

**Major Changes in the Guidelines on  
Election-related Activities in respect of the Rural Representative Election  
as Compared with the Previous Version Issued in October 2018**

Relevant Chapter	Major Changes
<p><b>Chapter 2 and Appendix 3</b> <i>Registration of electors and voting system</i></p>	<ul style="list-style-type: none"> <li>● specifying, in accordance with the amendments made to the sections 9, 17, 18 and 20 of the Electoral Affairs Commission (Registration of Electors) (Rural Representative Election) Regulation (Cap. 541K) (“EAC(ROE)(RRE) Reg”) in January 2022, the important dates in relation to regular voter registration arrangements adopted from the 2022 voter registration cycle onwards (<b>para. 2.9</b>);</li>   <li>● specifying, in accordance with the requirement provided for by the new provision under section 10(1A) of the EAC(ROE)(RRE) Reg added in January 2022, that for Resident Representative (“ReR”) elections and Kaifong Representative (“KFR”) elections, an applicant must submit, together with the new application for voter registration, documentary evidence to prove that the address stated in the application is the principal residential address of the applicant (<b>para. 2.29</b>);</li>   <li>● specifying, in accordance with the amendments made to sections 22 and 30 of the EAC(ROE)(RRE) Reg in January 2022, that only specified persons may inspect the registers of electors containing the particulars of individual electors. Since it takes time to amend the relevant laws (i.e. section 17 of the Rural Representative Election Ordinance (“RREO”) and section 19 of the EAC(ROE)(RRE) Reg), prior to the completion of the amendments, inspection of omissions list (“OL”) shall be conducted in compliance with the administrative arrangements drawn up with reference to the legislative amendments (<b>para. 2.42 and Appendix 3</b>); and</li> </ul> <p style="text-align: center;"><i>[The legislative changes in relation to inspection of OL are subject to the enactment of the Rural Representative Election (Amendment) Bill 2022]</i></p>

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	<ul style="list-style-type: none"> <li>specifying, in accordance with the amendments made to sections 2(3A) and 2A of the Rural Representative Election (Registration of Electors) (Appeals) Regulation (Cap. 576A) in January 2019, that a person who lodges an objection or a claim as regards the provisional register must provide sufficient information so as to inform the Revising Officer of the grounds of the objection or claim. If the appellant neither appears at the hearing nor is represented at the hearing by a legal practitioner or an authorised representative, the Revising Officer may dismiss the objection or claim, whether or not the appellant has made representations in writing regarding the objection or claim (<b>para. 2.47</b>).</li> </ul>
<p><b>Chapter 3</b> <i>Nomination of candidates</i></p>	<ul style="list-style-type: none"> <li>elaborating that in respect of the eligibility for being nominated as a candidate at an Indigenous Village (“IV”) election or a Composite Indigenous Village (“CIV”) election, in determining whether or not a person has been “ordinarily residing in Hong Kong”, multiple factors and the circumstances of the case should be taken into consideration with reference to relevant court cases (<b>paras. 3.5 to 3.7</b>); and</li> <li>updating, in accordance with the proposed new provision to be added to section 23(1A) of the RREO, the circumstances in which a person shall be disqualified from being nominated as a candidate and from being elected as a Rural Representative for a Rural Area. It is specified that any person who, within the 5 years before the date of election, has vacated an office or has been disqualified from holding or entering on an office under the law for declining or neglecting to take a specified oath; or has been declared or decided in accordance with any law to be in breach of a specified oath, or to have failed to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China, shall be disqualified from being nominated as a candidate and from being elected as a Rural Representative for a Rural Area (<b>para. 3.8</b>).</li> </ul> <p><i>[Subject to the enactment of the Rural Representative Election (Amendment) Bill 2022]</i></p>

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<p><b>Chapter 4</b> <i>Polling and counting arrangements</i></p>	<ul style="list-style-type: none"> <li>● specifying, in accordance with the new provision under section 28AA of the Electoral Procedure (Rural Representative Election) Regulation (Cap. 541L) (“EP (RRE) Reg”) added in January 2022, that the Director of Home Affairs (“DHA”) may require by written notice the owner or occupier of any school or organisation/association/body receiving grants from the Government to make available the premises for use as a polling station or a counting station. Anyone who fails to comply with the above requirements is liable to a fine of \$50,000 (<b>para. 4.16</b>);</li> <li>● specifying, in accordance with the amendment made to section 45 of the EP (RRE) Reg in January 2022, the procedures for ballot papers issuance under different situations in polling stations. When the electronic poll register (“EPR”) system is used to issue ballot papers, an elector applying for the ballot paper(s) may observe on the display screen of the EPR system his/her name, part of his/her identity document number and types of ballot papers issued to him/her to ensure accurate record-keeping (<b>paras. 4.33 and 4.34</b>);</li> <li>● specifying, in accordance with the new provision under section 42A of the EP (RRE) Reg added in January 2022, that as a caring measure for electors with special needs (including persons who are not less than 70 years of age, pregnant women and persons who, because of illness, injury, disability or dependence on mobility aids, are not able to queue for a long time or have difficulty in queuing), the Presiding Officer (“PRO”) may make special queuing arrangements for such persons with special needs. The practical arrangements to be made having regard to different ways of issuing ballot papers under different situations are also specified (<b>para. 4.37</b>);</li> <li>● relaxing, in accordance with the amendment made to section 45 of the EP (RRE) Reg in December 2018, the documentary requirement concerning an elector who has lost his/her identity document by allowing him/her to collect ballot papers upon producing the memo of lost property and the original of a valid passport or similar travel document showing his/her name and</li> </ul>

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	<p>photograph, without having to present a copy of his/her identity document in paper form at the same time (<b>para. 4.38</b>);</p> <ul style="list-style-type: none"> <li>● specifying, in accordance with the amendment made to section 53 and new provision under section 53A of the EP (RRE) Reg added in January 2022, the required actions for polling stations that are or are not designated as counting stations after the close of poll, including the delivery and/or counting of the relevant ballot papers (<b>paras. 4.65 to 4.68</b>);</li> <li>● specifying, in accordance with the new provision under section 65A of the EP (RRE) Reg added in January 2022, the result declaration and re-counting arrangements applicable to a Rural Area with 2 or more counting stations (<b>para. 4.92</b>); and</li> <li>● setting out, in accordance with the requirements of EP (RRE) Reg, the provisions on the postponement or adjournment of the polling or counting of votes for all or particular polling/counting stations (<b>Part XVI of this Chapter</b>).</li> </ul>
<p><b>Chapter 6</b> <i>Appointment and roles of election agent, election expense agents, polling agents and counting agents</i></p>	<ul style="list-style-type: none"> <li>● lifting, in accordance with the amendment made to section 25 of the EP (RRE) Reg in January 2022, the requirement of the Returning Officer (“RO”) to disclose the identity card number of the election agent to every other candidate (<b>para. 6.12</b>); and</li> <li>● specifying, in accordance with the amendment made to section 56(6) of the EP (RRE) Reg in January 2022, that before the close of poll, in addition to delivering to the RO in the specified ways, a signed notice of revocation of the appointment of a counting agent can be delivered by the candidate or his/her election agent in person to the relevant Officer-in-charge of a counting station (<b>para. 6.46</b>).</li> </ul>
<p><b>Chapter 7</b> <i>Election advertisements</i></p>	<ul style="list-style-type: none"> <li>● reminding candidates, in accordance with a previous court case, to ensure that there is factual basis for the contents of the election advertisements (“EAs”) published by them in order to avoid controversies and legal proceedings (<b>para. 7.5</b>);</li> </ul>

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	<ul style="list-style-type: none"> <li>● specifying in accordance with the amendment made to section 23(1A) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) (“ECICO”) in January 2019, that a person (other than candidates or their election expense agents) who publishes an EA on the Internet will be exempted from the relevant criminal liability under section 23(1) of the ECICO if the only expenses incurred are electricity charges and/or charges necessary for accessing the Internet (<b>para. 7.11</b>);</li> <li>● specifying, in accordance with the proposed amendment to be made to section 91(4) of the EP (RRE) Reg, that a document published by a candidate during the election period is regarded as an EA if it contains details of the work done by the candidate in the capacity of the Chief Executive (“CE”), an Election Committee (“EC”) member, a member of the Legislative Council, a member of a District Council, a member of the Heung Yee Kuk, the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee or a Rural Representative (<b>para. 7.14</b>);</li> </ul> <p style="text-align: center;"><i>[Subject to the enactment of the Rural Representative Election (Amendment) Bill 2022]</i></p> <ul style="list-style-type: none"> <li>● reminding any person who needs to incur election expenses exceeding the prescribed maximum amount for reasons other than bad faith that he/she should, before incurring such election expenses, seek independent legal advice to ascertain whether the statutory requirements for applying for a court relief order are fulfilled under section 31 of the ECICO (<b>para. 7.22</b>);</li> <li>● informing candidates of previous court judgments on applications for relief of liability for EAs. 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 could exercise its discretion to grant relief. It is important that the discretion should be exercised in a manner which is consistent with the integrity of the election legislation (<b>para. 7.73</b>); and</li> </ul>

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	<ul style="list-style-type: none"> <li>reminding candidates that any commercial advertisement in physical form showing the portrait and/or name of a candidate may give extra publicity to the candidate concerned. 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 in question after his/her declaration of intention to stand for the election or during the election period (<b>para. 7.83</b>).</li> </ul>
<p><b>Chapter 8 and Appendix 7</b> <i>Electioneering activities in premises or buildings where electors reside, work or frequent</i></p>	<ul style="list-style-type: none"> <li>informing candidates, by attaching the latest version of the “Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations and Members of the Public” issued by the Office of the Privacy Commissioner for Personal Data, of the importance of complying with the requirements under the Personal Data (Privacy) Ordinance (Cap. 486) when they conduct electioneering activities that may involve the collection and use of personal data of an individual (<b>para. 8.20 and Appendix 7</b>);</li> <li>reminding candidates that to prevent an election mail from being mistakenly-detected as a spam email and blocked by the email system, candidates may understand the sending limit imposed by the relevant email service provider before arranging the sending of election mails to their electors through email in bulk. If necessary, candidates may consider first applying to their email service providers for raising the daily sending limit of their email accounts (<b>para. 8.21</b>); and</li> <li>reminding candidates that any information relating to an individual contained in any register of electors or its extract can only be used for the election-related purposes specified under the electoral legislation. Any abuse or misuse of such information, use of such information for other purposes, or disclosure of any personal data relating to a data subject without the relevant consent of the data subject by a discloser with an intent to cause any specified harm to or being reckless as to whether any specified harm would be, or would likely be, caused to the data subject or any family member of the data subject is an offence (<b>para. 8.22</b>).</li> </ul>

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<p><b>Chapter 9</b> <i>Election meetings</i></p>	<ul style="list-style-type: none"> <li>specifying that in respect of “treating” relating to election meetings, if an election meeting held by a candidate involves consumption of food and drink, where the participants have shared the costs of the food and drink and no intention to influence the participants’ voting preference is involved, then it may not fall within the scope of corrupt conduct under section 12 of the ECICO (“Treating”). Nevertheless, since an election meeting is for the purpose of promoting or prejudicing the election of a candidate or candidates, the costs borne by each participant should be treated as election expenses and election donations. Candidates are reminded to comply with the legal requirements in this regard (<b>para. 9.8</b>).</li> </ul>
<p><b>Chapter 10</b> <i>Election broadcasting, media reporting and election forums</i></p>	<ul style="list-style-type: none"> <li>elaborating on the requirement of the fair and equal treatment principle which broadcasters licensed under the Broadcasting Ordinance (Cap. 562) and the Telecommunications Ordinance (Cap. 106) as well as the print media must follow when producing and publishing election-related programmes and reports. In determining whether there is a breach of the principle, the Electoral Affairs Commission (“EAC”) will take into consideration the overall reporting by the media organisation during the election period (<b>the whole Chapter 10</b>);</li> <li>specifying that in this Chapter, “candidate” means a person whose nomination form has been received by the RO (<b>para. 10.5</b>); and</li> <li>elaborating that for a KFR election, due to the considerable number of seats and candidates involved, broadcasters and the print media producing or publishing a news report or feature report on the election of a candidate may have practical difficulties in mentioning all the other candidates of the same Market Town (“MT”) in the same programme or publication. Therefore, the media may choose to provide the viewers, listeners or readers, in the programme or publication, with the total number of candidates of the same MT and the platform (such as the webpage of the organisation/programme/publication) where the names of the other candidates of the relevant MT are mentioned by the media (<b>paras. 10.9, 10.19 and 10.22</b>).</li> </ul>

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<p><b>Chapter 11</b> <i>Use of sound amplifying device and vehicles</i></p>	<ul style="list-style-type: none"> <li>● reminding candidates that they, when using loudspeakers, should take into account the needs of persons with visual impairment and stay away from locations with audible signaling devices, such as pedestrian crossings and escalators, as much as possible so as not to cause interference with the audible signals generated by barrier-free facilities and undermine the travel safety of the visually impaired (<b>para. 11.6</b>); and</li> <li>● reminding any person who intends to stand as a candidate at an election to, for the sake of prudence, remove the publicity materials previously published before he/she is nominated as a candidate or has publicly declared his/her intention to stand for the election. Such publicity materials, in particular posters or banners bearing his/her name or photograph with the intent to promote his/her election at the election in public places or common areas in buildings, may be regarded as EAs (<b>para. 11.9</b>).</li> </ul>
<p><b>Chapter 13 and Appendix 5</b> <i>Prohibition against canvassing activities outside polling station</i></p>	<ul style="list-style-type: none"> <li>● reminding candidates that no canvassing activities are allowed within the No Canvassing Zone (“NCZ”) (<b>para. 13.2 and Appendix 5</b>); and</li> <li>● reminding candidates to arrange to remove the EAs on the windows or the bodywork of any public service vehicle before the polling day if the vehicle will pass through or be parked within the NCZ on the polling day (<b>para. 13.12</b>).</li> </ul>
<p><b>Chapter 14</b> <i>Exit Poll</i></p>	<ul style="list-style-type: none"> <li>● reminding persons or organisations applying for conducting exit polls that approval would normally not be granted if the applicant organisation, the person(s) responsible for the exit poll or the conduct of the proposed exit poll may cause embarrassment to the EAC given its role, cause disturbance or disorder at the polling station, compromise public perception of the credibility of the election, or lead to any public order or public health concerns, etc. (<b>para. 14.10</b>);</li> <li>● reminding the persons or organisations conducting exit polls that collection and retention of any personal data of electors are not allowed (<b>para. 14.12</b>); and</li> </ul>

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	<ul style="list-style-type: none"> <li>● reminding candidates that, as regards exit polls and other election-related opinion polls, exit polls approved by the Home Affairs Department are not allowed to be used for electioneering purposes in all circumstances. If a candidate makes use of the results of other opinion polls for the purpose of promoting himself/herself or prejudicing the election of other candidate(s), the expenses incurred for conducting the polls will be regarded as his/her election expenses. If persons other than candidates or the authorised election expense agents make use of the results of the exit polls or other opinion polls for the purpose of promoting or prejudicing the election of any candidate, they will commit the relevant offence of incurring election expenses without being authorised as an election expense agent (<b>paras. 14.17 to 14.19</b>).</li> </ul>
<p><b>Chapter 15 and Appendix 1</b> <i>Election expenses and election donations</i></p>	<ul style="list-style-type: none"> <li>● reminding persons who intend to stand for the election to pay attention to the definition of “candidate” under the electoral legislation. It covers, inter alia, anyone having publicly declared an intention to stand as a candidate at an election at any time before the close of nominations for the election. Illustration as to whether a particular item of expense would be counted as election expenses is also provided by citing the points made by the court in a relevant case (<b>para. 15.8</b>);</li> <li>● revising, in accordance with the amendment made to section 37 of the ECICO which came into operation in December 2019, the threshold regarding submission of invoices and receipts giving particulars of the election expenses to accompany a candidate’s election return (<b>para. 15.32 and item 33(b) of Appendix 1</b>);</li> <li>● specifying, in accordance with the amendment to Item 9 of the Schedule to the ECICO which came into operation in December 2019, the limit regarding relief for minor errors in election returns which allows correction by candidates (<b>para. 15.37 and item 33(f) of Appendix 1</b>); and</li> <li>● reminding candidates that those who fail to submit an election return as required by the law are liable to a fine and to imprisonment, and may be disqualified as a person convicted of</li> </ul>

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	having engaged in illegal conduct ( <b>para. 15.53</b> ).
<p><b>Chapter 16</b> <i>Corrupt and illegal conduct</i></p>	<ul style="list-style-type: none"> <li>● specifying, in accordance with the new provision under section 27A of the ECICO added in May 2021, that a person engages in illegal conduct if he/she carries out any activity in public during the election period that incites another person not to vote or to cast an invalid vote, and setting out the activities that are regarded as “activity in public” (<b>paras. 16.17 and 16.18</b>);</li> <li>● reminding candidates to, during the election period, avoid engaging in any financial dealing which may be perceived as having an influence on a person’s voting preference and any act that may be perceived as electoral bribery (<b>para. 16.20</b>);</li> <li>● specifying, in accordance with the amendment made to section 14 of the ECICO in May 2021, that a person engages in corrupt conduct if he/she, by means of deception, induces another person (or gets another person to induce a third person) not to vote at an election, or to vote or not to vote for a particular candidate or particular candidates at an election. Besides, a person also engages in corrupt conduct if he/she wilfully obstructs or prevents another person (or gets another person to obstruct or prevent a third person) from voting at an election. In addition, it is also an offence to aid, abet, incite or attempt the said offence (<b>para. 16.27</b>); and</li> <li>● quoting from the Reasons for Sentence of a recent court case to illustrate that the court considers election-related offences and contravention of the ECICO as serious crimes (<b>para. 16.39</b>).</li> </ul>
<p><b>Chapter 17</b> <i>Namedropping</i></p>	<ul style="list-style-type: none"> <li>● reminding candidates, by citing judgments of relevant court cases as reference, to obtain before the publication of EAs the written consent from their supporters if the names of the supporters are to be included in the EAs. Besides, to comply with section 27(1A) of the ECICO, the written consent has to be a single document expressly stating the supporter’s consent to include his/her/its name, logo or pictorial representation in the candidate’s EAs. Regardless of the number of individual(s) signing to give consent,</li> </ul>

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	<p>the written consent has to be a single document rather than a composite document comprising multiple letters, documents or a chain of correspondence messages (<b>para. 17.4</b>);</p> <ul style="list-style-type: none"> <li>● reminding candidates to comply with the requirements under the Personal Data (Privacy) Ordinance when handling the personal data of their supporters (<b>paras. 17.5 and 17.12</b>); and</li> <li>● setting out clear guidelines on seeking prior written consent from the supporters concerned if candidates intend to publish EAs or live broadcast of electioneering activities through online platforms (<b>para. 17.6</b>).</li> </ul>