

CHAPTER 9

ELECTION ADVERTISEMENTS

PART I : GENERAL

9.1 Election expenses are regulated by the law to ensure that the candidates compete on a level playing field within a reasonable level of expenditures. For the regulation of election expenses, please refer to Chapter 17. *[Added in June 2020]*

9.2 EAs account for a major portion of election expenses. Given that only candidates and their election expense agents are permitted to incur election expenses (also see Chapter 8), they are the only persons allowed to incur election expenses because of the publication of EAs. It is, therefore, necessary to set down statutory regulations for EAs. *[Added in June 2020]*

9.3 EAs refer to any publicity materials which are published for the purpose of promoting or prejudicing the election of a candidate or candidates. As to whether an individual statement will be construed as an EA, the overall circumstances, including the background, time of publication (e.g. whether the candidate has publicly declared his/her intention to stand for the election or whether the incident happens during the election period), the expenses incurred etc., must be taken into account so as to infer whether there is any intention to promote or prejudice the election of a candidate or candidates. If the statement is simply for expression of views or comments based on the facts without any intention to promote or prejudice the election of a candidate or candidates, then it is not to be treated as an EA. *[Added in June 2020]*

9.4 A candidate is required under the law to post a copy of any EA he/she has published as well as the relevant information and documents onto an open platform⁵³ 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”), or submit a copy of the EA to the RO for public inspection within 1 working day after publication of the EA. This is not to restrict the contents of EAs. Rather, it keeps track of candidates’ publication of EAs for the purpose of regulating their election expenses. If any false statement is contained in EAs, it will be regulated by other provisions under the subsisting law (see para. 9.23 below). *[Added in June 2020]*

9.5 It is an illegal conduct to publish false or misleading statements about a candidate under s 26 of the ECICO (please see para. 18.11 of Chapter 18 for details). In this regard, candidates publishing EAs should pay extra attention to ensure that the contents in their EAs have factual basis to avoid controversies and legal proceedings. Besides, if a candidate makes references to another candidate/other candidates in the EAs, he/she should ascertain the factual basis of such references and should not constitute a false or misleading statement. 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 one of the EAs was not duly elected. *[Added in October 2021]*

9.6 Interactive EAs published on Internet platforms can be updated constantly. The law permits candidates to upload the relevant hyperlinks onto the Candidate’s Platform or Central Platform showing the publication of the EAs concerned and allowing public inspection of the EA contents. *[Added in June 2020]*

⁵³ An open platform means a platform operated through the Internet to which the public has access without having to go through an access control process put in place for that platform.

9.7 With the proliferation of the Internet, online platforms are widely used to publish election-related opinions. As such opinions may sometimes constitute EAs, if the publication involves the incurrence of election expenses, the publisher may have committed offences relating to election expenses if he/she is not a candidate or a candidate's election expense agent. Hence, legislative amendments have been made that where such person has published information constituting EAs, he/she will be exempted from criminal liability for incurring election expenses not in the capacity of a candidate or a candidate's election expense agent if the only expenses incurred are either electricity charges and/or charges necessary for accessing the Internet. However, **it must be noted that** the exemption only applies to third parties who are neither candidates nor candidates' election expense agents (for details, please refer to para. 9.11 below). *[Added in June 2020]*

PART II : WHAT CONSTITUTES AN ELECTION ADVERTISEMENT

9.8 An EA, in relation to the LegCo election, means:

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

published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. [S 2 of the ECICO and s 2 of the EAC (EP) (LC) Reg] *[Amended in June 2012]*

IMPORTANT :

“Candidate” includes a person who has publicly declared an intention to stand for an election at any time before the end of the nomination period for the election, whether or not he/she has submitted a nomination form [s 2 of the ECICO and s 2(2) of the EAC (EP) (LC) Reg]. *[Amended in October 2021]*

“Publish” means print, display, exhibit, distribute, post up, publicly announce or make publicly known by any other means, and includes continue to publish [s 104(1) of the EAC (EP) (LC) Reg]. *[Added in June 2012]*

If any candidate has authorised the publication of an EA by another person, that EA is taken to have been published by that candidate [s 104(2) of the EAC (EP) (LC) Reg]. *[Added in June 2012]*

9.9 **An EA** includes the following if it is published for the purpose of promoting or prejudicing the election of any candidate or candidates in an election:

- (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 or picture and any article, thing or material; *[Amended in July 2008]*

- (b) audio/video cassette tape or disc, diskette, electronic message (e.g. messages published through social media, mobile messaging apps, communication networks, etc.), website, facsimile transmission, balloon, badge, emblem, carrier bag, head-dress and clothing; or
[Amended in October 2007]
- (c) any thing or material published by any person or any organisation, including political organisation, professional or trade organisation, owners' corporation, mutual aid committee ("MAC"), tenants' association, owners' committee, etc. (irrespective of whether or not the candidate concerned is its office-bearer or member) showing his/her or its support for any candidate or advertising the platform or services of such an organisation with reference to a candidate or candidates by name or photograph or in any other form or manner.
[Amended in June 2012]

[Amended in June 2020 and October 2021]

9.10 As stated in para. 9.8 above, an EA is defined to include any messages published for the purpose of promoting or prejudicing the election of a candidate or candidates at an election under s 2 of the ECICO. Any publicity materials published by any person or organisation during or before the election period to appeal directly or indirectly to electors to vote or not to vote for certain candidates or organisations which certain candidates belong to or are affiliated with, irrespective of the form of publication and whether they contain any names or photographs of candidates, may also be regarded as EAs depending on all the circumstances at the time when read in their whole context (e.g. the materials concerned may be capable of being reasonably understood by an elector as referring to certain identified candidate(s)). Materials issued through the press with the intent to promote or prejudice the election of a candidate or candidates at an election may also be regarded as EAs. The expenses incurred for the

publication of such materials will be regarded as election expenses incurred by or on behalf of the candidate(s). If expenses are involved in the publication of an EA and the publisher is neither a candidate nor a candidate's election expense agent, the publisher may have violated s 23 of the ECICO. If a candidate instructs that person or organisation to publish the EA, and such expenses are not accounted for as election expenses, the candidate will also violate the law.
[Added in June 2016 and amended in June 2020]

9.11 In accordance with s 23(1A) of the ECICO, a person (other than candidates or their election expense agents) is exempted from the relevant criminal liability under s 23(1) of the ECICO if the person publishes an EA on the Internet, and the only election expenses incurred by the person for the purpose of publishing the EA are either or both of electricity charges and charges necessary for accessing the Internet. However, if a candidate, a candidate's election expense agent, or a person who is authorised by a candidate or his/her election expense agent publishes an EA of the candidate on the Internet, any costs incurred, even though the costs only involve electricity charges and/or charges necessary for accessing the Internet, will still have to be included in the election expenses of the candidate. The candidate should also fully fulfil the requirements relating to publication of EAs as set out in para. 9.59 below.
[Added in June 2016, amended in June 2020 and in October 2021]

9.12 Any publicity materials containing the name or photograph of a candidate issued or displayed during the election period (i.e. the period beginning on the first day of the nomination period for the election and ending on the day on which the polling for the election ends, or on the day on which the RO is required to make relevant declaration in accordance with s 46 (see paras. 2.48 of

Chapter 2, 3.52 of Chapter 3 and 4.11 of Chapter 4) of the LCO or s 22C⁵⁴ of the EAC (EP) (LC) Reg) may also be regarded as EAs if they are published for the purpose of publicity with the intent to promote the election of the candidate. *[Amended in June 2016, June 2020 and October 2021]*

9.13 Under s 104(1) of the EAC (EP) (LC) Reg, the definition of “publish” includes “continue to publish”. In this regard, for any person who intends to stand as a candidate at the election (including but not limited to an incumbent member of the LegCo or a DC), if he/she continues to display any previously published publicity materials in the constituency concerned⁵⁵ with an intent to promote his/her election, once he/she has been nominated as a candidate or has publicly declared an intention to stand as a candidate at the election, such publicity materials **may** be regarded as EAs. Particular attention should be drawn to posters or banners bearing that person’s name or photograph displayed at a public place or at the common parts of a building (and the terms and conditions under the Lands Department’s Management Scheme for the Display of Roadside Non-commercial Publicity Materials shall also apply if the publicity materials are being displayed under the said scheme). For the sake of prudence, the person concerned should remove all the published publicity materials before he/she is nominated as a candidate or publicly declares an intention to run for the election. *[Added in June 2016 and amended in June 2020]*

9.14 Under s 104(4) of the EAC (EP) (LC) Reg, a document published by a candidate **during** an election period that gives details of the work done by the candidate in the capacity of:

⁵⁴ According to s 22C of the EAC (EP) (LC) Reg, if the following circumstances arise after the death or disqualification of candidate for a constituency, the RO must declare that no poll is to be held for the constituency concerned:

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

⁵⁵ In the case of an election for the FC and the ECC, the constituency concerned would be construed in the context of the provision to mean the whole territory of Hong Kong.

- (a) the CE;
- (b) an EC member;
- (c) a member of the LegCo;
- (d) a member of a DC;
- (e) a member of the Heung Yee Kuk;
- (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 (“RR”),

is also regarded as an EA.

[Amended in June 2012, June 2016 and October 2021]

9.15 For the avoidance of doubt, if a person has publicly declared his/her intention to stand as a candidate at an election **before** the election period, and then publishes a document as mentioned in para. 9.14 above, the document will also be regarded as an EA as long as it is published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. It is important to note that a document referred to in this paragraph and para. 9.14 above must comply with all the requirements for an EA and the expenses so incurred be accounted for as election expenses. *[Amended in October 2007, June 2012 and June 2016]*

9.16 If a person publishes a document to give details of the work done by him/her in a capacity listed in para. 9.14 above without promoting or prejudicing the election of a candidate or candidates at the election before submitting the nomination form or publicly declaring an intention to stand as a candidate, the document will not be construed as an EA. On such basis, the expenses incurred in the publication of such a document would not be counted as election expenses. *[Amended in June 2012]*

9.17 A candidate in an election should put up and display EAs in accordance with all the relevant laws and regulations and the guidelines herein.

Election Advertisements Prejudicing the Election of a Candidate

9.18 There are occasions that a candidate or a third party may publish EAs for the purpose of prejudicing the election of other candidates at the election. The concept of “promoting” and “prejudicing” the election of someone can be relative. Any kind of publication with the intent to persuade electors not to vote for a candidate or candidates would have the effect of improving the chances of success of the remaining candidate(s), and could therefore be said to have the purpose of promoting the latter’s election. For example:

- (a) If candidate A criticises candidate B in his/her own EAs with a view to prejudicing B’s candidature at the election, candidate A has to include the expenses incurred in his/her election expenses;
- (b) If a third party criticises candidate B in an EA and the EA has the effect of indicating support for candidate A, the third party must obtain candidate A’s prior written authorisation for incurring the production expenses before he/she produces that EA, and the expenses incurred will have to be included in candidate A’s election expenses; or

- (c) If the third party publishes an EA as described in (b) above without the prior written authorisation of candidate A, that third party will be breaching s 23 of the ECICO (unless exempted under s 23(1A) as mentioned in para. 9.11 above) because only a candidate or a person who has been duly authorised by a candidate as his/her election expense agent may incur election expenses. It would only be fair to candidate A that the third party needs to obtain candidate A's written authorisation before incurring such expenses. This requirement would also prevent candidate A from circumventing the law by asking the third party to publish materials prejudicing candidate B without having to account for the expenses of those materials.

[Amended in June 2016 and June 2020]

9.19 Materials published by any person, including a candidate, for the purpose of prejudicing the election of a candidate or candidates are treated as EAs, if reference could be made from the materials to identify the candidate(s) being prejudiced.

9.20 The **election expenses** allowed by the law to be incurred by a candidate include the expenses he/she incurs for the preparation and publication of EAs, and he/she should therefore be careful in planning how much he/she should spend in this area. (For the definition of election expenses, see s 2 of the ECICO.)

9.21 Subject to the maximum amount that can be incurred by a candidate for election expenses [s 24 of the ECICO], there is no restriction as to the quantity of EAs employed by him/her. The maximum amounts allowed for the elections of GCs, FCs and the ECC are specified in the Maximum Amount of Election Expenses (Legislative Council Election) Regulation (for details, see para. 17.16 of Chapter 17). *[Amended in October 2021]*

9.22 The costs incurred for the display of EAs must be counted as election expenses. A candidate must not incur election expenses in excess of the prescribed maximum amount, otherwise he/she will commit an offence. However, if election expenses in excess of the prescribed maximum amount have been incurred by a candidate, he/she may apply to the CFI for a relief order according to the relevant legislation. The CFI may make an order relieving the candidate from consequences of the illegal conduct if it is satisfied that the illegal conduct caused by the act 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 [s 31 of the ECICO]. Any person who, because of any reason not due to bad faith, may need to incur election expenses in excess of the prescribed maximum amount should seek independent legal advice to ascertain whether the statutory requirements for applying a court relief order may be fulfilled before incurring such election expenses. *[Added in June 2020]*

9.23 A candidate must ensure the correctness and accuracy of factual information in his/her EAs. In particular, a candidate is reminded to comply with the requirements for obtaining prior written consent of support from other persons or organisations, which are summarised in Chapter 19. If a candidate has any question about the legal requirements on EAs and election expenses, he/she should seek independent legal advice. (For criminal sanctions, see ss 25, 26 and 27 of the ECICO.) *[Amended in June 2016 and June 2020]*

PART III : PERIOD AND AREA OF DISPLAY

9.24 Subject to the necessary **written permission or authorisation**, a candidate may display EAs on government or private land and 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)]

9.25 Display spots are classified into 2 types:

- (a) **designated spots** which are spots on government land/property and sometimes even on land/property owned or occupied privately that have been made available to the Government for allocation to candidates of the 10 GCs ,the 28 FCs and the ECC; and
- (b) **private spots** which are spots on private land/property in respect of which written permission or authorisation for display has to be obtained from the owner or occupier concerned by the candidate himself/herself.

[Amended in October 2021]

Government or Private Land/Property - Designated Spots

9.26 Allocation of designated spots for the use of **contested** GC candidates to display their EAs will be made by the RO for the relevant GC. Some of the government land/property have been allocated to some public authorities, such as the Housing Authority, and are under their respective control. The RO for the relevant GC may designate spots on such allocated land/property in coordination with the said authorities. **Each candidate competing in the same constituency** (who has registered his/her interest in displaying EAs at designated spots) will be allocated **the same number of designated spots**.

[Amended in June 2012 and October 2021]

9.27 Designated spots for FCs and the ECC will be allocated by the relevant ROs in the similar way. There may be certain places on government

or private land/property where candidates of the FCs may wish to display their EAs, because those places are frequented by members of their electorate. Where considered appropriate, the respective ROs will identify and designate suitable display spots in these places for allocation to candidates. *[Amended in June 2012 and October 2021]*

9.28 Prospective candidates as well as political organisations are welcome to suggest to the ROs the locations of display in which they are interested. The ROs concerned will take into consideration such suggestions in drawing up the list of “**designated spots**”, but with absolute discretion to decide whether to adopt the suggestions.

NOTE :

Suggestions under para. 9.28 should reach the CEO **not later than 8 weeks before the polling day**. *[Amended in July 2008 and June 2012]*

Other Land/Property - Private Spots

9.29 Candidates who wish to display their EAs on land/property other than government land/property and other than the designated spots must **obtain the prior written permission or authorisation** of the owner or occupier [s 104A(1) of the PHMSO]. The obtaining of written permission or authorisation from the private owner or occupier is a matter for private arrangement between the candidate and the owner or occupier, and the spots concerned are therefore called “**private spots**”. A copy of all the permissions or authorisations obtained by a candidate himself/herself must be provided by him/her for public inspection in the manner as set out in para. 9.59 below (please also see para. 9.35 below). 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/her EAs forms part of his/her election expenses. If the private spot secured for displaying the EA is normally used for commercial purpose, the actual rent charged or the usual rent or market rent that would normally be charged should 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). Where a space provided by a particular private owner or occupier for a candidate to display EAs is not used for commercial advertising, but similar space belonging to other owners or occupiers is available for commercial advertising, the market value of the space should also be accounted for. The provision of this kind of rent-free space should be regarded as election donation and counted as election expenses. This requirement is to ensure that the candidate concerned will not have unfair advantage over the others who do not have access to such facilities. For details on how the estimated value should be assessed, please refer to para. 17.30 of Chapter 17. If a space is not the type normally used by any private owners or occupiers for commercial advertising, there is no need for the candidate to account for its value. *[Amended in June 2016]*

9.30 For the display of EAs at the common parts of private land/property (those parts for which exclusive rights of use or occupation do not belong to a particular owner or tenant), the EAC appeals to owners or occupiers of private land/property concerned to give all candidates competing in the same constituency **fair and equal treatment**. (For details, please see Chapter 10.) *[Amended in June 2012, June 2016 and October 2021]*

9.31 Candidates should note that public corporations (e.g. the MTR Corporation Limited) may have their own rules for display of EAs in properties under their management. *[Amended in July 2008 and June 2016]*

Allocation of Designated Spots

9.32 In principle, available designated spots will be allocated among the different constituencies in the following manner:

<u>Constituency</u>	<u>Percentage of total</u>
GCs	60
FCs	10
ECC	30

No designated spot will be provided to a candidate who is returned uncontested. *[Amended in June 2012 and October 2021]*

9.33 The RO for the relevant constituency will allocate the designated spots to candidates of his/her constituency either in accordance with the agreement among the candidates or by the drawing of lots after the end of the nomination period, when the number of candidates in the relative constituency has been ascertained. **No display of EAs will be allowed at any designated spots before the allocation** (also see the requirements in para. 9.39 and Part VII below). EAs displayed by the candidates on government land/property other than designated spots are unauthorised and will be removed, save those EAs displayed in connection with electioneering activities conducted on government land/property with approval by the authorities concerned. A candidate will be provided with a list of the designated spots allocated to him/her, together with a set of maps to help identify the locations. *[Amended in July 2008, June 2012 and October 2021]*

9.34 Candidates using the designated spots are required to read and comply with all the requirements and conditions stipulated in the “Conditions for Display of Election Advertisements at Designated Spots”, which will be provided to each candidate in the candidate’s folder and uploaded onto the

EAC's website. To safeguard the safety of road users, candidates must ensure that the EAs on display do not distract motorists or interfere with the sight lines of motorists and pedestrians, or obscure any traffic sign or traffic light signal. *[Amended in June 2012 and October 2021]*

Written Permission or Authorisation

9.35 The RO will obtain prior approval from the relevant authorities under s 104A(1) of the PHMSO and s 4 of the Land (Miscellaneous Provisions) Ordinance for candidates to display their EAs at designated spots. Immediately after the allocation of designated spots is made, a copy of that written permission or authorisation as required under the relevant legislation will be provided to the candidates by the RO of the constituency concerned (see Part IV below). For display of EAs on private land/property, written permission or authorisation of the private owner or occupier will have to be obtained by the candidates themselves [s 104A(1) of the PHMSO]. A person displaying an EA without the necessary written permission or authorisation commits an offence and will be liable to a fine at level 3 (\$10,000) and, where the offence is a continuing offence, an additional daily penalty of \$300 for each day during which it is proved to the satisfaction of the court that the offence has continued [ss 104A(2) and 150 of the PHMSO]. A copy of all the permissions or authorisations obtained by a candidate himself/herself, as opposed to those provided to him/her by the RO, must be provided by him/her for public inspection in the manner as set out in para. 9.59 below. All candidates are also reminded that if carrying out of building works (including erection of any signboard) in private premises is involved for the display of an EA, the relevant provisions of the Buildings Ordinance (Cap 123) ("BO") and the subsidiary regulations should be complied with. In this regard, the candidates are strongly advised to consult building professionals, registered contractors and, where necessary, authorised persons on the compliance with the BO, and to make submission in accordance with the simplified requirements under the Minor Works Control System or formal

application for approval and consent from the Buildings Department as appropriate before the carrying out of such works. *[Amended in July 2008, June 2012 and June 2016]*

No Canvassing Zone

9.36 No EA may be displayed within the boundaries of a polling station (including all storeys and the outer walls of the premises) or within the **NCZ** on the polling day (see Chapter 15), but except for static display of EAs that are authorised by the RO (e.g. EAs mounted at designated spots). Where there are premises situated within the NCZ, the ROs should issue a notice in advance to all the candidates for the constituencies concerned asking them to remove all of their EAs displayed at the premises within the NCZ before the polling day. The exhibition of portable displays of EAs on vehicles (whether in motion or parked within the NCZ) or held or carried by persons is also regarded as a canvassing activity which is forbidden within an NCZ. Therefore, candidates should arrange the removal of EAs on the windows or bodywork of any public service vehicles (e.g. public light buses, taxis, etc.) before the polling day if those vehicles will pass through or be parked within the NCZ on the polling day. If a candidate fails to remove the EAs as requested by the RO, the RO may issue a warning to him/her to remove the offending EAs immediately. If the candidate does not comply, the EAC may issue a censure or reprimand. The RO for the relevant constituency will provide each candidate of that constituency with 1 set of sketch maps or plans showing the boundaries of all polling stations in respect of the relevant constituency and all NCZs outside those polling stations. *[Amended in June 2012, June 2020 and October 2021]*

PART IV : ALLOCATION OF DESIGNATED SPOTS

9.37 A candidate can obtain the following information from the relevant RO when he/she submits the nomination form:

- (a) the general locations of the designated spots, which may include unleased government land, property and buildings managed by the Housing Department, and occasionally private land/property (if any) available for allocation of designated spots to the candidates. The number and size of spots for allocation will be finalised by the RO, taking into account the number of contested candidates in the GC/FC/ECC, **after** the end of the nomination period. In order to allow all contested candidates to display their EAs at all locations, particularly popular ones, the size of each spot may vary from location to location; and
- (b) the date and time for conducting the allocation of designated spots, which would normally be held within 5 to 10 working days after the end of the nomination period. The RO will invite representatives from the relevant authorities relating to government land/property, save those that have already given a blanket approval, to be present to give the necessary written authorisation for the spots allocated.

[Amended in June 2012 and October 2021]

9.38 The RO for the constituency will need to know the exact number of candidates who wish to display EAs at designated spots, so that he/she can finalise the number of designated spots and their size for allocation. Therefore, candidates who wish to display EAs at designated spots **must register their interest in writing by filing a completed form to the relevant RO within the**

nomination period. Only candidates of contested constituencies will be allocated with designated spots. *[Amended in October 2007, June 2012 and October 2021]*

9.39 The principle of allocation of designated spots is that candidates contesting in the same constituency should each be allocated the same number of designated spots and an equal area of space for mounting EAs. Designated spots are allocated by agreement among the representatives of all the contested candidates of a constituency or by drawing of lots. After allocation of the spots and the necessary authorisations have been obtained from the relevant authorities [s 104A(1) of the PHMSO and s 4 of the Land (Miscellaneous Provisions) Ordinance] and after complying with the requirements set out under Part VII, the candidate may display EAs at the allocated spots. *[Amended in June 2012, June 2016 and October 2021]*

9.40 A copy of the permissions or authorisations obtained by a candidate himself/herself, as opposed to those provided to him/her by the RO, must be provided in the manner as set out in para. 9.59 below for public inspection [s 105 of the EAC (EP) (LC) Reg]. *[Amended in July 2008 and June 2012]*

9.41 Subject to para. 9.43, designated spots allocated are neither transferable nor exchangeable with other spots. Where a candidate of a particular constituency no longer wishes to use one or more designated spots allocated to him/her, he/she should inform the RO of that constituency in writing within 1 week after the allocation of those spots. At a contested election, upon request by any other candidate of the same constituency, the RO, if he/she considers appropriate, will re-allocate by agreement or by the drawing of lots the designated spots among all other candidates who are eligible to be allocated with designated spots of the same constituency. In such a case, paras. 9.38 and 9.39 above apply. *[Amended in July 2008 and June 2012]*

9.42 Candidates of a GC will not in principle be allocated designated spots outside the constituency in which they stand for election. This is especially the case for a general election. In the case of a by-election, as the spots available for use may be used for other purposes in the relevant constituency, the number of designated spots that could be assigned to the candidates contesting in the by-election may be insufficient. Under such circumstances, the RO may include designated spots outside the constituency of the by-election to ensure that a reasonable number of designed spots can be made available for allocation to the candidates concerned. *[Amended in June 2016, June 2020 and October 2021]*

9.43 An EA advertising 2 or more candidates of the same or different constituencies jointly is allowed to be displayed at the designated spots allocated to the candidates. Nevertheless, it is important to ensure that, for each one of the joint candidates, the total area of all the spaces actually occupied for advertising the candidate on all his/her EAs, including the joint EAs, mounted at the designated spots (as measured by the dimension of EAs) does not exceed the total area of the designated spots allocated to the candidate. A joint EA is also subject to the size restrictions specified in para. 9.47 below. Candidates using a joint advertisement to promote themselves at the election would all benefit from the joint advertisement. The expenses incurred for the joint EA will therefore have to be borne by the candidates concerned in equal or proportional shares as their respective election expenses, to be calculated by the proportion of the size of the portion advertising each. In this connection, it is important to note that only a candidate himself/herself or his/her election expense agent may incur election expenses on his/her behalf [s 23 of the ECICO]. In order to comply with the requirement stipulated in s 27 of the ECICO, the candidates concerned also have to seek prior written consent of support from each other before publishing the joint EA. Besides, each of the candidates must make available a copy of each of his/her EAs, and the relevant information/documents for public inspection in accordance with para. 9.59 below. (See also paras. 8.18

to 8.20 of Chapter 8 and para. 19.13 of Chapter 19.) *[Amended in October 2007, June 2012, June 2016 and October 2021]*

PART V : CONDITIONS AND LIMITATIONS ON DISPLAY

Name of the Constituency

9.44 To avoid possible confusion to electors, EAs of all candidates of the GCs, FCs and ECC must bear the name of the constituency for which the candidate concerned is standing. Similarly, in respect of joint EAs, the name of the constituency should be stated clearly in relation to each of the candidates advertised. Either the full name of the constituency or its abbreviated name (to be advised by the RO for the constituency) may be used, dependent on the choice of the candidate for the constituency. In the case of a breach for EAs displayed at designated spots, the approval for the use of the designated spots in question may be revoked. *[Amended in June 2016 and October 2021]*

9.45 Likewise, all candidates should make known to the electors the name of their respective constituencies when they conduct joint canvassing activities.

Re-use of Old Publicity Boards

9.46 A candidate may re-use old publicity boards used at a previous election. However, any information in relation to the previous election, e.g. the candidate number, name of constituency, party affiliation and names of persons who supported the candidate at that election, should be fully obliterated before any old publicity board is re-used. This would not only avoid confusion to electors but would also help the candidate avoid laying himself/herself open to allegations of false claim of support of persons who might not have consented to

support him/her at the current election. The cost incurred in refurbishing as well as the estimated value of the old publicity boards will be counted towards the candidate's election expenses. *[Amended in June 2012]*

Size

9.47 As a general rule, EAs displayed at designated spots should not exceed 1 metre high and 2.5 metres long. In the case of designated spots at roadside railings, the promotional messages of the relevant EAs must be **printed on one side only** and **facing the designated direction of the spots**. Before displaying any EAs, candidates are reminded to ensure that the EAs must not distract motorists or interfere with the sight lines of motorists and pedestrians, obscure any traffic sign or traffic light signal, or obstruct the circulation of pedestrians (see also para. 9.34 above). For the rules on display of joint advertisements, see para. 9.43 above. *[Amended in October 2007, July 2008, June 2012, June 2016 and October 2021]*

Mounting and Installation

9.48 The EAs must be firmly and separately fastened. The mounting and display of EAs must not cause any risk to injuries or property damage. *[Amended in June 2012]*

9.49 Permanent fixing devices, such as nails or insoluble glue, should not be used.

9.50 “Tie-on” posters (rather than “stick-on” posters or metallic wires) should be used to facilitate subsequent removal. *[Amended in June 2012]*

9.51 Use of metal wires for fixing flags onto any highway structure, railing, barrier, fence, post or any other street furniture, is strictly prohibited.
[Added in June 2020]

9.52 Do not stick posters on painted or varnished surfaces as their subsequent removal will cause damage or leave irremovable marks.

9.53 Do not install into or erect on public pavements any structure, e.g. nailing boards to the ground. Do not use any tree or plant as anchor point for EAs. *[Amended in June 2012 and October 2021]*

9.54 Owners or occupiers of a property including a government authority may specify the way in which EAs are to be displayed, and may require an indemnity against any claim or damage arising from the display of such materials.

Dismounting

9.55 All candidates should remove all their EAs displayed on government land/property **within 10 days** following an election. Failure to do so may result in prosecution being brought against the offending candidate and such EAs removed and seized by the relevant authority. Relevant authorities will issue demand notes for the removal costs to the candidates concerned within 21 days after the publication of the election results in the Gazette (normally the first Friday after the polling day). The **cost of removal** will be construed as **election expenses** and the candidates must include all these costs as election expenses in their election returns. *[Amended in October 2007, June 2012 and June 2016]*

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

9.56 For temporary occupation of government land including any public street, pavement, footbridge, public escalator system and pedestrian tunnel for holding electioneering activities (such as setting up a manned street counter and displaying EAs which may include banners, roll-up banners and vertical flying posters or bunting), candidates are required to submit applications specifying the scheduled date, time, location/spot and brief description of the proposed set-up to relevant District Lands Office (“DLO”) of the Lands Department for consideration. Only applications from validly nominated candidates will be considered by DLOs, whereas applications from uncontested candidates will not be considered. The site approved for occupation must not exceed 2 m² (i.e. 1 m x 2 m) in area and 2 m in height. The respective DLO will consult the government departments concerned in considering the applications. Where necessary, DLOs may adjust the location of the government site to be occupied in light of the physical setting and actual situation. The decision of the DLO shall prevail. *[Added in June 2016 and amended in October 2021]*

9.57 The Lands Department will issue detailed guidelines for candidates to apply for temporary occupation of government land at public places for holding electioneering activities during election period. The deadlines for submission of applications will be specified in the guidelines. Applications should be submitted to the relevant DLO according to the designated deadlines. Applications for occupying government land on the polling day should be submitted to the relevant DLO by the deadline as specified in the guidelines. The DLO will arrange drawing of lots to determine the allocation if necessary. If the allocated spot falls within the NCZ on the polling

day, the approval will be deemed to have been revoked. *[Added in June 2016 and amended in October 2021]*

9.58 The DLOs will not consider applications for holding electioneering activities on government land outside the designated periods; no fee is required for the applications above. The display of EAs will not be permitted for a street counter not manned by staff. *[Added in June 2016]*

PART VII :REQUIREMENTS RELATING TO PUBLICATION OF ELECTION ADVERTISEMENTS

Copies for Public Inspection

9.59 A candidate must make available a copy of each of his/her EAs, and the relevant information/documents (see **Appendix 6**) including the publication information, permission or consent in relation to the EAs for public inspection **within 1 working day** (i.e. any day other than a general holiday or Saturday) **after the publication of the EAs** by the following means:

- (a) posting an electronic copy of each of his/her EAs and relevant information/documents onto the Central Platform in accordance with the procedures set out in **Appendix 6**;
- (b) posting an electronic copy of each of his/her EAs and relevant information/documents onto the Candidate's Platform and provide the **electronic address** of the platform to the CEO **at least 3 working days before the publication of the first EA** (for details, please see **Appendix 6**);

- (c) if it is technically impracticable to comply with (a) or (b) above for EAs published through an open platform on the Internet (for example, when messages are exchanged on social networking or communication websites on the Internet, such as Instagram, Twitter, Facebook or blogs, in a real-time interactive manner), a hyperlink of the open platform and the information/documents relevant to the EAs should be posted onto the Candidate's Platform or Central Platform in accordance with the procedures set out in **Appendix 6**. In this case, if the hyperlink of the EA has already been posted onto the Candidate's Platform or the Central Platform, there is no need for the candidate to upload each and every comment separately;
- (d) providing 2 hard copies of each EA (or 2 identical full colour photographs/printouts/photocopies of each EA which cannot be practically or conveniently produced in specie) and a hardcopy of information/documents in relation to the EA to the RO; or
- (e) providing 2 identical copies of a CD-ROM or DVD-ROM each containing the EAs and a hardcopy of information/documents in relations to the EAs to the RO.

As an interim arrangement, pending the appointment of the RO and the establishment of the Central Platform, candidates should deposit their EAs and the related information/documents with the CEO in the same manner as stated in (d) or (e) above.

[S 105(2) and (3) of the EAC (EP) (LC) Reg] *[Amended in June 2012, June 2016, June 2020 and October 2021]*

Publication Details

9.60 A candidate should provide information related to the printing/publication of his/her EAs (i.e. the name and address of the printer, date of printing/publication and number of copies printed) when posting the EAs onto the Candidate's Platform or Central Platform or submitting relevant information in a specified form to the RO **within 1 working day after the publication of the EA** (see **Appendix 6**) [s 105(4) and (6) of the EAC (EP) (LC) Reg]. A candidate must ensure the accuracy of all the information provided. *[Amended in October 2007 and June 2012]*

9.61 If the information uploaded onto the Candidate's Platform or Central Platform or provided to the RO as set out in para. 9.60 above contains a mistake, the candidate should post the amended information onto the Candidate's Platform or Central Platform or submit the amended information in a specified form to the RO for public inspection. All the amended information must be posted onto the Candidate's Platform or Central Platform or deposited with the relevant RO **within 3 working days at the latest after the polling day**. The information will be used as the basis for checking the candidate's election return and for removing unauthorised or offending EAs on display. For the avoidance of doubt, any amendment to the content of an EA will be regarded as the publication of a new EA and hence subject to the requirements stated in paras. 9.59 and 9.60 above. However, for the addition of a candidate number or letter of alphabet allocated to the candidate in a published EA, a copy of the EA bearing the newly added and amended information must be made available for public inspection as per this paragraph. *[Amended in June 2012, June 2016, June 2020 and October 2021]*

9.62 All EAs published must be posted onto the Candidate's Platform or the Central Platform or deposited with the RO by the candidate for public inspection in the manner specified in this Part VII. *[Amended in June 2012]*

9.63 A candidate must not display his/her EAs other than at the places permitted or authorised. *[Amended in June 2012]*

9.64 Speeches orally delivered by a candidate during election meetings or ad hoc visits will not be treated as EAs, but the copies of the speech provided to the audience or media will be regarded as printed EAs. Given that the copies of speeches provided to the audience are regarded as printed EAs, the candidates concerned are required to comply with the requirements in this Chapter regarding the distribution of copies of an EA and those on making available the copies for public inspection. *[Added in October 2007 and amended in June 2012]*

9.65 In the case where candidates contesting in the same or different constituencies use identical copies of an EA, each of the candidates concerned should post an electronic copy of the EA and the relevant information/documents onto his/her respective Candidate's Platform or the Central Platform or deposit 2 copies of the EA and 1 copy of the relevant information/documents with the RO(s) concerned. [S 105(2) and (3) of the EAC (EP) (LC) Reg] *[Amended in June 2012, June 2016 and October 2021]*

9.66 All copies of the EAs and the relevant information/documents must be made available for public inspection till the end of the period in which copies of election returns are available for inspection under s 41 of the ECICO, i.e. the period ending with the 60th day before the first anniversary of the date of the deadline for lodging the relevant election return (see para. 8.23 of Chapter 8) [s 41(6) of the ECICO and s 105(2) and (7) of the EAC (EP) (LC) Reg]. A candidate electing to comply with para. 9.59(b) above must ensure that the Candidate's Platform is maintained till the end of the aforesaid inspection period to facilitate public inspection of the EAs [s 105(2)(b) of the EAC (EP) (LC) Reg]. The CEO will also make public the Central Platform and the electronic address of the Candidate's Platform to facilitate public inspection of the EAs. For a candidate electing to comply with para. 9.59(d) or (e) above, the RO concerned

will make available a copy of the EAs and the relevant information/documents for public inspection at a specified address as soon as practicable after copies of such EAs and information/documents have been furnished till the end of the aforesaid public inspection period [s 105(7) of the EAC (EP) (LC) Reg].
[Amended in June 2012 and June 2016]

PART VIII : REQUIREMENTS RELATING TO PRINTED ELECTION MATERIALS

Printing Details

9.67 All printed EAs, with the exception of those printed in a registered local newspaper, should 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. It applies to all materials reproduced by any method of making copies (e.g. using printing machines, duplicators or photocopiers). The following are some suggested formats:

(a) Printed by ABC Printing Works,
 XX XZY Street, HK
 On (date) in (number) copies

or

(b) Printed by own office machine
 XX XZY Street, HK
 On (date) in (number) copies

[S 105(4), (5) and (6) of the EAC (EP) (LC) Reg] *[Amended in June 2012]*

Election Advertisements Placed in Print Media

9.68 Where an EA is placed in the print media and takes 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 in the advertisement, to avoid misunderstanding among readers that it is not an EA.

Inadvertent Omission of Printing Details

9.69 A candidate who has inadvertently omitted the printing details from his/her printed EAs can make a statutory declaration to give the omitted details, and deposit such declaration with the RO of the respective constituency **within 7 days after** the publication of the offending EA [s 105(6) of the EAC (EP) (LC) Reg]. Candidates who have taken this remedial step will not be prosecuted for contravention of s 105(4) of the EAC (EP) (LC) Reg. The statutory declaration will be made available for public inspection by the relevant RO till the end of the period in which copies of election returns are available for inspection under s 41(6) of the ECICO [s 105(7) of the EAC (EP) (LC) Reg].
[Amended in June 2012 and June 2016]

PART IX : NON-COMPLIANCE WITH THE LAW AND ITS CONSEQUENCES

Enforcement and Penalties

9.70 A candidate who fails to comply with the requirements set out in Parts VII and VIII above commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 105(9) of the EAC (EP) (LC) Reg].
[Amended in June 2012]

9.71 Each candidate must observe and comply with the conditions imposed by the permissions or authorisations for the display of EAs. Any EAs displayed in contravention of these requirements will be removed and seized. Candidates and their supporters should report any non-compliance to the RO and should not take removal action by themselves against any unauthorised or offending EAs. *[Amended in June 2016]*

9.72 Any unauthorised or offending EAs displayed may be seized, disposed of, destroyed, obliterated or covered by the RO or any person authorised by him/her [s 107 of the EAC (EP) (LC) Reg]. The candidate or his/her election agent responsible may also be prosecuted, and if convicted, may be liable to a fine and to imprisonment [s 105(9) of the EAC (EP) (LC) Reg]. The cost of removal, being a civil debt, will be counted as election expenses and must be reported in the candidate's election return. The seized articles may be kept as evidence and will be disposed of or returned upon application in accordance with the PHMSO or the Housing Ordinance (Cap 283), as the case may be, and the procedures of the relevant authority. [S 104C of the PHMSO and s 24 of the Housing Ordinance] *[Amended in October 2007, July 2008 and June 2012]*

9.73 Each candidate must observe and comply with the conditions agreed between him/her and the owner or occupier of the private land or property concerned for the display of EAs, and any additional charges or damages payable by a candidate to the owner or occupier may be construed as election expenses.

9.74 Complaints, if any, should be made to the relevant RO. After a complaint is received, the EAC may also issue a public statement in such manner as it deems fit to reprimand or censure any non-compliance with the guidelines. Despite the fact that a censure may be a further detriment to a candidate in addition to his/her liability for removal expenses and criminal liability, the EAC will not hesitate to publish one as appropriate.

Relief for Election Advertisements

9.75 A person who publishes an EA without complying with the requirements as set out in paras. 9.59 (except that related to the submission of permission/authorisation document under s 104A(1) of the PHMSO), 9.60, 9.61, and 9.67 above may apply to the CFI for an order allowing the publication of the above EAs to be excepted from the relevant requirements and relieving him/her from the penalties. The CFI may make such an order 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. [S 106 of the EAC (EP) (LC) Reg] The judgments of precedent court decisions⁵⁶ regarding applications for the relief of election-related penalties and liabilities are as follows:

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

[Amended in June 2012 and October 2021]

⁵⁶ *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).

**PART X : ADVERTISEMENTS OF POLITICAL/
PROFESSIONAL BODIES, TRADE ORGANISATIONS
OR OTHER ORGANISATIONS**

9.76 Any thing or material published by any organisation, including a political body, professional body or trade organisation, owners' corporation, MAC, tenants' association, 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 even before the election period** by name or photograph or otherwise with the intent to promote the election of the candidate may be treated as an EA put up by, or on behalf of, or on account of, the candidate. The expenses of such EA may be construed as election expenses incurred by or on behalf of the candidate. A candidate should be responsible for election expenses incurred by himself/herself or his/her authorised election expense agents, excluding those incurred without his/her knowledge and consent. It is therefore a prudent step for the relevant organisations to suspend such advertising activities. However, if the material published by the organisation concerned, as opposed to the candidate himself/herself, advertises only a particular activity which:

- (a) is organised from time to time either as part of the organisation'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 in the election,

then the appearance of the name and/or photograph of a candidate who is involved in organising the activity in the published material will not be regarded as an EA. *[Amended in June 2020]*

9.77 It is an offence for anyone to incur election expenses unless he/she is a candidate or an election expense agent of a candidate [s 23 of the ECICO].

9.78 To protect their own interest, candidates should advise their political bodies or their organisations of these guidelines as soon as they have any intention or plan to run for an election.

9.79 In short, if any organisation, including a political body, publishes an EA to promote a candidate, then:

- (a) the expenses incurred will be treated as the candidate's election expenses;
- (b) the officer-in-charge of the organisation should 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 105 of the EAC (EP) (LC) Reg; and *[Amended in June 2012]*
- (d) such advertisement can only be displayed at the locations with relevant written permission or authorisation. *[Amended in June 2016]*

PART XI : FREE POSTAGE FOR ELECTION ADVERTISEMENTS

Conditions for Free Postage

9.80 A candidate of a GC/FC or the ECC who has been declared validly nominated in the notice of valid nominations published in the Gazette in accordance with regulations made under the EACO is permitted to send **1** letter to each elector of the constituency for which he/she is validly nominated free of postage [s 43(1), (2), (3A) and (4) of the LCO]. However, before the publication of the notice of valid nominations in the Gazette, a candidate wishing to exercise his/her right to free postage must furnish the Postmaster General with a security (i.e. the postage of all items in that bulk to be posted) in default of the postage payment in the event that his/her name is not subsequently shown in the notice of valid nominations. In the case of joint election mail, a candidate whose letters contain the information on any other candidate(s) is liable for payment of postage for the whole batch of letters if the name(s) of any of such candidate(s) is/are not subsequently shown in the notice of valid nominations. Under such circumstances, the security payment made by the candidate will not be refunded and the relevant joint election mail will not be regarded as postage-free election mail of the candidate. The other candidate(s) who is/are validly nominated is/are still entitled to exercise his/her/their right to free postage. [S 6(2)(a) of the Post Office Regulations (Cap 98A)]. *[Amended in June 2012 and October 2021]*

9.81 The purpose of the free postage is to enable the candidate to mail EAs to promote or advertise himself/herself in relation to the election to electors in the relevant GC/FC or the ECC. The free postage arrangement, which is a privilege of validly nominated candidates, should not be abused. In particular, it cannot and should not be used for any other purpose or any other election, or for promoting or advertising any other person. **As a general requirement, a**

candidate should publish EAs in accordance with all applicable laws and the guidelines herein. In this regard, EAs sent by a candidate through free postage should not contain any unlawful content. *[Amended in July 2008, June 2016 and October 2021]*

9.82 A candidate, who is validly nominated for a GC, the Labour FC or the ECC, may choose to send joint election mail to electors, of which the details are as follows:

- (a) an election mail sent by a candidate who is validly nominated for a GC may contain information on another candidate who is also validly nominated for that constituency;
- (b) an election mail sent by a candidate who is validly nominated for the Labour FC may contain information on any other candidate who is also validly nominated for that constituency;
- (c) an election mail sent by a candidate who is validly nominated for the ECC may contain information on any other candidate who is also validly nominated for that constituency.

[s 101A of the EAC (EP) (LC) Reg and s 43(4A), (4B) and (4C) of the LCO].
[Amended in June 2012 and October 2021]

9.83 The joint election mail as described in para. 9.82 above will not be regarded as the election mail sent by the other candidate(s). This means that the other candidate(s) is/are still entitled to the free postage of 1 letter addressed to each elector of the constituency concerned. [S 43(4D) of the LCO] *[Added in June 2012 and amended in October 2021]*

9.84 Specifically, the letter must:

- (a) be posted and delivered to an address in Hong Kong;
- (b) contain materials relating only to the candidature of the candidate/candidates of the same constituency in the case of joint election mail mentioned in para. 9.82 above at the election concerned;
- (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; and
- (f) not contain any obscene, immoral, indecent, offensive or libellous writing, picture or other thing.

[S 101A(1) of the EAC (EP) (LC) Reg and s 32(1)(f) of the Post Office Ordinance (Cap 98)]

IMPORTANT :

Under s 101A(3)(a) of the EAC (EP) (LC) Reg, a candidate sending postage-free mail items to electors in bulk is liable for payment of postage for all items in that bulk if any item therein does not meet the requirements in (a) to (e) above. Besides, according to s 32(1)(f) of the Post Office Ordinance, item (f) above refers to prohibited articles.

In the case of joint election mail, the candidates concerned should comply with the following requirements regarding (i) the obtaining of prior written authorisation to act as election expense agents; (ii) the sharing of expenditure in respect of the joint election mail among the candidates concerned for the submission of election return; and (iii) the obtaining of written consent of support from the other candidate(s) before sending the joint election mail (see paras. 19.11 and 19.13 of Chapter 19).

[Amended in October 2007, July 2008, June 2012, June 2016, June 2020 and October 2021]

Postal Requirements Stipulated by Hongkong Post

Make-up

9.85 The letter may take the form of an envelope, a lettergramme, a postcard or a folder. Items in roll form or enclosed in plastic wrappers are **not** acceptable.

9.86 Postcards and folders must be made of ordinary cardboard or paper not less than 0.25 mm thick, and must be rectangular in shape.

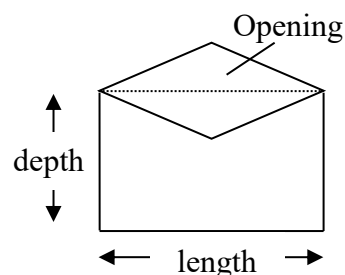
9.87 When a wrapper is used, it must be long enough to cover the full length of the item to be enclosed. Envelopes must not be fastened with staples or paper fasteners with sharp or pointy edges, but they may be sealed by means of an adhesive flap or tape.

9.88 Envelopes, folders and lettergrammes with an opening large enough to entrap smaller letters are prohibited. The **unsealed mail item** contained in envelopes with ordinary tuck-in flaps may be used subject to the following size limits (s 6.3 of the Post Office Guide):

Not over 90 mm in depth – opening
not over 150 mm in length

Not over 100 mm in depth – opening
not over 140 mm in length

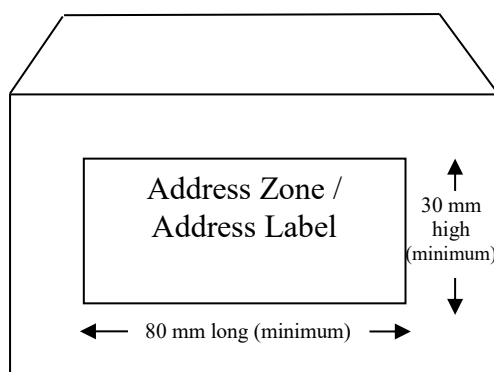
Over 100 mm in depth – opening not
over 115 mm in length



9.89 Folders (e.g. A4 size paper) with openings should be sealed by means of adhesive flap or tape to avoid entrapping other letters of smaller sizes. All open edges must not be longer than 90 mm in width. Otherwise, adhesive tapes should be applied to the middle of the open edges to reduce the width. For details, please refer to the illustration in **Appendix 7**. [Amended in July 2008 and June 2012]

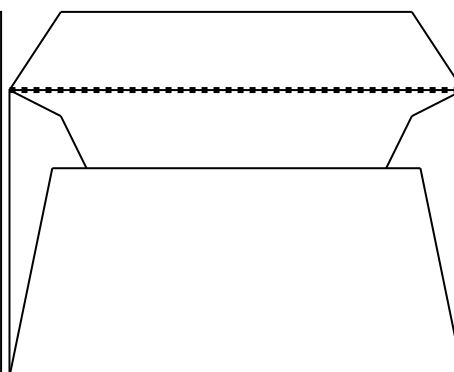
9.90 **The Chinese characters “選舉郵件” or “選舉廣告” or English words “Election Mail” or “Election Advertisement” must be printed on the front (address) side of the election mail, or the address side of the folder (unenveloped mail). The layout of the election mail is as follows:**

Front Side of an Election Mail



The Chinese characters “選舉郵件” or “選舉廣告” or the English words “Election Mail” or “Election Advertisement” must be printed on the front (address) side of the election mail.

Back Side of an Election Mail



[Amended in October 2007, July 2008 and June 2016]

Address

9.91 To avoid delay or misdelivery, the full postal address should be typed or legibly written on the front of the envelope in 4 rows as follows:

Name of addressee

Floor and flat number and name of building

Street number, name of street

Name of district

9.92 Address slips may be used for the mailing of EAs, provided that they are legible and **securely affixed** to the election mail. *[Amended in October 2007]*

IMPORTANT :

For the purpose of posting election mail, candidates may request the REO to provide one set of mailing labels in respect of the electors of the relevant constituencies and/or USB flash drives containing the “Candidate Mailing Label System” (CMLS). To protect the environment and respect the wishes of electors, candidates will not be provided with mailing labels in respect of electors who have provided their e-mail addresses for receiving EAs or who have indicated that they do not wish to receive any EA. *[Added in June 2016 and amended in June 2020]*

9.93 The name(s) of the candidate(s) and other publicity slogans, including photographs, should appear on the back or the front (address side) of the mail item. An address zone of at least 80 mm long and 30 mm high, preferably at the right-hand half or at the centre of the front (address side), should be reserved exclusively for the address. If an adhesive address label is used, it

should not be less than 80 mm long and 30 mm high. The address label should only contain the name and address of elector(s). The whole address zone and address label should be free of advertisement and the entire address label should be affixed to the address zone on the front of the item. The background colour of the address zone and address label should be white while the text colour of the postal address should be black. (Please refer to the clear illustration in para. 9.90.) *[Amended in October 2007 and July 2008]*

9.94 No free postage will be given to any EA bearing an address outside Hong Kong. Specifically, **only 1 address is allowed on the postage-free election mail to electors.** *[Amended in July 2008]*

Posting Arrangements

9.95 In order to allow adequate time for Hongkong Post to process election mail during the election period, candidates are advised to send their postage-free EAs **before the posting deadline as designated by Hongkong Post.** Candidates and their agents are therefore **reminded that mail sent after the posting deadline will likely fail to reach the electors before the polling day.** *[Amended in October 2007]*

9.96 **Candidates should apply for a written approval from Hongkong Post of their EA specimens for free postage. They should read carefully the requirements regarding free postage for EAs before deciding on the content of their EAs, and should seek advice from Hongkong Post relating to the postal requirements and from the REO in respect of other matters as appropriate if in doubt. Candidates should make every effort to submit their EA specimens to Hongkong Post for written approval as early as possible before mass production of their EAs, so as to allow sufficient time for revising the content of their EA specimens when necessary.** *[Added in June 2012]*

9.97 Candidates should submit 3 unsealed specimens of their EAs, together with a “Notice of Posting of Election Mail” in duplicate (the notice will be provided by the REO to the candidates when they submit their nominations) to the designated manager(s) of Hongkong Post for written approval. At least **2 clear working days** (excluding any Saturday, Sunday and public holiday) are required for Hongkong Post to process each set of specimens, and the EA should only be posted after an official approval has been received from Hongkong Post. As Hongkong Post may have to process a large quantity of EA specimens at the same time, there is no guarantee that the EA specimens will necessarily be approved in 2 working days immediately after the submission. Candidates who wish to post joint election mail should indicate their intention in the “Notice of Posting of Election Mail”, which should be signed jointly by the candidates/election agents concerned. The specimens of joint election mail should also be submitted to the designated manager(s) of Hongkong Post for approval. *[Amended in October 2007, July 2008, June 2012, June 2016 and June 2020]*

9.98 To save time, candidates may consider submitting their EA specimens before being assigned with a candidate number or letter of alphabet or confirming the printing details of the election mail. Once the specimens concerned have been approved in writing by Hongkong Post, candidates may insert the candidate number or letter of alphabet or printing details into the election mail **without altering the approved design and content of the election mail**. There is no need for the candidates to re-submit the revised specimens to Hongkong Post for approval. *[Added in June 2020 and amended in October 2021]*

9.99 To comply with the relevant requirements, candidates should attach the translations in Chinese or English together with the “Notice of Posting of Election Mail” if the specimens contain languages other than Chinese and English. *[Added in June 2020]*

9.100 Candidates should post their postage-free mail at the respective post offices designated by Hongkong Post for election mail. When posting mail, candidates should furnish a copy of the election mail to the manager(s) of the designated post office(s) for record purpose. *[Amended in October 2007, June 2012 and June 2016]*

9.101 The election mail should be packed in bundles of 50 or 100 for easy counting. All of them must be stacked on the same side and arranged in the same order as the address labels/address lists (e.g. by building name or block number) provided by the REO. To facilitate handling of a huge volume of postings within a tight time schedule, **candidates of GCs** must sort their election mail according to the DC Constituency Areas when making postings at the designated post offices. *[Amended in October 2007, July 2008, June 2012, June 2016 and October 2021]*

9.102 When posting a mail item, the candidate or his/her election agent must present a signed “Declaration for Posting of Election Mail” (which will be given to the candidate by the REO when he/she submits the nomination) **in duplicate** (the original to be kept by Hongkong Post while the duplicate copy to be duly signed by Hongkong Post and kept by the candidate or his/her election agent as a confirmation of the posting) on each occasion:

- (a) stating the quantity of mail items in the posting and the name of the candidate;
- (b) declaring that the mail to be sent is the postage-free election mail of the candidate or the postage-free joint election mail of the candidate and other candidate(s) of the same constituency (as the case may be);

- (c) declaring that each mail packet contains materials relating only to the election concerned and that the items are identical to the unsealed specimen submitted by the candidate or his/her election agent for inspection and application for approval; and *[Amended in July 2008, June 2012 and June 2016]*
- (d) declaring that not more than 1 postage-free mail will be sent to any electors. *[Amended in October 2007]*

It is important to note that under s 101A(3)(b) of the EAC (EP) (LC) Reg, a candidate sending postage-free mail items to electors in bulk is liable for the payment of postage for all the items in that bulk if the declaration made by him/her or his/her election agent is false in any particular. *[Amended in October 2007, July 2008, June 2012, June 2016 and October 2021]*

9.103 If a candidate sends the election mail in more than 1 batch, he/she must present the same “Declaration for Posting of Election Mail” at the same designated post office on each occasion. *[Amended in June 2012]*

9.104 If the name, logo or pictorial representation of a person or an organisation is included in the election mail, and the publication is in such a way as to imply or to be likely to cause electors to believe that the candidate(s) has/have secured the support of the person or organisation concerned, the candidate(s) must ensure that **prior written consent** has been obtained from the person or organisation concerned. Please refer to Chapter 19 for the detailed requirements. *[Added in June 2016]*

9.105 The Government reserves the right to charge a candidate postage if any of the requirements under s 101A(3) of the EAC (EP) (LC) Reg is not met or the free postage arrangements are abused in any way. The charge on postage counts towards the candidate’s election expenses and must be included in his/her

election return to be sent to the CEO. The EAC may also issue public statements in such a manner as it deems fit to censure any abuse of the free postage arrangements. *[Amended in July 2008]*

9.106 The postal requirements stated in the above guidelines (paras. 9.85 to 9.103) are for general reference only. Candidates should comply with the latest requirements issued by Hongkong Post at the time of the election concerned. *[Added in July 2008]*

Enquiries

9.107 For general enquiries concerning the posting of EAs, please contact:

Assistant Manager (Retail Business Support/Hong Kong)
Room 1M05
General Post Office
2 Connaught Place
Central
Hong Kong
Telephone: 2921 2190 / 2921 2307
Fax: 2501 5930

[Amended in October 2007, July 2008, June 2012 and June 2016]

**PART XII :ELECTION ADVERTISEMENTS FOR REGISTERED
ELECTORS AND AUTHORISED
REPRESENTATIVES IN THE CUSTODY OF CSD
AND OTHER LAW ENFORCEMENT AGENCIES**

9.108 Candidates may send EAs to registered electors/ARs in the custody of the CSD if the electors/ARs have provided the addresses of the penal institutions concerned as their correspondence addresses for receiving EAs. For security reasons, candidates should adhere to the guidelines laid down by the CSD at **Appendix 19** when sending EAs to these electors/ARs. *[Added in January 2010 and amended in June 2016]*

9.109 Candidates may note that registered electors/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 on access to the mass media. *[Added in January 2010]*

**PART XIII : COMMERCIAL ADVERTISEMENTS RELATING TO
CANDIDATES**

9.110 Any commercial advertisement in physical form 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, such a commercial advertisement may give extra publicity to the candidate concerned even though it is not an EA. In order to avoid such unfair publicity, the candidate should make his/her best endeavours to request the person(s)-in-charge not to display the

advertisement after his/her declaration of intention to stand for the 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 giving unfair publicity to the person concerned. If any complaint about unfair publicity of a candidate is received, the EAC will handle it according to established procedures. Nevertheless, if the display of the advertisement cannot be suspended due to contractual obligation, and the candidate has made best endeavours to request the person(s)-in-charge concerned not to display the advertisement, the candidate will not be subject to any liability. (For commercial advertisements broadcast on television/radio or in cinemas, please refer to paras. 12.30 to 12.31 of Chapter 12.) *[Added in June 2020]*