

CHAPTER 7

ELECTION PETITIONS

PART I : GROUNDS FOR LODGING AN ELECTION PETITION

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

- (a) the ground that the person declared by the RO in accordance with regulations in force under the EACO to have been elected as a Member at the election was not duly elected because:
 - (i) he/she was not eligible to be, or was disqualified from being, a candidate at the election;
 - (ii) corrupt or illegal conduct was engaged in by or in respect of that person at or in connection with the election;
 - (iii) corrupt or illegal conduct was generally prevalent at or in connection with the election; or
 - (iv) material irregularity occurred in relation to the election, or to the polling or counting of votes at the election; or
- (b) a ground specified in any other enactment that enables an election to be questioned.

PART II : WHO COULD, AND WHEN TO, LODGE ELECTION PETITIONS

7.2 An election petition may be lodged, in the case of an election for a GC/FC:

- (a) by 10 or more electors entitled to vote at the election for the GC/FC; or
- (b) by a person claiming to have been a candidate in the election for the GC/FC.

[S 62(1) of the LCO]

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

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

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

7.4 An election petition questioning an election may be lodged with the CFI only during the period of 2 months following the date on which the RO has published the result of the election in the Gazette [s 65(1) of the LCO]. If the office of the CFI is closed on the last day of the deadline for lodging election petitions, the relevant deadline will be extended to the date that the office resumes operation [s 71(1A)(a) of the Interpretation and General Clauses Ordinance (Cap 1)]. *[Amended in June 2020]*

7.5 An election petition is triable in open court and before a judge. At the end of the trial of an election petition, the CFI must determine questions of the validity of a nomination or whether the person was or was not duly elected, as appropriate. The CFI must announce its determination by means of a written judgment. [Ss 64(2) and 67(1), (2) and (3) of the LCO] *[Amended in October 2007 and June 2012]*

7.6 An appeal against the decision of the CFI may be lodged to the CFA direct, subject to leave being granted by the Appeal Committee of the CFA. Notice of a motion for applying for leave to the CFA to appeal must be filed within 14 working days after the date on which the written judgment of the CFI to be appealed against is handed down, and the applicant must give the opposite party 3 days' notice of his/her intended application at any time during the period of 14 working days. At the end of the hearing of an appeal against the determination of the CFI, the CFA must determine questions of the validity of a nomination or whether the person was or was not duly elected, as appropriate. The CFA must announce its determination by means of a written judgment. [Ss 65(2) and 70B of the LCO] *[Added in June 2012]*