

CHAPTER 5

NOMINATION OF CANDIDATES

PART I : GENERAL

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

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

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

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

5.4 As stipulated in s 40(1)(b)(i) of the LCO, the nomination of a candidate is invalid unless a declaration is made in the nomination form to the effect that he/she will uphold the Basic Law and pledge allegiance to the HKSAR²⁷. In accordance with s 103 of the EAC (EP) (LC) Reg, a person who makes a false statement in the nomination form commits a criminal offence, and shall be subject to criminal liability upon conviction. *[Added in June 2020 and amended in October 2021]*

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

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

must endorse on the nomination form the decision and the reason(s) for it, and the RO will make available a copy of the nomination form for public inspection pursuant to s 14 of the EAC (EP) (LC) Reg. If any person is disqualified from being a candidate at an election, he/she may make an election petition to question the result of the election in accordance with s 61 of the LCO. However, as mentioned in para. 5.2 above, by virtue of Annex II to the Basic Law and the electoral law, no legal proceedings may be instituted in respect of a decision made by the CERC on the eligibility of a candidate pursuant to the opinion of the Committee on National Security. *[Added in June 2020 and amended in October 2021]*

5.6 A candidate is not required by the law to provide information on his/her political affiliation. However, a candidate may state his/her political affiliation in the nomination form and the Introduction to Candidates. Candidates for GCs and FCs may also request to print the registered names and/or registered emblems of prescribed bodies (political/non-political) they are affiliated with on the ballot papers. If a candidate chooses to state his/her political affiliation in the nomination form, Introduction to Candidates or ballot papers (if applicable), he/she should make sure that the information shown in those documents should not be mutually inconsistent (for example, if the candidate indicates membership of a political party in the nomination form, he/she must not indicate himself/herself as a non-affiliated candidate on the ballot papers).

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

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

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

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

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

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

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

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

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

PART II : ELIGIBILITY AND DISQUALIFICATION FOR NOMINATION

Eligibility

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

- (a) be 21 years of age or over;
- (b) be both registered and eligible to be registered as an elector for a GC;
- (c) not be disqualified from being elected by virtue of s 39 of the LCO (see para. 5.16 below);
- (d) have ordinarily resided in Hong Kong for the 3 years immediately preceding the date of his/her nomination (for the definition of “ordinarily residing in Hong Kong”, please refer to paras. 5.13 to 5.15 below); and
- (e) be a Chinese citizen who is a permanent resident of Hong Kong with no right of abode in any country other than the People’s Republic of China.

[S 37(1) of the LCO]

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

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

- (i) Legal FC,
 - (ii) Accountancy FC,
 - (iii) Engineering FC,
 - (iv) Architectural, Surveying, Planning and Landscape FC,
 - (v) Real Estate and Construction FC,
 - (vi) Tourism FC,
 - (vii) Commercial (first) FC,
 - (viii) Industrial (first) FC,
 - (ix) Finance FC,
 - (x) Financial Services FC,
 - (xi) Import and Export FC,
 - (xii) Insurance FC; and
- (b) (i) be both registered and eligible to be registered as an elector for the relevant FC; or
- (ii) satisfy the RO for the constituency that he/she has a substantial connection with that FC.

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

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

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

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

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

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

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

Disqualification

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

- (a) is a judicial officer, or a prescribed public officer²⁹;
- (b) is an officer of the LegCo or a member of staff of The LegCo Commission;
- (c) has, in Hong Kong or any other place, been sentenced to death or imprisonment (by whatever name called) and has not either served the sentence or any substitute sentence or received a free pardon³⁰;
- (d) has been convicted of treason;
- (e) on the date of nomination, or of the election, is serving a sentence of imprisonment;

²⁹ A prescribed public officer means any of the following:

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

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

- (f) is or has been convicted within 5 years before the date of the election:
 - (i) of any offence in Hong Kong or in any other place, the sentence for which is imprisonment (suspended or not) for a term exceeding 3 months without the option of a fine;
 - (ii) of having engaged in corrupt conduct or illegal conduct in contravention of the ECICO;
 - (iii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201) (“POBO”); or
 - (iv) of any offence prescribed by regulations in force under the EACO;
- (g) is ineligible or disqualified because of the operation of the LCO or any other law;
- (h) is a representative or a salaried functionary of the government of a place outside Hong Kong;
- (i) is a member of any national, regional or municipal legislature, assembly or council of any place outside Hong Kong, other than a people’s congress or people’s consultative body of the People’s Republic of China, whether established at the national level or local level;
- (j) is an undischarged bankrupt or, within the previous 5 years, has either obtained a discharge in bankruptcy or has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap 6) with the person’s creditors, in either case without paying the creditors in full; *[Amended in July 2008]*

- (k) within the 5 years before the date of election, has vacated an office or has been disqualified from entering on an office under the law for declining or neglecting to take a specified oath³¹, or has been declared or decided in accordance with any law:
- (i) to be in breach of a specified oath; or
 - (ii) to have failed to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR of the People's Republic of China; *[Added in October 2021]*
- (l) is found to be incapable by reason of mental incapacity, of managing and administering his/her property and affairs under the Mental Health Ordinance (Cap 136); or
- (m) at a by-election, has resigned or was taken to have resigned from office as a LegCo member within the 6 months ending on the date of the by-election and no general election was held after the relevant notice of resignation or notice of non-acceptance took effect. *[Added in June 2016]*

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

5.17 In respect of FC elections, a person is also disqualified from being elected as a LegCo member for an FC if, since the end of the nomination period, the person has ceased to have a substantial connection with the constituency [s 39(4) of the LCO]. *[Amended in June 2012 and October 2021]*

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

PART III : WHEN AND HOW TO NOMINATE

When to Nominate

5.18 Any person who intends to stand as a candidate may submit a nomination form during the **nomination period** specified in the notice published in the Gazette [ss 4, 5 and 6A of the EAC (EP) (LC) Reg]. The nomination period for a LegCo election must not be less than 14 days or more than 21 days, and must end not less than 28 days and not more than 42 days before the polling date [s 7 of the EAC (EP) (LC) Reg]. An election timetable in the form of an “Action Checklist for Candidates” (see **Appendix 1**) will be provided to each candidate by the RO for the relevant constituency. The ROs shall receive nominations during the ordinary business hours (i.e. from 9 am to 5 pm from Monday to Friday, and from 9 am to 12 noon on a Saturday) on each working day (i.e. any day other than a general holiday) in the nomination period. **Candidates are advised to submit their nominations in good time before the end of the nomination period to allow time for any errors in their nomination forms to be corrected.** *[Amended in October 2007, June 2016 and June 2020]*

How to Nominate

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

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

(a) **The Nomination**

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

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

[Amended in October 2021]

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

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

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

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

[Amended in June 2012 and October 2021]

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

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

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

[Added in October 2021]

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

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

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

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

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

IMPORTANT :

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

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

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

Candidates are also required to observe Data Protection Principle 4 of Schedule 1 to the Personal Data (Privacy) Ordinance (Cap 486) (“PD(P)O”) in safeguarding the personal data of subscribers to the nomination forms held by them. They should take all practicable steps to ensure that the aforesaid personal data are protected against accidental or unauthorised access, processing, erasure, loss or use. *[Added in June 2012, amended in June 2016 and June 2020]*

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

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

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

³⁵ A witness can be any person aged 18 years or above and in possession of an identity document. According to s 3 of the LCO, identity document means:

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

- (b) a declaration as to the candidate's nationality and as to whether or not he/she has a right of abode in a country other than the People's Republic of China;
- (c) a promissory oath given by the candidate to the effect that, if elected, he/she will not do anything during his/her term of office that results in his/her disqualification, including mainly those set out in para. 5.16 above and becoming a member of any armed forces;
- (d) a declaration to the effect that the candidate is eligible to be nominated as a candidate for the GC/FC concerned or the ECC; is not disqualified from being so nominated; and consents to being so nominated; and *[Amended in June 2012 and October 2021]*
- (e) a declaration to the effect that the candidate has ordinarily resided in Hong Kong for the 3 years immediately preceding the date of his/her nomination. *[Amended in June 2012 and October 2021]*

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

IMPORTANT :

No person shall be nominated in an election as a candidate for more than 1 constituency [s 41 of the LCO]. When a person submits his/her nomination form, he/she must have withdrawn all his/her other prior nominations, if any. He/She is required to make a declaration in the nomination form that either he/she has not been nominated before for any other constituency in the election, or if he/she has been so, he/she has withdrawn all those prior nominations.

Where a candidate stands nominated, any subsequent nominations of his/hers will be rejected as invalid.

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

5.28 In the nomination form, a candidate may choose to state his/her occupation and/or political affiliation for public information if he/she so prefers. If a candidate mentions the name of any organisation when stating his/her political affiliation, the consent of the organisation concerned must be sought beforehand. Candidates should make sure that their nomination forms are properly completed before submission. Information (such as occupation and political affiliation) provided by a candidate in the grid paper for the Introduction to Candidates or in the specified form for requesting to print particulars relating to the candidate on ballot papers³⁶ (if applicable) should not be inconsistent with the information stated in the nomination form (for example, if the candidate indicates membership of a political party in the nomination form, he/she is not allowed to indicate himself/herself as a “non-affiliated candidate” on the ballot papers) and should be true. *[Amended in October 2007, June 2012, June 2016 and June 2020]*

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

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

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

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

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

False Declarations

5.33 A candidate who knowingly and wilfully makes a statement which is false in a material particular in the nomination form or makes a false declaration is in breach of s 103 of the EAC (EP) (LC) Reg. The provision stipulates that a person who makes a statement which he/she knows to be false in a material particular in an election-related document, or recklessly makes a statement which is incorrect in a material particular in such document, or omits a material particular in such document, commits an offence and shall be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. The provision also specifies that an election-related document means a form, declaration, etc. required or used for the purposes of the EAC (EP) (LC) Reg. Besides, a person making a false statement in any statutory document is in breach of s 36 of the Crimes Ordinance and shall be liable to imprisonment for 2 years and to a fine. A violation against s 103 of the EAC (EP) (LC) Reg is a prescribed offence, with the same disqualification on conviction of a corrupt or illegal conduct under the ECICO (as described in paras. 17.65 and 18.38 of the Guidelines). *[Amended in October 2007, June 2016 and June 2020]*

PART IV : NOMINATIONS ADVISORY COMMITTEES

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

5.35 The NACs may provide advice to prospective candidates and the ROs on whether a prospective candidate is eligible to be, or is disqualified from

being, nominated as a candidate. However, any advice given by an NAC or a refusal on its part to give any such advice does not preclude a person from seeking nomination as a candidate or proceeding with a nomination. [S 9 of the EAC (NAC) (LC) Reg] *[Added in June 2020]*

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

The NAC's Service to Prospective Candidates

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

5.38 The completed application must be:

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

on or before the deadline for application specified by the EAC. [S 5(4) of the EAC (NAC) (LC) Reg] [*Amended in June 2012*]

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

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

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

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

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

The NAC's Service to ROs

5.42 The NAC provides service to the ROs at both **LegCo general elections and by-elections**. During a period specified by the EAC (which generally spans from the commencement of the nomination period to 1 day after the end of the nomination period), the ROs may, if necessary, apply for the NAC's advice on the eligibility for nomination of the candidates who have submitted their nominations. According to s 1(2) of the EAC (NAC) (LC) Reg, the Regulation does not empower or require the NAC to advise on matters provided for under s 40 of the LCO (see para. 5.36). The applications shall be submitted to the NAC in writing through the CEO. The NAC will, not later than a date specified by the EAC, advise the RO as to whether the candidate concerned is eligible to be nominated. [S 6 of the EAC (NAC) (LC) Reg] *[Amended in June 2020]*

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

PART V : ELECTION DEPOSIT

Lodging of Election Deposit

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

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

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

[Amended in June 2012 and October 2021]

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

IMPORTANT :

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

Return of Election Deposit

5.46 The deposit will be returned to the candidate if:

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

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

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

PART VI: CANDIDATE ELIGIBILITY REVIEW COMMITTEE

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

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

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

PART VII : VALIDITY OF NOMINATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

5.57 If, after the CERC has made a decision that a candidate is validly nominated for election for a constituency but before the polling day, proof is given to the satisfaction of the RO that the candidate has died, the RO must publicly declare that the candidate has died and further declare which candidate(s) is/are validly nominated for the relevant constituency. The RO does not have to make any such declaration if the candidate who has died is uncontested in the election for the relevant constituency and the RO has publicly declared that the candidate was duly elected. [S 42B(1), (2) and (3) of the LCO and s 22A of the EAC (EP) (LC) Reg] *[Amended in June 2012 and October 2021]*

5.58 If, after the CERC has made a decision that a candidate is validly nominated for election for a constituency, but before the polling day, proof is given to the satisfaction of the CERC that the candidate is disqualified from being nominated as a candidate, the CERC must vary the decision to the effect that the candidate is not validly nominated. The CERC must also publicly declare that the decision has been varied and further declare which candidate(s) is/are validly nominated for the relevant constituency. The CERC does not have to vary the decision if the candidate who has been disqualified is uncontested in the election for the relevant constituency and the RO has publicly declared that the candidate was duly elected [s 42B(4), (5) and (6) of the LCO and s 22B of the EAC (EP) (LC) Reg]. *[Amended in June 2012]*

PART VIII : WITHDRAWAL OF CANDIDATURE

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

entitled “Notice of Withdrawal of Candidature”, which must be delivered to the RO concerned by the candidate in person or the candidate’s election agent in person [s 42 of the LCO and s 20 of the EAC (EP) (LC) Reg]. Under the subsisting law, candidates are not allowed to withdraw their candidature after the close of the nomination period and there is no such mechanism as the so-called “abandonment of election”. Even if a candidate has made public his/her claim about the so-called “abandonment of election”, his/her name will still be shown on the ballot papers for electors to vote for if they so wish. All candidates must comply with the election-related legislation, including reporting all election expenses. *[Amended in June 2012, June 2020 and October 2021]*

IMPORTANT :

It is an offence under ss 7 and 8 of the ECICO for a person to bribe, or to use or threaten to use force or duress against, a candidate to induce him/her to withdraw his/her candidature; and for a candidate to solicit or accept a bribe to withdraw his/her candidature.

PART IX : NOTICE OF VALID NOMINATIONS

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

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

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

PART X : PARTICULARS RELATING TO CANDIDATES ON BALLOT PAPERS

5.61 Under the PCBP (LC & DC) Reg, candidates for GCs/FCs may, **during the nomination period**, request the EAC to print specified particulars relating to candidates on ballot papers for use in LegCo elections. These particulars include the registered names (or abbreviation of the names) and emblems of prescribed bodies³⁹, the registered emblems of prescribed persons⁴⁰, words indicating that a candidate is an independent candidate or a non-affiliated candidate, and the personal photographs of candidates. This regulation does not apply to ECC elections. *[Amended in October 2007 and October 2021]*

Request to Print Particulars Relating to Candidates on Ballot Papers

5.62 A candidate for a GC or an FC may request the EAC to print on the ballot papers his/her personal photograph and one of the following particulars –

- (a) the registered names (or abbreviation of the names) and/or registered emblems relating to not more than 3 prescribed bodies (see para. 5.63 below);

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

⁴⁰ A prescribed person means a person that is registered in a FR of electors for GCs as compiled and published in accordance with the LCO and that is not disqualified from being so registered or from voting at an election.

- (b) the registered emblem relating to the candidate; or
- (c) the registered names (or abbreviation of the names) and/or registered emblems relating to not more than 2 prescribed bodies and the registered emblem relating to the candidate (see para. 5.63 below).

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

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

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

Application for Registration of Name and Emblem

5.64 The particulars already registered with the EAC under the former Particulars Relating to Candidates on Ballot Paper (Legislative Council) Regulation are deemed to have been registered with the EAC in relation to both LegCo and DC elections. All subsequent registrations will be applicable to both LegCo and DC elections. *[Added in October 2007]*

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

5.65 A prescribed body intending to support a candidate in a LegCo election may at any time according to the time frame for application as detailed in para. 5.69, apply to the EAC for the registration of all or any of the following particulars:

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

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

5.66 An application must be made in the specified form and signed by the applicant. It must indicate whether the applicant is a prescribed political body or a prescribed non-political body and that the applicant intends to consent to the subject of application being printed on a ballot paper as particulars relating to 1 or more persons as candidates. The application must also be accompanied by a copy of the certificate or document bearing the body's name issued to the body by an authority or regulatory organisation that regulates the body under the laws of Hong Kong. [S 8(2) of the PCBP (LC & DC) Reg] *[Amended in October 2007]*

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

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

emblem of the person [s 9(1) of the PCBP (LC & DC) Reg]. *[Amended in June 2016]*

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

Timing of Application

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

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

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

Processing of Application

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

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

[S 11 of the PCBP (LC & DC) Reg] *[Amended in October 2007, July 2008 and June 2012]*

5.71 If the EAC is of the opinion that it may refuse to grant an application made by a prescribed body or a prescribed person, it must give the applicant a notice in writing. The applicant may, within 14 days after the notice is given, vary the application or make representations in writing to the EAC on why the EAC should not refuse to grant the application [ss 12 and 13(1) and (2) of the PCBP (LC & DC) Reg]. *[Amended in October 2007]*

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

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

[S 14 of the PCBP (LC & DC) Reg] *[Amended in October 2007]*

5.73 Under s 15 of the PCBP (LC & DC) Reg, any person may, within 14 days after the publication of a notice in respect of an application in the Gazette, by notice in writing given to the EAC, object to the granting of the application. *[Amended in October 2007]*

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

5.75 The EAC will, as soon as practicable after a decision is made to grant an application made by a prescribed body or a prescribed person, publish a notice in respect of the application in the Gazette specifying the name of the applicant and the subject of the application. If a decision is made to refuse an application, the EAC will notify the applicant in writing of the EAC's decision with reasons for its refusal [s 19 of the PCBP (LC & DC) Reg]. *[Amended in October 2007]*

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

5.76 A register of the relevant particulars in respect of the registered names and emblems of prescribed bodies and the registered emblems of prescribed persons is established and maintained by the CEO. The CEO must make the register available for inspection, free of charge, by members of the public during ordinary business hours at the REO [s 20 of the PCBP (LC & DC) Reg]. *[Amended in October 2007]*

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

- (a) no request is made to print the subject of registration on ballot papers:

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

or

- (b) the body ceases to exist.

[S 21(1) of the PCBP (LC & DC) Reg] [*Amended in October 2007*]

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

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

or

- (b) the person has died.

[S 21(2) of the PCBP (LC & DC) Reg] [*Amended in October 2007*]

PART XI : CANDIDATES' BRIEFING AND INTRODUCTION TO CANDIDATES

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

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

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

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

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

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

5.83 To assist persons with visual impairment in reading the contents of the Introduction to Candidates, candidates may provide the REO with typed texts of their messages to enable persons with visual impairment to read the contents of the document with the aid of computer software. The typed texts can be submitted after the end of the nomination period and by the deadline specified by the REO. With these typed texts, the REO will prepare a text version of the Introduction to Candidates for uploading onto the dedicated website of the LegCo general election or the REO’s website in the case of a by-election. If a candidate does not provide the typed text for preparing the text version of the Introduction to Candidates, the website will only show his/her name and the number/letter of the alphabet allocated with the remark that the candidate has not provided a text version of his/her electoral message. The EAC appeals to all candidates to support this initiative and make use of this text version to convey their electoral messages to persons with visual impairment. As a general principle, candidates should be sensitive to the needs of electors and, in the course of their electioneering campaign, make their utmost efforts to ensure that persons with different needs can have fair access to the electoral messages. *[Added in June 2016, amended in June 2020 and October 2021]*