

CHAPTER 1

INTRODUCTION

PART I : THE LEGISLATIVE COUNCIL ELECTION

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

1.2 In accordance with the Basic Law and the LCO, the term of office of the LegCo is 4 years except the first term which was 2 years. Each term of its office is to begin on a date to be specified by the CE in Council. The first-term LegCo was between 1 July 1998 and 30 June 2000. The second to sixth terms of the LegCo began on 1 October of the year in which the LegCo general election was held (for the term of office of the sixth and seventh terms of the LegCo, please see para. 1.3 below). The CE must specify a date for holding a general election to elect the members for each term of office of the LegCo [s 6(1) of the LCO]. A person returned as a member at a general election holds office from the beginning of the term of office of the LegCo following the election and vacates office at the end of the term. A by-election will be held to fill a vacancy in membership of LegCo. However, no by-election to fill a vacancy in membership of LegCo is to be held within the 4 months preceding the end of the LegCo’s current term of office or if the CE has published in the Gazette an order dissolving that LegCo in accordance with the Basic Law [s 36(2) of the LCO]. *[Amended in October 2007, June 2012, June 2016, June 2020 and October 2021]*

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

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

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

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

Geographical Constituency

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

Functional Constituency

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

(15) Commercial (first); (16) Commercial (second); (17) Commercial (third); (18) Industrial (first); (19) Industrial (second); (20) Finance; (21) Financial Services; (22) Sports, Performing Arts, Culture and Publication; (23) Import and Export; (24) Textiles and Garment; (25) Wholesale and Retail; (26) Technology and Innovation; (27) Catering; and (28) HKSAR Deputies to the NPC (“NPC deputies”), HKSAR Members of the National Committee of the Chinese People’s Political Consultative Conference (“CPPCC members”) and Representatives of Relevant National Organisations. For these 28 FCs, the Labour FC is to return 3 members while the remaining 27 FCs are to return 1 member each. The “first past the post” voting system is adopted. [Ss 20, 21 and 51 of the LCO] Details of the features of FC elections are set out in Chapter 3. *[Amended in June 2012, June 2016, June 2020 and October 2021]*

Election Committee Constituency

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

Governing Legislation

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

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

1.10 The EACO tasks the EAC with making recommendations regarding the delineation of GCs for LegCo elections and demarcation of their boundaries¹. Besides, the EAC is also responsible for the conduct and supervision of LegCo elections, and matters incidental thereto, and regulating the printing of particulars relating to candidates on ballot papers and financial assistance for candidates.

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

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

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

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

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

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

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

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

1.18 The Electoral Affairs Commission (Financial Assistance for Legislative Council Elections and District Council Elections) (Application and Payment Procedure) Regulation (Cap 541N) (“EAC (FA) (APP) Reg”) stipulates the detailed implementation procedures for the Financial Assistance Scheme for candidates standing in LegCo elections. *[Amended in October 2007]*

1.19 The Maximum Amount of Election Expenses (Legislative Council Election) Regulation (Cap 554D) sets out the maximum amount of election expenses that can be incurred by a candidate or his/her election expense agent(s) for a LegCo election. *[Added in October 2007, and amended in July 2008 and October 2021]*

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

PART II : THE GUIDELINES

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

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

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

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

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

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

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

PART III : SANCTION

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

1.26 The EAC always strives to conduct public elections under the principles of openness, fairness and honesty. If the EAC comes to know that any candidate or person has breached the Guidelines, it may notify the relevant authorities for actions to be taken and, furthermore, make a reprimand or censure in a public statement which will include the name of the candidate or person concerned (and, where appropriate, other relevant parties (if any)) to allow full disclosure of the relevant facts to the public. Should any offences under the electoral law be committed, the candidate, the person or other parties concerned will also incur criminal responsibility accordingly. *[Amended in July 2008]*