

## CHAPTER 1

### INTRODUCTION

#### PART I : REFORM OF THE DISTRICT COUNCIL

1.1 Articles 97 and 98 in Chapter IV of the Basic Law stipulate the following with regard to district organisations:

##### Article 97

“District organisations which are not organs of political power may be established in the Hong Kong Special Administrative Region, to be consulted by the government of the Region on district administration and other affairs, or to be responsible for providing services in such fields as culture, recreation and environmental sanitation.”

##### Article 98

“The powers and functions of the district organisations and the method for their formation shall be prescribed by law.”

At the meeting of the Executive Council on 2 May 2023, the Council advised and the Chief Executive (“CE”) ordered that: (1) DCs should be reformed by amending the relevant legislation and implementing administrative arrangements; and (2) the district governance structure should be strengthened.

*[Added in September 2023]*

## **Functions of DCs**

1.2 Starting from the seventh term of the DCs, the enhanced functions of the DCs are as follows:

- (a) to be consulted by the Government on the district affairs affecting the livelihood and living environment in the District and well-being of the people in the District;
- (b) to collect the views of the people in the District in respect of an issue specified by the Chairman of the DC, and to submit to the Government a summary of the views collected and suggested corresponding measures;
- (c) to establish a regular communication mechanism with the people in the District, to meet with them and listen to their views regularly;
- (d) to support, and assist in, the promotion of laws and Government policies in the District, and assist the Government in carrying out various consultation, publicity and liaison activities, such as district forum;
- (e) to assist in the smooth delivery of cultural, recreational, environmental sanitary and other services relating to the interests of the people in the District under the coordination of the Government;
- (f) to apply for funding for projects and activities relating to the functions of DCs, such as:

- (i) projects and activities for the purpose of promotion of sports, arts and culture;
  - (ii) local events and celebration events; and
  - (iii) greening and volunteer work;
- (g) to provide services for people in the District, such as consultation or case referral services;
- (h) to cooperate with other consultation and service organisations in the District under the coordination of the Government to achieve the best results in serving the people in the District; and
- (i) to undertake any other matters as commissioned by the Government from time to time.

[S 4A of the DCO] *[Amended in September 2023]*

### **District Councils (Amendment) Ordinance 2023**

1.3 For the corresponding amendments to legislation, the Constitutional and Mainland Affairs Bureau worked with the Home and Youth Affairs Bureau on the drafting work of the District Councils (Amendment) Bill 2023 (“Amendment Bill”) so as to amend the DCO and its subsidiary legislation. The amendments include revising the functions of DCs, revising the composition of DCs, reinstating the provisions on appointed members, adding the provisions on District Committees constituency (“DCC”) members, revising the relevant provisions on the method for returning of District Council geographical constituency (“DCGC”) members, establishing the DCERC, etc. The Amendment Bill also covers amendments to the EACO, the Elections (Corrupt

and Illegal Conduct) Ordinance (Cap 554) (“ECICO”) and other related principal Ordinances and subsidiary legislation to implement the electoral arrangements relevant to the method for the selection and eligibility review. On 31 May 2023, the Government introduced the Amendment Bill to the LegCo. The Amendment Bill was passed by the LegCo on 6 July 2023. The District Councils (Amendment) Ordinance 2023 was published in the Gazette and came into operation on 10 July 2023. *[Added in September 2023]*

### **Composition of DCs**

1.4 According to the amended DCO, there are still 18 Districts in Hong Kong, and the area of each District is delineated in a map deposited in the office of the Director of Home Affairs (“DHA”) [Schedule 1 to the DCO]. A DC should still be established in each of the 18 Districts [Schedule 2 to the DCO]. District Officers would serve as the Chairmen in the reformed DCs. The DCs would be composed of appointed, DCC (the DCC of a District is composed of members of the Area Committee(s), the District Fight Crime Committee and the District Fire Safety Committee (“three committees”) of that District), DCGC and ex officio members. There are a total of 470 members with appointed, DCC and DCGC members accounting for about 40% (179 seats), 40% (176 seats) and 20% (88 seats) respectively, plus 27 ex officio members. For the number of members of each DC, see **Appendix 1** for details. *[Amended in September 2023]*

### **Appointed Members**

1.5 The number of appointed members constitute about 40% of the total number of seats in DCs (excluding ex officio seats), with a total of 179 seats. The CE may appoint as members of a DC a number of persons not exceeding the number specified in **Appendix 1**. The relevant appointment shall be made after the proposal to appoint the person is decided as valid by the

DCERC, the CE may then appoint that person as a member. A person appointed as a member for a term of office of a DC holds office from the date specified in the letter of appointment and vacates office at the end of the term of office of the DC. [S 11 of the DCO] *[Added in September 2023]*

1.6 A person is eligible to be appointed as a member only if the person:

- (a) has reached 21 years of age;
- (b) is registered as an elector in the existing register of electors for geographical constituencies (“GCs”);
- (c) is not disqualified from voting at an election;
- (d) is not disqualified from being appointed as a member by virtue of s 14 of the DCO or any other law; and
- (e) has ordinarily resided in Hong Kong for the 3 years immediately preceding the appointment.

A person elected at an election as a member for a term of office of a DC is not eligible to be appointed as a member in that term of office. Besides, a person who is holding office as the Chairman of a Rural Committee is also not eligible to be appointed as a member. [S 12 of the DCO] *[Added in September 2023]*

### **Ex Officio Members**

1.7 There are a total of 27 seats for ex officio members. For DCs in the New Territories, a person who is holding office as the Chairman of a Rural Committee may be registered as an ex officio member only if the person submits a registration form to the DHA, and the DCERC decides that the registration of

the person is valid. For the purpose of constituting the seventh term of the DCs, the registration form must be submitted to the DHA by 1 December 2023. The registration form must be in the specified form, signed by the person and must contain:

- (a) a declaration by the person to the effect that the person:
  - (i) is holding office as the Chairman of a Rural Committee; and
  - (ii) is not disqualified from being registered as an ex officio member; and
- (b) a declaration by the person to the effect that the person will uphold the Basic Law and pledge allegiance to the HKSAR of the People's Republic of China.

[Ss 17A and 17B of the DCO] *[Added in September 2023]*

### **DCC Members**

1.8 The number of DCC members constitute about 40% of the total number of seats in DCs (excluding ex officio seats), with a total of 176 seats. The DCC of a DC is composed of all members of all the District Committees in the District for which the DC is established [s 5A of the DCO]. DCC members are to be returned by election. A candidate of a DCC election must be nominated by not less than 3 but not more than 6 electors of each of the “three committees” in the District, and candidates do not have to be members of the “three committees” themselves. *[Added in September 2023]*

## **DCGC Members**

1.9 Under the new electoral system, there will be a total of 44 DCGCs established in the 18 Districts in Hong Kong. The number of DCGC members constitute about 20% of the total number of seats in DCs (excluding ex officio seats), with a total of 88 seats. DCGC members are to be returned by election. The number of members to be returned for each DCGC is 2 [s 7 of the DCO]. Same as the DCC elections, a candidate of a DCGC election must be nominated by not less than 3 but not more than 6 electors of each of the “three committees” in the District. Besides, a candidate of a DCGC election must also be nominated by not less than 50 but not more than 100 electors for the DCGC. *[Added in September 2023]*

1.10 See Chapter 3 for the nomination process for candidates of members to be returned by election.

1.11 The term of office of a member elected at an ordinary election is 4 years beginning on 1 January next following the ordinary election in which the member was elected [s 22(1) of the DCO]. An ordinary election must be held in each subsequent fourth year after the first ordinary election, which was held in 1999, and on a date specified by the CE [s 27 of the DCO]. A by-election will be held to fill a vacancy in the office of a member of a constituency. However, no by-election is to be held within the 4 months preceding the end of the current term of office of the member [s 33 of the DCO]. *[Amended in September 2007, September 2015 and September 2023]*

## **PART II : GOVERNING LEGISLATION**

1.12 The DC elections are governed by the statutory requirements provided in four different ordinances, namely the DCO, the EACO, the

Legislative Council Ordinance (Cap 542) (“LCO”) and the ECICO. *[Amended in September 2007]*

1.13 The DCO stipulates provisions governing the DC elections, including the composition of DCs, the establishment of DCC and DCGC, conduct of elections, financial assistance for candidates, election petitions and other related matters. *[Amended in September 2007, September 2011, September 2015, September 2019 and September 2023]*

1.14 The EACO tasks the EAC with making recommendations regarding the delineation of DC constituencies for the DC election and demarcation of their boundaries<sup>1</sup>. The EAC is also responsible for the conduct and supervision of the DC elections, and matters incidental thereto.

1.15 The LCO stipulates the qualification for registration as an elector. *[Added in September 2007]*

1.16 The ECICO prohibits election-related corrupt and illegal conduct and is administered by the Independent Commission Against Corruption (“ICAC”). *[Added in September 2007]*

1.17 These ordinances are complemented by eight pieces of subsidiary legislation, including those set out in paras. 1.18 to 1.25 below, which provide the detailed procedures for the conduct of the DC elections. *[Added in September 2007]*

1.18 The electoral procedures for conducting the DC elections are provided in the Electoral Affairs Commission (Electoral Procedure) (District

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<sup>1</sup> Due to the urgency of holding the 2023 DC Ordinary Election, the EAC is not required to submit a report containing recommendations as to the delineation of DCGCs and the name proposed for each DCGC for the ordinary election for the seventh term of the DCs to the CE [s 18(1)(b) and (6) of the EACO].

Councils) Regulation (Cap 541F) (“EAC (EP) (DC) Reg”). *[Amended in September 2019]*

1.19 The Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Geographical Constituencies) Regulation (Cap 541A) (“EAC (ROE) (GC) Reg”) sets out the procedures for registration of eligible persons as electors for the DC elections. *[Added in September 2007 and amended in September 2023]*

1.20 The Electoral Affairs Commission (Nominations Advisory Committees (District Councils)) Regulation (Cap 541E) (“EAC (NAC) (DC) Reg”) stipulates the appointment and functions of the Nominations Advisory Committees (“NAC”) and the procedures for seeking the NAC’s advice on the eligibility of the prospective candidates for nomination at the DC elections. *[Added in September 2007]*

1.21 The District Councils (Subscribers and Election Deposit for Nomination) Regulation (Cap 547A) (“DC Subscribers & Deposit Reg”) sets out the requirements for subscribers and the payment and return of election deposit for the DC elections. *[Added in September 2007]*

1.22 The Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation (Cap 541M) (“PCBP (LC & DC) Reg”) sets out the procedures for printing specified particulars relating to candidates on ballot papers for use in the DCGC elections. *[Added in September 2007 and amended in September 2023]*

1.23 The Electoral Affairs Commission (Financial Assistance for Legislative Council Elections and District Council Elections) (Application and Payment Procedure) Regulation (Cap 541N) (“EAC (FA) (APP) Reg”) stipulates

the detailed implementation procedures for the Financial Assistance Scheme for candidates standing in DC elections. *[Added in September 2007]*

1.24 The Maximum Amount of Election Expenses (District Council Election) Regulation (Cap 554C) sets out the maximum amount of election expenses that can be incurred by or on behalf of a candidate at an election for a constituency. *[Added in September 2007 and amended in September 2023]*

1.25 The District Councils (Election Petition) Rules (Cap 547C) set out the procedures for lodgement of an election petition against the result of a DC election to the High Court. *[Added in September 2019]*

### **PART III : THE GUIDELINES**

1.26 According to s 6 of the EACO, the EAC may, in connection with an election, issue guidelines relating to:

- (a) the conduct or supervision of or procedure at an election;
- (b) the activities of a candidate, an agent of a candidate, any other person assisting a candidate, or any other person;
- (c) the election expenses;
- (d) the display or use of EAs or other publicity material; and
- (e) the procedure for making a complaint.

1.27 The aims of this set of Guidelines are: (1) to explain in simple language the subsisting electoral law so as to remind candidates and other

stakeholders of the provisions and requirements under the electoral law; and (2) with regard to election-related activities not stipulated by the law, such as media reports and conduct of electioneering activities involving public places of buildings, to promulgate a code of conduct based on the principles of fairness and equality, and provide standard good practices for regulation. The Guidelines are also issued for reference by members of the public, so as to enable them to give play to their role in monitoring the elections and ensure that the elections are conducted in an open, honest and fair manner. *[Amended in September 2012, September 2019 and September 2023]*

1.28 This set of Guidelines applies to DC ordinary elections and by-elections. It explains the various electoral arrangements for the DC elections, and the legislative provisions and regulations as well as guidelines to be observed by all relevant parties before, during and after an election (in relation to the electioneering). The Guidelines also provide the procedure for lodging an election-related complaint. An action checklist for candidates is set out in **Appendix 2**.

1.29 In the context of this set of Guidelines, the term “election” means an ordinary election or a by-election, as appropriate.

#### **PART IV : SANCTION**

1.30 Electors, candidates and their agents, government officials engaging in election-related duties, and other persons involved in election-related activities should read, familiarise themselves with and strictly observe the Guidelines. *[Amended in September 2019]*

1.31 The EAC always strives to conduct public elections under the principles of openness, honesty and fairness. If the EAC comes to know that

any candidate or person has breached the Guidelines, it may notify the relevant authorities for actions to be taken and, furthermore, make a reprimand or censure in a public statement which will include the name of the candidate or person concerned (and where appropriate, other relevant parties (if any)) to allow full disclosure of the relevant facts to the public. Should any offences under the electoral law be committed, the candidate, the person or other parties concerned will also incur criminal liability pertinent to the offence accordingly.

*[Amended in August 2008 and September 2019]*