

CHAPTER 3

THE ELECTION COMMITTEE

Section 1 – The Election Committee and Subsectors

3.1 The EC is constituted in accordance with the CEEO. Members of the EC are eligible to nominate CE candidates and elect the CE in the CE Election, and nominate candidates for the LegCo members and elect 40 LegCo members. According to section 9 of the CEEO, the term of office of the EC shall be 5 years. For the EC constituted in 2021, its term of office began on 22 October 2021 and shall end on 21 October 2026. The EC for the subsequent term shall be constituted on 1 February in the year during which the term of office of the CE is to expire.

3.2 The EC comprises 40 subsectors from 5 sectors. EC members in these 40 subsectors are returned by the following 3 methods:

(a) Ex-officio Members

HKSAR deputies to the NPC (“NPC deputies”) and HKSAR members of the National Committee of the Chinese People’s Political Consultative Conference (“CPPCC members”), the Hong Kong members of the Committee for the Basic Law of the HKSAR under the NPCSC (“Basic Law Committee members”), LegCo members, university vice-chancellors/presidents/chairpersons of the board of governors or the councils of universities, and responsible persons of statutory bodies, major advisory committees and other relevant bodies of certain subsectors as specified in the electoral law are eligible to be registered as the ex-officio members of the EC;

(b) Members Nominated by Designated Bodies

All members of the religious subsector and the representatives of associations of Hong Kong residents in the Mainland subsector, and some members of the technology and innovation subsector, accountancy subsector, legal subsector, sports, performing arts, culture and publication subsector and Chinese medicine subsector shall be nominated by the designated bodies in their respective subsectors; and

(c) Elected Members

The rest of the EC members shall be elected by eligible corporate voters or individual voters of their respective subsectors.

Details of the composition of the EC are set out at **Appendix I**.

Section 2 – Registration of Ex-officio Members

3.3 Some EC members are returned by ex-officio membership, which are not returned by election or nomination. Ex-officio members must submit registration forms to the ERO, and the validity of their registrations shall be determined by the CERC.

3.4 Pursuant to the Improving Electoral System (Consolidated Amendments) Ordinance 2021, the composition of the EC has been reconstituted, and major changes were made to the composition of EC subsectors. Therefore, the REO launched the “Special Voter Registration Arrangements”, which ran from 1 June 2021 to 5 July 2021, for all eligible individuals to submit applications for registration as ex-officio members of the EC.

3.5 By the close of the “Special Voter Registration Arrangements” on 5 July 2021, the REO received 326 applications for registration as ex-officio members of the EC. After deliberation, the CERC determined 325 of the applications for registration as valid and one as invalid. For the invalid registration, the CERC had sought the advice from the Committee on National Security as to whether the applicant could meet the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR of the PRC. Upon receiving the opinion from the Committee on National Security that the applicant failed to meet the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR of the PRC, the CERC determined the application to be invalid.

Section 3 – Members Nominated by Designated Bodies

3.6 156 members of the EC are returned by nomination by the designated bodies of the relevant subsectors.

3.7 The nomination period for the ECSS Ordinary Elections began on 6 August 2021 and ended on 12 August 2021. The ROs received a total of 40 nomination forms from designated bodies during the nomination period, involving a total of 231 nominees. Under section 12(2) of the EAC (EP) (EC) Reg, the CERC is only required to determine the validity of nominations for the number that are necessary for filling the assigned seats of the subsector concerned. Accordingly, based on the priority as indicated by the designated bodies or as determined by the ballot results drawn by the RO, the CERC validated the nomination of 156 nominees to fill the assigned seats for the subsectors. As the number of validly nominated nominees was sufficient to fill the assigned seats for the designated bodies concerned, the CERC did not determine the validity of nomination of the remaining 75 nominees. The list of validly nominated nominees published in the Gazette on 26 August 2021 is at **Appendix II**.

Section 4 – Registration of Voters for Subsectors and Special Voter Registration Arrangements

3.8 With Improving Electoral System (Consolidated Amendments) Ordinance 2021 published in the Gazette and came into effect on 31 May 2021, the EC no longer comprises the Hong Kong and Kowloon District Councils subsector, the New Territories District Councils subsector and the information technology subsector. All voters originally registered in these subsectors were directly removed from the register. As for the voters originally registered in other subsectors, they were all included in the OL without going through the process of inquiry by letter.

3.9 The REO launched the “Special Voter Registration Arrangements”, which ran from 1 June 2021 to 5 July 2021, for all individuals and bodies eligible to register as voters of EC subsectors to register as voters afresh by the statutory deadline. Voters, whose eligibility had been verified, would be included in the PR of voters for subsectors⁵ for the year of 2021.

3.10 The CEEO stipulates that a PR and a FR of voters for subsectors should be published annually. Detailed procedures for registration of voters for the subsectors are set out in the EAC (ROE) (FCSEC) Reg. Starting from the 2022 voter registration cycle, the statutory deadlines for applications for new registration and for report on change of particulars are both set at 2 June of the year. The ERO is required to publish the PR of voters for subsectors together with an OL not later than 1 August. The OL sets out the names and registered addresses of individual or corporate voters who were formerly registered as

⁵ Among all the subsectors, only the eligibility of voter registration for the Heung Yee Kuk subsector remains unchanged. If the registered voters of that subsector continued to be eligible for registration, the REO would inform the relevant persons by notifications that they would be included in the PR of voters for subsectors for the year of 2021. The relevant voters were not required to submit an application for voter registration afresh before the deadline for special registration.

subsector voters (either an individual or a body) but are struck out by the ERO when compiling the PR of voters and proposed to be omitted from the next FR of voters. The voters would be included in the OL if the ERO is satisfied on reasonable grounds based on the information received that the persons concerned (either an individual or a body) are no longer eligible to be registered or do not wish to remain registered in the register. The ERO is also required to publish the FR of voters for subsectors not later than 25 September in that year.

3.11 Following the “Special Voter Registration Arrangements”, the PR and the OL of voters for subsectors for the year of 2021 were published on 18 July 2021 for inspection by specified persons⁶ until 22 July 2021. The content of the PR compiled for the year of 2021 included the names and principal residential addresses of individuals, the names and business addresses of bodies, and names of the ARs of corporate voters. These individuals/bodies had applied for registration as subsector voters on or before the specified special deadline and the ERO had confirmed their eligibility and registration. Under the special arrangement for the year of 2021, the ERO should, without going through the process of inquiry by letter, enter on the OL the personal particulars or relevant particulars of all persons whose names were recorded in the 2020 FR of voters for subsectors, unless the ERO was satisfied that the voters concerned were eligible to be registered based on the applications and other information received. Before the close of the period for lodging a claim or an objection, all persons may lodge with the ERO objections to the entries in the PR of voters. Any persons whose particulars have not been recorded in the PR of voters or whose names have been included in the OL may also lodge claims and the Revising Officer will

⁶ According to the judgment handed down by the Court of Appeal on 21 May 2020, and the order made at the hearing on 27 May 2020 (Case No.: CACV 73/2020), only validly nominated candidates, members of the press (the REO adopts the list of subscribers of the Government News and Media Information System) and political parties (reference can be made to section 31 of the CEEO for the definition) are allowed, for election-related purposes, to inspect the PR and OL at the designated offices of the REO. The parts of the PR and OL of voters for subsectors, which contain only registered particulars of corporate voters and do not show the linked information of individual voters (i.e. the names and principal residential addresses), are available for public inspection.

make a determination on the claims to reinstate their VR. Objections and claims in relation to the PR of voters for the year of 2021 were subject to a special arrangement, under which the Revising Officer was required to make a determination based on written submissions only without holding a hearing. By the deadline of 22 July 2021, the ERO received 38 notices of claims and 1 notice of objection. Having thoroughly considered the written submissions, the Revising Officer dismissed 17 claims. The ERO subsequently published the FR of voters for subsectors on 5 August 2021.

3.12 Persons whose names appeared on the FR of voters for subsectors were eligible to make nomination at the ECSS Elections and to vote at the poll on 19 September 2021, unless they had been disqualified from doing so under the law. The FR of voters for subsectors will continue to have effect until the publication of the next FR of voters for subsectors on or before 25 September 2022. A breakdown of the number of voters for the EC subsectors is at **Appendix III**.

Section 5 – Publication of the Interim Register and the Final Register of Members of the Election Committee

3.13 According to section 40 of the Schedule to the CEEO, the ERO is required to compile an IR of members of the new term EC and publish the IR within 7 days after publication of the results of the ECSS Ordinary Elections. The ERO is also required to compile a FR of members of the new term EC on the basis of the IR of EC members, taking into account any amendments made, and publish the EC FR on the date when the term of office of the new EC commences.

3.14 The results of the ECSS Ordinary Elections held on 19 September 2021 were published in the Gazette on 23 September 2021. The ERO published the

IR of EC members for inspection by specified persons⁷ on 27 September 2021, and subsequently the FR of the new term EC members based on the IR of EC members on 22 October 2021. Meanwhile, under section 41(1) of the Schedule to the CEEO, the ERO may from time to time amend the IR or FR of members of the EC in accordance with that section and the EAC Regulations to give effect to any change in the ex-officio membership of the EC. Persons whose names appeared on the FR of EC members were eligible to make nomination at the CE Election and to vote at the poll scheduled for 8 May 2022 (unless that person had been disqualified from making nomination and/or voting under sections 16(5)⁸ and 26⁹ of the CEEO). A breakdown of the number of EC members on the FR of EC members as at 8 May 2022 is at **Appendix IV**. The FR of EC members will cease to have effect upon the publication of the next FR of EC member.

⁷ According to the judgment handed down by the Court of Appeal on 21 May 2020, and the order made at the hearing on 27 May 2020 (Case No.: CACV 73/2020), only validly nominated candidates, members of the press (the REO adopts the list of subscribers of the Government News and Media Information System) and political parties (reference can be made to section 31 of the CEEO for the definition) are allowed, for election-related purposes, to inspect the IR at the designated offices of the REO.

⁸ According to section 16(5) of the CEEO, an EC member whose name appears on the FR shall be disqualified from making nominations if he or she:

- (a) has resigned as an EC member (other than an ex-officio member);
- (b) is serving a sentence of imprisonment for the time being (in case of nomination) or on the polling date (in the case of voting);
- (c) has ceased to have a substantial connection with the subsector concerned;
- (d) has ceased to be registered or eligible to be registered as an elector for a geographical constituency;
- (e) has in Hong Kong or in any other place, been sentenced to death or imprisonment (by whatever name called) and has not either served the sentence or any substitute sentence, or received a free pardon;
- (f) is found for the time being under the Mental Health Ordinance (Cap. 136) to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs;
- (g) is a member of the armed forces of the People's Republic of China or any other country or territory;
- (h) is or has been convicted, within the 5 years before the polling date of an election, of having engaged in corrupt or illegal conduct in contravention of the ECICO; of an offence against Part II of the Prevention of Bribery Ordinance (Cap. 201); or of any offence prescribed by the regulations made by the EAC;
- (i) is in breach of an oath taken under section 42A of the Schedule to the CEEO; or
- (j) fails 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.

⁹ According to section 26 of the CEEO, an EC member whose name appears on the FR shall be disqualified from voting at the poll if he or she:

- (a) has resigned as an EC member (other than an ex-officio member);
- (b) has ceased to have a substantial connection with the subsector concerned;
- (c) has ceased to be registered or eligible to be registered as an elector for a geographical constituency;
- (d) is found for the time being under the Mental Health Ordinance to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs;
- (e) is a member of the armed forces of the People's Republic of China or any other country or territory;
- (f) is in breach of an oath taken under section 42A of the Schedule to the CEEO; or
- (g) fails 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.

Section 6 – Voters Disqualified from Voting at the 2021 Election Committee Subsector Ordinary Elections

3.15 In accordance with section 30(1)(a) of the Schedule to the CEEO, a registered voter for a subsector is disqualified from voting at the relevant subsector election if he/she has ceased to be eligible to be registered as a voter for that subsector. After the publication of the FR of voters for subsectors and before the polling day of the ECSS Ordinary Elections, the ERO will issue letters to those registered voters who are found to have ceased to be eligible for registration to remind them not to vote at the relevant elections, and of the legal consequences if they do so.

3.16 The FR of voters was published on 5 August 2021 while the 2021 ECSS Ordinary Elections was scheduled for 19 September of the same year. During the period, there might be changes in the registration eligibility of voters for individual subsectors. To ensure the integrity of the elections, the ERO issued letters to about 100 designated bodies in mid-August 2021. The letters requested the designated bodies to keep the REO updated on the latest changes in the VR eligibility of their members and to remind their members not to vote in the 2021 ECSS Ordinary Elections if they had ceased to be eligible for registration as voters subsequent to the publication of the FR of voters.

3.17 REO obtained the latest information from the designated bodies on their members to verify whether the voters in the FR of voters still fulfilled the registration eligibility. During the process, the REO identified two voters who might have been disqualified from voting in the 2021 ECSS Ordinary Elections owing to the loss of registration eligibility. The two voters were from the financial services subsector and the education subsector respectively. The REO issued letters to the voters concerned before the polling day of the 2021 ECSS Ordinary Elections. The letters informed them of the change in their registration

eligibility and reminded them of the statutory provision that any person who voted at an election knowing that he/she was not entitled to do so commits a corrupt conduct. Unless these voters could present proof to confirm their registration eligibility for the respective subsectors before the elections, they should not vote in the 2021 ECSS Ordinary Elections. According to the subsisting electoral laws, although these voters had lost their eligibility to vote in the elections concerned, the REO had no power to prohibit them from voting as their names were still included in the FR of voters then. However, had these voters requested to be issued with a ballot paper at the polling station on the polling day, the polling staff would remind them that they were no longer eligible to vote at the elections concerned. If they insisted on voting, the polling staff would give a verbal warning reminding them that voting at an election knowing that they were not entitled to do so violated the ECICO. Polling staff would make a record of these cases and the REO would then refer the cases to the law enforcement agencies (“LEAs”) for investigation¹⁰.

¹⁰ For the 2021 ECSS Ordinary Elections, no disqualified voters voted at the election.