the public without any procedure of login control.

to cause misunderstanding or invite complaints. Besides, the candidate must retain every EA published on the dedicated election website for public inspection (i.e. EAs published should not be removed at discretion);

- (c) printing/publication information related to the EA includes, (if applicable):
 - (i) name and address of the producer/printer;
 - (ii) date of production/printing;
 - (iii) dimension/size;
 - (iv) manner of publication;
 - (v) date of publication;
 - (vi) number of copies published; and
 - (vii) number of copies produced/printed;
- (d) an electronic copy of each permission/authorisation related to the EA (if applicable) (except for the relevant permission/authorisation in connection with the designated spots allocated by the Returning Officer); and
- (e) an electronic copy of each Consent of Support.

Central Platform

2. If a candidate chooses to upload the EA particulars to the Central Platform, he must comply with the following requirements:

Submission Method

3. A candidate must apply to the CEO in a specified form for the creation of an account to log in to the Central Platform before uploading the EA particulars to the platform for public inspection. Each candidate can only create one account.

4. The CEO will create an account for the candidate and inform the relevant candidate of the username and two sets of passwords (which can be

changed subsequently by the candidate) **within three working days** after the application has been received, so that the candidate can log in to his account in the Central Platform.

5. EA particulars uploaded at any one time by a candidate will be treated as one single submission. As long as the size of the file(s) does not exceed the limit as stated in para. 7 of this appendix, there is no restriction on the number of EAs or other documents to be attached in each submission. If correction to any submitted EA particulars is required, the candidate must upload the corrected EA particulars, including the corrected printing/publication information (“corrected information”), to the Central Platform by selecting the EA particulars concerned. If accepted, both the original and the corrected EA particulars will be displayed alongside for public inspection. Any corrected information should be uploaded to the Central Platform **not later than three working days after the polling day**.

6. An acknowledgement of receipt in the form of a summary of the EA particulars successfully uploaded will be displayed on the computer screen after each submission by the candidate. The acknowledgement of receipt will also be sent via an email and SMS to the email address and phone number as specified on the application form for account creation for candidate’s reference.

File Size

7. The size of each file to be uploaded **must not exceed 100 MB (Megabyte)** or else such submission will be rejected. In such case, candidate may upload the relevant EA particulars as separate files.

8. Files attached to a submission may be compressed in the format of Zip (.zip), RAR (.rar) or GNU zip (.gz).

Format

9. Files attached to each submission must be 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 as far as practicable arrange to upload computer files that facilitate persons with visual impairment to read (including text and video, etc.) to the Central Platform.

Computer Instructions

10. All files uploaded must not contain any computer viruses or any 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 attachments themselves or the information system displaying the attachments).

Candidate's Platform

11. If a candidate chooses to maintain a platform on his own for the posting of his EA particulars for public inspection, he must provide the hyperlink of the platform to the CEO **at least three working days before the publication of the first EA**. To avoid causing confusion to members of the public, the platform should only be used for uploading EA particulars. Candidates of different subsectors are allowed to share a platform, but they must ensure that it will not cause confusion to members of the public during the public inspection. The EAs uploaded to the platform should be virus-free and should be arranged in descending order of the date of submission. The printing/publication information should also be arranged alongside the information of the corresponding EA. To maintain the consistency in design and to facilitate public inspection, the CEO will provide guidelines and specify the basic requirements on layout design for the above platform (see **Annex (I) and Annex (II)**). The guidelines and basic requirements on layout design can also be downloaded from the EAC website.

12. If a candidate needs to correct any uploaded EA particulars on the platform, he should upload the corrected EA particulars and the date of correction alongside with the original EA particulars (see **Annex (II)**). Any corrected information should be uploaded to the relevant platform **not later than three working days after the polling day**.

13. Candidates should not remove any EA particulars uploaded to the Candidate's Platform at their own discretion, unless such removal is directed by the CEO, the EAC or the Court (if applicable) on the grounds that the EA concerned contains content/information that is unlawful or unrelated to the EAs published by the candidate. In the event that an EA has to be removed as directed by the CEO, the EAC or the Court, the candidate must publish this incident to the platform and the reason for such removal, and must retain other information/documents related to that EA on the platform for public inspection (see **Annex (II)**).

14. When uploading EA particulars to the Candidate's Platform, candidates should also follow the requirements on file format and computer instructions as mentioned in paras. 9 and 10 of this appendix.

15. The CEO will publicise the hyperlink of the Candidate's Platform for public inspection of the EA particulars.

Important Notes

16. EA particulars must conform to the requirements as set out above. Any electronic copies containing images should have sufficient resolution to ensure that the content of which can be clearly viewed by readers.

17. Each candidate must be fully responsible for (and that the CEO has no responsibility to him or any third party) the content/information of the EAs uploaded to the Central Platform, including any hyperlinks connecting to external websites. If the content/information of the EA particulars uploaded to the Central Platform is unlawful, unrelated to the EAs published by the candidate or infected by computer virus, the CEO reserves the right to remove the content/information concerned. In the event of removal due to computer virus infection, the candidate will be informed that he should upload the relevant EA particulars to the Central Platform again.

18. Candidates should follow the legislation related to personal data privacy when uploading information/documents to the Central Platform and the Candidate's Platform for public inspection. As a reminder in particular, candidates must mask the Hong Kong Identity Card ("HKID") number(s) therein (if any), of the relevant person(s) before uploading permission/authorisation or Consent of Support, etc. to the platforms.

19. When uploading a hyperlink of an EA to the Central Platform or the Candidate's Platform, candidates must ensure that the hyperlink remains validly operating until the end of the period for which copies of return and declaration of election expenses and election donations ("election return") are available for public inspection pursuant to s 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554)³.

³ According to s 41 of the Elections (Corrupt and Illegal Conduct) Ordinance, the CEO must keep at the office all copies of election returns submitted by candidates, and ensure that they are made available for inspection by any person who, during business hours, ask to inspect such documents, until the 30th day before the first anniversary of the date of the deadline for lodging the relevant election return (disregarding any relief granted by the Court of First Instance to candidates in certain circumstances).

Points to Note for Building Candidate's Platform**General**

1. The name of the election must be shown on the Candidate's Platform, e.g. 20XX Election Committee Subsector Ordinary Elections/By-elections.
2. The name of the subsector of the candidate must be shown on the Candidate's Platform.
3. The name of the candidate must be shown on the Candidate's Platform.
4. Once confirmed, the candidate number must be shown on the Candidate's Platform.
5. The EA particulars (including the electronic copy, hyperlink, Consent of Support, permission or authorisation, etc. of the EA) must be displayed in descending order according to the date of publication.
6. Regarding the required information/documents to be shown on the Candidate's Platform for each EA, see **Annex (II)**.
7. The corrected EA particulars must be displayed next to or under the original version.
8. Candidates should not remove any EA particulars uploaded to the Candidate's Platform at their own discretion, unless such removal is directed by the CEO, the EAC or the Court (if applicable) on the grounds that the EA concerned contains content/information that is unlawful or unrelated to the EAs published by the candidate. In the event that an EA has to be removed as directed by the CEO, the EAC or the Court, the candidate must publish this incident to the platform and the reason for such removal, and must retain other information/documents related to that EA on the platform for public inspection.
9. The file format and computer instruction must follow the details set out in the Guidelines on Election-related Activities in respect of the Election Committee Subsector Elections.
10. Sensitive personal data must not be uploaded to the Candidate's Platform. For example, HKID number(s) shown on the Consent of Support must be masked before it is uploaded to the Candidate's Platform.

11. Candidates should, where practical, provide an email address and/or phone number on the platform for handling public enquiries and offering technical assistance when necessary.

Security Measures

1. The Candidate's Platform must be installed with firewall and/or an Intrusion Protection System to prevent intruder attacks.
2. All files must be properly scanned by anti-virus software before uploading to the Candidate's Platform.
3. To protect against data loss, information on the Candidate's Platform, must be backed up on a regular basis.
4. The hyperlinks to external websites must be checked regularly in order to ensure that they remain valid. 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. Any electronic copies containing images should have sufficient resolution to ensure that the content of which can be clearly viewed by readers.
3. The Candidate's Platform should be available in both English and Chinese versions, and the content should be concise and easy to understand. Instructions should also be provided for easy navigation of the Candidate's Platform.
4. The Candidate's Platform should be easily accessible for persons with different needs (e.g. visually impaired, hearing impaired, communication-challenged, and people from different ethnic backgrounds).

候選人平台建議版面設計 Proposed Layout Design of a Candidate's Platform

選舉 Election:

20XX年*選舉委員會界別分組一般選舉/選舉委員會界別分組補選

20XX *Election Committee Subsector Ordinary Elections/Election Committee Subsector By-elections

界別分組名稱 (註1)

Name of Subsector (Note 1):

會計界 Accountancy

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) [原因 Reason]
1	-	小冊子 Pamphlets	15-9-20XX	A4	100	100	17-9-20XX	街頭派發 Distributed on street	AA 印刷公司 AA Printing Company	地址 Address	File1.jpg	-	-
2	-	橫額 Banners	11-9-20XX	1 米 x 2.5 米 1 m x 2.5 m	20	20	17-9-20XX	懸掛於 路邊鐵欄 Hung on roadside railings	BB 製作公司 BB Producer	地址 Address	File2.jpg	Authorisation. jpg	-
註 2 Note 2	18-9-20XX	-	-	-	-	-	-	-	-	-	File2 (Revised).jpg	-	-
3	-	電子海報 Electronic Posters	10-9-20XX	10 MB	1501	3	17-9-20XX	Facebook, Instagram	CC 廣告設計 公司 CC Advertising Company	地址 Address	www. XXX.com.hk/ poster.jpg	Permission. jpg	-

註 1：只適用於選舉委員會界別分組一般選舉。 Note 1: Only applicable to Election Committee Subsector Ordinary 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 Remarks
1	Consent1.jpg	
2	Consent2.jpg	同意書已於 18-9-20XX 撤銷 Consent revoked on 18-9-20XX

Methods of Folding of Election Mail

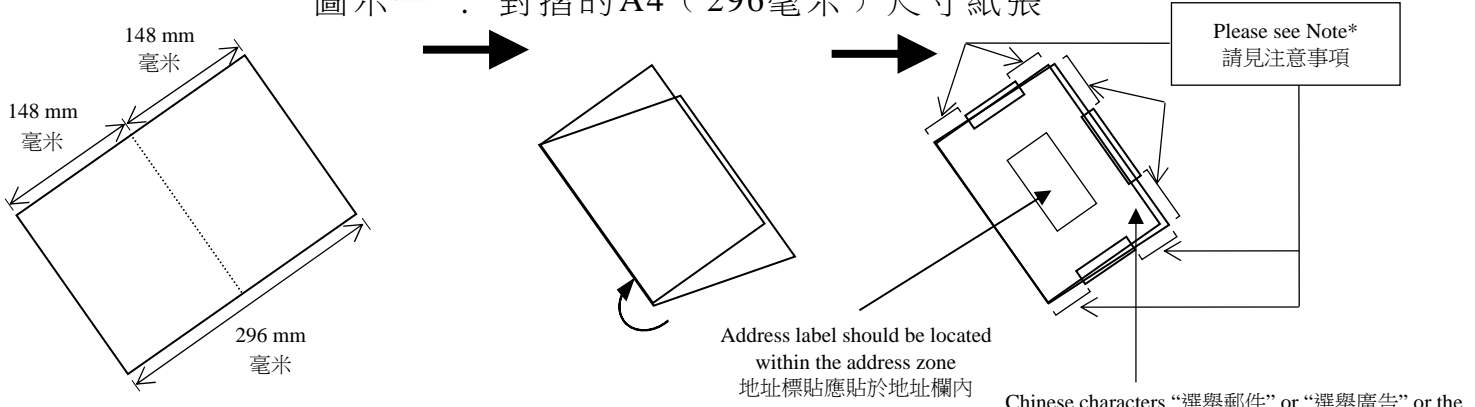
選舉郵件的摺疊方法

*** Note:** Regardless of any methods of folding or whether the opening of the election mail is closed or not, all openings shall not exceed 90 mm. Otherwise, they must be sealed with adhesive tape.

注意事項：無論選舉郵件以任何方法摺疊或開口是否已經封口，所有開口部分不得超過90毫米，否則必須以膠紙封口。

Figure 1 : Folder of A4 (296 mm) size

圖示一：對摺的A4（296毫米）尺寸紙張



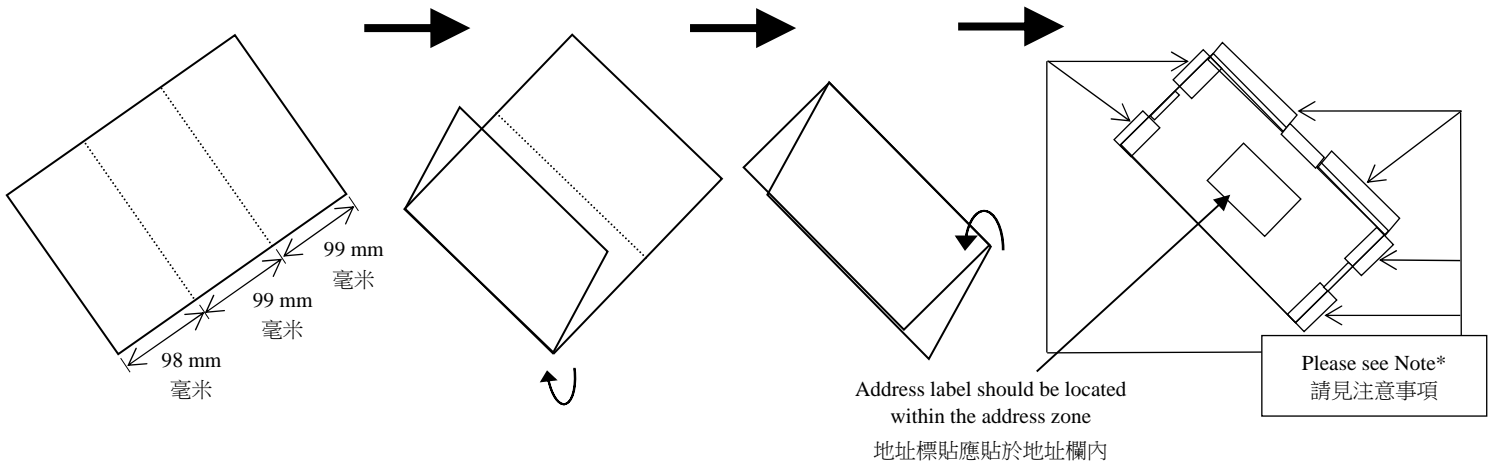
Chinese characters “選舉郵件” or “選舉廣告” or the English words “Election Mail” or “Election Advertisement” should be printed on the address side of the publicity materials

須在宣傳品貼上地址的一面印上中文

“選舉郵件”或“選舉廣告”或英文 “Election Mail” 或 “Election Advertisement” 字樣

Figure 2 : Folder of A4 (296 mm) size with 2 folds

圖示二：兩摺的A4（296毫米）尺寸紙張

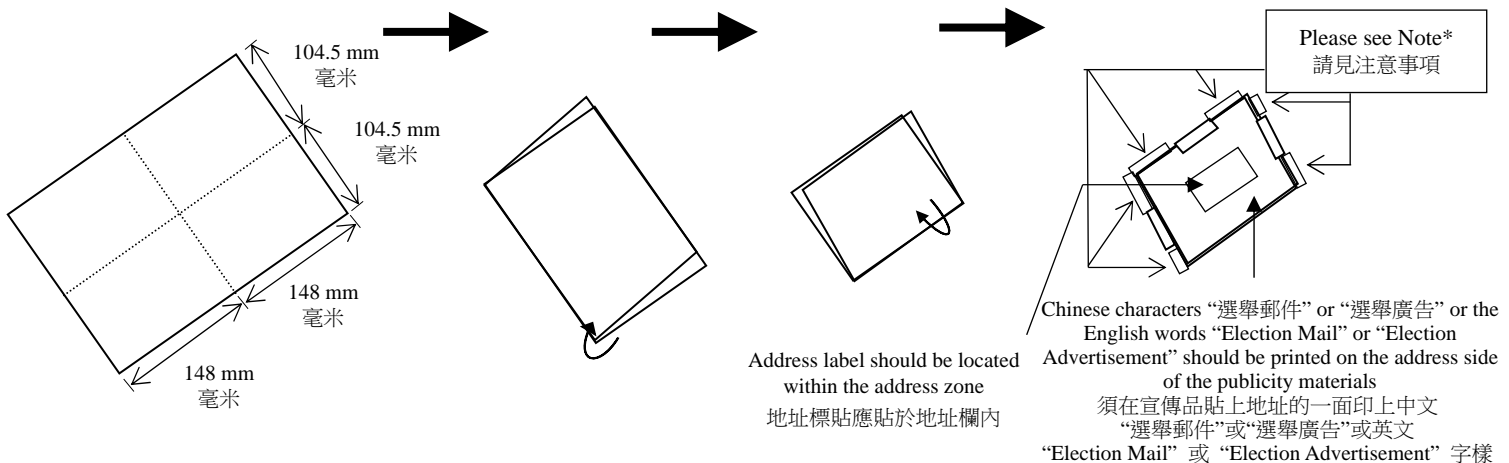


Address label should be located within the address zone 地址標貼應貼於地址欄內

Please see Note* 請見注意事項

Figure 3 : Folder of A4 (296 mm) size with 2 folds

圖示三：兩摺的A4（296毫米）尺寸紙張



Address label should be located within the address zone 地址標貼應貼於地址欄內

Please see Note* 請見注意事項

Chinese characters “選舉郵件” or “選舉廣告” or the English words “Election Mail” or “Election Advertisement” should be printed on the address side of the publicity materials

須在宣傳品貼上地址的一面印上中文

“選舉郵件”或“選舉廣告”或英文 “Election Mail” 或 “Election Advertisement” 字樣

Methods of Folding of Election Mail
選舉郵件的摺疊方法

Figure 4A & 4B : Folder of A4 (296 mm) 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

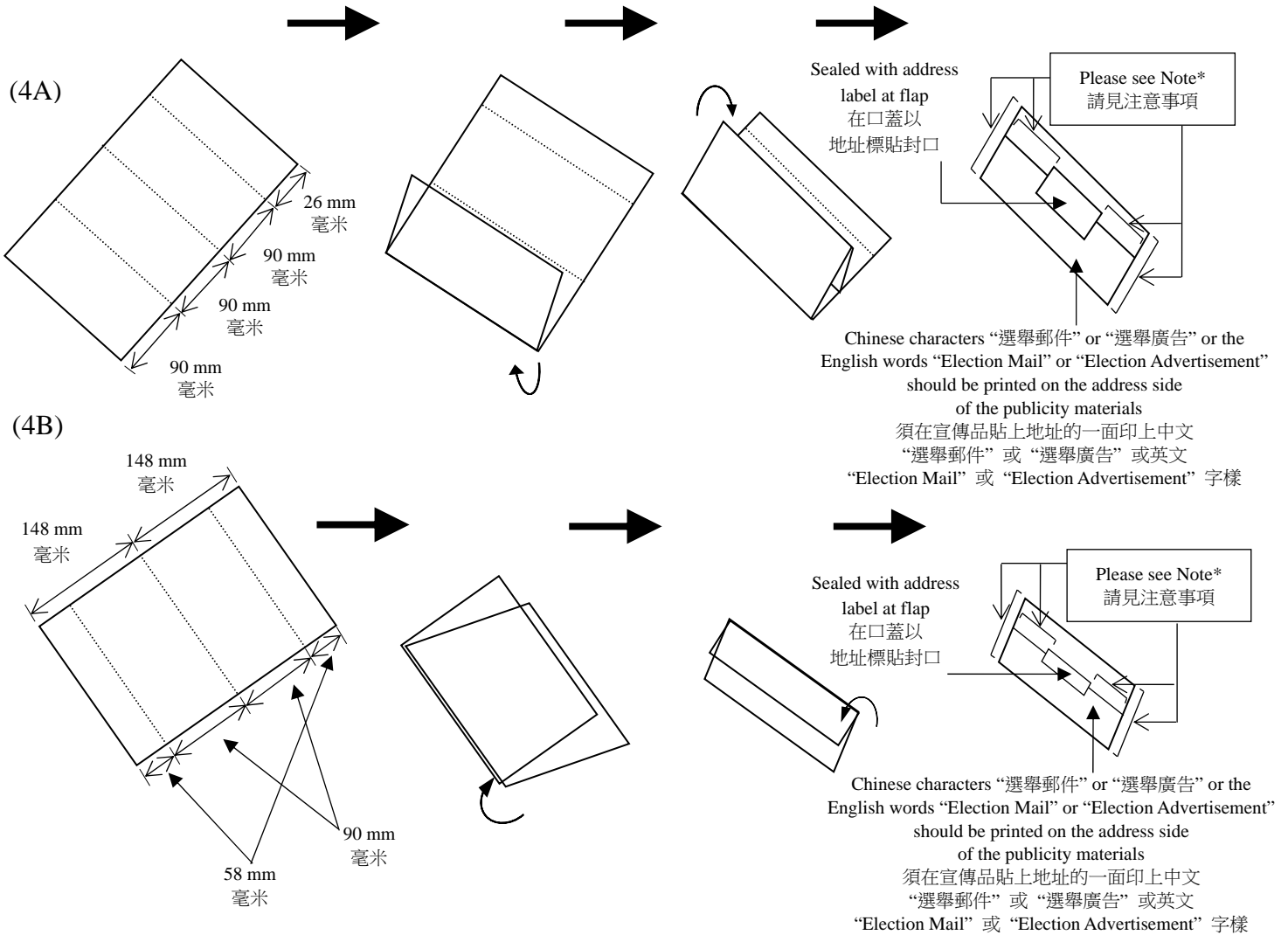
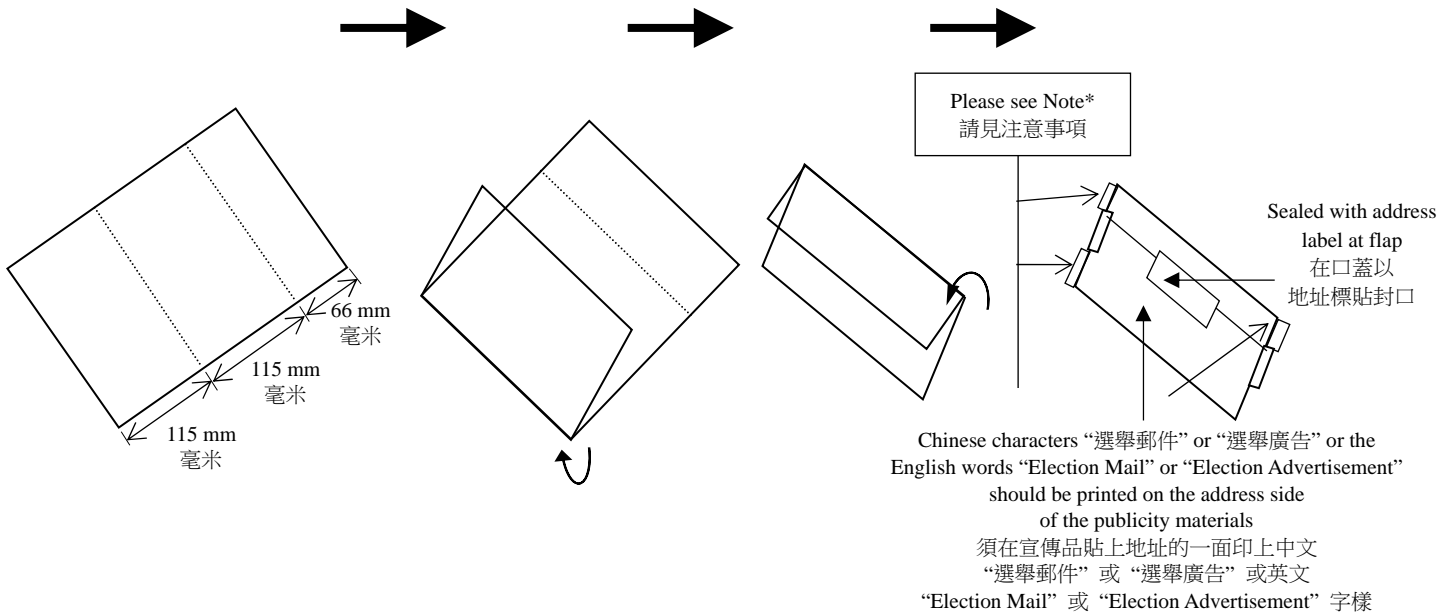


Figure 5 : Folder of A4 (296 mm) size sealed with address label
圖示五 : 以地址標貼封口的A4 (296毫米) 尺寸紙張



Canvassing Activities which are Prohibited
Within a No Canvassing Zone

(Note : (1) This list only illustrates some common canvassing activities and is not an exhaustive list of all canvassing activities which are prohibited within a No Canvassing Zone (“NCZ”).

(2) For **buildings other than the one housing the polling station** within an NCZ (including residential and commercial buildings such as restaurants or shops), if permission has been obtained to enter the building for canvassing votes, door-to-door canvassing will be allowed on **storeys above or below street level (i.e. excluding the ground floor)** without obstructing others or using sound amplifying systems or devices. During door-to-door canvassing, candidates may display or wear any promotional materials (e.g. badge, emblem, clothing or head-dress) or any materials making direct reference to a body any member of which is standing as a candidate at the subsector election or to a political body in Hong Kong. **Nevertheless, all canvassing activities are strictly prohibited on the ground floor of all buildings within an NCZ.)**

1. Unauthorised static display of election advertisements (“EAs”) on walls (including the outer walls of the polling stations), windows, railings, fences, etc.
2. Display of movable EAs on vehicles (whether in motion or parked within the NCZ), or such exhibits held by persons.
3. Except for the purpose of door-to-door canvassing referred to in Note (2) of this appendix, displaying or wearing any promotional materials, such as badge, emblem, clothing, carrier bags or head-dress which meets any of the following circumstances:
 - (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 at the relevant subsector election or to any political body in Hong Kong.
- 4. Distribution of EAs.
- 5. Canvassing votes by:
 - (a) talking to voters/authorised representatives (“ARs”);
 - (b) greeting voters/ARs by smiling, waving, nodding or handshaking, etc.;
 - (c) shouting slogans or the name or number of a candidate or any appeal messages;
 - (d) singing or chanting; or
 - (e) making signals or signs to voters/ARs.
- 6. Broadcast of audio or video recordings to appeal to or induce voters/ARs to vote or not to vote.
- 7. Using sound amplifying devices, loud-hailers or similar equipment (whether hand-held or mounted on a vehicle or installed in any other manner) to broadcast any messages which appeal to or induce voters/ARs to vote or not to vote.
- 8. Wilfully staying or loitering in the NCZ and showing goodwill to voters/ARs, and such behaviours constitute canvassing votes.

**Conduct of Electioneering Activities and Election Meetings in
Housing Estates Managed by the Housing Department and the Hong Kong
Housing Society and “Light Public Housing”
Managed by the Housing Bureau**

Validly nominated candidates must obtain **prior approval**¹ from an estate manager/project manager or officer-in-charge before conducting any electioneering activities or election meetings within a housing estate/“Light Public Housing”, and must comply with regulations and conditions imposed by other relevant authorities. An **application** for approval **should be made at least two clear working days (excluding Saturdays, Sundays and general holidays) before the date of the proposed election meeting/electioneering activity**, and the relevant estate manager/project manager or officer-in-charge will notify the applicant of the relevant decision as soon as possible. To avoid any conflict that may arise from allowing two or more candidates and their supporters to organise election meetings/electioneering activities at the same venue and time in a housing estate/“Light Public Housing”, the Housing Department, the Hong Kong Housing Society and the Housing Bureau will process the applications as soon as practicable and will adopt the following arrangements:

- (a) if only one application for organising an election meeting/electioneering activity at a particular venue and at a particular time is received, that application will be approved;
- (b) if two or more applications for organising an election meeting/electioneering activity at the same venue and the same period are received by the Housing Department, the Hong Kong Housing Society or the Housing Bureau two clear working days prior to the event, the applicants will be advised to negotiate among themselves to reach an agreement on condition that no canvassing votes from two or more groups will be conducted at the same venue and at the same time to avoid any dispute or conflict. If no agreement can be reached, allocation of venue or time will be made by the drawing of lots at a time to be decided

¹ The Housing Department, the Hong Kong Housing Society and the Housing Bureau 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/“Light Public Housing”. Validly nominated candidates can only conduct the electioneering activities or election meetings within the areas of the housing estate/“Light Public Housing” following the approval given by the housing estate office/“Light Public Housing” office and the lots drawing session for candidates conducted by Returning Officers.

by the relevant housing estate office/“Light Public Housing” office;

- (c) for the purpose of (a) and (b) of this paragraph, an application for several periods will be treated as separate applications for each of the periods; and
- (d) the housing estate office/“Light Public Housing” office should send a copy of the letter of approval to the respective Returning Officer for record and for public inspection.



Guidance Note

香港個人資料私隱專員公署
Office of the Privacy Commissioner
for Personal Data, Hong Kong

Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations and Members of the Public

1. Introduction

Collection, retention, processing and use of personal data are usually involved in election activities (including elector registration, candidate nomination, electioneering, public opinion researching, and casting and counting of votes). This guidance note provides assistance to candidates and their affiliated political bodies, government departments and public opinion research organisations in relation to compliance with the requirements under the Personal Data (Privacy) Ordinance (the Ordinance) when carrying out election activities. It also provides members of the public with advice on personal data protection in this regard.

2. Legal Liabilities of Candidates, Government Departments and Public Opinion Research Organisations as Principals

Candidates, government departments and public opinion research organisations (the Principals) may engage election agents, campaign staff, full-time or part-time employees, contractors and volunteers (the Agents) to assist in election-related activities. In such circumstances, the Principals are liable for the acts and practices of their Agents in the course of performing actions assigned

by them¹. The Principals are responsible for supervising their Agents to ensure compliance with the requirements under the Ordinance.

3. Guidance for Candidates and their Affiliated Political Bodies

Minimum Data Collection

3.1 When candidates collect personal data directly from an individual or indirectly from a third party (e.g. trade union, professional or political body) for election purposes (such as electioneering, organising an election forum, or fund raising), only adequate, and not excessive personal data, necessary for election purposes should be collected (for example, a Hong Kong Identity Card number should not be collected)².

Informed Collection

3.2 When a candidate or affiliated trade union, professional or political body solicits personal data directly from an individual for election purposes, the candidate should ensure that the individual is informed of the purpose of collection of the data and other matters³ set out in the Ordinance by, for example, providing a "Personal Information Collection Statement" (PICS) to the individual.

¹ According to section 65(1) and (2) of the Ordinance, any act done or practice engaged in by a person in the course of his employment or as agent for another person with the authority of that other person shall be treated as done or engaged in by his employer or that other person as well as by him.

² Data Protection Principle 1(1): Personal data shall not be collected unless the data is collected for a lawful purpose directly related to a function or activity of the data user; and the data collected is necessary, adequate but not excessive in relation to that purpose.

³ Data Protection Principle 1(3): On or before a data user collects personal data directly from a data subject, the data user shall take all reasonably practicable steps to ensure that the data subject has been informed of whether it is obligatory or voluntary for him to supply the data and the consequences for him if he fails to supply the data. The data subject shall be explicitly informed of the purpose of data collection and the classes of transferees to whom the data may be transferred as well as the name / job title and address of the individual to whom the request of access to and correction of the data subject's personal data may be made.

- 3.3 Candidates and their Agents may lobby electors by a variety of means⁴. In certain circumstances, the electors may have no previous dealings with the candidates and their Agents, and may be concerned as to where the candidates and their Agents obtained their personal data. When asked, candidates and their Agents should inform the electors as to how their personal data was obtained.

Case 1

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 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.

Lawful and Fair Collection

- 3.4 Candidates should not collect personal data for election purposes by deceptive means or by misrepresenting the purpose of the collection, for example, by collecting personal data on the pretext of assisting citizens to apply for government welfare.⁵

Collection Purpose

- 3.5 If a trade union, or a professional or political body intends to provide their members' personal data to candidates for election purposes, or to directly send election-related communication to their members, the proper course of action is for such bodies to determine whether this is a permitted purpose for which the personal data was collected. Prior notification to members of such use of their data, and the classes of possible transferees of the data, should be provided.

Case 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 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.

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.

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.

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.

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 Geographical 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 District Council geographical constituency to which the elector belongs.

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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.

- 3.10 In order to combat doxxing and protect citizens' personal data privacy, two offences targeting on doxxing took effect on 8 October 2021 pursuant to the Personal Data (Privacy) (Amendment) Ordinance 2021. If any person discloses any personal data of electors (as data subject) on the register without the relevant consent of the data subject, with an intent to cause specified harm¹¹ or being reckless as to whether specified harm would be caused to the data subject or any family member of the data subject, the discloser commits an offence under section 64(3A) of the Ordinance and is liable to a fine of HK\$100,000 and imprisonment for 2 years. If such disclosure causes specified harm to the data subject or any family member of the data subject, the discloser commits an offence under section 64(3C) of the Ordinance and is liable to a fine of HK\$1,000,000 and imprisonment for 5 years.

Personal Data in Other Public Domains

- 3.11 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

- 3.12 As a matter of good practice, when candidates and their Agents canvass for votes from individuals directly, or indirectly through a third party (such as a trade union, or a professional body or political body), the individuals should be given an option to decline receipt of any subsequent electioneering communication from the candidates in relation to the election concerned, so as to avoid receipt of unwanted electioneering communication from such candidates.

List of "No"

- 3.13 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

- 3.14 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.

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 According to section 64(6) of the Ordinance, "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.

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.

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).

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:

- 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.

Data Disposal

- 3.15 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

- 3.16 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.

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 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.

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.

- 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 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 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.

Data Security

- 5.4 If collection of personal data is involved, organisers of opinion polls should still safeguard personal data collected against accidental or unauthorised access by unrelated parties.³² When employing the use of computer programmes or software developed by third parties, assessment should be made to identify possible privacy risks (including, for example, the security issues related to data transmission and storage, technical safeguards of the system and network, and the restriction on data access by staff). Measures should be taken to ensure the personal data collected is appropriately protected.

Data Disposal

- 5.5 Organisers should not retain personal data collected in opinion 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 3.15 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.

³¹ See footnote 5.

³² See footnote 13.

³³ See footnote 14.

- 6.6 If participants of opinion 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.

³⁴ footnote 3.

³⁵ Reference can be made to the *Guidance on Data Breach Handling and Data Breach Notifications* issued by the PCPD.



PCPD website
pcpd.org.hk

Enquiry Hotline : (852) 2827 2827
Fax : (852) 2877 7026
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 Wanchai, Hong Kong
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Notes for Broadcasters on Producing
Television Programmes Introducing Candidates' Election Platforms

1. A candidate of the 2010 Legislative Council By-election made an election petition relating to a television programme which introduced the election platforms of all candidates. That television programme is multi-episode. 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 introducing 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 of candidates in the same Election Committee subsector and the platform(s) maintained by the broadcaster (e.g. the website of the media organisation/programme) on which the names of all candidates of the subsector are set out 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 subsector even if they watch only one single episode instead of all episodes on the same subsector 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 of this appendix when producing multi-episode programmes which are election-related.

Fair and Equal Treatment of Candidates by the Print Media

1. The Electoral Affairs Commission (“EAC”) will examine whether candidates are treated fairly and equally in light of the environmental circumstances of each case. Circumstances under consideration by the EAC include but not limited to practical problems that may be experienced by publishers, such as limitations of column space and staff resources; situations in which some candidates have extensive opinions on issues of public relevance while other candidates have none, some candidates have published newsworthy statements or speeches while other candidates have not said anything; the difference in status and standing of some candidates as public figures, etc.

2. No person is allowed to generally use these practical problems as an excuse, without specific explanations, for not giving fair and equal treatment and reporting to all candidates of the same subsector. Merely saying that practical problems gave rise to the selective reporting will be viewed as a lame excuse. However, if the print media concerned had approached other candidates but they refused to accept any interview, and this fact is made known by the relevant media in the same article, it will not be regarded as breaching the “Guidelines on Election-related Activities in respect of the Election Committee Subsector Elections”.

3. Equal treatment and reporting does not necessarily mean using the same length and word count when reporting each candidate of the same subsector, and must be considered on a case-by-case basis. For example, where a candidate speaks more than another candidate on a topic, and the newspaper reports it truthfully and faithfully, the media should not be criticised for not providing fair reporting. In other words, the key to fairness and equality is in the sense of **equal opportunity** being given to each candidate of the same subsector, so as to help voters/authorised representatives make informed choices.

4. If the media has given fair and equal treatment to all candidates of the same subsector, its editorial and commentator can freely express opinions on each of the candidates, insofar as their comments are fair and based on facts. Any newspaper is at full liberty to express its support for or disagreement with a candidate. The “Guidelines on Election-related Activities in respect of the

Election Committee Subsector Elections” is not aimed at imposing any restrictions on the expression of such ideas.

Application Procedures for the Approval of Float Design

1. Any person must submit a written application for the float design, and specify the brand, 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 document must be accompanied by three copies of a drawing, certified by qualified electrical or mechanical engineers, in a minimum size of A3 paper, and must show the following details:
 - (1) the decorations of the float and vehicle outline, side, plan, front and rear view, with all major dimensions (both proposed and original) shown;
 - (2) the entry/exit to and from the driver's compartment;
 - (3) location of rear-view mirrors which enables 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;
 - (6) equipment for communication with the passengers on the float;
and
 - (7) location of passengers and support for passengers (seats, handles, etc.) on the float.

Applicants shall pay attention 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 his vehicle unless that passenger is seated in a properly constructed seat which is securely installed to the bodywork of the vehicle, except in the following cases:

- (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. The application documents must be posted to the following address at least one month in advance of the relevant event:

Type Approval Section
Vehicle Safety and Standards Division
Transport Department
1M/F, Transport Department Vehicle Examination Complex
18 Sai Tso Wan Road
Tsing Yi, New Territories

For inquiries, please contact the Type Approval Section (Phone: 3961 0362).

4. If the application is approved in principle (subject to the vehicle inspection results), the Transport Department will notify the applicant within 14 days upon the receipt of the application, and also inform the applicant of further details of the vehicle inspection.

5. In case the design is considered unacceptable, the applicant must, within one week upon receipt of the notice, resubmit revised drawings in accordance with the requirements set out in para. 2 of this appendix.

**Items to be
Counted as Election Expenses**

(Note: This list only illustrates some common items of expenses, and is by no means an exhaustive list of all items to be counted as election expenses.)

1. Fees and allowances paid to agents and assistants engaged for electioneering activities, including travelling expenses and contributions to Mandatory Provident Fund Schemes.
2. Costs incurred for meals and drinks for agents and assistants before and on the 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) circulars;
 - (f) publicity booklets;
 - (g) video and audio recordings;
 - (h) electronic messages; and
 - (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 voters’/authorised representatives’ 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, and eventually removed by government departments, the costs charged by government departments should also be included in the election expenses.
5. Costs incurred by relevant government departments for the removal of EAs displayed without authorisation.
6. Costs incurred for renting space for electioneering activities. (Note: (a) If the candidate is an incumbent member of the District

Council (“DC”) and is using his ward office for electioneering activities, an appropriate apportionment of the rentals paid must be declared in the election return. Additionally, the candidate should provide relevant invoices and receipts issued by the landlord instead of being issued by the incumbent member of DC. (b) If a candidate (who is not an incumbent member of the Legislative Council (“LegCo”) or DC) rents part of the ward office of an incumbent member of LegCo or DC for electioneering activities, an appropriate apportionment of the rentals paid must be declared in the election return, and relevant invoices and receipts should be issued by the recipient of the apportioned rentals paid.)

7. Costs of stationery used in connection with the electioneering activities.
8. Operation/miscellaneous costs in connection with the electioneering activities, such as photocopying, hire of phone 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 for electioneering purpose.
11. Costs of deploying vehicles for publicity, such as car rental fees, petrol/charging fees, parking fees and tunnel fees. (Note: If a vehicle is lent to the candidate by any person(s) free of charge, the candidate shall, apart from declaring the goods or service provided free of charge as an election donation, declare the estimated market value of leasing a vehicle of similar kind in his election return.)
12. Costs of advertisements for promotion 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, etc. and other identification materials for election agents and assistants.
15. Costs incurred for refurbishing old publicity boards and their estimated value.
16. Costs incurred in the publication by a candidate during the election period (i.e. from the commencement of the nomination period to (a) the day on which a declaration is made under s 25 of the Schedule to the Chief Executive Election Ordinance (Cap. 569) or s 22 of the Electoral Affairs Commission (Electoral Procedure) (Election Committee)

Regulation (Cap. 541I); or (b) 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, DC or 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 a political body or organisation with which the candidate is affiliated to promote his electioneering. (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 incurred by an uncontested candidate who participates in electioneering activities (e.g. campaign rallies) to promote the election of other contested candidates after declaration of the election result in respect of his subsector will **not** be counted as election expenses of the uncontested candidate.)
18. Costs incurred for obtaining legal/professional advice in respect of conduct of electioneering (e.g. (a) where a candidate hires a lawyer to vet an election publicity booklet to make sure that there is no libellous content in the text; or (b) where a candidate engages a building professional to advise on or carry out building works for the erection of EAs, etc.). (Note: Fees incurred for obtaining (a) legal advice on the general interpretation/application of the electoral law including whether a particular item will be regarded as “election expenses” and “election donations”, and (b) professional advice on the apportionment of expenses as election-related expenses and for any other purposes, will not be regarded as election expenses.)
19. Costs incurred by a candidate for using the results of opinion polls to promote his election or prejudice the election of other candidates.
20. Interest incurred from a loan to finance the electioneering activities of a candidate. (For an interest-free loan, the interest waived should be declared as an election donation and should be counted as election expenses. The relevant person should estimate a reasonable amount with reference to the market interest rate.)
21. Allowance for organising promotional activities for a candidate is a form

of election donation which should be counted as election expenses (e.g. (a) an allowance paid to the workers in the activities organised by political party(ies) for promoting the election of a candidate and/or (b) the sponsorship made by the political party(ies) for the relevant activities).

22. Although some people may not charge the candidate for the work, goods supplied labour or services provided (except voluntary services), the difference between the reasonable charges estimated for these items and any allowance or discount generally available to customers is an election expense (which should be correspondingly counted as an election donation given by these suppliers).
23. Goods incidentally given because of the provision of a voluntary service.
24. Costs for charitable activities conducted for promoting a candidate.
25. Costs for any negative publicity launched against other candidates.

Acceptance of Election Donations

1. Any person or organisation¹ (including a political party) acting as an agent for a candidate or candidates to solicit, receive or accept election donations shall:
 - (a) obtain the prior consent/authorisation of the candidate(s);
 - (b) set up a dedicated ledger account for receiving and handling election donations;
 - (c) state the apportionment of donations between candidates or other persons/organisations if more than one candidate or other persons/organisations are involved;
 - (d) comply with all the requirements under the Elections (Corrupt and Illegal Conduct) Ordinance in respect of election donations, as in the case of donations accepted by the candidate(s) direct. For example, for election donations of more than \$1,000, a receipt should be issued to the donor by the candidate concerned instead of the agent, etc.;
 - (e) ensure that donors are clearly advised of the purpose(s)/use(s) of their donations; and
 - (f) apply for permission from the Secretary for Home and Youth Affairs in advance if the donations are accepted 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 must make sure that the message of the donation is clear enough so that members of the public are well advised of the purpose and nature of the donation and in no circumstances would they be misled that the donation solicited is used for the election of the candidate.

¹ All costs incurred by any person or organisation in the course of providing relevant service to the candidate(s) should be counted as election expenses, and are therefore subject to the relevant requirements governing the authorisation of election expense agents as set out in Chapter 7. If the person handles electioneering matters for the candidate in his own time voluntarily, personally and free of charge, the service provided by him is regarded as “voluntary service” according to s 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554). The candidate is not required to include the costs of such service in his election expenses (this exemption does not apply to service(s) provided in the capacity of an organisation).

**Guidelines on Posting Election Advertisements
to Registered Voters/Authorised Representatives in Custody**

(Note: The following is not an exhaustive list of items which will be rejected by penal institutions.)

For security reasons and to maintain the order and good discipline in the penal institutions, any election advertisement (“EA”) posted to registered voters/authorised representatives (“ARs”) in the custody of the penal institutions must be subject to security check; penal institutions will reject the EA that falls within any of the following categories:

Materials

- (a) metallic 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 any escape by any inmate/prisoner from the penal institutions;
- (c) that encourages gambling in the penal institutions, or adversely affects the rehabilitation of voters/ARs in the custody of the penal institutions;
- (d) that abets or induces voters/ARs in the custody of the penal institutions 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) larger than A4 size; or
- (b) oversized in terms of volume.

For enquiries, please contact the Principal Officer (Penal Operations)³ of the Correctional Services Department at 2582 4023.

Frequently Asked Questions and Answers
for Completing the Return and Declaration of Election Expenses
and Election Donations

Q1: If a candidate obtains goods or services for electioneering purposes free of charge or at a discount, how should the candidate declare the relevant election expenses and election donations?

A1: All goods and services (except for voluntary service) obtained by a candidate free of charge must be declared as election donations, and the estimated value of relevant goods and services must also be declared as election expenses in the corresponding parts of a return and declaration of election expenses and election donations (“election return”). “Voluntary service” is the only free-of-charge service which can be exempted from being counted as election expenses (see Part IV of Chapter 16).

The following is an example of declaring the relevant election expenses and election donations in the election return when a candidate obtains goods or services (except for voluntary service) for electioneering purposes free of charge or at a discount:

Assuming that a candidate rents a vehicle from a car rental company for electioneering purposes, and the car rental company offers a discount which is not generally available to customers, the difference between the market (or regular) price of the rental fee and the price paid by the candidate will be regarded as an election donation. The candidate must declare the market (or regular) price of the rental fee and specify the amount of discount in the sections of election expenses of the election return, and declare the amount of discount as an election donation at the same time. Candidates may refer to other examples provided in Section H and Section I of the “Guide to Return and Declaration of Election Expenses and Election Donations”.

In addition, if a candidate borrows a vehicle from a friend free of charge for electioneering purposes, the “free borrowing of a vehicle” has already constituted an election donation, and its value should also be treated as an election expense. If that

friend has not lent his vehicle to members of the public, the candidate may estimate its value based on the fair market rental fee for similar car rental services provided by other individuals or organisations (e.g. car rental companies), and the estimated value should be declared separately as an election expense and an election donation in the election return.

Q2: If a candidate rents advertising spots (such as the bodywork of public light buses (“PLBs”)) for publicity purposes, but only displays election advertisements (“EAs”) on certain days of the renting period, how should the candidate declare the relevant election expenses?

A2: If the candidate rents advertising spots of PLBs, taxis or other public transportation for displaying EAs, he should count the rent paid as a relevant election expense and declare it as required. Since the purpose of renting those advertising spots is for promoting the election of himself, or prejudicing the election of another candidate, even if the candidate uses the advertising spots for displaying EAs only on certain days of the renting period, he is still required to declare the rent for the whole renting period as an election expense. The following is an example showing how to declare the relevant election expense in the election return:

Assuming that the candidate rents the bodywork of PLBs as spots for displaying EAs for a month (e.g. from 1 to 30 November), but EAs are displayed on the bodywork of PLBs only from 10 to 30 November. Even though the candidate does not display EAs on the bodywork of PLBs on certain days of the renting period (i.e. 1 to 9 November), he is still required to declare the full-month rent for the bodywork of PLBs as an election expense in the election return as the only purpose of renting the bodywork of PLBs is to promote his standing for election.

Q3: If a candidate uses personal assets for electioneering purposes, how should the candidate declare the relevant election expenses and election donations?

A3: Any 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, are regarded as election expenses, and must be declared as required.

If personal assets (such as self-owned properties) are used by a candidate for electioneering purposes, the relevant expenses incurred must be declared as election expenses. Given that the goods or services provided by the candidate himself cannot be regarded as being obtained free of charge, the value of such goods or services cannot be declared as election donations.

The following example illustrates how a candidate who uses a self-owned property as the campaign office declares the relevant election expenses in the election return:

Assuming that the candidate wholly owns a property, and the property is only used as his campaign office during the election period (e.g. from September to November), although the candidate does not have to pay rent for that property, this should still be counted as an election expense of the candidate based on the market rent of that property, and the calculation method should be specified in the election return with relevant documents (e.g. the demand notes for rates of the property) attached for reference. The suggested calculation method of the relevant election expense is as follows:

Relevant election expense = rateable value of that property × proportion of time of self-owned property being used as campaign office (i.e. 3 months/12 months)

In addition, other relevant expenses, such as electricity expense, internet service fee, management fee, etc., incurred during the period when the candidate uses the above property for electioneering purposes shall be included in the election expenses and stated clearly in the election return.

Q4: If a candidate, who is an incumbent member of the District Council (“DC”) instructs a staff member of his ward office to assist in handling his election publicity work within office hours during the election period, how should the candidate declare the relevant election expenses?

A4: If the candidate instructs a staff member of his ward office to handle his election publicity work within office hours, the expenses involved are election expenses. The candidates

should calculate the election expenses by apportioning the relevant remuneration according to the actual time spent by the staff member concerned in handling election publicity work for the candidate and attach to the election return the receipt of remuneration signed by the staff member concerned and the calculation method of the relevant election expenses as proof.

If the candidate has claimed an allowance from the DC Secretariat for the remuneration of the staff member concerned for working in the ward office, the portion which has already been calculated as election expenses cannot be claimed as an allowance from the DC Secretariat. He can only claim an allowance for the portion after deducting the election expenses from the DC Secretariat.

The following example illustrates specifically how the aforesaid candidate declares the relevant election expenses in the election return:

Assuming that the candidate is an incumbent DC Member and, during the election period (e.g. from September to November), instructs a staff member of his ward office to assist in handling election publicity work for him within office hours, and such work occupies 20% of the overall working time of the staff member concerned, the candidate should calculate the election expenses based on the staff member's remuneration on a pro-rata basis. The suggested calculation method is as follows:

Relevant election expenses = remuneration of that staff member (i.e. total amount of remuneration from September to November) × proportion of time spent on election publicity work (i.e. 20%)

The candidate may refer to the relevant examples provided in Section C of the "Guide to Return and Declaration of Election Expenses and Election Donations".