

## CHAPTER 5

### ELECTION PETITIONS

#### PART I : GROUNDS FOR LODGING AN ELECTION PETITION

5.1 Under s 39(1) of the RREO, the result of the RR election may be questioned only by an election petition made on the following grounds:

- (a) the ground that the person declared by the RO concerned to have been elected as an RR at that 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 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**

5.2 An election petition may be lodged by:

- (a) 5 or more electors entitled to vote at the election; or
- (b) a person claiming to have been a candidate at the election.

[S 40 of the RREO]

5.3 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 43(1) of the RREO]. If the office of the CFI is closed on the last day of the period for lodging election petitions, the 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)].

5.4 An election petition is triable in open court and before a judge. At the end of the trial of an election petition, the CFI shall 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 42(2) and 45(1), (2) and (3) of the RREO]

5.5 An appeal against the decision of the CFI may be lodged to the Court of Final Appeal (“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.