CHAPTER 5

ELECTION PETITIONS

PART I : GROUNDS FOR LODGING AN ELECTION PETITION

5.1 The result of the RR election may be questioned only by an election petition filed on the following grounds:

(a) the RO in accordance with regulations in force declared that the candidate was not duly elected because:

(i) he was not eligible to be, or was disqualified from being, a candidate at the election; or

(ii) corrupt or illegal conduct was engaged in by or in respect of that person at or in connection with the election; or

(iii) corrupt or illegal conduct was generally prevalent at or in connection with the election; or

(iv) material irregularity occurred in relation to the election, or to the polling or counting of votes at the election; or

(b) a ground specified in any other enactment that enables an election to be questioned.

[S 39(1) of the RREO]

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

5.2 An election petition may be lodged:

(a) by five or more electors entitled to vote at the election; or

(b) by a person claiming to have been a candidate at the election.

[S 40 of the RREO]

5.3 An election petition must be lodged with the CFI during the period of two months following the date on which the RO has published the result of the election in the Gazette. If the office of the CFI is closed on the last day of the deadline for lodging election petitions, the relevant deadline will be extended to the date that the office resumes operation. [S 43(1) of the RREO and 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 must determine questions of the validity of a nomination or whether the person was or was not duly elected, and announce its determination by means of a written judgment. [Ss 42(2), 45(1), (2) and (3) of the RREO]

5.5 An appeal against the decision of the CFI may be lodged by the applicant 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 three days' notice of his intended application at any time during the above-mentioned deadline. 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, and announce its determination by means of a written judgment. [Ss 43(2) and 45B of the RREO]