

IMPORTANT

1. This set of Guidelines applies to all District Council ordinary elections and by-elections conducted under the District Councils Ordinance (Cap 547) to be held after publication, subject to any subsequent revisions.
2. The law stated in this set of Guidelines is that prevailing as at the date of publication (unless otherwise specified).
3. All specified forms referred to in this set of Guidelines are obtainable from the Registration and Electoral Office, you may contact the office by telephone (2891 1001), fax (2891 1180) or e-mail (reoenq@reo.gov.hk) or visit its website at www.reo.gov.hk.
4. Electioneering, campaigning and canvassing activities referred to in this set of Guidelines include any positive and negative campaigning conducted for the purpose of promoting or prejudicing the election of a candidate or candidates at the election.
5. In the event that future amendments to this set of Guidelines are necessary, the updated Guidelines will be made available at the website of the Electoral Affairs Commission at www.eac.hk.

2023 DISTRICT COUNCIL ORDINARY ELECTION

Key Information

- (1) Polling Date : 10 December 2023
- (2) Period to Submit Application for Nominations Advisory Committee's Service by Prospective Candidates : 15 September to 16 October 2023
- (3) Nomination Period of Candidature : 17 to 30 October 2023
- (4) Period to Submit Request for Printing of Particulars Relating to Candidates on Ballot Papers by Candidates : 17 to 30 October 2023
- (5) Returning Officers' Lots Drawing Session for Candidates to Allocate Number on Ballot Papers and Designated Spots for Election Advertisements : 8 November 2023
- (6) Electoral Affairs Commission Chairman's Briefing for Candidates : 13 November 2023
- (7) Maximum Amount of Election Expenses : See paragraph 15.17 of the Guidelines
- (8) Deadline to Remove all Election Advertisements on Display : Not later than 20 December 2023
- (9) Submission of Election Return by Candidates : Not later than 14 February 2024*
- (10) Submission of Claim for Financial Assistance by Candidates : Not later than 14 February 2024*
- (11) Deadline to Lodge Election Petition : Not later than 15 February 2024* (if uncontested, not later than 15 January 2024#)

* Assuming that the election result is published in the Gazette on 15 December 2023

Assuming that the election result is published in the Gazette on 13 November 2023

ABBREVIATIONS

Amendment Bill	District Councils (Amendment) Bill 2023
APRO, APROs	Assistant Presiding Officer, Assistant Presiding Officers
ARO, AROs	Assistant Returning Officer, Assistant Returning Officers
Basic Law	Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China
BO	Buildings Ordinance (Cap 123)
Cap	Chapter of the Laws of Hong Kong
CAS	Civil Aid Service
CCS	Commissioner of Correctional Services
CEEO	Chief Executive Election Ordinance (Cap 569)
CE	Chief Executive
CEO	Chief Electoral Officer
CFA	Court of Final Appeal
CFI	Court of First Instance
CMLS	Candidate Mailing Label System
Committee on National Security	Committee for Safeguarding National Security of the Hong Kong Special Administrative Region
constituency, constituencies	District Committees constituency or District Council geographical constituency, District Committees constituencies or District Council geographical constituencies

CSD	Correctional Services Department
DAS	Director of Accounting Services
DC, DCs	District Council, District Councils
DCC, DCCs	District Committees constituency, District Committees constituencies
DCC register	register of electors for District Committees constituencies
DCERC	District Council Eligibility Review Committee
DCGC, DCGCs	District Council geographical constituency, District Council geographical constituencies
DCO	District Councils Ordinance (Cap 547)
DC Subscribers & Deposit Reg	District Councils (Subscribers and Election Deposit for Nomination) Regulation (Cap 547A)
DHA	Director of Home Affairs
DLO, DLOs	District Lands Office, District Lands Offices
DO, DOs	District Office, District Offices
DPRO, DPROs	Deputy Presiding Officer, Deputy Presiding Officers
EA, EAs	election advertisement, election advertisements
EAC	Electoral Affairs Commission
EAC (EP) (DC) Reg	Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap 541F)
EAC (FA) (APP) Reg	Electoral Affairs Commission (Financial Assistance for Legislative Council Elections and District Council Elections) (Application and Payment Procedure) Regulation (Cap 541N)

EAC (NAC) (DC) Reg	Electoral Affairs Commission (Nominations Advisory Committees (District Councils)) Regulation (Cap 541E)
EAC (ROE) (GC) Reg	Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Geographical Constituencies) Regulation (Cap 541A)
EACO	Electoral Affairs Commission Ordinance (Cap 541)
EC	Election Committee
ECICO	Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554)
election	ordinary election or by-election as appropriate
election return	return and declaration of election expenses and election donations
EPR	electronic poll register
ERO	Electoral Registration Officer
FAQs	Frequently Asked Questions
final register of GCs	final register of electors for geographical constituencies
FR	register of electors for District Committees constituencies or final register of electors for geographical constituencies
GC, GCs	geographical constituency, geographical constituencies
HKID	Hong Kong Permanent Identity Card
HKSAR	Hong Kong Special Administrative Region
ICAC	Independent Commission Against Corruption
LCO	Legislative Council Ordinance (Cap 542)

LegCo	Legislative Council
NAC, NACs	Nominations Advisory Committee, Nominations Advisory Committees
NCO	Noise Control Ordinance (Cap 400)
NCZ, NCZs	no canvassing zone, no canvassing zones
NSZ, NSZs	no staying zone, no staying zones
OL	omissions list
para., paras.	paragraph, paragraphs
PCBP (LC & DC) Reg	Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation (Cap 541M)
PCPD	Privacy Commissioner for Personal Data
PD(P)O	Personal Data (Privacy) Ordinance (Cap 486)
PHMSO	Public Health and Municipal Services Ordinance (Cap 132)
POBO	Prevention of Bribery Ordinance (Cap 201)
POO	Public Order Ordinance (Cap 245)
PR of GCs	provisional register of electors for geographical constituencies
PRO, PROs	Presiding Officer, Presiding Officers
REO	Registration and Electoral Office
RO, ROs	Returning Officer, Returning Officers
RR, RRs	Rural Representative, Rural Representatives
RREO	Rural Representative Election Ordinance (Cap 576)

RTO	Road Traffic Ordinance (Cap 374)
S, s, Ss, ss	section, sections
SOO	Summary Offences Ordinance (Cap 228)
TD	Transport Department

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PROLOGUE

ROLE OF THE ELECTORAL AFFAIRS COMMISSION AND THE GUIDELINES

1. Under the Electoral Affairs Commission Ordinance (Cap 541) (“EACO”), the Electoral Affairs Commission (“EAC”) is an impartial, independent and apolitical body responsible for conducting and supervising public elections in accordance with the electoral law and strives to conduct public elections under the principles of openness, honesty and fairness. Although the EAC is responsible for making the subsidiary legislation on electoral procedures, the guidelines on election-related activities, and the related practical arrangements, it is not part of the Government. All along, the EAC does not formulate electoral policies nor take into account any political considerations, but considers whether the relevant arrangements do comply with the law and are reasonably practicable and will facilitate the smooth operation of the election. Under the EACO, the EAC shall perform its function through the Chief Electoral Officer (“CEO”). The Registration and Electoral Office (“REO”) is the executive arm of the EAC. Apart from making practical arrangements for the elections, the REO also advises the EAC on the practicality of various electoral arrangements.

2. All electoral arrangements in Hong Kong are regulated under the relevant primary legislation and subsidiary legislation. The EAC must conduct and supervise the conduct of elections in strict compliance with the subsisting law. Under the present institution, matters relating to electoral policies and system are under the purview of the executive authorities, whereas the legislature is responsible for the enactment and amendment of the primary legislation. On the other hand, pursuant to the principles and provisions in the primary legislation, the EAC makes the corresponding subsidiary legislation to

specify the electoral procedures for various elections. The EAC cannot act beyond the power conferred by the primary legislation. Where necessary, the EAC would provide its advice from practical and operational points of view for the Government's reference. Under the existing arrangement, any enactment or amendment of the primary legislation must be introduced by the Government in the form of bills to the Legislative Council ("LegCo") for deliberation and passage. Subsidiary legislation must also be submitted by the Government to the LegCo by way of the negative vetting procedure.

3. As the EAC is not a court of law, it has no authority to make judicial interpretation for disputed provisions of the statutes. The EAC is empowered by the law to issue guidelines on election-related activities. The electoral guidelines are not law, and cover the following two aspects: (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, to promulgate a code of conduct based on the principle of fairness and equality.

Legislation Aspect

4. With regard to the legislation aspect, all relevant provisions are enacted by the legislature. The guidelines only seek to explain in simple language the relevant provisions based on the electoral law, and where applicable to give examples to illustrate the best practices.

5. In order to ensure the fairness of an election, safeguarding the autonomy and secrecy of the vote is the most important principle of the electoral law. Electors must mark the ballot papers by themselves inside the voting compartments, and are not required to disclose their voting preference. It is a criminal offence to influence the voting preference of an elector by

corrupt conduct such as the use of force, threat, coercion, inducement, deception or obstruction; or by illegal conduct of making false statements about a candidate. It is also a criminal offence to compel an elector to disclose his/her voting preference. In any case, the voting choice is ultimately made by the elector voluntarily and under the protection of secrecy. Electors are free to discuss their voting preference, as long as no corrupt or illegal conduct is involved.

6. Nomination of candidates is an important part of an election. According to the amended District Councils Ordinance (Cap 547) (“DCO”), the District Council Eligibility Review Committee (“DCERC”) shall be responsible for reviewing and confirming the eligibility of any person nominated as a candidate for the District Councils (“DCs”) election, as well as any persons proposed to be appointed as a member and any person proposed to be registered as an ex officio member (for details of the DCERC, see paras. 3.42 to 3.43 of Chapter 3). The DCERC may request the Returning Officers (“ROs”) to give advice to the DCERC regarding the nomination of candidates. In deciding the eligibility of a person as to whether the person fails to fulfil the legal requirements and conditions on upholding the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China (“Basic Law”) and bearing allegiance to the Hong Kong Special Administrative Region (“HKSAR”) of the People’s Republic of China, the DCERC is to seek the opinion of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region (“Committee on National Security”). If an opinion is given by the Committee on National Security, the DCERC must make the decision in accordance with the opinion.

7. The validity of the nomination of a candidate is determined by the DCERC. The EAC will only make arrangements for an election for the validly nominated candidates determined by the DCERC. If the nomination of any person is decided invalid by the DCERC at an election (except for that

made pursuant to the opinion of the Committee on National Security), he/she may make an election petition in accordance with the law.

8. Another important aspect of the law is to prescribe the maximum amount of election expenses. The setting of a maximum amount of election expenses is to ensure that the candidates do compete on a level playing field and within a reasonable level of expenditures. According to the law, election expenses mean the expenses in promoting or prejudicing the election of a candidate. The definition of “candidate” means a person who stands nominated as a candidate at an election and includes a person who has publicly declared an intention to stand for election before the close of nominations for an election. The “public declaration of the intention to stand as a candidate” is a legal question which must be determined on the basis of actual facts and intention, rather than on the face of any statement alone. It is a criminal offence for a candidate to incur election expenses in excess of the prescribed maximum amount. Hence, the candidate must, in accordance with the law, submit an election return after the election to rigorously declare all the election expenses incurred by him/her; otherwise, he/she commits an offence.

9. For the effective regulation of the limit on election expenses, the law also stipulates that only candidates and their authorised election expense agents may incur election expenses. It is a criminal offence for other unauthorised persons, whether for the purpose of promoting or prejudicing the election of a candidate, to incur election expenses. Nevertheless, as far as opinions published on the Internet are concerned, even though they promote or prejudice the election of a candidate and amount to election advertisements (“EAs”), if the publisher is a third party (i.e. a person other than a candidate and his/her election expense agents) and the only election expenses incurred are either electricity charges and/or charges necessary for accessing the Internet, he/she is exempted from the relevant criminal liability. However, if the publisher is a candidate or his/her election expense agent, the exemption does

not apply. As such, candidates shall declare all election expenses (i.e. including election expenses incurred in relation to the Internet and all other media).

10. EA has always been an important part of election expenses, and therefore there is a practical necessity to regulate the publication of EAs for the purpose of calculating election expenses. Notwithstanding that EAs are regulated, the paramount principles of freedom of speech, press freedom and the dissemination of election information must be guaranteed. In determining whether certain statements are EAs and whether election expenses are involved, consideration must be given to the overall circumstances and evidence, including the nature of those statements, the expenses involved and the intention of promoting or prejudicing any candidate from being elected.

11. The EAC is not a law enforcement agency, it will refer any complaint involving any offence to the law enforcement agencies for follow-up and investigation. Any issues over the law or fact will ultimately be a matter for the adjudication of the court.

12. The EAC will seek to provide a statement of principle on the compliance of the electoral law. However, the EAC is not the legal advisor for a candidate and any person who has any questions on any particular matter should seek independent legal advice.

Code of Conduct

13. The EAC promulgates guidelines on election-related activities based on the principle of fairness and equality. Although any breaches of the guidelines will not constitute a legal offence, where necessary, the EAC may make censures through public statements in order to inform the electors and the general public of important matters that have occurred during the elections.

An important application of the principle of fairness and equality is concerned with the utilisation of the public resources, for example:

- (a) The guidelines prescribe a fair and equal system in allocating the designated spots for display of EAs on government land, premises and roadways;
- (b) Licensed radio and television stations as well as registered newspapers and magazines should uphold the fair and equal treatment principle in their treatment of the candidates;
- (c) Building management organisations and owners' corporations should observe the principle of fairness and equality in handling the requests of the candidates for the display of EAs and conducting electioneering activities in the common parts of the buildings under their management; and
- (d) A candidate must not make use of any public resources for electioneering.

The management organisations mentioned under (c) above should handle the applications from the candidates fairly and equally. If a management organisation has decided to allow a particular candidate to conduct electioneering activities in the common parts of the buildings under its management, it should also allow other candidate(s) in the same District Committees constituency or District Council geographical constituency ("constituency") to do so (whether to make the same request is an individual candidate's own choice). On the other hand, if it is decided to reject an application from a particular candidate, the same applications from other candidate(s) in the same constituency should also be rejected. However, this

principle does not apply to election activities and EAs concerning other private properties.

14. It is noteworthy that, as Hong Kong is a pluralistic society with different sectors of people who may have different pursuits, there are often contrary views as to whether a particular matter is fair or not. While achieving absolute fairness is ideal, it is often not practicable. The bottom line is to guard against serious and material unfairness.

15. The EAC will solemnly handle complaints against any breach of the principle of fairness and equality as set out in the electoral guidelines. Investigation must be based on factual evidence and be in accordance with the principle of procedural fairness. The parties concerned must be given the opportunity to make representations in defence. The EAC will make the decision after taking all relevant circumstances into consideration. In the context of considering whether any conduct is unfair even in the absence of contravention of the law, the EAC cannot make a decision lightly and shall still consider all relevant matters and circumstances carefully. Furthermore, while complaints are often made shortly before the polling day, the EAC cannot circumvent or compress the established procedure because of the time constraint so as to avoid any unfairness.

16. If a complaint is substantiated, the EAC may, where necessary, issue public statements of censure in order to inform the electors and the general public of important matters that have occurred during the elections. The EAC may also issue press statements on matters of principle which have attracted widespread public concern in order to set the record straight. Apart from that, the EAC, as a long-standing practice, does not comment on the political platforms of candidates, individual comments and reporting, or hearsays.

17. Electors rely on fair and orderly elections to elect their representatives. Election is a solemn matter. The electoral procedures are strictly governed by the relevant electoral law. Persons who wish to run for an election and other stakeholders must understand and comply with the requirements of the electoral law so as to avoid committing any criminal offence inadvertently.

18. Apart from the legislation aspect, candidates and stakeholders should also make reference to the good practices provided in the guidelines in order to ensure that the elections are conducted in an open, honest and fair manner.

19. The EAC appeals to members of the public to be acquainted with and to uphold the electoral law and electoral guidelines in order to carry on the good election culture in Hong Kong, so that the election can be conducted smoothly in a fair and equal manner.

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 boundaries¹. 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

¹ 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]

CHAPTER 2

REGISTRATION OF ELECTORS AND VOTING SYSTEM

PART I : GENERAL

2.1 Only electors whose names appear on the register of electors for District Committees constituencies or final register of electors for geographical constituencies (“FR”) may vote at an election. Electors may visit the Voter Registration website (www.vr.gov.hk) at any time to check their registration status and particulars. For electors of GCs, applications for new registration or report on change of registration particulars submitted on or before the statutory deadline (i.e. 2 June) of the year will be reflected in the final register of GCs subsequently published in the same year. For DCCs, electors do not need to register separately. The Electoral Registration Officer (“ERO”) will compile the register not later than seven days before the beginning of the nomination period. *[Added in September 2019 and amended in September 2023]*

2.2 True and accurate information must be provided to apply for registration as an elector by members of the public. Giving false or incorrect information knowingly or recklessly (commonly known as “vote rigging”) is an offence, no matter whether the elector has subsequently become an elector or cast a vote. *[Added in September 2019 and amended in September 2023]*

2.3 The REO will assign a DCGC to each elector according to the residential address provided by him/her. Under the law, members of the public must provide his/her true and only or principal residential address at the time of submitting his/her application for voter registration; if there is more than one residential address, the principal residence must be furnished.

Electors are not required under the law to update the principal residential addresses with the REO after they have moved. It does not constitute an act of providing false information or an offence even if an elector does not update his/her principal residential address after moving, provided that the principal residential address supplied was true and correct at the time of application for voter registration. As long as his/her entry remains on the final register of GCs, an elector may still vote at the DCGC corresponding to his/her registered residential address after moving residence. *[Added in September 2019 and amended in September 2023]*

2.4 Nevertheless, electors should exercise civic responsibilities to provide their updated residential addresses to the REO as soon as possible after moving residence in order to ensure the accuracy of the particulars in the register. Address proof is required when submitting an application for change of address. With effect from 1 May 2022, the same requirement is also applicable to applications for new voter registration. *[Added in September 2019 and amended in September 2023]*

2.5 According to the checking mechanism of the REO, if an elector is suspected to have moved and has not updated his/her new residential address he/she will be included in the statutory inquiry procedure. If the elector responds to the inquiry in time and to the satisfaction of the ERO, his/her name may continue to appear on the register, otherwise, will be included in the omissions list (“OL”). *[Added in September 2019]*

2.6 Before the final register of GCs is published, the REO will publish the provisional register of electors for geographical constituencies (“PR of GCs”) and OL for inspection by specified persons (see **Appendix 3** for details). The procedure for objections and claims in respect of eligibility for voter registration will also commence. Any person who has suspicion on the

eligibility of an elector may make an objection and the Revising Officer² will make a determination on the case. Moreover, electors whose names have been included in the OL may make a claim and the eligibility of the elector can be maintained if the claim is accepted by the Revising Officer. A person who makes an objection or a claim must provide sufficient information. A person who makes an objection or claim shall attend the hearing (except for incontrovertible cases); otherwise the Revising Officer may dismiss the objection or claim. *[Added in September 2019 and amended in September 2023]*

PART II : REGISTRATION OF ELECTORS FOR DISTRICT COMMITTEES CONSTITUENCIES

Eligibility to Vote

2.7 Only a person whose name is included in the register of electors for District Committees constituencies (“DCC register”) that is in force during the election is eligible to vote at an election for the respective DCC (unless he/she has become disqualified by law due to individual situation, see para. 2.18 below). *[Added in September 2023]*

2.8 Besides, an elector of a DCC is also disqualified from voting at an election for the respective DCC election if he/she has ceased to be a member of a District Committee [s 30(2) of the DCO]. *[Added in September 2023]*

² The Revising Officer, appointed by the Chief Justice, may be any magistrate, former magistrate, retired magistrate or any legal officer as defined by the Legal Officers Ordinance (Cap 87) [s 77(1) and (5) of the LCO].

Register of Electors for District Committees Constituencies

2.9 Electors for the DCC do not need to register separately. The ERO will request information from the DHA and compile the DCC register not later than seven days before the beginning of the nomination period for the election. [S 1 of Schedule 4A to the DCO]. *[Added in September 2023]*

2.10 The DCC register is available for inspection by specified persons (see **Appendix 3** for details). The time and place(s) for inspection will be published in a notice in the Gazette and newspapers. Publication of the notice is to be regarded as the publication of the register. The register takes effect on the date of publication of the notice until the conclusion of the election. [S 4 of Schedule 4A to the DCO] *[Added in September 2023]*

2.11 Only the first Chinese character or the first word of the name (depending on whether the person's name recorded in Chinese or English) of an elector and his/her principal residential address will be shown on the DCC register for inspection. [Ss 2(5) and 5(5) of Schedule 4A to the DCO] *[Added in September 2023]*

2.12 The ERO may, during the period in which a DCC register takes effect, amend the register in response to any change of the eligibility of the DCC electors in respect of the DCGC or any change in the membership of a District Committee as informed by the DHA. [S 8(1) of Schedule 4A to the DCO] *[Added in September 2023]*

**PART III : REGISTRATION OF ELECTORS FOR DISTRICT
COUNCIL GEOGRAPHICAL CONSTITUENCIES**

2.13 The existing major statutory deadlines for voter registration arrangements of GCs are as follows:

Voter Registration Arrangements of GCs	Statutory Deadline
ERO to make inquiries regarding electors	16 May
Submission of applications for new registration, change of particulars or de-registration	2 June
Electors to respond to inquiry letters	2 June
Applicants for new voter registration or change of particulars to submit further particulars (if applicable)	11 July
Publication of the PR of GCs and OL	1 August
Claims and objections	1 to 25 August
Publication of the final register of GCs	25 September

[Added in September 2023]

Eligibility to Vote

2.14 Under the existing voter registration arrangements, a self-declaration system is adopted to facilitate the registration of eligible persons as electors. Applicants must provide true and accurate information. Any person who makes a false statement in his/her application for new registration or change of particulars contravenes s 22 of the EAC (ROE) (GC) Reg, and is liable to a fine at level 3 (\$10,000) and to imprisonment for 2 years, no matter whether he/she subsequently votes at an election or not. If the person does vote at an election, he/she contravenes s 16 of the ECICO and may be liable to a more serious penalty. *[Added in September 2019 and amended in September 2023]*

2.15 Only a person whose name is included in the final register of GCs that is in force during the election is eligible to vote at an election for the DCGC. [S 29 of the DCO] *[Amended in September 2007, January 2010 and September 2023]*

Qualifications for Registration as an Elector of a Geographical Constituency

2.16 To qualify for registration as an elector of a GC under the LCO, a person has to satisfy all the following requirements:

- (a) he/she has to be aged 18 years on or before 25 September next following his/her application for registration [s 29 of the LCO];
- (b) he/she is a permanent resident of Hong Kong [s 27 of the LCO];
- (c) (i) he/she ordinarily resides in Hong Kong (for the definition of “ordinarily residing in Hong Kong”, see paras. 2.28 to

2.31 below) and the residential address in his/her application for registration is his/her only or principal residence in Hong Kong [s 28(1) of the LCO]; or

- (ii) if he/she is a person serving a sentence of imprisonment and at the time of the application does not have a home in Hong Kong outside the penal institution, the following prescribed address is deemed to be the person's only or principal residence in Hong Kong for the purpose of voter registration:
 - (1) the last dwelling-place in Hong Kong at which the person resided and which constituted his/her sole or main home; or
 - (2) the residential address of the person last recorded by the Immigration Department under the Registration of Persons Regulations (Cap 177A) if the person cannot provide any proof on his/her last dwelling-place in Hong Kong [s 28(1A) and (1B) of the LCO]. *[Amended in January 2010]*
- (d) he/she holds an identity document or has applied for a new identity document or a replacement identity document [s 30 of the LCO]; and
- (e) he/she is not disqualified from being registered as an elector by virtue of s 31 of the LCO.

[Amended in September 2012 and September 2023]

2.17 A person who is **already registered** in the existing final register of GCs **need not re-apply** for registration. However, his/her name is not eligible to be included in the next register of electors for GCs if he/she:

- (a) has ceased to ordinarily reside in Hong Kong (for the definition of “ordinarily residing in Hong Kong”, see paras. 2.28 to 2.31 below) [s 24(2)(a) of the LCO];
- (b) no longer resides at the residential address recorded in the existing register and the ERO does not know his/her new principal residential address in Hong Kong [s 24(2)(b) of the LCO and s 9(2) of the EAC (ROE) (GC) Reg] (see para. 2.32 below);
- (c) is no longer a permanent resident of Hong Kong [s 27 of the LCO];
- (d) was an imprisoned person who used his/her last dwelling-place in Hong Kong at which he/she resided or the address last recorded under the Registration of Persons Regulations as the address for registration as an elector, and he/she has left the penal institution after the end of the imprisonment without reporting his/her new residential address to the ERO [s 9(2A) of the EAC (ROE) (GC) Reg] [*Amended in January 2010*]; or
- (e) is disqualified from being registered as an elector by virtue of s 31 of the LCO.

[Amended in September 2012]

Disqualifications from Voting

2.18 An elector is disqualified from voting at the DC election if he/she:

- (a) has ceased to be eligible to be registered as an elector under the LCO (see paras. 2.16 and 2.17 above) [s 30(1)(a) of the DCO];
- (b) is found to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs under the Mental Health Ordinance (Cap 136) [s 30(1)(e) of the DCO]³; or
- (c) is a member of the armed forces of the Central People's Government or any other country or territory [s 30(1)(f) of the DCO].

[Amended in September 2007, January 2010, September 2012 and September 2023]

Application for Registration and De-registration

2.19 The registration of GC electors is undertaken in accordance with the provisions of the EAC (ROE) (GC) Reg.

2.20 A person may submit his/her application for voter registration⁴ to the ERO at any time of the year. A person who has been de-registered (e.g.

³ Regarding persons incapable to vote due to other health problems, except for the condition stipulated in this paragraph, the law imposes no restriction on such person's right to vote, provided that each must cast the vote on his/her own. If an elector is unable to mark the ballot paper on his/her own, the elector may request the Presiding Officer ("PRO") or the PRO's deputy to mark the ballot paper on his/her behalf according to his/her voting preference in the presence of one polling staff as a witness (see s 59 of EAC (EP) (DC) Reg and para. 4.53 of Chapter 4 for details).

⁴ The form of "Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency" (REO-GC) can be downloaded at the Voter Registration website (www.vr.gov.hk).

due to failure to respond to the inquiry letter from the REO after moving residence) but still eligible for voter registration may re-submit an application for registration. Starting from 1 May 2022, when an applicant submits an application for new voter registration, the address proof which complies with specific requirements (e.g. it must be issued within the last three months⁵) is required to be provided together [s 4(1A) of the EAC (ROE) (GC) Reg]. *[Amended in September 2019 and September 2023]*

2.21 If an elector wishes to apply for de-registration, he/she may make an application in person at the REO. If such application is made to the REO in writing, the letter must contain the personal particulars and be signed by the elector. After receipt of an application in writing, the REO will contact the elector concerned for verification. All application for de-registration will not take immediate effect. Only after verification will the elector's name be included in the OL. The elector whose name is included in the OL may inspect his/her particulars starting from the day of publication of the PR of GCs and OL till the end of the inspection period. Where necessary, the elector can lodge a claim with supporting proof to request reinstatement of the elector status. If the whole verification process of the application for de-registration is yet to be completed by the statutory deadline of the year, the relevant elector will continue to have his/her name included in the final register of GCs in that year. Given that the elector has not been de-registered, he/she may choose to vote or not on the polling day. *[Amended in September 2019 and September 2023]*

2.22 If any person wishes his/her name to be included in or excluded from the final register of GCs published in that year, his/her application must reach the ERO **on or before** 2 June in that year. Applications received after the deadline will be reflected on the register of electors for GCs of the next year

⁵ For documents acceptable as address proof, see the guidance notes on the form of "Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency" (REO-GC).

after processing. [Ss 4 and 9 of the EAC (ROE) (GC) Reg] *[Amended in September 2012, September 2015, September 2019 and September 2023]*

2.23 In case of incomplete or incorrect information provided for an application, the ERO will require in writing the applicant to supplement required particulars or proof [s 5(2) of the EAC (ROE) (GC) Reg]. An applicant who qualifies for registration as an elector will be allocated to a respective GC based on his/her residential address, and receive a written notification of the result [s 5(8) of the EAC (ROE) (GC) Reg]. Applicants not qualified for registration will be informed of the result accordingly by post [s 5(9) of the EAC (ROE) (GC) Reg]. *[Amended in January 2010 and September 2019]*

2.24 Once all the applications for new voter registration for GCs have been processed and the applicants are confirmed eligible, the names and principal residential addresses of the relevant electors will be entered in the register of electors of GCs. *[Added in January 2010 and amended in September 2019 and September 2023]*

Change of Residential Address and Other Registered Particulars

2.25 Although a GC elector is not required to re-apply for registration every year, if his/her principal residential address has been changed, he/she should submit an application for change of particulars to the ERO in order to update the next register of electors for GCs. *[Amended in January 2010, September 2012, September 2019 and September 2023]*

2.26 Apart from his/her principal residential address, a GC elector should also notify the ERO if there is any change of his/her other particulars (e.g. name, telephone numbers or email address). *[Amended in January 2010]*

2.27 A GC elector should submit an application for change of particulars⁶ to the ERO if there is any change of his/her registration particulars. To apply for change of principal residential address, the elector must provide the address proof which complies with specific requirements, for example, it must be issued within the last three months⁷ (exemption may be granted under certain circumstances⁸) [s 10A(3) of the EAC (ROE) (GC) Reg]. After processing the application, the ERO will notify the elector of the result by post [s 10A(10) of the EAC (ROE) (GC) Reg]. An elector who has yet to submit his/her application for change of registration particulars to the ERO by the statutory deadline may still vote at the GC corresponding to his/her original registered residential address if his/her name remains on the final register of GCs. *[Amended in January 2010, September 2012, September 2015, September 2019 and September 2023]*

“Ordinarily Residing in Hong Kong”

2.28 “Ordinarily reside in Hong Kong” is one of the criteria for registration as an elector of a GC [s 28 of the LCO]. The definition of “ordinarily residing in Hong Kong” is not set out in the subsisting electoral law. In assessing whether a person “ordinarily resides in Hong Kong”, one needs to take into account a host of factors and the specific situation of each case, and determine according to the relevant court judgments. The conclusion cannot be generalised and one cannot say someone does not “ordinarily reside in Hong Kong” simply because he/she has a place of

⁶ The form of “Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency” (REO-GC) can be downloaded at the Voter Registration website (www.vr.gov.hk).

⁷ For documents acceptable as address proof, see the guidance notes on the form of “Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency” (REO-GC).

⁸ For electors who are the authorised occupants of public rental housing under the Housing Department or registered residents in the tenancy of subsidised housing under the Hong Kong Housing Society, their applications for change of registered residential addresses may be exempted from the address proof requirement provided that the reported new residential addresses match the addresses in the tenancy records of the authorities concerned.

residence abroad. According to a court precedent⁹, a person is considered ordinarily residing in a place if he/she remains in that place legally, voluntarily and for a settlement purpose (e.g. for education, employment or residence), regardless of the duration, and even if he/she is temporarily absent from that place for some reasons. The precedent also pointed out that a person may ordinarily reside in two places at the same time. *[Added in September 2023]*

2.29 Generally speaking, for a Hong Kong permanent resident who used to reside in Hong Kong all along, if he/she has now set up for personal reasons another residence elsewhere but still returns to live in Hong Kong from time to time (e.g. for handling personal matters, social gatherings or family reunion), then he/she can still be regarded as maintaining a reasonable connection with Hong Kong. A condition which must be considered in parallel is that in accordance with the electoral law, that person must provide, for the purpose of registration as an elector, a residential address which is his/her only or principal residence in Hong Kong (i.e. not a correspondence address but a residential address where he/she habitually resides when he/she is in Hong Kong). Under such circumstances, whether the person still satisfies the statutory requirement of “ordinarily residing in Hong Kong” must be determined according to the actual circumstances of individual case. *[Added in September 2023]*

2.30 On the other hand, if a Hong Kong permanent resident has left Hong Kong to reside in another place without maintaining connections with Hong Kong or any intention to reside in Hong Kong again, or no longer having an only or principal residence in Hong Kong, then he/she no longer meets the statutory eligibility requirements for registration. *[Added in September 2023]*

⁹ *Lau San Ching v Liu, Apollonia* [1995] 5 HKPLR 23 citing *R. v. Barnet London Borough Council, ex parte Shah* [1983] 2 AC 309

2.31 To sum up, the individual circumstances of the person must be considered when determining whether that person is “ordinarily residing in Hong Kong”, and it is not a matter which could be summarily determined. If it encounters relevant cases in the course of voter registration work, the REO will examine the details and actual circumstances surrounding the cases carefully, and seek legal advice where necessary. *[Added in September 2023]*

Inquiry Procedures

2.32 While it is not a mandatory requirement under the law, the REO has been appealing to electors to fulfil their civic duty by notifying the ERO as soon as possible after moving residence and submitting an application for the change of address. To enhance the accuracy of the register, the REO has put in place suitable checking measures. **If it comes to the knowledge of the ERO that an elector’s registered address may no longer be his/her principal residential address**, the ERO will initiate the statutory inquiry procedure to ascertain whether the address recorded in the existing register is still the elector’s only or principal residential address in Hong Kong [s 7(1) of the EAC (ROE) (GC) Reg]. If the elector fails to respond to the inquiry; or fails to provide the information regarding the inquiry as requested by the ERO; or if the ERO, based on the information so received or otherwise obtained, is satisfied on reasonable grounds that the elector is no longer eligible to be registered, then **the elector’s name and other registration particulars will be entered on the OL and may be removed from the next register** [s 9 of the EAC (ROE) (GC) Reg]. A person whose name is recorded in the existing register is still an elector of the GC (and the designated DCGC) at any election held before the publication of the next register [s 33 of the LCO]. *[Added in January 2010, amended in September 2015, September 2019 and September 2023]*

The Provisional Register and the Omissions List for Geographical Constituencies

2.33 The PR of GCs shall be published **on or before 1 August every year**, with content includes:

- (a) the names and principal residential addresses of electors recorded in the final register of GCs in force at the time, with appropriate updates and correction by the ERO based on information reported or otherwise received (if applicable); and
- (b) the names and principal residential addresses of eligible persons who have submitted applications for new registration on or before the statutory deadline.

A copy of the PR of GCs is **available for inspection by specified persons** during ordinary business hours at specified offices of the REO (see **Appendix 3** for details). [S 13 of the EAC (ROE) (GC) Reg] *[Amended in September 2019 and September 2023]*

2.34 At the same time when the PR of GCs is published, the ERO will also publish the OL for inspection by specified persons (see **Appendix 3** for details). The OL contains the names and principal residential addresses of persons who were formerly registered as GC electors, but are struck out of the PR of GCs and proposed to be omitted from the next final register of GCs, because the ERO, based on the information obtained, is satisfied on reasonable grounds that they are disqualified from or no longer qualified for registration [s 32(4)(a) and (b) of the LCO and s 9(1) and (2) of the EAC (ROE) (GC) Reg]. *[Amended in September 2023]*

2.35 For an elector who was an imprisoned person using the address of his/her last dwelling-place in Hong Kong or the address last recorded under the Registration of Persons Regulations as the address for registration as an elector, if the ERO is satisfied on reasonable grounds that he/she has served the sentence of imprisonment and left the penal institution without informing the ERO of his/her new residential address, the ERO shall enter the name and principal residential address of the elector on the OL according to the procedures prescribed in the relevant legislation. [S 9(2A) of the EAC (ROE) (GC) Reg]

2.36 The names and principal residential addresses of the persons included in the OL will be excluded from the PR of GCs [s 32(4)(a) and (b) of the LCO and s 9 of the EAC (ROE) (GC) Reg]. However, the inclusion of an elector in the OL does not mean that the elector status is invalidated with immediate effect. If the elector lodges a claim to the ERO, which is accepted by the Revising Officer, the elector status will be retained (see paras. 2.41 to 2.43 below). *[Amended in January 2010, September 2015 and September 2019]*

2.37 The time and place(s) for inspection of the PR of GCs and OL will be published in the Gazette and newspapers. Publication of the notice is to be regarded as the publication of the PR of GCs. Only specified persons (see **Appendix 3** for details) are allowed to inspect the PR of GCs and OL. Only the first Chinese character of the name (if the person's name is recorded in Chinese) or only the first word of the name (if the person's name is recorded in English) of an individual elector and his/her registered residential address will be shown on the PR of GCs for inspection. [Ss 10 and 13 of the EAC (ROE) (GC) Reg] *[Amended in September 2019 and September 2023]*

2.38 Upon request by a person imprisoned or held in custody by a law enforcement agency and if the ERO considers it appropriate to do so, the ERO

may make available at a penal institution or the premises of a law enforcement agency, as the case may be, a copy of a part of the PR of GCs and OL for that person's inspection. *[Amended in September 2019 and September 2023]*

2.39 The ERO may require persons who wish to inspect the PR of GCs and/or OL to produce an identity document and complete a form furnished by the ERO. [Ss 10(4) and 13(5) of the EAC (ROE) (GC) Reg] *[Amended in September 2019]*

Voter Registration Website

2.40 GC electors may visit the Voter Registration website (www.vr.gov.hk) at any time to check their latest registration status and particulars including registered residential addresses and respective constituencies, and find out whether being included in the statutory inquiry procedure. *[Added in September 2019 and amended in September 2023]*

Appeals – Objections and Claims

2.41 Members of the public may submit in person to the REO a notice of objection in the specified form as regards any entries in the relevant PR of GCs within the period for making objections or claims [s 14(2) of the EAC (ROE) (GC) Reg]. The procedures for making claims or objections are provided in the REO website (www.reo.gov.hk) during the inspection period. A person who claims that he/she is entitled to be registered as an elector and has submitted application, yet his/her name has not been recorded in the PR of GCs or has been included in the OL, or an elector whose particulars have not been correctly recorded in the PR of GCs, may submit in person a notice of claim to the REO in the specified form within a specified period in respect of the entry or any omission concerning himself/herself [s 15(1), (2), (6) and (7) of the EAC (ROE) (GC) Reg]. To facilitate a person imprisoned or held in

custody by a law enforcement agency to make such an objection or claim, he/she may deliver a notice of objection or claim to the ERO by post [s 15(7A) of the EAC (ROE) (GC) Reg]. *[Amended in September 2019 and September 2023]*

2.42 The REO will issue reminding letters to electors on the OL. A message in red that reads “Immediate action required Your voting right is at stake” will be printed on the envelope, so as to draw the electors’ attention that they should submit a notice of claim or send back the reply slip by the specified deadline to confirm the validity of the registered residential addresses or to update their registered residential addresses (submission of address proof is required for the update of residential address). If an elector is listed on the OL due to the statutory inquiry procedure, when he/she inspects his/her registration particulars through the Voter Registration website, a system-generated reminder will prompt the elector to respond to the reminding letter from the REO as soon as possible to confirm his/her current residential address or to update the residential address. *[Added in September 2019]*

2.43 All cases of objections and claims will be referred to the Revising Officer for consideration. The Revising Officer will deliberate on each case and make a ruling on the inclusion, exclusion, or revision of the entry concerned in the relevant final register of GCs. [Ss 34 and 77 of the LCO and Part 3 of the EAC (ROE) (GC) Reg] The appellant must provide sufficient information so as to inform the Revising Officer of the grounds of the objection or claim, and attend the hearing (except for incontrovertible cases¹⁰), otherwise the Revising Officer may dismiss the objection or claim. [Ss 2(5A), 2A and 2B of the Registration of Electors (Appeals) Regulation (Cap 542B)]

¹⁰ In accordance with s 2A of the Registration of Electors (Appeals) Regulation, for an incontrovertible objection or claim, including the person who lodges the objection or claim has not provided any ground in his/her notice, the ground(s) submitted by the person are irrelevant to registration eligibilities or the case involves only a clerical error made in compiling or printing a PR of GCs, the Revising Officer must direct that the objection or claim be determined without a hearing on the basis of written submissions only.

[Amended in January 2010, September 2012, September 2015 and September 2019]

Final Register of Geographical Constituencies

2.44 The final register of GCs shall be published **on or before 25 September every year** [s 32(1)(b) of the LCO]. It consists of entries shown in the PR of GCs, and incorporates, for that year, all revised names and principal residential addresses of electors based on applications for new registration and applications for change of particulars, as well as those updated and corrected in accordance with the ruling by the Revising Officer on claims and objections [s 19(1) of the EAC (ROE) (GC) Reg]. The ERO will also delete those entries of electors who are known to have passed away and to revise any incorrect information in the PR of GCs. This final register of GCs shall remain in force until the publication of the next final register of GCs in the following year. *[Amended in September 2019 and September 2023]*

2.45 The time and place(s) for inspection of the final register of GCs will be published in the Gazette and newspapers. Publication of the notice is to be regarded as the publication of the final register of GCs. Only the first Chinese character of the name (if the person's name is recorded in Chinese) or only the first word of the name (if the person's name is recorded in English) of an individual elector and his/her registered residential address will be shown on the copy of the final register of GCs for inspection by specified persons (see **Appendix 3** for details). [S 20 of the EAC (ROE) (GC) Reg] *[Amended in September 2019 and September 2023]*

2.46 Upon request by a person imprisoned or held in custody by a law enforcement agency and if the ERO considers it appropriate to do so, the ERO may make available at a penal institution or the premises of a law enforcement agency, as the case may be, a copy of a part of the final register of GCs for that

person's inspection. The ERO may require persons who wish to inspect the final register of GCs to produce an identity document and complete a form furnished by the ERO. [S 20 of the EAC (ROE) (GC) Reg] *[Amended in January 2010, September 2012, September 2015, September 2019 and September 2023]*

IMPORTANT :

Information relating to a person contained in any register or in any extract of any register **can only be used for election-related purposes** prescribed by the electoral law. Any **abuse** or **misuse** of such information is an **offence** and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 22(3) of the EAC (ROE) (GC) Reg].

In accordance with Data Protection Principle 3 of Schedule 1 to the Personal Data (Privacy) Ordinance (Cap 486) ("PD(P)O"), personal data relating to a person (as a data subject) contained in any register or in any extract of any register shall not, without the prescribed consent of the data subject¹¹, or if the exemption under Part 8 of the PD(P)O is not applicable, be used for a "new purpose"¹². Moreover, according to s 64(3A) and (3B) of the PD(P)O, if a person (as a discloser) discloses any personal data relating to a person (as a data subject) contained in any register or in any extract of any register without the relevant consent of the

¹¹ In accordance with s 2(3) of the PD(P)O, "prescribed consent" (a) means the express consent of the person given voluntarily; (b) does not include any consent which has been withdrawn by notice in writing served on the person to whom the consent has been given (but without prejudice to so much of that act that has been done pursuant to the consent at any time before the notice is so served).

¹² In accordance with Data Protection Principle 3(4) of Schedule 1 to the PD(P)O, "new purpose", in relation to the use of personal data, means any purpose other than the purpose for which the data was to be used at the time of the collection of the data or a purpose directly related to that purpose.

data subject with an intent to cause any specified harm¹³ 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, the discloser commits an offence and will be liable to a fine of \$100,000 and to imprisonment for 2 years. According to s 64(3C) and (3D) of the PD(P)O, if the disclosure causes any specified harm to the data subject or any family member of the data subject, the discloser will be liable on conviction to a fine of \$1,000,000 and to imprisonment for 5 years.

[Amended in September 2023]

PART IV : THE VOTING SYSTEM FOR THE DISTRICT COMMITTEES CONSTITUENCIES

2.47 When the number of validly nominated candidates at a DCC election is more than the number of members to be returned for that DCC, a poll will be held for that DCC. Where no more candidates have been validly nominated than the number of members to be returned for the DCC, the validly nominated candidate or candidates will be declared elected by the RO [s 39(1) and (2) of the DCO]. In such a case, the poll will not be necessary and the electors for the DCC concerned need not go to the relevant polling stations to vote. If no candidates are validly nominated or the number of candidates validly nominated is less than the number of members to be returned for the DCC, the RO must declare the election to have failed or, as the case may be, to have failed to the extent that the number of candidates validly nominated is less

¹³ In accordance with s 64(6) of the PD(P)O, “specified harm”, in relation to a person, means (a) harassment, molestation, pestering, threat or intimidation to the person; (b) bodily harm or psychological harm to the person; (c) harm causing the person reasonably to be concerned for the person’s safety or well-being; or (d) damage to the property of the person.

than the number of members to be returned [s 39(2) and (3) of the DCO]. A by-election will then be held for that DCC. *[Added in September 2023]*

2.48 The “first past the post” voting system is adopted at DCC elections. The number of candidates to be voted for by each elector of a DCC shall be the same as the number of vacancies for that DCC (i.e. “block vote”), otherwise the ballot paper will be deemed as invalid. If the number of members to be returned at a DCC election is N, then the N candidates who obtain the greatest numbers of votes shall be deemed elected. If, after the counting of votes is finished at a DCC election, a member or members are still to be returned for that DCC and the most successful candidates remaining have an equal number of votes, the RO must determine the result of the election by drawing lots, and the candidate or candidates on whom the lot falls is or are to be returned. [S 41A(1), (2), (4) and (5) of the DCO] *[Added in September 2023]*

2.49 When the election result has to be determined by the drawing of lots, ten table-tennis balls each marked with a number from 1 to 10 will be put into an empty opaque bag to be provided by the RO. Firstly, one of the candidates is to draw one ball from the bag, and pass it to the RO who will write down the number marked on it and then put the ball back into the bag. The same procedures are repeated for the other candidates until all candidates have drawn the table-tennis ball. The RO will draw the lot on behalf of the candidate if he/she is absent at the time of the draw. The candidate on whom the lot falls, as specified below, is to be returned at the election as follows:

- (a) Where there is only one vacancy to be filled and there are two candidates, the candidate who draws the larger number from 1 to 10 is to be returned. If both candidates have drawn the same number, further round(s) of draw will be held until a candidate is to be returned. 1 is the smallest number and 10 is the largest

number;

- (b) Where there is only one vacancy to be filled and there are more than two candidates, if in the first draw, the numbers drawn by the candidates are different, then the candidate who draws the largest number is to be returned. If, on the other hand, two or more candidates have drawn the same larger number and the remaining candidate(s) has/have drawn a smaller number, a second round of draw will be held. Only those candidates who have drawn the same larger number in the first round will participate in the second round of draw, and the candidate who draws the largest number is to be returned; and
- (c) Where there are only two vacancies to be filled and there are three candidates having the equal number of votes, if the three candidates have drawn respectively the largest, the second largest and the smallest numbers, the two candidates who have drawn the largest and the second largest numbers are to be returned. If the three candidates have drawn two larger equal numbers and one smaller number, then the two candidates who have drawn the larger equal numbers are to be returned. If the three candidates have drawn respectively a larger number and two equal smaller numbers, the candidate who has drawn the larger number is to be returned, and the remaining two candidates will participate in a second round of draw until one of them is to be returned. The same principle also applies to the situation where there are N candidates having an equal number of votes and the number of vacancies to be filled is less than N.

[Added in September 2023]

2.50 As soon as practicable after the election result has been determined, the RO must publicly declare the successful candidates as elected.
[Added in September 2023]

**PART V : THE VOTING SYSTEM FOR THE DISTRICT COUNCIL
 GEOGRAPHICAL CONSTITUENCIES**

2.51 The “double seats and single vote” voting system is adopted at DCGC elections. Each DCGC will return two members, and each elector may vote for one candidate for the respective DCGC. The two candidates who obtain the greatest and the next greatest numbers of votes shall be returned as members for that DCGC. [S 41B of the DCO] *[Added in September 2023]*

2.52 When the number of validly nominated candidates at a DCGC election is more than the number of members to be returned for that DCGC, a poll will be held for that DCGC. Where no more candidates have been validly nominated than the number of members to be returned for the DCGC, the validly nominated candidate or candidates will be declared elected by the RO [s 39(1) and (2) of the DCO]. In such a case, the poll will not be necessary and electors for the DCGC concerned need not go to the relevant polling stations to vote. If no candidates are validly nominated or the number of candidates validly nominated is less than the number of members to be returned for the DCGC, the RO must declare the election to have failed or, as the case may be, to have failed to the extent that the number of candidates validly nominated is less than the number of members to be returned [s 39(2) and (3) of the DCO]. A by-election will then be held for that DCGC. *[Amended in September 2011, September 2019 and September 2023]*

2.53 If, after the counting of vote is finished at a DCGC election, the number of most successful candidates having an equal number of votes exceeds

the number of members to be returned, the RO must determine the result of the election by drawing lots and the candidate or candidates on whom the lot falls is or are to be returned [s 41B of the DCO]. *[Amended in September 2023]*

2.54 When the election result has to be determined by the drawing of lots, ten table-tennis balls each marked with a number from 1 to 10 will be put into an empty opaque bag to be provided by the RO. Firstly, one of the candidates is to draw one ball from the bag, and pass it to the RO who will write down the number marked on it and then put the ball back into the bag. The same procedures are repeated for the other candidates until all candidates have drawn the table-tennis ball. The RO will draw the lot on behalf of the candidate if he/she is absent at the time of the draw. The candidate on whom the lot falls, as specified below, is to be returned at the election as follows:

- (a) Where there are two candidates, the candidate who draws the larger number from 1 to 10 is to be returned. If both candidates have drawn the same number, further round(s) of draw will be held until a candidate is to be returned. 1 is the smallest number and 10 is the largest number; and
- (b) Where there are more than two candidates, if in the first draw, the numbers drawn by the candidates are different, then the candidate who draws the largest number is to be returned. If, on the other hand, two or more of the candidates have drawn the same larger number and the remaining candidate(s) has/have drawn a smaller number, a second round of draw will be held. Only those candidates who have drawn the same larger number in the first round will participate in the second round of draw, and the candidate who draws the largest number is to be returned.

[Amended in September 2012, September 2019 and September 2023]

2.55 As soon as practicable after the election result has been determined, the RO must publicly declare the successful candidate as elected.
[Amended in September 2015 and September 2019]

**PART VI : DEATH OR DISQUALIFICATION OF A CANDIDATE FOR
 A CONSTITUENCY**

2.56 If, after the DCERC has decided that a candidate is validly nominated but before the polling day, proof is given to the satisfaction of the RO that the candidate has died, the RO must give notice of the death of the candidate. Where the notice of validly nominated candidates has already been published by the DCERC, the RO must publicly declare that the candidate has died and further declare which candidate(s) is/are validly nominated for election for the relevant constituency. Besides, if proof is given to the satisfaction of the DCERC that a validly nominated candidate is disqualified from being nominated, the DCERC must vary its decision to the effect that the candidate is not validly nominated, and the RO should issue such a notice to the CEO and each of the candidates who are validly nominated for election for the relevant constituency. Where the notice of validly nominated candidates has already been published by the DCERC, the DCERC must publicly declare that the decision has been varied and further declare which candidate(s) is/are validly nominated for election for the relevant constituency. [S 36 of the DCO and ss 24 and 25 of the EAC (EP) (DC) Reg] *[Added in September 2015 and amended in September 2023]*

2.57 If, on the polling day but before the election result is declared, proof is given to the satisfaction of the RO that a validly nominated candidate for a constituency has died or proof is given to the satisfaction of the DCERC that a validly nominated candidate for a constituency is disqualified from being elected, the proceedings for the election for the constituency shall continue as if

the death or disqualification had not occurred. After the counting of votes is finished, if the candidate concerned is successful at the election, the RO must not declare that candidate to be elected and must publicly declare that the election for that constituency has failed or has failed to the extent that the number of candidates returned at the election for the constituency is less than the number of members to be returned for the constituency. [Ss 40, 41A(7) and 41B(6) of the DCO and ss 81(2) and 96 of the EAC (EP) (DC) Reg] *[Added in September 2015 and amended in September 2023]*

CHAPTER 3

NOMINATION OF CANDIDATES

PART I : GENERAL

3.1 The amended DCO stipulates the establishment of the DCERC to review and confirm the eligibility of all candidates standing for elections, as well as appointed and ex officio members. *[Added in September 2023]*

3.2 Legislative provisions governing the eligibility for being nominated as a candidate at the DC election, the disqualification from being nominated as a candidate or from being elected as a member of the DC, and the requirements to be complied with by nominated candidates are set out in ss 20, 21 and 34 of the DCO respectively (see Parts II, III and V of this chapter). *[Amended in September 2019 and September 2023]*

3.3 As stipulated in s 34(1A)(c) of the DCO, the nomination of a candidate is invalid unless a declaration is made in the nomination form to the effect that he/she will uphold the Basic Law and pledge allegiance to the HKSAR of the People’s Republic of China¹⁴. In accordance with s 104(1) of the EAC (EP) (DC) Reg, a person who makes a statement in the nomination form which he/she knows to be false in a material particular or recklessly makes a statement which is incorrect in a material particular or knowingly

¹⁴ Upholding the Basic Law means to uphold all the provisions of the Basic Law, including –
 Article 1: The Hong Kong Special Administrative Region is an inalienable part of the People’s Republic of China.
 Article 12: The Hong Kong Special Administrative Region shall be a local administrative region of the People’s Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People’s Government.
 Article 159(4): No amendment to this Law shall contravene the established basic policies of the People’s Republic of China regarding Hong Kong.
 Please see s 3AA of the Interpretation and General Clauses Ordinance (Cap 1) for the detailed explanation of references to “upholding the Basic Law and bearing allegiance to the HKSAR”.

omits a material particular from an election related document commits a criminal offence. Upon conviction, apart from being liable to criminal sanction, he/she will also be disqualified from holding office as a member of the DC, if elected, in accordance with s 26A(1)(d)(iv) of the DCO. *[Added in September 2019 and amended in September 2023]*

3.4 Under the subsisting law, the validity of a candidate's nomination is solely determined by the DCERC, and the EAC is neither empowered nor involved in the making of such decision. The EAC will not provide any advice, but will only make arrangements for an election for the validly nominated candidates determined by the DCERC. The RO may under s 12(10) of the EAC (EP) (DC) Reg request a candidate to provide additional information that he/she considers necessary to satisfy the DCERC that the candidate is eligible to be nominated as a candidate for a constituency or otherwise as to the validity of the nomination. In accordance with s 19 of the EAC (EP) (DC) Reg, if the DCERC decides that the nomination of a candidate is invalid, the DCERC must endorse on the nomination form the decision and the reason(s) for it. The RO must inform the candidate concerned and each validly nominated candidate for the constituency concerned of the decision of the DCERC, and will make available a copy of the nomination form for public inspection pursuant to s 14 of the EAC (EP) (DC) Reg. If any person is disqualified from being a candidate at an election (except for the decision made by the DCERC pursuant to the opinion of the Committee on National Security), he/she may make an election petition to question the result of the election in accordance with s 49 of the DCO. *[Amended in September 2019 and September 2023]*

3.5 A candidate is not required by the law to provide information on his/her political affiliation. However, a candidate may state his/her political affiliation in the nomination form and the Introduction to Candidates. Candidates of DCGCs may also request to print the registered names and/or

registered emblems of prescribed bodies (political/non-political) they are affiliated with on the ballot papers. If a candidate chooses to state his/her political affiliation in the nomination form, Introduction to Candidates or ballot papers (applicable to candidates of DCGCs only), he/she should make sure that the information shown in the above documents is not inconsistent with other information provided (e.g. if the candidate indicates membership of a political party in the nomination form, he/she must not indicate himself/herself as a “non-affiliated candidate” on the ballot papers). *[Added in September 2019 and amended in September 2023]*

3.6 It is important to note that it is imperative for any candidate claiming to be “independent” or “non-affiliated” (or other similar descriptions) to have factual basis for the claim. There were, for that matter, legal proceedings involving disputes over the political affiliation of candidates. In an election petition handled by the High Court in respect of the 2019 DC Ordinary Election (HCAL 3665/2019), the judge stated in the judgment that:

“A statement that a candidate in an election is ‘獨立’ (independent) may mean different things depending on the context. It may mean, amongst others, that the candidate: (1) is not affiliated with any political party; or (2) is not running on a political party’s ticket in the election; or (3) is not supported by any political party in the election; or (4) is not affiliated with any body or organisation, or political body or organisation, irrespective of whether it is strictly a political party or purports to be one; or (5) is not affiliated with any ‘prescribed body’ (訂明團體) as that term is defined in s 2(1) of the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation, Cap 541M, i.e. a ‘prescribed political body’ (訂明政治性團體) or a ‘prescribed non-political body’ (訂明非政治性團體).”

If a candidate would like to claim himself/herself to be “independent” for electioneering publicity purpose, it is his/her responsibility to ensure unambiguous factual substantiation for such claim to prevent misunderstanding. To avoid doubt or dispute, the candidate may consider a more prudent approach by illustrating the meaning and background for claiming himself/herself to be “independent” in his/her self-introduction or publicity materials. *[Added in September 2023]*

3.7 In the judgment on the election petition case (HCAL 3665/2019) mentioned in para. 3.6 above, the judge also pointed out that:

“... the expression ‘political party’ does not have a generally defined legal meaning. (1) There is no definition of that expression in the Interpretation and General Clauses Ordinance, Cap 1. (2) The expression ‘political party (政黨)’ is given a circular definition in s 31 of the Chief Executive Election Ordinance, Cap 569, to mean (a) a political body or organisation (whether operating in Hong Kong or elsewhere) which purports to be a political party; or (b) a body or organisation the principal function or main object of which is to promote or prepare a candidate for election as a member of the Legislative Council or any District Council. (3) The expression ‘political body’ (政治性團體) is defined in both the Societies Ordinance, Cap 151, and the Electoral Affairs Commissioner [sic] Ordinance, Cap 541, to mean (i) a political party or an organisation that purports to be a political party, or (ii) an organisation whose principal function or main object is to promote or prepare a candidate for an election. (4) The expression ‘prescribed political body’ (訂明政治性團體) is defined in the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation, Cap 541M, to mean a body or organisation operating in Hong Kong (a) that is a political party; (b) that purports to be a political party; or (c) the principal function or main

object of which is to promote or prepare a candidate for election as a member. The above definitions are, however, for the purposes of those specific Ordinances only.”

Although these definitions are given only for the purposes of relevant ordinances, candidates may make reference to them in assessing their actual circumstances. If candidates have any doubts about information relating to their political affiliation to be provided on the nomination form and the Introduction to Candidates, or the particulars of the candidates on the ballot papers (applicable to candidates of DCGCs only), they should seek independent legal advice before drawing up and providing the information. *[Added in September 2023]*

3.8 A candidate who makes a false statement about his/her political affiliation in an election-related document (including the nomination form or ballot papers (applicable to candidates of DCGCs only)) commits an offence and shall be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 104 of the EAC (EP) (DC) Reg]. *[Added in September 2019 and amended in September 2023]*

PART II : ELIGIBILITY AND DISQUALIFICATION FOR NOMINATION

Eligibility

3.9 To be eligible for nomination as a candidate at a DC election, a person must:

- (a) be 21 years of age or over;

- (b) be registered as an elector in the existing register of electors of GCs;
- (c) not be disqualified from voting at an election (see para. 2.18 of Chapter 2);
- (d) not be disqualified from being nominated as a candidate or elected as a member by virtue of s 21 of the DCO or any other legislation (see para. 3.13 below); and
- (e) have ordinarily resided in Hong Kong for the 3 years immediately preceding the date of his/her nomination (for the definition of “ordinarily residing in Hong Kong”, please see paras. 3.10 to 3.12 below).

[S 20 of the DCO] *[Amended in September 2015 and September 2023]*

“Ordinarily Residing in Hong Kong”

3.10 The definition of “ordinarily residing in Hong Kong” is not set out in the subsisting electoral law. In assessing whether a person “ordinarily resides in Hong Kong”, one needs to take into account a host of factors and the specific situation of each case, and determine according to the relevant court judgments. The conclusion cannot be generalised and one cannot say someone does not “ordinarily reside in Hong Kong” simply because he/she has a place of residence abroad. According to a court precedent¹⁵, a person is considered ordinarily residing in a place if he/she remains in that place legally, voluntarily and for a settlement purpose (e.g. for education, employment or residence), regardless of the duration, and even if he/she is temporarily absent

¹⁵ *Lau San Ching v Liu, Apollonia* [1995] 5 HKPLR 23 citing *R. v. Barnet London Borough Council, ex parte Shah* [1983] 2 AC 309

from that place for some reasons. The precedent also pointed out that a person may ordinarily reside in two places at the same time. *[Added in September 2023]*

3.11 Generally speaking, for a Hong Kong permanent resident who used to reside in Hong Kong all along, if he/she has now set up for personal reasons another residence elsewhere but still returns to live in Hong Kong from time to time (e.g. for handling personal matters, social gatherings or family reunion), then he/she can still be regarded as maintaining a reasonable connection with Hong Kong. A condition which must be considered in parallel is that in accordance with the electoral law, that person must provide, for the purpose of registration as an elector, a residential address which is his/her only or principal residence in Hong Kong (i.e. not a correspondence address but a residential address where he/she habitually resides when he/she is in Hong Kong). Under such circumstances, whether the person still satisfies the statutory requirement of “ordinarily residing in Hong Kong” must be determined according to the actual circumstances of individual case. *[Added in September 2023]*

3.12 To sum up, the individual circumstances of the person must be considered when determining whether that person is “ordinarily residing in Hong Kong”, and it is not a matter which could be summarily determined. A prospective candidate who is doubtful about his/her eligibility for nomination should consult his/her independent legal adviser. In a DC ordinary election, a prospective candidate may also seek the advice of the NAC within a specified period (see paras. 3.29 to 3.36 below). *[Amended in September 2015 and September 2023]*

Disqualification

3.13 A person is disqualified from being nominated as a candidate at an election, and from being elected as a member at an election, if he/she:

- (a) is a judicial officer or a prescribed public officer¹⁶;
- (b) has, in Hong Kong, or any other place, been sentenced to death or imprisonment (by whatever name called), and has not either served the sentence or undergone such other punishment as a competent authority may have substituted for the sentence or received a free pardon¹⁷;
- (c) has been convicted of treason;
- (d) on the date of nomination, or of the election, is serving a sentence of imprisonment;

¹⁶ A prescribed public officer means any of the following:

- (a) the Chairman of the Public Service Commission;
- (b) the Commissioner and Deputy Commissioner of the ICAC and the holder of any other office under the ICAC Ordinance (Cap 204);
- (c) the Ombudsman and the holder of any appointment under s 6 of The Ombudsman Ordinance (Cap 397);
- (d) a member of the EAC;
- (e) the chief executive of the Monetary Authority and any member of the senior management of that Authority, including divisional heads, executive directors, managers and counsel employed by that Authority;
- (f) the Privacy Commissioner for Personal Data and any person employed or engaged by him/her under the Personal Data (Privacy) Ordinance (Cap 486);
- (g) the Chairperson of the Equal Opportunities Commission and any person employed or whose services are engaged by the Commission under the Sex Discrimination Ordinance (Cap 480);
or
- (h) any person holding an office, whether permanent or temporary, in a government department or bureau and employed in the department or bureau.

¹⁷ On 21 June 2012, the Court of First Instance handed over a written judgment on *Wong Hin Wai & another v Secretary for Justice* (HCAL 51 & 54/2012), declaring section 39(1)(b) of the LCO (which is similar to para. 3.13(b) or section 21(1)(b) of the DCO) to be unconstitutional. On 12 July 2012, the Government announced its decision not to appeal against the judgment. The future DC elections will be conducted in accordance with the prevailing electoral laws. Any person who wishes to be nominated as a candidate for a DC election and is doubtful about his/her eligibility for nomination may seek independent legal advice and, where appropriate, apply to the NAC appointed by the EAC for advice in a DC ordinary election.

- (e) is or has been convicted, within five years before the date of the election:
 - (i) of an offence in Hong Kong or in any other place, the sentence for which is imprisonment (suspended or not) for a term exceeding three months without the option of a fine;
 - (ii) of having engaged in corrupt or illegal conduct in contravention of the ECICO;
 - (iii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201) (“POBO”); or
 - (iv) of any offence prescribed by s 7 of Schedule 4A to the DCO (i.e. for using information in a DCC register for purposes unrelated to an election) or regulations in force under the EACO;
- (f) is ineligible to be a candidate or to be elected as a member at an election because of the operation of the DCO or any other law;
- (g) is a representative or a salaried functionary of the government of a place outside Hong Kong;
- (h) is a member of any national, regional or municipal legislature, assembly or council of any place outside Hong Kong, other than a people’s congress or people’s consultative body of the People’s Republic of China, whether established at the national level or local level;

- (i) is an undischarged bankrupt or, within the previous five years, has either obtained a discharge in bankruptcy or has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap 6) with the person's creditors, in either case without paying the creditors in full; *[Amended in August 2008]*
- (j) within the five years before the date of election, has vacated an office or has been disqualified from entering on an office under the law for declining or neglecting to take a specified oath¹⁸, or has been declared or decided in accordance with any law:
 - (i) to be in breach of a specified oath; or
 - (ii) to have failed to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR of the People's Republic of China; or *[Added in September 2023]*
- (k) is found to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs under the Mental Health Ordinance (Cap 136). *[Amended in September 2012]*

[S 21 of the DCO] *[Amended in September 2015 and September 2023]*

¹⁸ Specified oath means an oath taken under the law that the oath-taker will uphold the Basic Law and bear allegiance to the HKSAR of the People's Republic of China.

PART III : WHEN AND HOW TO NOMINATE

When to Nominate

3.14 Any person who intends to stand as a candidate may submit a nomination form during the **nomination period** specified in the notice published in the Gazette [s 8 of the EAC (EP) (DC) Reg]. The nomination period for the election for a constituency must not be less than 14 days or more than 21 days, and must end not less than 28 days and not more than 42 days before the polling date [s 9 of the EAC (EP) (DC) Reg]. An election timetable in the form of an “Action Checklist for Candidates” (see **Appendix 2**) will be provided to each candidate by the RO for the relevant constituency. The ROs shall receive nominations during the ordinary business hours (i.e. from 9 am to 5 pm from Monday to Friday, and from 9 am to 12 noon on a Saturday) on each working day (i.e. any day other than a general holiday) in the nomination period. **Candidates are advised to submit their nominations in good time to allow sufficient time for rectification of any errors or omissions in their nomination forms before the close of the nomination period.** *[Amended in September 2007, September 2012, September 2015, September 2019 and September 2023]*

How to Nominate

3.15 Nomination forms specified by the EAC can be obtained from any District Offices (“DOs”) or the REO or downloaded from the website of the REO (www.reo.gov.hk). *[Amended in August 2008]*

3.16 The nomination form comprises (a) the nomination and (b) the consent and declarations on nomination form.

The Nomination

3.17 In respect of **DCC elections**, a candidate standing for election in respect of the DCC of the DC of a District must be nominated by electors of the DCC. The part on nomination in the candidate's nomination form must be subscribed by **not less than 3 but not more than 6 electors in each of the District Committees**¹⁹ in the District (other than the candidate himself/herself) assenting to the nomination. [S 7(1) of the DC Subscribers & Deposit Reg] An elector is entitled to subscribe a number of nomination forms in respect of the DCC up to the number of members to be returned for the DCC at the election [s 8(1)(a) of the DC Subscribers & Deposit Reg]. *[Added in September 2023]*

3.18 In respect of **DCGC elections**, a candidate standing for election in respect of a DCGC of the DC of a District must be nominated by electors of the DCGC and electors of the DCC of the DC. The part on nomination in the candidate's nomination form must be subscribed by –

- (a) **not less than 50 but not more than 100 electors of the DCGC** (other than the candidate himself/herself) assenting to the nomination [s 7(2)(a) of the DC Subscribers & Deposit Reg]. An elector is entitled to subscribe only 1 nomination form in respect of the DCGC [s 8(1)(b) of the DC Subscribers & Deposit Reg]; and
- (b) **not less than 3 but not more than 6 electors of the District Committee**²⁰ in the District (other than the candidate himself/herself) assenting to the nomination [s 7(2)(b) of the DC

¹⁹ If there are 2 or more Area Committees in a District, those Area Committees are to be regarded as 1 District Committee in the District [s 7(3) of the DC Subscribers & Deposit Reg].

²⁰ If there are 2 or more Area Committees in a District, those Area Committees are to be regarded as 1 District Committee in the District [s 7(3) of the DC Subscribers & Deposit Reg].

Subscribers & Deposit Reg]. An elector is entitled to subscribe only 1 nomination form in respect of each DCGC of the DC [s 8(1)(c) of the DC Subscribers & Deposit Reg].

[Amended in September 2023]

3.19 Generally speaking, each elector of a DCC can subscribe multiple nomination forms in different capacities, as illustrated below:

Constituency	As an elector of a DCC	As an elector of a DCGC
DCC	up to the number of members to be returned for the DCC in the District	
DCGC	up to the number of DCGCs in the District	for his/her own DCGC: 1

[Added in September 2023]

3.20 In any of the cases of paras. 3.17 and 3.18 above, where the number of persons subscribing a nomination has exceeded the number of qualified subscribers required to effect the nomination of the candidate, the surplus subscribers over the required number must be regarded as not having subscribed the nomination concerned [s 7(4) of the DC Subscribers & Deposit Reg]. As such, the electors in surplus may subscribe another nomination instead. However, if the nomination subscribed by an elector has been held to be invalid, or the candidate has withdrawn his/her nomination, the elector may subscribe another nomination before the close of the nomination period, and his/her signature shall not be inoperative on the other nomination form. On

the other hand, if the elector contravenes the relevant regulations by subscribing more nomination forms than the number he/she is entitled to subscribe as an elector of a constituency, his/her signature shall be operative only on the entitled number of nomination(s) first delivered [s 8(2) of the DC Subscribers & Deposit Reg]. *[Amended in September 2011 and September 2023]*

IMPORTANT :

A candidate who submits a nomination form on the last few days of the nomination period is advised to include more than the required number of subscribers for his/her nomination, so as to avoid invalidation of the nomination should any of the subscribers be subsequently found to be not qualified as subscribers. A candidate should ensure that the electors subscribing his/her nomination are eligible persons and that the number of nomination(s) subscribed by the electors has not exceeded the number of nomination(s) they are entitled to subscribe (see paras. 3.17 and 3.18 above). *[Amended in September 2023]*

Each elector subscribing a nomination shall sign the nomination form **personally**. A candidate must not sign as a subscriber in his/her own nomination form. *[Amended in September 2019]*

No unlawful means shall be used to procure an elector to subscribe or not to subscribe a nomination. Intimidation is an offence under ss 24 and 27 of the Crimes Ordinance (Cap 200). Offenders are liable on summary conviction to a fine at level 1 (\$2,000) and to imprisonment for 2 years, or on conviction upon indictment to imprisonment for 5 years. Engaging in bribery,

which is a corrupt conduct, is also liable to a fine and to imprisonment. *[Added in September 2007 and amended in September 2012]*

Candidates are also required to observe Data Protection Principle 4 of Schedule 1 to the PD(P)O in safeguarding the personal data of subscribers to the nomination forms held by them. They should take all practicable steps to ensure that the aforesaid personal data are protected against accidental or unauthorised access, processing, erasure, loss or use. *[Added in September 2012 and amended in September 2015]*

Consent and Declarations on Nomination Form

3.21 According to the DCO and the EAC (EP) (DC) Reg, a candidate must duly complete the nomination form and the declarations, which shall be attested by a witness²¹. The candidate must declare that he/she will uphold the Basic Law and pledge allegiance to the HKSAR of the People's Republic of China. Otherwise, he/she is not nominated as a candidate [s 34(1A)(c) of the DCO and s 12(4) of the EAC (EP) (DC) Reg]. *[Amended in September 2019 and September 2023]*

3.22 A person who, in an election-related document (including the nomination form and the declarations), makes a statement which he/she knows to be false in a material particular or recklessly makes a statement which is incorrect in a material particular, or knowingly omits a material particular from

²¹ A witness can be any person aged 18 years or above and in possession of an identity document. According to s 2 of the DCO, identity document means:

- (a) an identity card issued to a person under the Registration of Persons Ordinance (Cap 177); or
- (b) a document issued by the Commissioner of Registration to a person certifying that the person is exempt, under regulation 25 of the Registration of Persons Regulations (Cap 177A), from being required to register under that Ordinance; or
- (c) any other document issued to a person that is acceptable to the ERO as proof of the person's identity.

an election-related document, commits an offence and shall be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 104 of the EAC (EP) (DC) Reg]. *[Added in September 2019]*

IMPORTANT :

No person shall be nominated in an election as a candidate for more than one constituency. When a person submits his/her nomination form, he/she must have withdrawn all his/her other prior nominations, if any. He/She is required to make a declaration in the nomination form that either he/she has not been nominated before for any other constituency in the election, or if he/she has been so, he/she has withdrawn all those prior nominations [s 21 of the EAC (EP) (DC) Reg]. Where a candidate stands nominated, any subsequent nominations of his/hers will be rejected as invalid. *[Amended in September 2011]*

3.23 In the nomination form, a candidate may choose to state his/her occupation and/or political affiliation for public information if he/she so prefers. If a candidate mentions the name of any organisation when stating his/her political affiliation, the consent of the organisation concerned must be sought beforehand. Candidates should make sure that their nomination forms are properly completed before submission. Information (e.g. occupation and political affiliation) provided by a candidate in the grid paper for the Introduction to Candidates or in the specified form for requesting to print particulars relating to the candidate on ballot paper²²(applicable to candidates of DCGCs only) should not be inconsistent with the information stated in the nomination form (e.g. if the candidate indicates membership of a political party

²² The specified form is known as REO/BP/7 Form, i.e. “Request by a Candidate for a Legislative Council Geographical Constituency, a Legislative Council Functional Constituency or a District Council Geographical Constituency to Print Particulars relating to the Candidate on a Ballot Paper”.

in the nomination form, he/she must not indicate himself/herself as a “non-affiliated candidate” on the ballot papers) and should be true. *[Amended in September 2015, September 2019 and September 2023]*

3.24 Candidates should take heed of the guidelines in paras. 3.5 to 3.7 above when drawing up and providing the relevant information, and pay extra attention to ensure that there is factual basis. *[Added in September 2023]*

3.25 Each nomination form must be submitted to the RO for the constituency concerned together with the payment of the prescribed sum of election deposit (see Part V of this chapter for details). The RO may refuse to accept any nomination form bearing material alteration to its content.

3.26 The completed nomination form must be submitted to the RO for the constituency concerned by the candidate **in person** during ordinary business hours (i.e. 9 am to 5 pm from Monday to Friday, and from 9 am to 12 noon on a Saturday) on a working day (i.e. any day other than a general holiday) within the nomination period. In exceptional circumstances (e.g. the candidate’s temporary absence from Hong Kong or incapacity due to illness), the CEO may authorise other manner of submission of the nomination form to the RO. [S 12(12) and (13) of the EAC (EP) (DC) Reg] *[Amended in September 2015 and September 2019]*

3.27 The RO will also make available copies of the nomination forms for public inspection free of charge at the specified address during ordinary business hours until the relevant notice of the election result is published [s 14 of the EAC (EP) (DC) Reg]. If the DCERC decides that the nomination of a candidate is invalid (see Part VII of this chapter), it must endorse on the relevant nomination form the decision and the reasons for it [s 19(1) of the EAC (EP) (DC) Reg]. *[Amended in September 2019 and September 2023]*

False Declarations

3.28 A candidate who knowingly and recklessly makes a statement which is false in a material particular in the nomination form or makes a false declaration is in breach of the requirements of s 104(1) of the EAC (EP) (DC) Reg. The aforesaid provision stipulates that a person who makes a statement which he/she knows to be false in a material particular in an election-related document, or recklessly makes a statement which is incorrect in a material particular in such document, or knowingly omits a material particular in such document, commits an offence and shall be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. The provision also specifies that an election-related document means a form, declaration, etc. required or used for the purposes of the EAC (EP) (DC) Reg. Besides, a person making a false statement in any statutory document is in breach of s 36 of the Crimes Ordinance and shall be liable to imprisonment for 2 years and to a fine. A contravention of s 104 of the EAC (EP) (DC) Reg is a prescribed offence. In accordance with s 26A(1)(d)(iv) of the DCO, a person who commits a prescribed offence shall be disqualified from holding office as a member of the DC upon conviction, regardless of the term of imprisonment, in the same way a person shall be disqualified on conviction of a corrupt or illegal conduct under the ECICO (as described in paras. 15.62 and 16.38 of the Guidelines). In other words, even if a candidate who has made a false declaration in the nomination form is elected, he/she will be disqualified from holding office as a member of the DC in accordance with s 26A(1)(d)(iv) of the DCO; he/she is also disqualified from being nominated as a candidate and from being elected as a member of the DC if the election is held within five years after the date of conviction under s 21(1)(e)(iv) of the DCO. *[Amended in September 2007, September 2015, September 2019 and September 2023]*

PART IV : NOMINATIONS ADVISORY COMMITTEES

3.29 The EAC is empowered to appoint NACs to provide advice, upon request, to prospective candidates and the ROs on whether a candidate is eligible for nomination [ss 2 and 3 of the EAC (NAC) (DC) Reg]. In line with the established practice, each NAC is in the charge of either a Senior Counsel or a legal practitioner of not less than ten years' standing who, in the opinion of the EAC, is independent and impartial without connection with any candidate or political organisation in Hong Kong. *[Amended in September 2007]*

3.30 The NACs may provide advice to prospective candidates and the ROs on whether a prospective candidate is eligible to be, or is disqualified from being, nominated as a candidate. However, any advice given by an NAC or a refusal on its part to give any such advice does not preclude a person from seeking nomination as a candidate or proceeding with a nomination. [S 9 of the EAC (NAC) (DC) Reg] *[Added in September 2019]*

3.31 Notwithstanding this, according to s 1(2) of the EAC (NAC) (DC) Reg, the NACs are not empowered to advise on matters provided for under s 34 of the DCO (including the declarations by candidates on upholding the Basic Law and pledging allegiance to the HKSAR of the People's Republic of China, and the lodging of deposit by candidates). The advice provided by the NACs on whether a prospective candidate is eligible to be nominated as a candidate does not indicate the validity of his/her nomination. The validity of the nomination is ultimately a matter for the DCERC to decide. *[Added in September 2019 and amended in September 2023]*

The NAC's Service to Prospective Candidates

3.32 The NAC provides service to prospective candidates **at a DC ordinary election only**. During a period specified by the EAC [s 3(3) of the

EAC (NAC) (DC) Reg] (which generally ends before the commencement of the nomination period), a prospective candidate may apply, by completing a specified form which can be obtained from the REO/any DOs or downloaded from the REO website within the specified period, for the advice of the NAC as to whether he/she is eligible to be, or is disqualified from being, nominated as a candidate at a DC ordinary election. Each prospective candidate can only make one application in respect of the election [s 5(4) of the EAC (NAC) (DC) Reg]. *[Amended in September 2015 and September 2019]*

3.33 The completed application must be:

- (a) sent to the CEO by post or facsimile transmission so as to be received by him/her; or
- (b) served on the CEO personally,

on or before the deadline for application to be specified by the EAC.

[S 5(2)(b) of the EAC (NAC) (DC) Reg] *[Amended in September 2011]*

3.34 The NAC may, before giving its advice, require the applicant to make available information, particulars and evidence relating to his/her intended candidature within a specified period. The NAC may also require the applicant to present himself/herself before the NAC at the specified time and place to assist in the consideration of the application. The applicant may make representations to the NAC in person or through a person authorised by him/her in writing, at the specified time and place. [S 5(7) and (8) of the EAC (NAC) (DC) Reg]

3.35 Where an applicant does not make available the information, particulars or evidence required by the NAC, or fails to present himself/herself before the NAC as requested, the NAC may:

- (a) refuse to consider the application or to give any advice; or
- (b) give qualified advice on the application having regard to either or both of the following:
 - (i) the fact that information, particulars or evidence (any or all of them) have not been made available to the NAC;
 - (ii) the failure on the part of the applicant to present himself/herself before the NAC.

[S 5(9) of the EAC (NAC) (DC) Reg]

3.36 The NAC's advice to an applicant, including a decision of refusal to consider an application or to give advice, will be sent to the applicant in writing not later than a date specified by the EAC [s 5(10) of the EAC (NAC) (DC) Reg].

The NAC's Service to ROs

3.37 The NAC provides service to the ROs at both **DC ordinary elections and by-elections**. During a period specified by the EAC (which generally spans from the commencement of the nomination period to one day after the close of the nomination period), the ROs may, if necessary, apply for the NAC's advice on the eligibility for nomination of the candidates who have submitted their nominations. According to s 1(2) of the EAC (NAC) (DC) Reg, the Regulation does not empower or require the NAC to advise on matters

provided for under s 34 of the DCO (see para. 3.31 above). The applications shall be submitted to the NAC in writing through the CEO. The NAC will, not later than a date specified by the EAC, advise the RO as to whether the candidate concerned is eligible to be nominated. [S 6 of the EAC (NAC) (DC) Reg] *[Amended in September 2019]*

3.38 In forming an opinion on whether a person is eligible to be, or is disqualified from being, nominated as a candidate, the RO must take into account the advice given by the NAC on the candidate [s 17 of the EAC (EP) (DC) Reg and s 6(4) of the EAC (NAC) (DC) Reg]. That said, the validity of nomination is ultimately a matter for the DCERC to decide [s 16 of EAC (EP) (DC) Reg]. *[Amended in September 2023]*

PART V : ELECTION DEPOSIT

Payment of Election Deposit

3.39 When submitting a nomination form, each candidate must lodge an election deposit of \$3,000 by cash, cashier order or cheque, as prescribed by regulation made by the CE in Council [ss 34(2) and 81(2)(b) of the DCO and s 2 of the DC Subscribers & Deposit Reg].

3.40 A nomination form submitted to the RO will not be accepted unless it is accompanied by the prescribed election deposit payable.

IMPORTANT :

Candidates should pay their election deposits by cash or cashier order as far as practicable, although crossed cheques are also acceptable. In the event that a cheque is dishonoured, the

nomination will be ruled invalid unless the unpaid amount of deposit is settled before the close of the nomination period. Please note that in the event of a dishonoured cheque, the RO may not have sufficient time to inform the candidate concerned to rectify before the close of the nomination period. To avoid invalid nominations rendered by dishonoured cheques, candidates should pay the election deposit by cash or cashier order as far as practicable. *[Amended in September 2012]*

Return of Election Deposit

3.41 The deposit will be returned to the candidate if:

- (a) he/she is not validly nominated;
- (b) he/she withdraws his/her nomination;
- (c) he/she dies or is disqualified from being validly nominated after he/she is confirmed to be validly nominated for the election and before the date specified for holding the election; *[Amended in September 2015]*
- (d) the election has failed;
- (e) he/she is duly elected; or
- (f) the number of votes received by the candidate in his/her favour is not less than 3% of the total number of valid ballot papers received in the constituency.

The deposit will be forfeited if none of the above conditions is satisfied (see ss 3, 4 and 5 of the DC Subscribers & Deposit Reg for details). Candidates are required to complete a specified form for return of election deposit, and submit it together with the original receipt of the election deposit to the relevant RO for action. *[Amended in September 2023]*

PART VI : DISTRICT COUNCIL ELIGIBILITY REVIEW COMMITTEE

3.42 Candidates participating in the DCGC elections and the DCC elections must confirm their eligibility through an eligibility review mechanism. For consistency, appointed and ex officio members will also be subject to the eligibility review before taking office. The amended DCO stipulates the establishment of the DCERC for reviewing and confirming the eligibility of all candidates standing for elections, as well as appointed and ex officio members. In deciding the eligibility of a person, the DCERC is to seek the opinion of the Committee on National Security as to whether the person fails to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR of the People's Republic of China. If an opinion is given by the Committee on National Security, the DCERC must make the decision in accordance with the opinion. *[Added in September 2023]*

3.43 Under s 10A of the DCO, the DCERC consists of the chairperson, at least two but not more than four official members and at least one but not more than three non-official members. Each member of the DCERC is appointed by the CE by notice published in the Gazette. Only a principal official appointed pursuant to a nomination under Article 48(5) of the Basic Law is eligible for appointment as the chairperson or an official member. Only a person who is not a public officer is eligible for appointment as a non-official member. Besides, the CE shall report any appointment made to

the Central People's Government for record. [S 10A of the DCO] *[Added in September 2023]*

PART VII : VALIDITY OF NOMINATIONS

3.44 The validity of nomination is decided by the DCERC. The DCERC will make a decision on the validity of a nomination as soon as practicable upon receipt of the nomination form and publish a notice stating which persons are validly nominated as candidates within 14 days after the close of the nomination period [s 36(1) of the DCO and s 22(1) of the EAC (EP) (DC) Reg]. *[Amended in September 2023]*

3.45 In determining whether a candidate is validly nominated, the DCERC may request the RO to advise the DCERC as to any of the matters specified in s 16(3B) of the EAC (EP) (DC) Reg, for example, whether the candidate is eligible to be nominated or disqualified from being nominated as a candidate [s 16(3A)(a) and (3B)(g) of the EAC (EP) (DC) (Reg)]. However, while providing advice to the DCERC on whether a candidate satisfies the general requirements of standing for the election, the RO is not to advise the DCERC on whether a candidate has complied with s 34(1A)(c) of the DCO and the requirement of making a declaration to the effect that the candidate will uphold the Basic Law and pledge allegiance to the HKSAR of the People's Republic of China. [S 16(3C) of the EAC (EP) (DC) Reg] *[Added in September 2023]*

3.46 In the case of doubt as to whether a particular candidate satisfies the general requirements of standing for the election, the RO may apply for advice from the NAC (see para. 3.37 above). *[Amended in September 2015]*

3.47 Where a nomination appears to the RO to be invalid because of some errors or omissions which can be rectified before the close of the nomination period, the RO may, before forming an opinion as to the validity of the nomination, give the candidate a reasonable opportunity to rectify the errors or omissions as far as practicable [s 18 of the EAC (EP) (DC) Reg]. For example, if the qualification of a subscriber to a submitted nomination form is in doubt, the prospective candidate may be allowed to find another subscriber in substitution as soon as practicable after the submission of the nomination form. However, no substitution of subscriber or re-submission of a nomination form is allowed after the close of the nomination period.
[Amended in September 2023]

3.48 A nomination may be ruled invalid if the errors or omissions on the nomination form are not rectified before the close of the nomination period.

3.49 To enable the DCERC to be satisfied that a candidate is eligible to be nominated or otherwise as to the validity of a nomination, the RO may require the candidate to furnish any other information that the RO considers appropriate. Moreover, in deciding whether a candidate is validly nominated for a constituency, the DCERC may require the candidate to furnish any other information that it considers appropriate to be satisfied that the candidate is eligible to be nominated as a candidate for the constituency concerned or otherwise as to the validity of the nomination. [Ss 12(10) and 16(3A)(b) of the EAC (EP) (DC) Reg] *[Amended in September 2023]*

3.50 A nomination is invalid unless the nomination form contains all information and signatures required or any other information required by the RO and the candidate has made the declarations referred to in para. 3.21 above.
[Amended in September 2011]

3.51 Without prejudice to ss 20, 21 and 34 of the DCO²³, the DCERC may decide that a nomination of a candidate is invalid only when:

- (a) the number and qualifications of subscribers on the nomination form do not meet the requirements under s 7 of the DC Subscribers & Deposit Reg;
- (b) the nomination form, including the parts on nomination and declarations, has not been completed or signed as required under s 34 of the DCO and s 12 of the EAC (EP) (DC) Reg;
- (c) the DCERC is satisfied that the candidate is not eligible to be, or is disqualified from being, nominated as a candidate under the DCO;
- (d) the candidate has been nominated for another constituency at the same election and the DCERC is not satisfied that he/she has withdrawn that candidature;
- (e) the candidate has not lodged the appropriate election deposit (e.g. because the cheque for the payment of the candidate's election deposit is dishonoured and the unpaid amount has not been settled before the close of the nomination period); or
- (f) the RO is satisfied that the candidate has died.

[S 16(3) of the EAC (EP) (DC) Reg] *[Amended in September 2015, September 2019 and September 2023]*

²³ See paras. 3.9, 3.13, 3.21, 3.22 and 3.28.

3.52 If, after the DCERC has made the decision that a candidate is validly nominated for election for a constituency, but before the polling day, proof is given to the satisfaction of the RO that the candidate has died, the RO must publicly declare that the candidate has died and further declare which candidate(s) is/are validly nominated for that constituency. The RO does not have to make any such declarations if the candidate who has died is uncontested at the election for the relevant constituency and the RO has publicly declared that the candidate was duly elected [s 36(2), (2A) and (3) of the DCO and s 24 of the EAC (EP) (DC) Reg]. *[Amended in September 2023]*

3.53 If, after the DCERC has made the decision that a candidate is validly nominated for election for a constituency, but before the polling day, proof is given to the satisfaction of the DCERC that the candidate is disqualified from being nominated as a candidate, the DCERC must vary the decision to the effect that the candidate is not validly nominated. The DCERC must also publicly declare that the decision has been varied and further declare which candidate(s) is/are validly nominated for the relevant constituency. The DCERC does not have to vary the decision if the candidate who has been disqualified is uncontested at the election for the relevant constituency and the RO has publicly declared that the candidate was duly elected [s 36(4), (4A) and (5) of the DCO and s 25 of the EAC (EP) (DC) Reg]. *[Amended in September 2023]*

3.54 If, for a constituency, no more candidates have been validly nominated than the number of members to be returned for that constituency at the close of the nomination period, the RO must publicly declare the candidate(s) as being duly elected as member(s) for that constituency [s 23(1) of the EAC (EP) (DC) Reg]. *[Amended in September 2023]*

PART VIII : WITHDRAWAL OF CANDIDATURE

3.55 A candidate may withdraw his/her candidature only before the close of the nomination period. He/She is required to complete and sign a specified form entitled “Notice of Withdrawal of Candidature” which must be delivered to the RO concerned by the candidate in person or the candidate’s election agent in person [s 35 of the DCO and s 20 of the EAC (EP) (DC) Reg]. Under the subsisting law, candidates are not allowed to withdraw their candidature after the close of the nomination period and there is no such mechanism as the so-called “abandonment of election”. Even if a candidate has made public his/her claim about the so-called “abandonment of election”, his/her name will still be shown on the ballot papers and electors may vote for him/her if they so wish. All candidates must comply with the election-related legislation, including that on reporting all election expenses. *[Amended in September 2019]*

IMPORTANT :

It is an offence under ss 7 and 8 of the ECICO for a person to offer an advantage, or to use or threaten to use force or duress against, a candidate to induce him/her to withdraw his/her candidature; and for a candidate to solicit or accept an advantage to withdraw his/her candidature. *[Amended in September 2015]*

PART IX : NOTICE OF VALID NOMINATIONS

3.56 The DCERC must, within 14 days after the close of the nomination period, publish a notice in the Gazette stating the name and

address²⁴ of each of all the validly nominated candidate of each constituency, together with the number (which will be shown on the ballot paper) allocated by the drawing of lots to each candidate [s 22(1) and (4) of the EAC (EP) (DC) Reg]. Each validly nominated candidate will be separately informed of the validity of all nominations of the same constituency. In the case of an uncontested election, the RO must publish a notice in the Gazette to declare the candidate(s) as being duly elected as member(s) of the DC for that constituency [s 23(1) of the EAC (EP) (DC) Reg]. *[Amended in September 2012 and September 2023]*

PART X : PARTICULARS RELATING TO CANDIDATES ON BALLOT PAPERS

3.57 Under the PCBP (LC & DC) Reg, candidates of DCGCs may, **during the nomination period**, request the EAC to print specified particulars relating to candidates on ballot papers for use at DCGC elections. These particulars include the registered names (or abbreviations of the names) and emblems of prescribed bodies²⁵, the registered emblems of prescribed persons²⁶, words indicating that a candidate is an independent candidate or a non-affiliated candidate, and the personal photographs of candidates. This regulation does not apply to DCC elections. *[Added in September 2007 and amended in September 2023]*

²⁴ The address is the address provided by the candidate in the nomination form. For details, see the notes on completion of the nomination form.

²⁵ A prescribed body means a prescribed political body or a prescribed non-political body.

²⁶ A prescribed person means a person that is registered in the final register of GCs as compiled and published in accordance with the LCO and that is not disqualified from being so registered or from voting at an election.

Request to Print Particulars Relating to Candidates on Ballot Papers

3.58 A candidate for a DCGC may request the EAC to print on the ballot papers his/her personal photograph and one of the following particulars:

- (a) the registered names (or abbreviations of the names) and/or registered emblems relating to not more than three prescribed bodies (see para. 3.59 below);
- (b) the registered emblem relating to the candidate; or
- (c) the registered names (or abbreviations of the names) and/or registered emblems relating to not more than two prescribed bodies and the registered emblem relating to the candidate (see para. 3.59 below).

[S 3(2) and (3) of the PCBP (LC & DC) Reg]

A candidate can also choose to print the words “Independent Candidate” or “Non-affiliated Candidate” on ballot papers. In requesting to print particulars relating to him/her on the ballot papers, including the words “Independent Candidate” or “Non-affiliated Candidate”, the candidate should ensure that there is factual basis for the claim, as mentioned in paras. 3.5 to 3.7 above.

[Amended in September 2015 and September 2023]

3.59 A request must be made in the specified form and signed by the requestor. Where the subject of request relates to one or more prescribed bodies, the request must be accompanied by a written consent given during the nomination period by the body or each of the bodies in relation to the request. Where the subject of request includes a photograph, the request must be accompanied by two photographs with the name of the candidate shown on the

back of the photographs. [S 3(4) of PCBP (LC & DC) Reg] *[Added in September 2007]*

Application for Registration of Name and Emblem

3.60 The particulars already registered with the EAC under the former Particulars Relating to Candidates on Ballot Papers (Legislative Council) Regulation are deemed to have been registered with the EAC in relation to both LegCo and DC elections. All subsequent registrations will be applicable to GC elections and functional constituency elections of LegCo and DCGC elections. *[Added in September 2007, amended in August 2008 and September 2023]*

Application by prescribed body for the registration of its name and emblem

3.61 A prescribed body intending to support a candidate in a DCGC election may, at any time according to the time frame for application as detailed in para. 3.65, apply to the EAC for the registration of all or any of the following particulars:

- (a) the Chinese name of the body;
- (b) an abbreviation of the Chinese name of the body;
- (c) the English name of the body;
- (d) an abbreviation of the English name of the body;
- (e) an emblem of the body.

[S 8(1) of the PCBP (LC & DC) Reg]

3.62 An application must be made in the specified form and signed by the applicant. It must indicate that the applicant is a prescribed political body or a prescribed non-political body and that the applicant intends to consent to the subject of application being printed on a ballot paper as particulars relating to one or more persons as candidates. The application must also be accompanied by a copy of the certificate or document bearing the body's name issued to the body by an authority or regulatory organisation that regulates the body under the laws of Hong Kong. [S 8(2) of PCBP (LC & DC) Reg] *[Added in September 2007]*

Application by prescribed person for the registration of his/her emblem

3.63 A prescribed person intending to run in a DCGC election may in accordance with the registration cycle apply to the EAC for the registration of an emblem of the person [s 9(1) of the PCBP (LC & DC) Reg]. *[Amended in September 2015 and September 2023]*

3.64 An application must be made in the specified form and signed by the applicant [s 9(2) of the PCBP (LC & DC) Reg]. *[Added in September 2007]*

Timing of Application

3.65 Applications for registration may be submitted to the EAC for processing and approval. A register containing the particulars in respect of the registered names and emblems of prescribed bodies and registered emblems of prescribed persons, which have been approved by the EAC and published in the Gazette, is maintained by the CEO for public inspection. The register is updated annually to reflect any approved additions/deletions and only the approved particulars may be used by candidates in an election. The relevant cut-off date for the receipt of applications for processing and inclusion in the

register is 15 June of that year. [S 2 of the PCBP (LC & DC) Reg] *[Added in September 2007, amended in August 2008, September 2011, September 2012, September 2015 and September 2023]*

Processing of Application

3.66 The EAC will process any application made by a prescribed body or a prescribed person:

- (a) if the application is made on or before the relevant cut-off date in a year, as soon as practicable after that cut-off date, and in any event within that annual registration cycle; or
- (b) if the application is made after the relevant cut-off date in a year, as soon as practicable after the relevant cut-off date of the next following annual registration cycle, and in any event within the next following annual registration cycle.

[S 11 of the PCBP (LC & DC) Reg] *[Added in September 2007, amended in August 2008 and September 2011]*

3.67 If the EAC is of the opinion that it may refuse to grant an application made by a prescribed body or a prescribed person, it must give the applicant a notice in writing. The applicant may, within 14 days after the notice is given, vary the application or make representations in writing to the EAC on why the EAC should not refuse to grant the application. [Ss 12 and 13(1) and (2) of the PCBP (LC & DC) Reg] *[Added in September 2007]*

3.68 If the EAC, having considered an application made by a prescribed body or a prescribed person, is of the opinion that it may grant the application, it must publish a notice in respect of the application in the Gazette:

- (a) specifying the name of the applicant and the subject of application;
- (b) stating that the EAC may grant the application; and
- (c) inviting any person who objects to the granting of the application to make objection to the EAC in accordance with s 15 of the PCBP (LC & DC) Reg.

[S 14 of the PCBP (LC & DC) Reg] *[Added in September 2007]*

3.69 Under s 15 of the PCBP (LC & DC) Reg, any person may, within 14 days after the publication of a notice in respect of an application in the Gazette, by notice in writing given to the EAC, object to the granting of the application. *[Added in September 2007]*

3.70 In the event of an objection, the EAC will conduct a hearing. Under normal circumstances, a hearing will be held in public. However, a hearing may be held in private if it is in the interest of justice to do so. The EAC will make a decision on whether the application should be granted after hearing the representations and examining the relevant materials. [S 17 of the PCBP (LC & DC) Reg] *[Added in September 2007]*

3.71 The EAC will, as soon as practicable after a decision is made to grant an application made by a prescribed body or a prescribed person, publish a notice in respect of the application in the Gazette specifying the name of the applicant and the subject of application. If a decision is made to refuse an application, the EAC will notify the applicant in writing of the EAC's decision with reasons for its refusal. [S 19 of the PCBP (LC & DC) Reg] *[Added in September 2007]*

Registration and De-registration of Name, Emblem, etc.

3.72 A register of the relevant particulars in respect of the registered names and emblems of prescribed bodies and the registered emblems of prescribed persons is established and maintained by the CEO. The CEO must make the register available for inspection, free of charge, by members of the public during ordinary business hours at the REO [s 20 of the PCBP (LC & DC) Reg]. *[Added in September 2007]*

3.73 The EAC may de-register the name, the abbreviation of the name and the emblem that are registered in relation to a prescribed body on the grounds that:

- (a) no request is made to print the subject of registration on ballot papers:
 - (i) in two consecutive LegCo general elections;
 - (ii) in two consecutive DC ordinary elections, one of which is held between such LegCo general elections; and
 - (iii) in any LegCo or DC by-election held between such LegCo general elections or DC ordinary elections;

or

- (b) the body ceases to exist.

[S 21(1) of the PCBP (LC & DC) Reg]

3.74 The EAC may also de-register the emblem that is registered in relation to a prescribed person on the grounds that:

- (a) no request is made to print the subject of registration on ballot papers:
 - (i) in two consecutive LegCo general elections;
 - (ii) in two consecutive DC ordinary elections, one of which is held between such LegCo general elections; and
 - (iii) in any LegCo or DC by-election held between such LegCo general elections or DC ordinary elections;

or

- (b) the person has died.

[S 21(2) of the PCBP (LC & DC) Reg] *[Added in September 2007]*

PART XI : CANDIDATES' BRIEFING AND INTRODUCTION TO CANDIDATES

3.75 The EAC will conduct a briefing for all validly nominated candidates on important matters related to the election. After the close of the nomination period, the RO will inform all validly nominated candidates of the date and time of the lots drawing session and the Candidates' Briefing. In the case of a contested election, the RO will draw lots to determine for each of the validly nominated candidates the candidate number to be shown on the ballot papers, and also the designated spots allocated to each of them to display EAs (see para. 7.36 of Chapter 7). *[Amended in August 2008, January 2010, September 2015, September 2019 and September 2023]*

3.76 The REO will publish an **Introduction to Candidates**. The candidate number allocated to each candidate by the drawing of lots and to be shown on the ballot papers will also be indicated on the Introduction to Candidates, which will be mailed to the electors together with the poll cards before the polling day. Copies of the Introduction to Candidates will be made available in the Correctional Services Department (“CSD”) and other law enforcement agencies for electors imprisoned or held in custody. *[Amended in August 2008, January 2010 and September 2015]*

3.77 Candidates are free to make use of the Introduction to Candidates to promote their election. Any candidate who so wishes should submit the following to the relevant RO **before the close of the nomination period**:

- (a) a duly completed grid paper affixed with a colour photograph of the candidate which must be in a specified size and should be taken within the last six months; and
- (b) two additional copies of his/her photograph identical to the one affixed to the grid paper with his/her name label affixed on the back.

If a candidate does not submit the grid paper, the Introduction to Candidates will only show his/her name and candidate number allocated, with the sentence “Relevant information has not been provided by the candidate” printed in the space provided for his/her electoral message. *[Amended in September 2007, August 2008, September 2015 and September 2019]*

3.78 The contents, nature and presentation of a candidate’s message in the Introduction to Candidates are exclusively the idea and work of the candidate himself/herself. They will not be subject to alteration or editing by the REO unless they are considered unlawful, obscene, immoral, indecent,

offensive, defamatory, or containing information irrelevant to the promotion of the candidature of the candidate concerned. *[Amended in August 2008, September 2011 and September 2019]*

3.79 To assist persons with visual impairment in reading the contents of the Introduction to Candidates, candidates may provide the REO with typed texts of their messages to enable persons with visual impairment to read the contents of the document with the aid of computer software. The typed texts can be submitted after the close of the nomination period and by the deadline specified by the REO. With these typed texts, the REO will prepare a text version of the Introduction to Candidates for uploading onto the dedicated website of the DC ordinary election or the REO's website in the case of a by-election. If a candidate does not provide the typed text for preparing the text version of the Introduction to Candidates, the website will only show his/her name and the candidate number allocated with the remark that the candidate has not provided a text version of his/her electoral message. The EAC appeals to all candidates to support this initiative and make use of this text version to convey their electoral messages to persons with visual impairment. As a general principle, candidates should be sensitive to the needs of electors and, in the course of their electioneering campaigns, make their utmost efforts to ensure that persons with different needs can have fair access to their electoral messages. *[Added in September 2012, amended in September 2015 and September 2019]*

CHAPTER 4

POLLING AND COUNTING ARRANGEMENTS

PART I : GENERAL

4.1 An elector may vote only at the polling station allocated to him/her. In general, the REO will assign a DCGC elector to vote at a polling station within his/her DCGC and close to his/her residential address recorded in the final register of GCs. For DCC elections, 1 polling station will be set up in each of the 18 Districts in Hong Kong for a DCC elector to vote at a polling station within the District where his/her DCC belongs. *[Added in September 2019 and amended in September 2023]*

4.2 If an elector with mobility difficulty is assigned to a polling station that is not easily accessible for him/her, the elector may apply to the REO for re-assigning to a special polling station with barrier-free access to cast his/her vote. Please see para. 4.21 below for details. *[Added in September 2019 and amended in September 2023]*

4.3 A No Canvassing Zone (“NCZ”) will be designated outside each polling station to ensure that electors can gain access to the polling station without interference. In addition, a No Staying Zone (“NSZ”) in which no one is allowed to stay or loiter will also be designated immediately outside the entrance/exit of a polling station to avoid any obstruction of the entry/exit. *[Added in September 2019]*

4.4 No canvassing activities are allowed within the NCZ. Regarding buildings within the NCZ, all canvassing activities by candidates and their campaigners are prohibited in the entire building where a polling

station is located as well as on the ground floor of other buildings, regardless of whether they are government or private premises, and even if approval from the building management concerned is obtained. Please see Part III of this chapter for details. *[Added in September 2019]*

4.5 The CEO will designate by notice in the Gazette the polling hours at least 10 days before the polling day. About 30 minutes before the commencement of poll (or 15 minutes for dedicated polling stations situated in penal institutions), the PRO will admit the candidates, their election agents or polling agents, if present, into the polling station to observe the process of opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. After the close of the poll, the PRO will lock and seal the ballot boxes in the presence of the candidates and their agents, if present. The count will only commence when polling at all polling stations of the same constituency has closed. *[Added in September 2019 and amended in September 2023]*

4.6 Only electors and designated/authorised persons are allowed entry to a polling station. Electors requiring assistance from others for entering a polling station may make a request to the PRO for discretionary arrangements as appropriate. *[Added in September 2019]*

4.7 In order to be more flexible, efficient and accurate in the issuance of ballot papers, an Electronic Poll Register (“EPR”) system will generally be adopted for issuing ballot papers at polling stations (except for dedicated polling stations). Upon entry to a polling station, electors should follow the instructions on site and collect ballot papers at any of the ballot paper issuing desks. Please see Parts VI and VII of this chapter for details. *[Added in September 2023]*

4.8 The ballot is autonomous and secret. No one may use any force or threaten to use force against a person to make him/her vote or not vote for any particular candidate at an election. Also, no one is obligated to disclose which candidate he/she has voted for or is going to vote for. *[Added in September 2019]*

4.9 After collecting the ballot paper, an elector should immediately proceed to a voting compartment to mark his/her vote on the ballot paper. Each voting compartment can only be used by one elector at any one time. Based on the principle of the autonomous and secret ballot, it is prohibited by the law to have anyone (not even a relative or friend of the elector) to accompany or assist the elector to vote. If an elector has difficulty in marking his/her vote, he/she may, as stipulated under the law, ask the PRO or the PRO's deputy to mark the ballot paper on his/her behalf according to his/her voting preference, in the presence of one polling staff as a witness. Please see para. 4.53 below for details. *[Added in September 2019 and amended in September 2023]*

4.10 No one is allowed to display, circulate, share or discuss with others any material containing the name and/or number of a candidate inside the polling station or the NCZ. Such acts are against the law. Nevertheless, it is not prohibited by the law for an elector to enter the polling station with a memorandum containing the name or number of the candidate of his/her choice (e.g. a leaflet bearing the information of the candidate or a reminder note commonly known as “thunder in the palm (掌心雷)”) for that elector's own reference to mark the ballot paper inside the voting compartment. *[Added in September 2019]*

4.11 Under no circumstances is anyone allowed to induce an elector to vote or not to vote for a particular candidate or particular candidates by offering advantages, food, drink or entertainment, by using force or duress against a

person, or by a deception, and to wilfully obstruct or prevent an elector from voting at the election. Such acts violate the ECICO. There are occasions when electors may require assistance from others or transportation service in accessing the polling station. However, in the course of the assistance and service, it must not involve the aforesaid unlawful acts under any pretext to induce an elector to vote or not to vote for a particular candidate or particular candidates. For details about corrupt conduct to wilfully obstruct or prevent another person from voting at an election, please see para. 16.27 of Chapter 16. *[Added in September 2019 and amended in September 2023]*

4.12 Exit polls may be conducted within the NCZ outside polling stations by organisations approved by the REO. Participation in any exit poll is entirely voluntary. Electors need not disclose to the organisations concerned which candidates they have voted for unless they wish to do so. Please see Chapter 14 for matters relating to exit polls. *[Added in September 2019 and amended in September 2023]*

4.13 Polling stations are classified into 5 types:

- (a) **Ordinary Polling Stations** – for use by DCGC electors to cast their votes. The ordinary polling stations will be converted to counting stations immediately after the close of the poll for counting DCGC ballot papers;
- (b) **DCC Polling Stations** – for use by DCC electors to cast their votes within the District where his/her DCC belongs. The DCC polling stations will be converted to counting stations and designated as main counting stations immediately after the close of the poll for counting DCC ballot papers. DCC ballot papers from 1 or more than 1 special polling station(s), ballot paper sorting station or dedicated polling station(s) will be delivered to

the designated main counting station and mixed with the DCC ballot papers in at least 1 ballot box at the polling station designated as the main counting station before counting;

- (c) **Dedicated Polling Stations** – set up inside penal institutions or other suitable places (e.g. police stations) for registered electors who are imprisoned or held in custody by the law enforcement agencies on the polling day to cast their votes. Counting of votes will not be carried out at dedicated polling stations. Ballot papers cast therein will subsequently be counted at the main counting stations of the relevant constituencies. For DCGCs, since each dedicated polling station established in penal institutions and police stations will have 1 DCGC ballot box for electors of different DCGCs to cast their votes, the ballot papers received must first be delivered to a ballot paper sorting station for sorting after the close of the poll. For DCCs, the number of DCC electors imprisoned or held in custody in each penal institution will be checked prior to the polling day. DCC polling stations will be set up accordingly at the dedicated polling stations in penal institutions where DCC electors are imprisoned or held in custody, with corresponding DCC ballot boxes provided. After close of the poll, the ballot boxes will be delivered directly to the corresponding main counting stations and the ballot papers inside will be mixed with other ballot papers of the same DCC for counting. As for DCC dedicated polling stations established in police stations, each will have 1 ballot box for electors of different DCCs to cast their votes. Therefore, the ballot papers received must first be delivered to a ballot paper sorting station for sorting after the close of the poll. Staff at the ballot paper sorting station will open the ballot boxes of DCC dedicated polling stations from police stations and place ballot

papers of the same DCC in orange receptacle(s). The ballot papers will then be delivered to the designated main counting stations and mixed with other ballot papers of the same DCC for counting;

- (d) **Special Polling Stations** – for electors with mobility difficulty who have applied for re-assigning to a polling station with barrier-free access because the originally assigned one is not accessible by wheelchairs. For DCGC elections, as there are many polling stations in a DCGC, the special polling station will be set up in an ordinary polling station with barrier-free access within the same DCGC. DCGC electors allocated with a special polling station will cast their votes into the same ballot boxes being used by the newly assigned ordinary polling station, and the votes will be counted together with the ballot papers of the same DCGC in the ballot boxes of that ordinary polling station. For DCC elections, since only 1 DCC polling station will be set up for each of the 18 Districts in Hong Kong, if any DCC polling station does not have barrier-free access, DCC polling stations in other Districts will be used as special polling stations. DCC electors allocated with a special polling station will cast their votes into their respective DCC ballot boxes inside the special polling stations. The ballot papers will be delivered to the respective DCC polling station designated as the main counting station and mixed with the DCC ballot papers in that polling station before counting²⁷; and

- (e) **Small Polling Stations** – in relation to DCGCs, referring to polling stations at which less than 200 electors are assigned to

²⁷ Since only 1 DCC polling station will be set up in each of the 18 Districts in Hong Kong, the REO will strive to arrange venues with barrier-free access to set up DCC polling stations. Therefore, it is unlikely that additional special polling stations will need to be designated for DCC elections.

vote. Small polling stations are only designated for polling and counting of votes will not be carried out therein. After the close of the poll, the ballot boxes of a small polling station will be delivered to the designated main counting station and the DCGC ballot papers inside will be mixed with the DCGC ballot papers in that main counting station before counting. Small polling stations will not be designated for DCCs.

[Added in September 2023]

PART II : BEFORE THE POLL

Gazettal of Notice

4.14 A number of polling stations will be designated in each of the DCGCs. For DCC elections, one DCC polling station will be set up for each of the respective Districts. Besides, dedicated polling stations for DCGC and DCC elections will be set up in penal institutions (if necessary) and designated police stations. Polling stations, with the exception of small polling stations, special polling stations and dedicated polling stations, will be converted to counting stations for the count of DCGC or DCC ballot papers after the close of the poll. *[Added in September 2023]*

4.15 The CEO must designate by notice in the Gazette particular place(s) as polling station(s) (including ordinary polling station(s), DCC polling station(s), special polling station(s) and small polling station(s)), dedicated polling station(s), ballot paper sorting station(s)²⁸ or counting station(s) at least 10 days before the polling day. The CEO may also

²⁸ A ballot paper sorting station may be set up to sort ballot papers received from dedicated polling stations according to each constituency before they are delivered to the corresponding main counting stations for counting of votes.

designate the same place as both a polling station and a counting station. If there are 2 or more counting stations for a constituency, he/she will designate the polling station at which the largest number of electors are to vote as the **dominant counting station**²⁹. For DCGCs, the CEO will also designate a polling station (other than a special polling station) at which less than 200 electors are to vote as a **small polling station**. If 2 or more polling stations have been designated for a constituency and at least 1 of them is a small polling station, a special polling station or a dedicated polling station, he/she will designate 1 polling station (other than a small polling station, a special polling station or a dedicated polling station) as a **main counting station** for the purpose of counting the votes cast at the polling station, the small polling station(s), the special polling station(s) and/or the dedicated polling station(s). Nonetheless, the CEO may, before the election, designate another place in addition to or in substitution of a place designated as a polling station, if necessary. [Ss 31(1), (1A), (1B), (1C), (1CA), (1D), (4) and 32 of the EAC (EP) (DC) Reg] The RO must, at least 10 days before the polling day, give notice in writing to each candidate of the place or places at which counting of votes and where applicable, at which sorting of ballot papers received from the dedicated polling stations is to take place for the constituency contested by the candidates [ss 2(3), 65(3) and (4) of the EAC (EP) (DC) Reg]. *[Amended in August 2008, January 2010, September 2012, September 2015, September 2019 and September 2023]*

4.16 Where premises occupied by any school or organisation/association/body receiving grant from the Government's general revenue are concerned, the CEO may require by written notice the owner or occupier to allow an authorised person to carry out site visits. If the CEO considers the premises suitable for use as a polling station or a counting station,

²⁹ For a constituency with 2 or more counting stations, the counting station serving the largest number of registered electors will be designated as the dominant counting station to coordinate the results of counting of votes of all the counting stations for the constituency.

the CEO may require by written notice the owner or occupier to make available the premises for use as a polling station or a counting station in the DC election and allow an authorised person to carry out preparatory work and store materials at the premises. Anyone who fails to comply with the above requirements is liable to a fine of \$50,000. [Ss 31 and 31A of the EAC (EP) (DC) Reg] Besides, to facilitate the smooth conduct of major public elections and minimise the impact of the elections on schools' operation, in accordance with Education Bureau Circular No. 5/2020, starting from the school year 2020/21, all public sector schools, Direct Subsidy Scheme schools and private schools offering formal curriculum, including secondary schools, primary schools, kindergartens and kindergarten-cum-child care centres, shall designate the day following a major public election (i.e. DC ordinary elections and LegCo general elections) as a school holiday. *[Added in September 2023]*

No Canvassing Zone and No Staying Zone

4.17 An area outside each polling station will be designated as the NCZ and NSZ, the boundaries of which will be determined by the RO. All candidates of the constituency concerned will be notified of these zones before the polling day [s 43 of the EAC (EP) (DC) Reg]. The RO may also authorise the PRO to vary the NCZ or NSZ on the polling day [s 43(8A) of the EAC (EP) (DC) Reg]. (See Chapter 13 for details)

Allocation of Polling Stations

4.18 A polling station for a DCGC is normally situated within the boundaries of the DCGC, but where there are no suitable premises for use within the DCGC, polling stations may have to be designated in nearby areas outside the DCGC. Where circumstances require, temporary structures may also be designated as polling stations. The polling stations designated for the DCGCs will be, as far as practicable, close to the residential addresses of

electors recorded in the final register of GCs. However, DCC electors will be assigned to vote at their corresponding DCC polling stations. Electors imprisoned or held in custody by the law enforcement agencies will be assigned to vote at the dedicated polling stations as appropriate [s 33(3) of the EAC (EP) (DC) Reg]. *[Amended in January 2010, September 2015 and September 2023]*

Poll Card

4.19 At least ten days before the polling day, poll cards will be sent to electors of contested constituencies at their registered addresses or correspondence addresses (if applicable) to notify them of the date, time and place of the poll. If the CEO decides to change any polling station, the CEO must as soon as practicable notify the electors, RO and PRO concerned in a manner that the CEO considers appropriate. To allow electors serving a sentence of imprisonment on the polling day to receive the poll cards as early as possible, the REO will send the poll cards to the penal institutions where the electors are serving their sentences insofar as practicable. [S 34(1), (2A), (3) and (4) of the EAC (EP) (DC) Reg] *[Amended in January 2010, September 2015 and September 2023]*

Uncontested Election

4.20 If no more candidates have been validly nominated than the number of members to be returned for a constituency, the candidate(s) will be declared as duly elected [s 23(1) of the EAC (EP) (DC) Reg]. Electors of that constituency do not need to vote, and will be issued a notice to that effect. *[Amended in September 2011 and September 2023]*

Special Polling Station

4.21 An elector **may vote only at the polling station(s) allocated to him/her** by the CEO [s 36(1) of the EAC (EP) (DC) Reg]. Most of the polling stations are accessible to persons with mobility difficulty. Accessibility of the polling station to persons who are wheelchair users or have difficulty in walking will be specified clearly in the location map attached to the poll card sent to each elector. If an elector with mobility difficulty is allocated a polling station not accessible to him/her, he/she may **at least five days** before the polling day apply to the CEO for re-assigning to a special polling station to cast his/her vote [s 35 of the EAC (EP) (DC) Reg]. If a special polling station is re-allocated to him/her, then he/she may vote only at that polling station [s 36(2) of the EAC (EP) (DC) Reg]. Subject to availability, free Rehabus service may also be arranged to take those electors to and from the special polling station. In case special circumstances require, the CEO may allocate to an elector an alternative polling station, in addition to or in substitution of the one originally allocated to him/her [s 33(4) of the EAC (EP) (DC) Reg]. The electors concerned may make enquiries with the REO on this subject by telephone or in writing. *[Amended in September 2007, September 2015 and September 2019]*

Dedicated Polling Station

4.22 Due to security reasons, the Commissioner of Correctional Services (“CCS”) is required to separate some persons imprisoned or held in custody from others inside the penal institutions. The CCS shall assign a time slot during the polling hours of a dedicated polling station situated in a penal institution to an elector who is held in custody and allocated to that polling station to vote, and inform the elector of the time slot assigned. The CCS must assign time slots for the electors so as to give them a reasonable opportunity to vote. An elector to whom a time slot is assigned may only cast

his/her vote during that time slot (see para. 4.56(c) below). [S 30(2A), (2B), (3A) and (5) of the EAC (EP) (DC) Reg] *[Added in January 2010]*

PART III : OUTSIDE THE POLLING STATION

4.23 Unless it is not practicable to do so, the PRO will arrange a copy of the relevant Introduction to Candidates published by the REO to be displayed outside the polling station, or if it is a dedicated polling station inside the polling station to facilitate easy reference by electors. *[Amended in September 2011]*

4.24 The CEO will display a map or plan showing the delineation of the polling station outside the polling station, or if it is a dedicated polling station inside the polling station [s 46(1A) of the EAC (EP) (DC) Reg]. An NCZ will be designated outside each polling station to ensure the undisturbed access of electors to the polling station. In addition, an NSZ in which no one is allowed to stay or loiter will be designated immediately outside the entrance/exit of a polling station to avoid obstruction to electors who enter or exit. Canvassing activities within an NCZ will be prohibited (except for the static display of EAs authorised by the RO, such as EAs mounted at designated spots). A notice of the determination of the NCZ and a map or plan showing the boundary of the area will be put up at or near the polling station [s 43(7) of EAC (EP) (DC) Reg]. (See Chapter 13 for details) *[Amended in September 2007, August 2008, January 2010, September 2011, September 2012, September 2015 and September 2019]*

- 4.25 On the polling day, a person must not:
- (a) engage in canvassing votes (including suggesting not voting for any candidate) within the NCZ, except for the door-to-door canvassing activities stated in para. 4.26 below;
 - (b) use a sound amplifying system or device for any purpose within the NCZ, except for the performance of duties by officers of the CSD on the polling day at dedicated polling stations situated in penal institutions;
 - (c) use a sound amplifying system or device, or conduct any activity (e.g. lion dance) for canvassing votes, so that the sound emitted by it can be heard in the NCZ;
 - (d) display or wear in the NCZ any promotional materials, such as any badge, emblem, clothing or head-dress (except for the static display of EAs authorised by the RO, such as EAs mounted at designated spots), which:
 - (i) may promote or prejudice the election of 1 candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or to a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or
 - (e) stay or loiter in the NSZ without the express permission of the PRO;

otherwise he/she commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months. [Ss 43(13), (13A), 48(5) and (7) of the EAC (EP) (DC) Reg] *[Amended in September 2007, September 2011, September 2015 and September 2019]*

4.26 No canvassing activities are allowed on the street level (i.e. ground floor) within the NCZ. Door-to-door canvassing may be allowed on the storeys above or below the street level, provided that permission has been obtained for entry into any building other than the building where the polling station is located within an NCZ for canvassing votes, and that no obstruction is caused to any person and no sound amplifying system or device is used. For the purpose of such door-to-door canvassing, it is permitted to display or wear promotional materials (e.g. any badge, emblem, clothing or head-dress which may promote or prejudice the election of a candidate or candidates at the election) or materials making direct reference to a body a member of which is standing as a candidate in the election, or the registered name or emblem of a prescribed body printed on any ballot paper for the election, but under no circumstances are such materials allowed to appear on the street level within the NCZ. [S 43(13), (14) and (15) of the EAC (EP) (DC) Reg] (See Chapter 13 for details) *[Added in September 2019]*

PART IV : POLLING HOURS

4.27 The CEO will designate by notice in the Gazette the polling hours at least 10 days before the polling day [s 30(4) of the EAC (EP) (DC) Reg]. About 30 minutes before the commencement of poll (or 15 minutes for dedicated polling stations situated in penal institutions), the PRO at a polling station will admit the candidates, their election agents or polling agents, if present, into the polling station to observe the process of opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. The PRO

will show that the sealed packets of ballot papers are not tampered with before opening the packets and the ballot boxes are empty before locking and sealing the boxes [s 51 of the EAC (EP) (DC) Reg]. The PRO will also inform such persons of and show to them the number of ballot papers of that constituency in his/her possession. For each candidate, only 1 person (i.e. either the candidate, election agent or polling agent) may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. *[Amended in September 2019 and September 2023]*

4.28 For dedicated polling stations situated in penal institutions, due to security reasons,

- (a) only a maximum of two candidates may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes at a dedicated polling station situated inside a maximum security prison;
- (b) only a maximum of any two of the candidates, their election agents or polling agents may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes at a dedicated polling station situated in a penal institution other than a maximum security prison.

Admission of candidates, their election agents or polling agents to the aforesaid dedicated polling stations to observe the process of opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes will be on a **first-come-first-served basis**. (The procedures for election agents or polling agents to apply for admission to dedicated polling stations situated in penal institutions are set out in Chapter 6.) *[Amended in January 2010 and September 2019]*

4.29 Where no candidates or none of their agents are present at the polling station, the above process of opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes will be conducted in the presence of any two of the following persons inside the polling station: police officers, members of the Civil Aid Service (“CAS”), officers of the CSD or polling staff (as the case may be). *[Amended in January 2010 and September 2019]*

4.30 For a small polling station and a special polling station where the votes cast will not be counted therein, a notice about the venue for the counting of votes will be displayed by the PRO outside the station [s 42(1A) of the EAC (EP) (DC) Reg]. For a dedicated polling station, a notice providing information on the ballot paper sorting station (if any) and the main counting station will be displayed inside the station [s 42(1B) of the EAC (EP) (DC) Reg]. *[Amended in January 2010]*

4.31 The polls for DCGC and DCC elections are conducted at ordinary polling stations and DCC polling stations respectively, and their ballot papers and ballot boxes will be different. Likewise, their ballot papers and ballot boxes at a dedicated polling station will also be different. *[Added in September 2023]*

4.32 Ballot papers for the respective DCGCs and DCCs will be made easily distinguishable by their difference(s) in colour, colour pattern and/or code (printed in the front and at the back). *[Added in September 2023]*

PART V : PERSONS TO BE ADMITTED TO THE POLLING STATION

4.33 In addition to electors, only the following persons may be admitted to a polling station:

- (a) the PRO and other polling staff;
- (b) members of the EAC;
- (c) the CEO;
- (d) the RO and Assistant Returning Officers (“AROs”) for the relevant constituency;
- (e) public officers on duty at the polling station, including police officers, members of the CAS, etc.;
- (f) officers of the CSD and other law enforcement agencies on duty at dedicated polling stations;
- (g) candidates and election agents of the relevant constituency subject to para. 4.34 below;
- (h) polling agents appointed for the polling station (not applicable to dedicated polling stations situated in maximum security prisons) subject to para. 4.34 below;
- (i) public officers authorised in writing by the CEO;
- (j) any person authorised in writing by a member of the EAC;
- (k) a person authorised in writing by the RO for liaison purposes; and
- (l) a child accompanying an elector who enters the polling station for the purpose of voting (if the PRO considers that the child

should not be left unattended while that elector is in the polling station and the child will not disturb or cause inconvenience to any person in the polling station).

[S 47(4), (5) and (13) of the EAC (EP) (DC) Reg] *[Amended in September 2007, January 2010]*

A notice will be displayed at the entrance of the polling station, or inside a dedicated polling station, stating that only electors and designated/authorised persons may be allowed to enter.

4.34 For the purpose of maintaining order in the polling station, the PRO may regulate the number of electors, candidates, election agents and polling agents to be admitted to the polling station at any one time [s 47(2) of the EAC (EP) (DC) Reg]:

- (a) for each candidate, only one person among the candidate, election agent or polling agents may enter and be present at the polling station at any one time [s 47(6), (7), (8) and (9) of the EAC (EP) (DC) Reg];
- (b) a notice will be displayed outside each polling station specifying the capacity of the designated area inside the polling station for candidates, election agents or polling agents to observe the poll;
- (c) admission of candidates, election agents and polling agents will be on a **first-come-first-served basis**. In order that as many candidates, election agents and polling agents as possible may have the chance to observe the poll in the polling station, any candidate, election agent or polling agent who has been admitted to the polling station may only stay for one hour. He/She must

then leave the polling station unless there is no other candidate, election agent or polling agent waiting for admission. He/She may apply for admission into the polling station again on a first-come-first-served basis;

- (d) as stated in (c) above, to ensure fairness, waiting slots for entering a polling station are all allocated on a first-come-first-served basis. If a candidate or his/her agent seeks admission to a polling station but all the waiting slots are full until the close of the poll, no vacant slot can be allocated to the candidate or his/her agent. However, if no one among this candidate and his/her agents has earlier entered the polling station to observe the poll on the polling day, the PRO concerned will endeavour to give the candidate or his/her agent an opportunity to enter the polling station to observe the poll before the close of the poll under a special arrangement. Under this special arrangement, the person concerned will replace a candidate or his/her agent who has been allocated the last waiting slot for admission to the polling station if this candidate or any of his/her agents has already been given an earlier slot to observe the poll in that polling station;
- (e) anyone upon admission into a polling station has to sign and register his/her time of entry on a log sheet. A candidate, an election agent or a polling agent who has to queue outside the polling station for his/her turn to observe the poll at the designated area will be given a number chit that indicates the order of admission. The polling staff will call out the number to admit the holder of the number chit concerned. If the holder concerned is not present at the time, his/her place will be taken over by the person next in line. The person who has lost his/her

place due to his/her absence will have to obtain a new number chit when he/she returns; and

- (f) for security reasons, only a maximum of two candidates may be present at any one time to observe the poll at dedicated polling stations situated inside maximum security prisons, and a maximum of two persons among the candidates, their election agents or polling agents may be admitted to a dedicated polling station situated in a penal institution other than a maximum security prison at any one time. Observers will have to take turn in case more than two candidates or their agents intend to observe the poll at the same time. The PRO may regulate the number of people entering the dedicated polling stations (see Chapter 6 for details).

[Amended in January 2010 and September 2019]

4.35 Except for an elector, a police officer, an officer of the CSD, an officer of any law enforcement agency or a member of the CAS who are on duty, all other persons permitted to enter a polling station are required to sign a **Declaration of Secrecy** on a specified form³⁰ before entering the polling station and observe the regulations on the secrecy of voting. [S 93 of the EAC (EP) (DC) Reg] *[Amended in January 2010, September 2011 and September 2019]*

³⁰ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/the CEO (or a person whose official designation is that of a deputy to the CEO)/a Justice of the Peace/a solicitor with a practising certificate.

PART VI : HOW TO ISSUE BALLOT PAPERS

4.36 The EPR system will be adopted in general for issuing ballot papers at polling stations (except for dedicated polling stations) for a more flexible, efficient and accurate issuance of ballot papers [s 56 of the EAC (EP) (DC) Reg]. The printed copy of FR will be used in issuing ballot papers at dedicated polling stations, the polling stations where the EPR system cannot be adopted because of lacking network coverage, or in the event of system failure.
[Added in September 2023]

4.37 Prior to issuance of any ballot papers to electors, the polling staff must, depending on whether the EPR system or a printed copy of FR is used in the polling station concerned, follow one of the following procedures for issuing ballot papers:

(a) Use of EPR System in Issuing Ballot Papers

Upon entry to the polling station, an elector will be directed to one of the ballot paper issuing desks to collect the ballot paper. The polling staff will request the elector to present his/her Hong Kong Permanent Identity Card (“HKID”). The polling staff will then check the elector’s HKID, and scan it with a tablet to verify whether the person is a registered elector of the relevant constituency, so as to ascertain that he/she can be issued with a ballot paper for a constituency. If a specified identity document other than the HKID is presented by the elector, then the PRO’s authorisation is to be obtained for the manual input of the elector’s HKID number into the EPR system for verification purpose.

The polling staff will softly call out the name of the elector as stated in the entry in the EPR system. The polling staff will show to the elector that the ballot paper for a constituency being issued to him/her is unmarked, and then issue the ballot paper to that elector. The EPR system will record the types of ballot papers being issued and the time of issuance, but no record will be made as to which particular ballot paper is given to the elector. To ensure accurate record-keeping, the elector may check his/her name, partial identity document number and the types of ballot papers issued to him/her as shown on the screen of the system during the issuance process.

(b) Use of Printed Copy of FR in Issuing Ballot Papers

The printed copy of FR will be used in issuing ballot papers at dedicated polling stations, polling stations where the EPR system cannot be adopted because of lacking network coverage, or in the event of system failure. The polling staff will check the elector's identity document against the entry in the printed copy of FR to verify whether the person is an elector of the constituency. Upon confirmation, the polling staff will softly call out the name of the elector as stated in the entry in the printed copy of FR, and draw a line across the name and the identity document number therein to indicate that the ballot paper has been issued to the elector. The polling staff will conduct the line-drawing under observation of the elector to ensure accuracy, while at the same time covering up the entries of other electors in the printed copy of FR to safeguard the personal data privacy of the other electors.

The polling staff will then show to the elector that the ballot paper for a constituency being issued to him/her is unmarked, and then issue the ballot paper to that elector. No record will be made as to which particular ballot paper is given to the elector.

(c) **Use of Printed Copy of FR in the Event of EPR System Failure**

In case the EPR system breaks down while in use on the polling day rendering the system inoperable, the fallback arrangement will come into operation and the polling staff will use the printed copy of FR (as stated in (b) above) to issue ballot papers to electors until the close of the poll. At the same time, the fallback mode of the EPR system has to be activated so that the polling staff can, prior to issuance of any ballot papers, check the local storage device in order to confirm that an elector applying for ballot papers has not collected any ballot papers at the polling station when the EPR system was in normal operation. The HKID numbers of electors who have collected their ballot papers are captured in the local storage device in an encrypted form, but other personal particulars of the electors, such as their names, will not be recorded.

[S 56 of the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.38 To facilitate the verification of the total number of ballot papers issued, the counterfoil of each ballot paper bears a serial number on its front. However, the serial number will not appear on the ballot paper and neither the polling staff nor the EPR system will record the serial number of the ballot paper issued to an elector. [Ss 52(11) and 56(4) of EAC (EP) (DC) Reg] The polling staff and the EPR system will only register the quantity of ballot papers

issued to electors at the ballot paper issuing desks for calculating the hourly voter turnout and cumulative voter turnout. While the voter turnout statistics will be posted outside the polling stations for the public's information, they are for reference only. *[Added in September 2023]*

4.39 According to the established procedures, all ballot papers are issued at the ballot paper issuing desks and counted towards the cumulative voter turnout. "TENDERED" ballot papers and ballot papers issued to electors in replacement of "SPOILT" ballot papers must be handled and issued by the PRO at the PRO desk (see paras. 4.61 and 4.62 below for details). *[Added in September 2023]*

PART VII : QUEUING ARRANGEMENT

4.40 Electors have to queue up to enter the polling station. As stipulated in s 52A of the EAC (EP) (DC) Reg, the PRO may make special queuing arrangements for persons with special needs including, by definition:

- (a) persons who are not less than 70 years of age;
- (b) pregnant women; or
- (c) persons who are not able to queue for a long time or have difficulty in queuing because of illness, injury, disability or dependence on mobility aids.

[Added in September 2023]

4.41 The PRO may, having regard to the actual situation, set up two queues outside the polling station, one for persons with special needs and the

other for the general public. The actual arrangement for collecting ballot papers at ballot paper issuing desks may vary depending on the methods for issuing ballot papers. Seats may also be provided in the polling station for persons with special needs to take rest before joining the special queue to collect ballot papers.

(a) **Queuing Arrangement When the EPR System is Used**

When the EPR system is used for issuing ballot papers, a tablet of the EPR system will be set up at each ballot paper issuing desk, which provides flexibility to serve any elector without the restriction of confining the ballot paper issuing desks to a group of HKID prefixes allocated according to the printed copy of FR.

To cater for persons with special needs (see para. 4.40 above), the PRO will assign a number of ballot paper issuing desks (special ballot paper issuing desks) for their use while other ballot paper issuing desks are available for use by the general public. Electors may collect their ballot papers at the respective ballot paper issuing desks as directed by the polling staff.

When there is a relatively long queue of persons with special needs, the PRO may, having regard to the actual situation, assign more special ballot paper issuing desks so as to shorten their waiting time. The PRO may also, having regard to the actual situation, direct people in the ordinary queue to use special ballot paper issuing desks when the desks are free or when few people are in the special queue.

Having regard to the order and the overall situation of the polling station, the PRO may flexibly deploy the ballot paper issuing

desks and make other special arrangements as appropriate to give priority to persons with special needs and shorten their waiting time.

[S 52A of the EAC (EP) (DC) Reg]

(b) Queuing Arrangement When Printed Copy of FR is Used

For some polling stations where the EPR system cannot be used due to their locations or actual circumstances, the printed copy of FR will be used for issuing ballot papers. To avoid duplicate issuance of ballot papers, the printed copy of FR will be split into parts, by the alphabetical prefixes of HKID number to match the number of the ballot paper issuing desks, and each part will be assigned to the relevant issuing desk. A line will be drawn across the entry of the elector in the printed copy of FR when the elector has collected the ballot papers.

Under this situation, the PRO may also set up two queues outside the polling station, one for persons with special needs and the other for the general public.

Regarding the collection of ballot papers at the ballot paper issuing desks, past experience has shown that most holders of HKID numbers prefixed with A, B, C and so forth are senior citizens. More ballot paper issuing desks will therefore be assigned by the PRO for these alphabetical prefixes to shorten the waiting time of this group of persons with special needs. However, considering that holders of HKID numbers prefixed with other alphabetical letters may also have special needs due to age or physical conditions, the PRO may likewise, having regard

to the actual situation, set up a special queue for each ballot paper issuing desk to shorten their waiting time.

(c) **Queuing Arrangement When Switch to Printed Copy of FR is Required due to Failure of the EPR System**

In the event of failure of the EPR system rendering it inoperable, the polling station should activate the fallback mode and switch to the use of the printed copy of FR for issuing ballot papers. The aforementioned procedures regarding the use of the printed copy of FR for issuing ballot papers will be adopted at ballot paper issuing desks. Yet, the polling staff will first check the encrypted record in the local storage device and confirm that the elector has not been issued with any ballot paper prior to activation of the fallback mode so as to avoid duplicate issuance of ballot papers. The special queuing arrangement regarding the use of the printed copy of FR for issuing ballot papers also applies to this scenario.

[Added in September 2023]

4.42 As shown in past experience, when polling staff request to go to vote at their assigned polling stations, the PRO will arrange as far as practicable and release them to do so usually during meal breaks or off-peak hours of the polling station. However, the heavy workload and stringent manpower of some polling stations may still affect their operation. Therefore, to facilitate polling staff's early resumption of work to serve the electors, if there is a long queue when they get to the assigned polling station, they may present their polling staff identification to staff of that polling station and be permitted to enter the polling station for priority queuing to collect ballot papers and cast their votes, so that they can return to their polling stations as

soon as practicable to continue to serve the electors. *[Added in September 2023]*

PART VIII : PRESENTATION OF DOCUMENT FOR COLLECTING BALLOT PAPER

4.43 Upon arrival at the polling station, an elector should show to the polling staff at the ballot paper issuing desk the original of any of the following documents, to the satisfaction of the PRO or polling staff, before he/she can be issued with a ballot paper:

- (a) the original of the elector's HKID;
- (b) alternative documents:
 - (i) a document issued by the Commissioner of Registration to the elector certifying that the elector is exempt, under regulation 25 of the Registration of Persons Regulations, from being required to register under the Registration of Persons Ordinance (Cap 177);
 - (ii) a document issued by the Commissioner of Registration acknowledging that the elector has applied:
 - (1) to be registered under the Registration of Persons Ordinance; or
 - (2) for a new HKID issued under regulation 13 or 14 of the Registration of Persons Regulations but is awaiting its issuance;

- (iii) a valid HKSAR Passport issued to the elector under the Hong Kong Special Administrative Region Passports Ordinance (Cap 539);
 - (iv) a valid HKSAR seaman's identity book issued to the elector under regulation 3 of the Immigration Regulations (Cap 115A);
 - (v) a valid document of identity issued to the elector under regulation 3 of the Immigration Regulations; or
- (c) a document evidencing the elector's report to a police officer of the loss or destruction of the document referred to in para. 4.43(a), (b)(i) or (ii) above, together with the original of a valid passport or similar travel document (not being one referred to in para. 4.43(a), (b)(i) to (v) above) issued to him/her showing his/her name and photograph.

[S 53(1A) of the EAC (EP) (DC) Reg] *[Amended in September 2019]*

4.44 For an elector applying for a ballot paper at a dedicated polling station situated in a penal institution, the document to be shown is a document issued by the CCS showing the elector's name, photograph and prisoner registration number allocated by the Commissioner to the elector for identification purposes. [S 53(1B) of the EAC (EP) (DC) Reg] *[Added in September 2019]*

4.45 If there are reasonable grounds to question the bona fides of an elector, the PRO shall ask him/her the following questions at the time of his/her application for a ballot paper (but not afterwards):

- (a) “Are you the person registered in the final register now in effect for this District Committees constituency/District Council geographical constituency (as appropriate), as follows (the PRO to read the whole entry as it is recorded in the copy or extract of the FR supplied to that Officer)?”; and
- (b) “Have you already voted for this or any other District Committees constituency/District Council geographical constituency (as appropriate) in this election?”

When asking the questions, the PRO must have regard to whether the ballot paper applied for is a DCGC ballot paper or a DCC ballot paper, and he/she must choose, frame, adjust or modify the questions accordingly. A person will not be issued with any ballot paper unless he/she has answered the questions to the satisfaction of the PRO. [S 54(1A), (2) and (4) of the EAC (EP) (DC) Reg] *[Amended in September 2023]*

4.46 Where there is a reasonable cause to believe that a person has engaged in corrupt conduct by impersonation of an elector, the PRO may request a police officer to arrest that person. If the polling station is a dedicated polling station, the PRO may request an officer of the CSD or the law enforcement agency to remove the person concerned from the polling station and report the case to the police. [S 55(1), (2) and (2A) of the EAC (EP) (DC) Reg] *[Amended in January 2010]*

PART IX : VOTING METHODS

4.47 When issued with the ballot paper, an elector will also be provided with a cardboard attached with a chop of the tick “✓” sign (or a black pen for a DCC elector to mark the DCC ballot paper, depending on the design of the ballot paper). The cardboard will be collected by the polling staff after the elector has inserted his/her ballot paper into the ballot box before leaving the polling station. In a DC ordinary election or where the CEO considers it appropriate in a by-election, an envelope (on which the name and the code of the relevant constituency will be marked by the polling staff when issuing the ballot paper) will be provided to an elector of a dedicated polling station to enclose his/her marked ballot paper to facilitate the subsequent sorting of the ballot paper in a ballot paper sorting station while preserving the secrecy of vote. *[Amended in September 2019 and September 2023]*

4.48 Having collected the ballot paper and the cardboard attached with a chop of the tick “✓” sign (for DCGC electors) or the black pen (for DCC electors), the elector should immediately proceed to a voting compartment to mark the ballot paper to indicate his/her choice of candidate(s). Marking of ballot papers for the DCGC and the DCC are different, depending on their respective voting systems. An elector should read carefully the instructions given on the ballot paper and follow the instructions in marking his/her choice of candidate(s). One compartment can only be used by one elector at one time. *[Amended in January 2010, September 2015, September 2019 and September 2023]*

4.49 The ballot paper should be marked in the following manner, as appropriate:

DCGC Elections

- (a) Each elector can vote for one candidate of his/her choice. On the ballot paper, the elector must affix the chop provided by the polling station to mark a single “✓” in the circle opposite the name of the candidate of the elector’s choice;

DCC Elections

- (b) (i) Each elector must vote for a number of candidates that is exactly equal to the number of members to be returned for the DCC of the District. The elector must use the black pen provided by the polling station to fill the ovals on the ballot paper opposite the names of the candidates of the elector’s choice.
- (ii) However, in the case of a DCC by-election, the EAC can instruct the elector to affix the chop provided by the polling station to mark a single “✓” in the circle(s) opposite the name(s) of the candidate(s) of the elector’s choice.

[Ss 57A and 58 of the EAC (EP) (DC) Reg]

As it is an offence for anyone to take photographs, films or make any video or audio recording within a polling station, electors must not take photographs of their marked ballot papers (see para. 4.66 below). *[Added in September 2023]*

4.50 An elector of the DCGC or DCC, after marking the ballot paper in the manner as described in para. 4.49 above, should cast his/her vote into the

ballot box in the way as directed by the EAC. The ways deemed fit by the EAC for casting votes are as follows:

Envelope Provided

- (a) (i) put the ballot paper, unfolded, into an envelope provided at the polling station; and
- (ii) put the ballot paper contained in the envelope into the ballot box; or
- (b) (i) fold the ballot paper so that the marked side is inside;
- (ii) put the folded ballot paper into an envelope provided at the polling station; and
- (iii) put the ballot paper contained in the envelope into the ballot box;

Envelope Not Provided

- (a) put the ballot paper, unfolded, into the ballot box with the marked side facing down; or
- (b) (i) fold the ballot paper so that the marked side is inside; and
- (ii) put the folded ballot paper into the ballot box.

[S 57(2A) of the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.51 Upon leaving the voting compartment, the elector should immediately put his/her marked ballot paper, whether or not folded and/or

contained in an envelope, into the ballot box as directed by the polling staff. The elector should then return the cardboard and the chop (if any) to the polling staff, and leave the polling station without undue delay [s 57(2), (2A) and (3) of the EAC (EP) (DC) Reg]. *[Amended in January 2010 and September 2023]*

IMPORTANT :

An elector who has collected the ballot paper must proceed to a voting compartment to mark the ballot paper immediately and, after casting his/her vote, leave the polling station without undue delay. A person who fails to obey any order of the PRO or misconducts himself/herself commits an offence. The PRO may seek assistance from police officers and order the person to leave the polling station immediately. [S 49(2) and (3) of the EAC (EP) (DC) Reg]

If an elector deliberately makes an error in marking the ballot paper and asks the PRO to issue a new ballot paper to him/her repeatedly, the PRO may reject the request. If there is a reasonable cause to believe that a person impersonates an elector to apply for a ballot paper, the PRO may request police officers to arrest that person [s 55(2) and (2A) of the EAC (EP) (DC) Reg]. A person engages in corrupt conduct if he/she directly or indirectly, by a deception, induces another person not to vote at the election, or wilfully obstructs or prevents another person from voting at the election [s 14 of the ECICO]. It is an offence for a person to remove a ballot paper from a polling station. According to s 17(1)(c) of the ECICO, any person who removes a ballot paper from a polling station with intent to deceive also commits an offence. It will also be a corrupt conduct at an election under s 17(1)(d) and (e) of the ECICO if any person,

without lawful authority, destroys, defaces, takes or otherwise interferes with a ballot paper in use or having been used at the election; or without lawful authority, destroys, removes, opens or otherwise interferes with a ballot box in use at the election.

[Amended in September 2019]

Candidates or their agents and electors should make a complaint to PROs, ROs, law enforcement agencies or the EAC about any possible contravention of the electoral law. All complaints will be treated in strict confidence. The EAC will refer any complaints about suspected violation of the law to the law enforcement agencies for follow-up action.

[Amended in September 2019 and September 2023]

4.52 An elector with visual impairment who so requests will be provided with a **braille template** to facilitate his/her marking of the ballot paper by himself/herself [s 59(3) of the EAC (EP) (DC) Reg]. The template should be returned to the polling staff after use. For details about the template, see para. 6.40 of Chapter 6. *[Amended in January 2010]*

4.53 An elector must mark his/her vote on the ballot paper by himself/herself and cannot request other electors to do it on his/her behalf. If the elector is unable to mark a ballot paper by himself/herself (e.g. being unable to read or is incapacitated because of impaired eyesight or other physical cause) to indicate his/her choice of candidate(s), he/she may ask the PRO, Deputy Presiding Officer (“DPRO”) or Assistant Presiding Officer (“APRO”) to mark the ballot paper on his/her behalf. The marking of the ballot paper as such must be made in the presence of one polling officer as a witness. [S 59(1) and (2) of the EAC (EP) (DC) Reg] *[Amended in September 2015, September 2019 and September 2023]*

4.54 **The ballot is secret. No one is allowed to use force or duress, or threaten to use force or duress, against a person to make him/her vote or not vote for a particular candidate or particular candidates at an election** [s 13 of the ECICO]. **Also, no one is required to disclose which candidate he/she has voted for or is going to vote for.** It is an offence for anyone to, without lawful authority, require or purport to require an elector to disclose the name of or any particulars relating to the candidate whom the elector has voted for and offenders are liable to a fine at level 2 (\$5,000) [s 48 of the DCO]. Some other prohibited acts which may infringe the secrecy of the vote during the polling and counting process are also specified under s 94 of the EAC (EP) (DC) Reg. Any person who commits any of the acts prohibited under that section commits an offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. *[Amended in September 2007, September 2019 and September 2023]*

4.55 To safeguard the secrecy of ballot by electors, no one shall, at any time, disclose whether an elector has or has not applied for a ballot paper or voted; or disclose the identity of an elector at a dedicated polling station. Anyone who makes such disclosure, unless otherwise permitted by the law, commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. [S 94(1), (1A), (2) and (10) of the EAC (EP) (DC) Reg] *[Added in January 2010 and amended in September 2019]*

Issuance of “UNUSED”, “SPOILT” or “TENDERED” Ballot Papers

4.56 If an elector has been issued with a ballot paper for a constituency but leaves the polling station without casting his/her vote is not allowed to return to the polling station later to cast the vote not yet cast, except under the following circumstances:

- (a) if, after having been issued with a ballot paper, the elector is unable to mark the ballot paper immediately for a reason considered justified by the PRO, he/she may, with the permission of the PRO, hand back the ballot paper to the PRO and return to the polling station later to cast his/her vote [s 56A(1) of the EAC (EP) (DC) Reg];
- (b) if, after having been issued with a ballot paper, the elector has become incapacitated from voting or completing the voting by physical illness and has left the polling station without marking his/her ballot paper, he/she may return to the polling station to cast his/her vote before the close of the poll provided that prior to his/her leaving the polling station, the unmarked ballot paper has been returned to the PRO [s 56A(5) of the EAC (EP) (DC) Reg];
or
- (c) in the case of a dedicated polling station situated in a penal institution, the elector has to return to the polling station to cast his/her vote within the existing or any newly assigned time slot [s 56A(5B) of the EAC (EP) (DC) Reg].

[Amended in September 2019]

4.57 If the above situations arise in a polling station other than a dedicated polling station, the following procedures must be taken by the PRO:

- (a) the PRO must keep that ballot paper in his/her custody and, when the elector returns to the polling station to vote before the close of the poll, return such ballot paper to the elector in the presence of a police officer [s 56A(3) and (6) of the EAC (EP) (DC) Reg]; and

- (b) if the elector has not returned to the polling station at the close of the poll, the PRO must endorse the ballot paper with the words “**UNUSED**” and “**未用**” and show it to each candidate, his/her election agent or polling agent who is present at the time. Ballot papers endorsed as such must not be put into the ballot box and must not be counted at the counting of votes [ss 61 and 78(1)(d) of the EAC (EP) (DC) Reg].

[Amended in September 2007, January 2010, September 2015 and September 2019]

4.58 If the above situations arise in a dedicated polling station, the following procedures must be taken by the PRO and/or the CCS or his/her officer:

- (a) the PRO must keep that ballot paper in his/her custody and, when the elector returns to the dedicated polling stations to vote before the close of the poll, return such ballot paper to the elector in the presence of an officer of the CSD or any law enforcement agency [s 56A(3) and (6) of the EAC (EP) (DC) Reg];
- (b) where a dedicated polling station situated in a penal institution is concerned, the CCS or his/her officer must as far as practicable assign to the elector a new time slot during the polling hours appointed for that dedicated polling station situated in a penal institution, and notify the elector of the new time slot [s 56A(2A) and (5A) of the EAC (EP) (DC) Reg]; and
- (c) if the elector has not returned to the dedicated polling station at the close of the poll, the PRO must endorse the ballot paper with the words “**UNUSED**” and “**未用**” and show it to each candidate,

his/her election agent or polling agent who is present at the time. Ballot paper endorsed as such must not be put into the ballot box and must not be counted at the counting of votes [ss 61 and 78(1)(d) of the EAC (EP) (DC) Reg].

[Amended in September 2019 and September 2023]

4.59 If any issued ballot paper (whether marked or unmarked) is found abandoned or left behind in a voting compartment or other areas inside the polling station, it must be handed in to the PRO. The ballot paper will then be endorsed with the words “**UNUSED**” and “**未用**” on the front and be kept by the PRO. In no circumstances can ballot paper endorsed as such be put into the ballot box. These ballot papers shall not be counted at the counting of votes. [Ss 61 and 78(1)(d) of the EAC (EP) (DC) Reg] *[Amended in September 2019]*

4.60 The PRO is required to keep in his/her custody the ballot paper handed in under the circumstances described in para. 4.56 above only if he/she knows which elector left the ballot paper behind. Otherwise, the ballot paper left behind in the polling station should be endorsed as “**UNUSED**” and “**未用**” and will not be counted at the counting of votes [ss 61 and 78(1)(d) of the EAC (EP) (DC) Reg]. *[Amended in September 2015]*

4.61 Any elector who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him/her may ask the PRO to exchange it for another unmarked ballot paper. If the PRO considers the request reasonable, he/she will issue one new ballot paper to the elector in exchange for the spoiled ballot paper. The spoiled ballot paper will be endorsed with the words “**SPOILT**” and “**損壞**” on the front and be kept by the PRO. Spoilt ballot papers shall not be counted at the counting of votes.

[Ss 62 and 78(1)(c) of the EAC (EP) (DC) Reg] *[Amended in September 2015 and September 2019]*

4.62 Where a person, claiming to be a particular elector on the FR, applies for a ballot paper after an earlier person has already been issued with a ballot paper as such an elector, the PRO may issue a tendered ballot paper to the latter elector **only if** the PRO is not certain that the latter person is the former person who has been issued with a ballot paper earlier, and the latter person has answered the questions set out by the law (para. 4.45 above) to the satisfaction of the PRO. The PRO may in such circumstances issue one ballot paper with the words “**TENDERED**” and “重複” endorsed on the front. Such ballot paper shall not be counted at the counting of votes. [Ss 60 and 78(1)(b) of the EAC (EP) (DC) Reg] *[Amended in September 2007, August 2008, September 2015 and September 2019]*

PART X : CONDUCT INSIDE THE POLLING STATION

4.63 Subject to para. 4.64 below, no person (including electors) should interfere with or attempt to influence any other elector. Specifically, no one shall:

- (a) communicate with any other elector contrary to a direction of the RO, ARO, PRO or any polling officer not to do so;
- (b) attempt to obtain or disclose information about the vote of other electors;
- (c) display or distribute any promotional materials for canvassing purposes;

- (d) display or wear any promotional materials, such as any badge, emblem, clothing or head-dress, which:
 - (i) may promote or prejudice the election of 1 candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or to a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or
- (e) use a mobile telephone, paging machine or any other form of electronic communication device contrary to a direction of the RO, ARO, PRO or any polling officer not to do so.

Any person who contravenes the above regulations commits an offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 or 6 months (as the case may be). [Ss 48 and 94 of the EAC (EP) (DC) Reg] *[Amended in September 2007, August 2008, September 2011 and September 2015]*

4.64 Only the following persons may communicate with electors, and use a mobile telephone, paging machine or any other form of electronic communication device within a polling station:

- (a) the PRO and other polling staff;
- (b) members of the EAC;
- (c) the CEO;
- (d) the ROs and AROs for the relevant constituency;

- (e) police officers and members of the CAS on duty at the polling station;
- (f) an officer of the CSD or other law enforcement agency on duty at a dedicated polling station;
- (g) a person authorised in writing by the ROs for liaison purposes; and
- (h) any person authorised in writing by a member of the EAC.

[S 48(1) and (6) of the EAC (EP) (DC) Reg] *[Amended in September 2007, January 2010 and September 2015]*

4.65 Any person who misconducts himself/herself or fails to obey any lawful order of the RO or the PRO at a polling station or its vicinity commits an offence, and is liable to a fine and imprisonment. He/She may be ordered by such officer to leave the polling station or the vicinity of the polling station. A person misconducts himself/herself if he/she disrupts the poll or disturbs or causes inconvenience to other persons in the polling station. An elector must cast his/her vote without undue delay, otherwise he/she may be ordered by the RO or the PRO to leave the polling station immediately. If a person fails to leave immediately as ordered by the RO or the PRO, he/she may be removed by:

- (a) a police officer (if the polling station is not a dedicated polling station);
- (b) an officer of the CSD or the law enforcement agency (if the polling station is a dedicated polling station); or

- (c) a person authorised in writing by the RO or the PRO to do so.

[Amended in September 2012]

The person so removed may not re-enter the polling station on that day except with the permission of the RO or the PRO. [s 49(2), (2A), (3) and (4) of the EAC (EP) (DC) Reg] Nevertheless, the powers conferred on the RO or the PRO are not to be exercised to order an elector to leave or remove an elector from the polling station so as to prevent the elector from voting at the polling station allocated to him/her [s 49(5) of the EAC (EP) (DC) Reg]. *[Amended in January 2010 and September 2019]*

4.66 A person commits an offence if he/she takes photographs, films or makes any video or audio recording within a polling station without the express permission of the PRO, the RO for the constituency or constituencies for which the polling station is used or a member of the EAC. Offenders are liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 48(2) and (9) of the EAC (EP) (DC) Reg]. Generally speaking, such permission is only granted to government photographers for performing publicity duties. *[Amended in September 2007, September 2015 and September 2019]*

PART XI : CLOSE OF THE POLL

4.67 An elector who intends to vote but is not already at the designated entrance of the polling station by the close of the poll will not be allowed in afterwards. When the close of the poll approaches but there is a long queue of electors outside the polling station waiting to vote, the PRO will arrange for polling staff to hold up a signboard to direct electors to proceed to the end of the queue. If there are still electors queuing outside the entrance of

the polling station at the close of the poll, polling staff will stand at the end of the queue to stop latecomers from joining the queue and, if practicable, let electors already in the queue enter the polling station and close the entrance of the polling station. If there are too many such electors and temporarily cannot arrange all of them to enter the polling station, polling staff will continue to stand at the end of the queue and hold up a signboard to ensure that no latecomers will be allowed to join the queue. *[Amended in September 2023]*

4.68 In short, all electors who have arrived and queued up outside the polling station before the close of the poll may enter the polling station to cast their votes. However, some polling stations are located at a place inside a building. If an elector has arrived at the building but has not reached the entrance of the place where the polling station is located or has not queued up outside the entrance by the close of the poll, he/she will not be allowed to enter the polling station or join the queue for entry to the polling station to vote. The PRO will close the entrance of the polling station only when all electors having arrived at the entrance of the polling station or queued up outside the entrance of the polling station before the close of the poll have entered the polling station. *[Added in September 2023]*

A Polling Station which is also a Counting Station

4.69 Polling stations (except for small polling stations, special polling stations and dedicated polling stations) will be designated as counting stations for the counting of votes. At the close of the poll, a notice will be displayed by the PRO in a prominent place outside the polling stations as soon as practicable to inform the public that the poll has been closed and the polling station is being prepared for the counting of votes. If the EPR system is used in the polling station, the PRO must also confirm the close of the poll through the system. The counting station will be opened to the public when the preparations are completed. While it is closed in preparation for the counting

of votes, candidates, their election agents, counting agents and polling agents may stay inside the polling station to observe the process of locking and sealing of ballot boxes. The ballot boxes will be locked and sealed by the PRO in the presence of the candidates and/or their agents (if any). The PRO will also inform them of the numbers of unissued ballot papers, spoiled ballot papers and unused ballot papers in his/her possession. All such ballot papers will then be made up into separate sealed packets for respective constituencies. The marked printed copies of FR (if used) will also be made up into separate sealed packets. Besides, the PRO will prepare a ballot paper account to estimate the number of ballot papers in the ballot boxes. [S 63(1), (1A), (2) and (3) of the EAC (EP) (DC) Reg] *[Amended in September 2007, January 2010, September 2015 and September 2023]*

4.70 The locked and sealed ballot boxes referred to in para. 4.69 above will be kept by the PRO until the counting of votes begins. The PRO will open all ballot boxes (and if necessary, retain ballot papers inside at least one ballot box to be mixed with the ballot papers delivered from small polling stations, ballot paper sorting stations and/or dedicated polling stations (as the case may be)), and put all ballot papers inside the ballot boxes on the counting table (see Part XII below). *[Amended in September 2015, September 2019 and September 2023]*

A Polling Station which is not a Counting Station

4.71 **Small polling stations, special polling stations and dedicated polling stations will not be converted to counting stations after the close of the poll.** For a small polling station or a special polling station, the PRO will, as soon as practicable, display a notice in a prominent place outside the polling station to inform the public that the poll has been closed. Besides, if the EPR system is used in the polling station, the PRO must also confirm the close of the poll through the system. After the close of the poll, a candidate, his/her

election agent and polling agent may stay in the polling station to observe the process of locking and sealing of ballot boxes. For dedicated polling stations, the following persons may stay to observe the process:

- (a) a candidate, his/her election agent and polling agent may stay in a dedicated polling station not situated in a penal institution;
- (b) a maximum of only two persons among the candidates, their election agents or polling agents may stay in a dedicated polling station situated in a penal institution other than a maximum security prison; and
- (c) a maximum of only two candidates may stay in a dedicated polling station situated in a maximum security prison.

[S 63A(2) and (2A) of the EAC (EP) (DC) Reg] *[Amended in September 2019 and September 2023]*

In the presence of the candidates and/or their agents (if any), the ballot boxes will be locked and sealed by the PRO. The PRO will also inform them of the numbers of unissued ballot papers, spoilt ballot papers and unused ballot papers in his/her possession. All such ballot papers and the marked printed copies of FR (if used) will also be made up into separate sealed packets. The PRO will prepare a ballot paper account for each constituency to estimate the number of ballot papers in the ballot boxes. [Ss 63A(1), (2) and 64 of the EAC (EP) (DC) Reg] *[Amended in January 2010, September 2015 and September 2023]*

IMPORTANT :

Under the principle of secrecy of the ballot, given the relatively small number of votes cast at the small polling stations, special polling stations and dedicated polling stations, votes cast will not

be counted therein. For small polling stations and special polling stations, after the close of the poll, the ballot box (locked and sealed) will be delivered to the designated main counting station. In the case of dedicated polling stations, the ballot box (locked and sealed) will be delivered to the ballot paper sorting station or the corresponding main counting station according to the notice of the CEO. See paras. 4.74 to 4.80 below for the ballot paper sorting and delivery arrangements regarding the ballot paper sorting stations, and paras. 4.90 and 4.103 for how the ballot papers transported to the main counting stations will be processed. *[Added in September 2023]*

4.72 As the votes cast at the small polling stations, special polling stations and dedicated polling stations will not be counted therein, the PRO (or APRO if it is a special polling station) will first deliver the locked and sealed ballot boxes, the sealed packets of relevant electoral documents referred to in para. 4.71 above and the ballot paper accounts to the corresponding main counting station under police escort. The ballot boxes of a dedicated polling station will be transported to the corresponding ballot paper sorting station or main counting station, as the case may be. [S 63A(3) and (4) of the EAC (EP) (DC) Reg] *[Amended in January 2010, September 2012, September 2015 and September 2019]*

4.73 Not more than two persons among the candidates and/or their agents, if they so wish, will be allowed to accompany the PRO in the delivery of the locked and sealed ballot boxes, together with the sealed packets of relevant electoral documents and the ballot paper account prepared by the PRO, from the polling station to the relevant ballot paper sorting station or main counting station under police escort. Where there are more than two of them wishing to accompany in the delivery, the PRO will draw lots to determine which two persons will be allowed. Candidates and their agents are allowed

to stay in the polling station until they see the arrival of police officers for escorting the delivery. Thereafter, all persons other than those two persons who are allowed to accompany in the delivery must leave the polling station. *[Amended in September 2007, January 2010 and September 2019]*

PART XII : SORTING OF BALLOT PAPERS

Conduct at the Ballot Paper Sorting Station

4.74 In a DC ordinary election, or a DC by-election where the CEO considers it appropriate, ballot paper sorting station(s) will be set up by the REO for sorting by constituencies the ballot papers received from dedicated polling stations before the ballot papers are delivered to the corresponding main counting stations for the counting of votes. The PRO of a ballot paper sorting station may determine the time at which the sorting of ballot papers is to begin, which must be a time after the poll has closed at all the dedicated polling stations situated in penal institutions but may be a time before the poll has closed at all the other polling station(s). Before the polling day, candidates will be informed of the expected time of the commencement of the sorting of ballot papers at the ballot paper sorting station(s). [Ss 2(3), 63A(4) and 65(2A) of the EAC (EP) (DC) Reg] *[Added in January 2010]*

4.75 Only the following persons may be present at the sorting of ballot papers:

- (a) the ROs, AROs, PROs, DPROs, APROs and counting staff for the relevant constituencies;
- (b) members of the EAC;

- (c) the CEO;
- (d) candidates and their election agents and counting agents of the relevant constituencies;
- (e) police officers and members of the CAS on duty at the ballot paper sorting station;
- (f) public officers authorised in writing by the CEO;
- (g) any person authorised by the RO or the PRO; and
- (h) any person authorised in writing by a member of the EAC.

The PRO will designate a restricted area for counting staff to sort the ballot papers. Candidates and their agents are prohibited from entering the restricted area. Any member of the public may observe the sorting of ballot papers from the public area designated by the PRO unless the PRO considers that the presence of a person may:

- (a) cause disorder or disturbance in the ballot paper sorting station;
or
- (b) prejudice the secrecy of the individual votes.

[Ss 2(3) and 68 of the EAC (EP) (DC) Reg] *[Added in January 2010]*

4.76 Except for police officers and members of the CAS on duty, every person authorised to be present at a ballot paper sorting station must

make a **Declaration of Secrecy** on a specified form³¹ before entering the ballot paper sorting station and observe the regulations on the secrecy of voting [ss 2(3) and 93 of the EAC (EP) (DC) Reg]. Members of the public present within the public area are not required to make a Declaration of Secrecy. *[Added in January 2010]*

4.77 Except with the express permission of the relevant PRO, the RO for the constituency for which the ballot paper sorting station is used or a member of the EAC, as the case may be, it is an offence for any person to take photographs, films or make video or audio recording within the restricted area of a ballot paper sorting station during the period commencing from the time at which the sorting of ballot papers is to begin and ending upon the completion of the sorting. [Ss 2(3) and 69 of the EAC (EP) (DC) Reg] *[Added in January 2010]*

4.78 Any person who misconducts himself/herself or fails to comply with any lawful order of the PRO at or in the vicinity of a ballot paper sorting station commits an offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months. He/She may be ordered by the PRO to leave the area immediately. A person misconducts himself/herself if he/she disrupts the sorting of ballot papers or disturbs or causes inconvenience to other persons in the ballot paper sorting station. The PRO may also order a person to leave the ballot paper sorting station immediately if the person's conduct in the venue is not in line with the purpose for which he/she was authorised or permitted for the entry to or presence in the ballot paper sorting station. If the person fails to leave immediately, he/she may be removed by a police officer or by any other person authorised in writing by the PRO. The person so removed may not re-enter the relevant ballot paper sorting station on that day except with the

³¹ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/the CEO (or a person whose official designation is that of a deputy to the CEO)/a Justice of the Peace/a solicitor with a practising certificate.

permission of such PRO. [Ss 2(3), 69 and 70 of the EAC (EP) (DC) Reg]
[Added in January 2010]

Sorting of Ballot Papers

4.79 The PRO of a ballot paper sorting station will sort the envelopes containing the ballot papers, received from the dedicated polling station(s) in the presence of the candidates, their election agents or counting agents, if present. The PRO will check whether the ballot boxes and sealed packets are properly sealed. The seal on the ballot box will be broken by the PRO in the presence of the candidates, their election agents or counting agents, if present. The PRO will then open the ballot boxes and empty the contents onto a sorting table. After the PRO has opened the ballot box, the candidates, their election agents or counting agents may request to inspect any papers, other than the envelopes which contain the marked ballot papers, taken out from the ballot boxes before their disposal. **None of the candidates, their election agents or counting agents should touch any envelopes or ballot papers.** *[Added in January 2010 and amended in September 2012]*

4.80 The PRO of a ballot paper sorting station shall:

- (a) open the ballot boxes received from the dedicated polling station(s);
- (b) sort the envelopes in each ballot box according to each constituency;
- (c) count and record the number of envelopes for each constituency;
- (d) verify the ballot paper account by comparing it with the number of envelopes recorded under para. 4.80(c) above;

- (e) prepare a statement in writing as to the result of the verification;
- (f) prepare a statement in writing as to the number of envelopes recorded under para. 4.80(c) above;
- (g) make into separate bundles the sorted envelopes together with the relevant statement prepared under para. 4.80(f) above;
- (h) place each bundle in a separate orange receptacle and seal it in the presence of those present at the counting zone;
- (i) arrange the orange receptacles to be delivered to the PROs of the corresponding main counting stations of the relevant constituencies³²; and *[amended in September 2015]*
- (j) send to the CEO the ballot paper accounts, verifications of number of ballot papers and the sealed packets made up under para. 4.71 above.

[S 75A of the EAC (EP) (DC) Reg] *[Added in January 2010 and amended in September 2011 and September 2023]*

³² If no electors of a constituency have cast votes at the dedicated polling station(s), no ballot boxes/orange receptacles will be delivered to the corresponding main counting station. In that case, the PRO of that main counting station will be notified accordingly.

PART XIII : THE COUNT

Conversion of Polling Station to Counting Station

4.81 Polling stations (except for small polling stations, special polling stations and dedicated polling stations) will be converted to counting stations where the votes will be counted and the counting results will be announced to the candidates and their agents present. If the same place is designated as both a polling station and a counting station, the PRO of the polling station is to be regarded as the PRO of the counting station [s 37(4) of the EAC (EP) (DC) Reg]. The PRO, assisted by the DPRO(s), APROs, polling staff and counting staff, is responsible for converting the polling station to a counting station and conducting the count. Before the counting of votes begins, a notice will be displayed outside the counting station specifying at what time the counting station is expected to be open to the public to observe the counting of votes [s 65(8) of the EAC (EP) (DC) Reg]. The telephone number of the counting station should be provided on the notice, so that the candidates or their agents will be able to contact the counting staff. *[Amended in January 2010]*

Conduct at the Counting Station

4.82 Only the following persons may be present at the counting of votes:

- (a) the ROs, AROs, PROs, DPROs, APROs and counting staff for the relevant constituencies;
- (b) members of the EAC;
- (c) the CEO;

- (d) candidates and their election agents and counting agents of the relevant constituencies;
- (e) police officers and members of the CAS on duty at the counting station;
- (f) public officers authorised in writing by the CEO;
- (g) any person authorised by the RO or the PRO; and
- (h) any person authorised in writing by a member of the EAC.

The PRO will designate a restricted area inside the counting zone for counting staff to count the votes. Candidates and their agents are prohibited from entering the restricted area. Members of the public may observe the counting of the votes from an area (“the public area”) at the counting station set apart for that purpose by the PRO unless the PRO considers that the presence of a person may:

- (a) cause disorder or disturbance in the counting station; or
- (b) prejudice the secrecy of the individual votes.

[S 68 of the EAC (EP) (DC) Reg]

4.83 Members of the public and the media have the rights to observe the count inside the public area but not the counting zone at the counting station. That said, in order to maintain order inside the counting station, it is a long-standing practice for the PRO or the RO to reject further entrants when the public area reaches the maximum capacity for public entry. To enhance the transparency of the admission arrangement for counting stations, a notice

setting out the maximum capacity of the public area will be displayed outside each counting station by the PRO. *[Added in September 2023]*

4.84 Besides, photographing and/or video-recording is allowed inside a counting station. Members of the public, including the media, can take photographs and/or videos inside the public area (but not inside the counting zone). For record purposes, video recording systems will be installed in each counting station (including inside the counting zone) to record the actual situation of the counting station (including the public area). *[Added in September 2023]*

4.85 Except for police officers and members of the CAS on duty, every person authorised to be present at a counting zone must make a **Declaration of Secrecy** on a specified form³³ before entering the counting zone and observe the regulations on the secrecy of voting [s 93 of the EAC (EP) (DC) Reg]. Members of the public and the media present within the public area are not required to make a Declaration of Secrecy. *[Amended in September 2023]*

4.86 Except with the express permission of the relevant PRO, the RO for the constituency for which the counting station is used or a member of the EAC, as the case may be, it is an offence for any person to take photographs, films or make audio or video recording within the counting zone during the period commencing from the time at which the counting of the votes is to begin at the counting zone of the counting station and ending upon the completion of the count and re-count, if any, of the constituency. [S 69 of the EAC (EP) (DC) Reg]

³³ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/the CEO (or a person whose official designation is that of a deputy to the CEO)/a Justice of the Peace/a solicitor with a practising certificate.

4.87 Any person who misconducts himself/herself or fails to comply with any lawful order of the PRO at or in the vicinity of a counting station commits an offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months. He/She may be ordered by the PRO to leave the area immediately. A person misconducts himself/herself if he/she disrupts the counting of votes or disturbs or causes inconvenience to other persons in the counting station. The PRO may also order a person to leave the counting station immediately if the person's conduct in the venue is not in line with the purpose for which he/she was authorised or permitted for the entry to or presence in the counting station. If the person fails to leave immediately, he/she may be removed by a police officer or by any other person authorised in writing by the PRO. The person so removed may not re-enter the relevant counting station on that day except with the permission of such PRO. [Ss 69 and 70 of the EAC (EP) (DC) Reg] *[Amended in September 2019]*

Counting of Votes

4.88 The PRO of a counting station will conduct the counting of votes in the presence of the candidates, their election agents or counting agents. The PRO will check whether all the ballot boxes and sealed packets are properly sealed. The seal on each ballot box will be broken by the PRO in the presence of the candidates, their election agents or counting agents, if present. All the ballot boxes will then be opened by the PRO and the contents will be emptied onto a counting table. After the PRO has opened the ballot box, the candidates, their election agents or counting agents may request to inspect any papers other than ballot papers taken out from the ballot boxes before their disposal. **None of the candidates, their election agents or counting agents should touch any ballot papers.** [S 74 of the EAC (EP) (DC) Reg]

Counting of DCGC Votes

4.89 The PRO of a counting station (except for the PRO of a main counting station or a ballot paper sorting station) shall:

- (a) sort the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate transparent plastic boxes on the table;
- (b) separate and put aside the invalid and questionable ballot papers, if any;
- (c) determine the validity of questionable ballot papers;
- (d) count the valid votes obtained by each candidate;
- (e) verify the number of the ballot papers counted by comparing it with the ballot paper account for the DCGC from the polling station and prepare a statement in writing as to the result of the verification; and
- (f) compile the final counting results.

[Ss 75(1) and 76 of the EAC (EP) (DC) Reg] *[Amended in January 2010, September 2011, September 2019 and September 2023]*

4.90 The PRO of a main counting station shall:

- (a) count and record the number of DCGC ballot papers in the ballot box(es) received from each small polling station, special polling

station and/or dedicated polling station and verify the number by comparing it with the respective ballot paper accounts;

- (b) open the envelopes in each orange receptacle received from a ballot paper sorting station, count and record the number of DCGC ballot papers in the envelopes, and verify the number by comparing it with the respective statement on the number of envelopes where such station has been set up in a DC ordinary election or in a by-election as considered appropriate by the CEO;
- (c) prepare a statement in writing as to the respective result of the verification in (a) and (b) above;
- (d) mix the ballot papers in at least one of the DCGC ballot boxes from the polling station designated as the main counting station with the ballot papers delivered from the small polling stations, special polling stations, ballot paper sorting stations and/or dedicated polling stations (as the case may be);
- (e) sort all the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate transparent plastic boxes on the table;
- (f) separate and put aside the invalid and questionable ballot papers, if any;
- (g) determine the validity of questionable ballot papers;
- (h) count the valid votes obtained by each candidate;

- (i) upon completing the counting of votes, verify the number of the DCGC ballot papers recorded in the counting process by comparing it with the ballot paper account in respect of the main counting station concerned (excluding those from the small polling stations, special polling stations and/or dedicated polling stations which have been processed in accordance with (a) above) and prepare a statement in writing as to the result of the verification; and

- (j) compile the final counting results.

[Ss 75(1A) and 76 of the EAC (EP) (DC) Reg] *[Amended in January 2010, September 2015, September 2019 and September 2023]*

4.91 The cumulative voter turnout announced on the polling day is an estimate based on the statistics on ballot papers issued to electors by polling staff at the ballot paper issuing desks (see para. 4.39 above). Under certain circumstances, the cumulative voter turnout may not tally with the number of ballot papers in the ballot boxes because it does not take into account the numbers of ballot papers endorsed as “TENDERED”³⁴ issued at the PRO desk or the “UNUSED”³⁵ ones which were found abandoned or left behind in the polling station instead of being put into the ballot boxes (see paras. 4.59 and 4.62 above). After adding the number of “TENDERED” ballot papers and deducting the number of “UNUSED” ballot papers, the cumulative voter turnout should, in principle, tally with the number of ballot papers in the ballot

³⁴ “TENDERED” ballot papers are issued at the PRO desk. They are not counted in the cumulative voter turnout, but were put into the ballot box and included in the number of ballot papers actually counted from the ballot box.

³⁵ Polling staff occasionally find ballot papers have been abandoned or left behind in the polling station. The PRO will endorse such ballot papers with the words “UNUSED” and “未用”, and keep them in his/her custody. These ballot papers have been counted in the cumulative voter turnout although they were not put into the ballot box.

boxes³⁶. A discrepancy may also occur between the two numbers if any ballot paper was taken away without authorisation and consequently not put into the ballot box. In any event, the counting results shall be based on the number of ballot papers actually counted from the ballot boxes, while the cumulative voter turnout is for reference only. *[Added in September 2023]*

Invalid Ballot Papers

4.92 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is not marked with the chop provided by the polling station;
- (c) it is endorsed on the front with the words “**SPOILT**” and “**損壞**”;
- (d) it is endorsed on the front with the words “**TENDERED**” and “**重複**”;
- (e) it is endorsed on the front with the words “**UNUSED**” and “**未用**”;

³⁶ See para. 4.39 above. Ballot papers issued to electors in replacement of “SPOILT” ballot papers are issued at the PRO desk. The “SPOILT” ballot papers to be kept by the PRO were issued at the ballot paper issuing desks, so they have been counted in the cumulative voter turnout. On the other hand, ballot papers issued to electors by the PRO in replacement of “SPOILT” ballot papers were put into the ballot box and hence subsequently included in the number of ballot papers actually counted from the ballot box.

- (f) the vote recorded on it is for a deceased or disqualified candidate whose name and other information on the ballot paper are crossed out under s 40(2) of EAC (EP) (DC) Reg; or
- (g) votes are given for more than one candidate (e.g. by marking a “✓” each against two candidates).

[S 78(1) of the EAC (EP) (DC) Reg]

These ballot papers will be set aside as invalid on the spot. They will not be counted and will not be treated as questionable ballot papers. A candidate, his/her election agent or a counting agent may inspect these ballot papers but is not entitled to make representations to the PRO concerning these ballot papers [s 78(2) of the EAC (EP) (DC) Reg]. *[Amended in September 2007, September 2019 and September 2023]*

Questionable Ballot Papers

4.93 Ballot papers with doubtful validity in the following categories are set aside as questionable ballot papers. A questionable ballot paper will be decided as invalid if in the opinion of the PRO:

- (a) it has any writing or mark by which the elector can possibly be identified;
- (b) it is not marked in accordance with s 58(2) of the EAC (EP) (DC) Reg, i.e. not marked by affixing the chop to give a single “✓” in the circle opposite the name of the candidate of the elector’s choice on the ballot paper, and the elector’s intention is unclear. However, the PRO may count that ballot paper if he/she is

satisfied that the elector's intention is clear, notwithstanding that the "✓" mark is not placed inside the circle;

- (c) it is substantially mutilated; or
- (d) it is void for uncertainty.

Questionable ballot papers must be separated and forwarded to the PRO to decide whether the votes are to be counted. [S 76(5)(a) of the EAC (EP) (DC) Reg] When deciding on the validity of the ballot papers in (a) above, the PRO will make reference to the judgment made by the court on an election petition case (HCAL 127/2003). In that case, the court ruled that the handwritten tick found on the ballot paper in question in the said election petition was considered a mark by which the elector could possibly be identified. The validity of ballot papers with any other writings or marks will remain to be determined by the PRO on a case-by-case basis. [S 79(2) and (3) of the EAC (EP) (DC) Reg] *[Amended in September 2019 and September 2023]*

4.94 The validity of all questionable ballot papers shall be decided by the PRO [s 79(2) of the EAC (EP) (DC) Reg]. The PRO will invite the candidates, their election agents or counting agents present to participate in the determination process of questionable ballot papers. *[Amended in September 2015]*

4.95 The determination process of questionable ballot papers will be conducted in the following manner:

- (a) the PRO will inform the candidates and their agents of his/her initial decision on the validity of each questionable ballot paper. A candidate, his/her election agent or counting agent may inspect

and make representations concerning any questionable ballot paper [s 79(1) of the EAC (EP) (DC) Reg];

- (b) the PRO will then consider their representations and make his/her final decision on the validity of the questionable ballot paper (see para. 4.96 below) [s 79(2) of the EAC (EP) (DC) Reg];
- (c) if the PRO decides that a questionable ballot paper is invalid and, therefore, not to be counted, he/she must endorse the words “不獲接納” and “rejected” on the front of it. In that case, if any candidate, election agent or counting agent objects to the PRO’s final decision, the PRO must also endorse the words “反對此選票不獲接納” and “rejection objected to” on that ballot paper [s 79(4) of the EAC (EP) (DC) Reg];
- (d) if any candidate, election agent or counting agent objects to the decision of the PRO to count a questionable ballot paper, the PRO must endorse the words “反對此選票獲接納” and “acceptance objected to” on that ballot paper [s 79(5) of the EAC (EP) (DC) Reg]; and
- (e) the PRO shall prepare a statement to record his/her decisions made in respect of all questionable ballot papers [s 79(6) of the EAC (EP) (DC) Reg].

[Amended in September 2007, September 2015 and September 2023]

4.96 The decision of the PRO in regard to any question arising in respect of any ballot paper at the counting of votes shall be **final** [s 80 of the

EAC (EP) (DC) Reg], which may be questioned by an election petition [s 49 of the DCO] (see Part II of Chapter 5).

Counting Arrangements

4.97 The counting of votes will proceed continuously, as far as possible, until the counting of all the votes is completed. *[Amended in September 2007 and September 2019]*

DCGCs with One Counting Station

4.98 For a DCGC with only one counting station, after the count, the PRO will make known the result to the relevant candidates, their election agents or counting agents, if present. These candidates or their election agents may request the PRO for the DCGC to re-count the votes, and the relevant PRO shall comply with any such request unless in his/her opinion the request is unreasonably made. [S 80A of the EAC (EP) (DC) Reg] *[Amended in September 2023]*

DCGCs with Two or More Counting Stations

4.99 For a DCGC with two or more counting stations, the counting station serving the largest number of registered electors will be designated by the CEO as the dominant counting station [s 31(1B) of the EAC (EP) (DC) Reg]. Only the candidates or election agents of that DCGC who are present at the station can request a re-count of all the votes cast in respect of the DCGC concerned [s 80B(8) of the EAC (EP) (DC) Reg]. *[Amended in September 2019 and September 2023]*

4.100 After the counting of votes at an individual counting station for the DCGC is completed, the relevant PRO will make known the counting result to the candidates or their election agents or counting agents, if present.

Candidates, their election agents or counting agents may request the PRO to re-count the votes, and the PRO shall comply with any such request unless in his/her opinion the request is unreasonably made. In the case of a counting station other than the dominant counting station, where there is no request for a re-count, or where the request for a re-count is rejected, or the re-count is completed and there is no request for a further re-count, or the request for a further re-count is rejected by the PRO, the PRO shall report to the PRO of the dominant counting station the counting results. [S 80B(1), (2), (3), (4), (5) and (7) of the EAC (EP) (DC) Reg] *[Amended in September 2023]*

4.101 The PRO of the dominant counting station may decide whether a re-count of all the votes of all the counting stations for the DCGC is necessary. If a candidate or his/her election agent requests to re-count all the votes of all the counting stations for the DCGC, such a request shall be made to the PRO of the dominant counting station, and he/she will decide whether the request should be acceded to. If he/she decides that such a request for a re-count is reasonable in the circumstances, he/she will inform the PROs of the other counting stations for the DCGC to conduct a re-count at their corresponding counting stations, and he/she will conduct a re-count at the dominant counting station at the same time. [S 80B(8) and (9) of the EAC (EP) (DC) Reg] *[Amended in September 2019 and September 2023]*

4.102 The PRO of each of the other counting stations will make known the result of the re-count at his/her counting station to the candidates or their election agents or counting agents, if present, and shall report the same to the PRO of the dominant counting station who shall inform the candidates, their election agents or counting agents present at the dominant counting station of all such re-count results. [S 80B(10) and (11) of the EAC (EP) (DC) Reg] *[Amended in August 2008]*

Counting of DCC Votes

- 4.103 The PRO of a DCC main counting station shall:
- (a) count and record the number of DCC ballot papers in the ballot box(es) received from the special polling stations, dedicated polling stations set up in penal institutions and/or police stations and/or in the orange receptacle(s) from ballot paper sorting stations, and verify the number by comparing it with the respective ballot paper accounts, and prepare a statement in writing as to the respective result of the verification;
 - (b) mix the ballot papers in at least one of the DCC ballot boxes from the polling station designated as the main counting station with the ballot papers delivered from the special polling stations, ballot paper sorting stations and/or dedicated polling stations (as the case may be);
 - (c) count the valid votes obtained by each candidate in accordance with the “block vote” and “first past the post” voting system described in s 41A of the DCO;
 - (d) separate and put aside the invalid and questionable ballot papers, if any;
 - (e) determine the validity of questionable ballot papers;
 - (f) upon completing the counting of votes, verify the number of DCC ballot papers recorded in the counting process by comparing it with the ballot paper account in respect of the main counting station concerned (excluding those from the special polling

stations, the dedicated polling stations and/or ballot paper sorting stations which have been processed in accordance with (a) above) and prepare a statement in writing as to the result of the verification; and

- (g) compile the final counting results.

[S 75B of the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.104 The votes cast may be counted manually by counting staff or by using an approved programme and a computer. Approved programme means any computer software that the EAC is satisfied is programmed to count the votes for a DCC so as to give an accurate result. [S 75B(5) and (7) of the EAC (EP) (DC) Reg] *[Added in September 2023]*

Invalid Ballot Papers

4.105 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is endorsed on the front with the words “**TENDERED**” and “**重複**”;
- (c) it is endorsed on the front with the words “**SPOILT**” and “**損壞**”;
- (d) it is endorsed on the front with the words “**UNUSED**” and “**未用**”;

- (e) in respect of a DCC by-election, it is not marked with the chop provided by the polling station while the elector is required to do so;
- (f) the vote recorded on it is for a deceased or disqualified candidate whose name and other information on the ballot paper are crossed out under s 40(2) of EAC (EP) (DC) Reg; or
- (g) the number of votes marked on the ballot paper is not equal to the number of members to be returned.

[S 78(1) of the EAC (EP) (DC) Reg]

These ballot papers will be set aside as invalid on the spot. They will not be counted and will not be treated as questionable ballot papers. A candidate, his/her election agent or counting agent may inspect these ballot papers but is not entitled to make representations to the PRO concerning these ballot papers [s 78(2) of the EAC (EP) (DC) Reg]. *[Added in September 2023]*

Questionable Ballot Papers

4.106 Ballot papers with doubtful validity in the following categories are set aside as questionable ballot papers. A questionable ballot paper will be decided as invalid if in the opinion of the PRO:

- (a) it has any writing or mark by which the elector can possibly be identified;
- (b) it is not marked in accordance with s 57A(1) or 57A(3)(b) of the EAC (EP) (DC) Reg:

- (i) the ballot paper is not marked by filling in black the ovals on it opposite the names of the candidates of the elector's choice, and the intention of the elector is unclear. However, the PRO may count the votes on that ballot paper if he/she is satisfied that the intention of the elector is clear, notwithstanding the deviation from the requirements in s 57A(1) of the EAC (EP) (DC) Reg; or
- (ii) for a DCC by-election, if the elector is required to mark the ballot paper with the chop provided by the polling station, and the ballot paper is not marked by affixing the chop to give a single "✓" in the circle opposite the names of the candidates of the elector's choice on the ballot paper in accordance with s 57A(3)(b) of the EAC (EP) (DC) Reg, and the elector's intention is unclear. However, the PRO may count that ballot paper if he/she is satisfied that the elector's intention is clear, notwithstanding that the "✓" mark is not placed inside the circle;
- (c) it is substantially mutilated; or
- (d) it is void for uncertainty.

Questionable ballot papers must be separated and forwarded to the PRO to decide whether the votes are to be counted. [S 76(5)(a) of the EAC (EP) (DC) Reg] When deciding on the validity of the ballot papers in (a) above, the PRO will make reference to the judgment made by the court on an election petition case (HCAL 127/2003) (see para. 4.93 above for details). [S 79 (2) and (3) of the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.107 The validity of all questionable ballot papers shall be decided by the PRO [s 79(2) of the EAC (EP) (DC) Reg]. The PRO will invite the candidates, their election agents or counting agents present to participate in the determination process of questionable ballot papers. *[Added in September 2023]*

4.108 The determination process of questionable ballot papers will be conducted in the following manner:

- (a) the PRO will inform the candidates and their agents of his/her initial decision on the validity of each questionable ballot paper. A candidate, his/her election agent or counting agent may inspect and make representations concerning any questionable ballot paper [s 79(1) of the EAC (EP) (DC) Reg];
- (b) the PRO will then consider their representations and make his/her final decision on the validity of the questionable ballot paper (see para. 4.109 below) [s 79(2) of the EAC (EP) (DC) Reg];
- (c) if the PRO decides that a questionable ballot paper is invalid and, therefore, not to be counted, he/she must endorse the words “不獲接納” and “rejected” on the front of it. In that case, if any candidate, election agent or counting agent objects to the PRO’s final decision, the PRO must also endorse the words “反對此選票不獲接納” and “rejection objected to” on that ballot paper [s 79(4) of the EAC (EP) (DC) Reg];
- (d) if any candidate, election agent or counting agent objects to the decision of the PRO to count a questionable ballot paper, the PRO must endorse the words “反對此選票獲接納” and “acceptance

objected to” on that ballot paper [s 79(5) of the EAC (EP) (DC) Reg]; and

- (e) the PRO shall prepare a statement of the ballot papers which are not counted (including all questionable ballot papers which are rejected) [s 79(6) of the EAC (EP) (DC) Reg].

[Added in September 2023]

4.109 The decision of the PRO on any question arising from any ballot paper at the counting of votes shall be **final** [s 80 of the EAC (EP) (DC) Reg], which may be questioned by an election petition if needed [s 49 of the DCO] (see Part II of Chapter 5). *[Added in September 2023]*

Counting Arrangements

4.110 The counting of votes will proceed continuously, as far as possible, until the counting of all the votes is completed. *[Added in September 2023]*

DCCs with One Counting Station

4.111 For a DCC with only one counting station, after the count, the PRO will make known the result to the relevant candidates, their election agents or counting agents, if present. These candidates or their election agents may request the PRO for the DCC to re-count the votes, and the relevant PRO shall comply with any such request unless in his/her opinion the request is unreasonably made. [S 80A of the EAC (EP) (DC) Reg] *[Added in September 2023]*

DCCs with Two or More Counting Stations

4.112 For a DCC with two or more counting stations, the counting station serving the largest number of registered electors will be designated by the CEO as the dominant counting station [s 31(1B) of the EAC (EP) (DC) Reg]. Only the candidates or election agents of that DCC who are present at the station can request a re-count of all the votes cast in respect of the DCC concerned [s 80B(8) of the EAC (EP) (DC) Reg]. *[Added in September 2023]*

4.113 After the counting of votes at an individual counting station for the DCC is completed, the relevant PRO will make known the counting result to the candidates or their election agents or counting agents, if present. Candidates, their election agents or counting agents may request the PRO to re-count the votes, and the PRO shall comply with any such request unless in his/her opinion the request is unreasonably made. In the case of a counting station other than the dominant counting station, where there is no request for a re-count, or where the request for a re-count is rejected, or the re-count is completed and there is no request for a further re-count, or the request for a further re-count is rejected by the PRO, the PRO shall report to the PRO of the dominant counting station the counting results. [S 80B(1), (2), (3), (4), (5) and (7) of the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.114 The PRO of the dominant counting station may decide whether a re-count of all the votes of all the counting stations for the DCC is necessary. If a candidate or his/her election agent requests to re-count all the votes of all the counting stations for the DCC, such a request shall be made to the PRO of the dominant counting station, and he/she will decide whether the request should be acceded to. If he/she decides that such a request for a re-count is reasonable in the circumstances, he/she will inform the PROs of the other counting stations for the DCC to conduct a re-count at their corresponding counting stations, and he/she will conduct a re-count at the dominant counting

station at the same time. [S 80B(8) and (9) of the EAC (EP) (DC) Reg]
[Added in September 2023]

4.115 The PRO of each of the other counting stations will make known the result of the re-count at his/her counting station to the candidates or their election agents or counting agents, if present, and shall report the same to the PRO of the dominant counting station who shall inform the candidates, their election agents or counting agents present at the dominant counting station of all such re-count results. [S 80B(10) and (11) of the EAC (EP) (DC) Reg]
[Added in September 2023]

PART XIV : DECLARATION OF RESULT

4.116 For a constituency with only one counting station, the PRO shall report to the RO for the constituency the final counting or re-count result. The RO shall declare the candidate who is successful at the election as elected. [Ss 80A(7) and 81(1) of the EAC (EP) (DC) Reg] *[Amended in September 2023]*

4.117 For a constituency with two or more counting stations, the PRO of each of the counting stations shall report to the RO for the constituency the final counting or re-count result of his/her counting station. If the PRO is not the PRO of the dominant counting station, he/she shall also report to the PRO of the dominant counting station the final counting or re-count result of his/her counting station. The PRO of the dominant counting station shall report to the RO the total of the final counting or re-count results of all the counting stations for the constituency. After tallying the total of the final counting or re-count results with all the final counting or re-count results reported from individual counting stations for the constituency, the RO shall declare the candidate who

is successful at the election as elected. [Ss 80B(7), (12) and 81(1) of the EAC (EP) (DC) Reg] *[Amended in September 2023]*

4.118 In the event that one or more than one member is still to be returned for the constituency and the most successful candidates remaining have an equal number of votes, the RO shall determine the result of the election by drawing lots. He/She shall use the means of contact of such candidates provided in their nomination forms to request them to be present at his/her office or any other place as determined by him/her for conducting the drawing of lots and such candidates shall comply as soon as possible. If the RO fails to contact such a candidate, the RO may draw lots on behalf of the candidate. (See paras. 2.49 and 2.54 for detailed procedures for the drawing of lots) He/She shall declare the candidate on whom the lot falls as elected. He/She shall display a notice of all the result of the election in a prominent place outside his/her office. The result of the election will also be published in the Gazette within ten days of the declaration of the result. [Ss 80C and 82 of the EAC (EP) (DC) Reg] *[Amended in September 2023]*

PART XV : DISPOSAL OF DOCUMENTS

4.119 As soon as practicable after the PRO has ascertained the result of the poll at an election, he/she shall seal all the relevant documents and ballot papers into packets. Candidates and their agents may be present to observe the packing. [S 83 of the EAC (EP) (DC) Reg]

4.120 These sealed packets together with other documents including the nomination forms, notices of appointment of agents, etc. will then be deposited with the CEO for safe custody for at least six months from the date of the election to which they relate before they are destroyed. [Ss 84 and 86 of the EAC (EP) (DC) Reg] *[Amended in September 2019]*

4.121 **Except pursuant to a court order** in relation to an election petition or criminal proceedings, **no person may inspect any ballot paper in the custody of the CEO.** [S 85 of the EAC (EP) (DC) Reg]

PART XVI : POSTPONEMENT OR ADJOURNMENT OF THE ELECTION, THE POLL OR THE COUNT

4.122 The DCO and the EAC (EP) (DC) Reg provide for the postponement or adjournment of the election, the poll or the count for a DC ordinary election as well as such cases in respect of an individual constituency or an individual polling/counting station. *[Added in September 2023]*

4.123 Regarding the postponement or adjournment of **an ordinary election as a whole and the poll at all polling stations and/or the count at all counting stations**, if, before the holding of an ordinary election or during the poll or the count in respect of an ordinary election, the CE is of the opinion that the election, the poll or the count is likely to be or is being obstructed, disrupted, undermined or seriously affected by riot, open violence or any danger to public health or safety, then the CE may, by order, direct the postponement or adjournment of the election, the poll or the count. Besides, if it appears to the EAC that the election, the poll or the count is likely to be obstructed, disrupted, undermined or seriously affected by (a) a typhoon or other climatic condition of a serious nature; or (b) an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or the count, then the EAC may announce the postponement or adjournment of the election, the poll or the count. [S 38(1) and (2) of the DCO and s 1 of Schedule 1 to the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.124 Regarding **an individual constituency**, if, during or before an ordinary election or by-election or at any time during the poll or the count in respect of the election, it appears to the EAC that the election, the poll at all the polling stations or the count at all the counting stations for a particular constituency is likely to be obstructed, disrupted, undermined or seriously affected by (a) a typhoon or other climatic condition of a serious nature; (b) riot, open violence or any danger to public health or safety; or (c) an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or the count, then the EAC may announce the postponement or adjournment of the election or by-election, the poll at all the polling stations or the count at all the counting stations for that constituency. [S 2 of Schedule 1 to the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.125 Regarding the **poll or the count at an individual polling/counting station**, if, at any time during the poll or the count of an ordinary election or by-election, it appears to the PRO that the poll at the polling station or the count at the counting station is likely to be obstructed, disrupted, undermined or seriously affected by (a) a typhoon or other climatic condition of a serious nature; (b) riot, open violence or any danger to public health or safety; or (c) an occurrence which appears to the PRO to be a material irregularity relating to the election, the poll or the count, then the PRO may announce the adjournment of the poll at that polling station or the count at that counting station. [S 3 of Schedule 1 to the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.126 If an ordinary election or by-election or the poll or count has to be postponed or adjourned in accordance with s 38 of the DCO or Schedule 1 to the EAC (EP) (DC) Reg, the CE or the EAC must appoint a date for holding the election, the poll or the count as soon as practicable after the postponement or adjournment. The date appointed must not be later than 14 days after the date originally scheduled. Pursuant to the established contingency measures

of the EAC, the election, the poll or the count will usually be postponed or adjourned to the fallback polling day (i.e. the following Sunday). [S 38(4) of the DCO and s 7 of Schedule 1 to the EAC (EP) (DC) Reg] There is no provision in the relevant electoral laws and regulations regarding further postponement or adjournment of an already postponed or adjourned election, poll or count. *[Added in September 2023]*

PART XVII : DISTRICT COUNCIL BY-ELECTION TO BE HELD

4.127 The EAC must, in accordance with regulations in force under the DCO, arrange for a DC by-election to be held in the following circumstances and not otherwise:

- (a) on the making of a declaration by the DHA as to the existence of a vacancy in the membership of a DC; and
- (b) on the making of a declaration by an RO that the election for a constituency has failed.

[S 33 of the DCO] *[Added in September 2023]*

4.128 There is no provision in the subsisting law regarding the holding of any by-election to cater for the event that a DC ordinary election, poll or count has to be postponed or adjourned due to the circumstances mentioned in paras. 4.123 to 4.125 above but cannot be held within the 14 days after the scheduled date as stipulated in the law. *[Added in September 2023]*

CHAPTER 5

ELECTION PETITIONS

PART I : GROUNDS FOR LODGING AN ELECTION PETITION

5.1 Pursuant to s 49(1) of the DCO, a DC election may be questioned only by an election petition made on the following grounds:

- (a) the ground that the person declared by the RO in accordance with regulations in force under the EACO to have been elected as a member at the election was not duly elected because:
 - (i) he/she was ineligible 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 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.

[Amended in September 2007, September 2019 and September 2023]

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

5.2 An election petition may be lodged, in respect of an election for a DCC:

- (a) by three or more electors entitled to vote in the constituency; or
- (b) by a person claiming to have been a candidate in the constituency.

[S 50(1) of the DCO] *[Added in September 2023]*

5.3 An election petition may be lodged, in respect of an election for a DCGC:

- (a) by ten or more electors entitled to vote in the constituency; or
- (b) by a person claiming to have been a candidate in the constituency.

[S 50(2) of the DCO] *[Amended in September 2023]*

5.4 An election petition questioning an election may be lodged with the Court of First Instance (“CFI”) only during the period of two months following the date on which the RO has published the result of the election in the Gazette [ss 52(1) and 53(1) of the DCO]. 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)]. *[Amended in September 2007, September 2011 and September 2023]*

5.5 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, as appropriate. The CFI must announce its determination by means of a written judgment. [Ss 52(2) and 55(1), (2) and (3) of the DCO] *[Amended in September 2007 and September 2011]*

5.6 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. [Ss 53(2) and 58B of the DCO] *[Added in September 2011]*

CHAPTER 6

APPOINTMENT AND ROLES OF ELECTION AGENT, ELECTION EXPENSE AGENTS, POLLING AGENTS AND COUNTING AGENTS

PART I : GENERAL

6.1 This chapter deals with the appointment of agents at an election and their roles. Each candidate may appoint four types of agents, namely election agent, election expense agent, polling agent and counting agent. The REO will remind all candidates of the deadline for the appointment of agents about ten days before the polling day and will also provide all candidates with name lists of election agents, polling agents and counting agents received by the REO for their reference three days before the polling day. *[Amended in September 2019 and September 2023]*

6.2 A candidate should think carefully before selecting any of his/her agents. He/She should choose persons suitable for the task. The agents will be viewed as his/her representatives and their conduct may affect the public's perception of him/her and his/her election.

PART II : TYPES AND NUMBERS OF AGENTS

6.3 A candidate may appoint the following agents to assist him/her at an election:

- (a) **one** election agent [s 26(1) of the EAC (EP) (DC) Reg];
- (b) **any number** of election expense agents [s 28(1) of the EAC (EP) (DC) Reg];

- (c) a maximum of **two** polling agents for **each polling station** other than a dedicated polling station situated in a penal institution [s 45(3) of the EAC (EP) (DC) Reg];
- (d) **one** polling agent for **each dedicated polling station** situated in a penal institution other than a maximum security prison [s 45(5A) of the EAC (EP) (DC) Reg]; and

(Only candidates themselves may enter maximum security prisons (see para. 6.25 below). For arrangements regarding the admission of election agents or polling agents to dedicated polling stations situated in penal institutions, see paras. 6.12 to 6.15 and paras. 6.24 to 6.26 below.)

- (e) a maximum of **two** counting agents for **each counting station** [s 66(2) of the EAC (EP) (DC) Reg].

[Amended in January 2010 and September 2019]

PART III : QUALIFICATIONS OF AGENTS

6.4 The election, polling and counting agents should be holders of the Hong Kong identity card and have attained the age of 18 years [ss 26(2), 45(4) and 66(3) of the EAC (EP) (DC) Reg] while an election expense agent needs to be a person who has attained the age of 18 years [s 28(2) of the EAC (EP) (DC) Reg].

PART IV : CIVIL SERVANTS ACTING AS AGENTS

6.5 Civil servants, other than directorate officers, Administrative

Officers, Information Officers, police officers and those officers acting in the above grades or ranks with a view to substantive appointment thereto (i.e. other than acting for temporary relief purpose), may act as agents or assist in electioneering activities **provided that** they are not already appointed as ROs, AROs, PROs, polling or counting staff, that there is no conflict of interest with their official duties, that no use of public resources is involved, and that no government uniform is worn when participating in electioneering activities. To avoid any unfairness or appearance of unfairness or conflict of interest, civil servants who work in a constituency or have extensive contacts with the public in a constituency are strongly advised not to accept appointment by a candidate in that constituency to be his/her agent and/or participate in electioneering activities in the constituency concerned. Civil servants who participate in electioneering activities, including the seeking of election donations, for any candidates should not use or give the impression of using any public resources in such activities. The guidelines set out in this paragraph are equally applicable to the non-civil service government staff³⁷. *[Amended in September 2007, August 2008, September 2011, September 2012, September 2019 and September 2023]*

PART V : ELECTION AGENT

Appointment

6.6 A candidate may appoint **one** election agent to assist him/her and to act on his/her behalf at an election [s 26(1) of the EAC (EP) (DC) Reg].

³⁷ For the purpose of this set of Guidelines, non-civil service government staff refer to the staff employed on non-civil service terms by the HKSAR Government, including:

- (a) those employed under the Non-Civil Service Contract Staff Scheme pursuant to Civil Service Bureau Circular No. 2/2001;
- (b) those employed under the Post-retirement Service Contract Scheme pursuant to Civil Service Bureau Circular No. 13/2015; and
- (c) other government staff employed on non-civil service terms that do not fall under the categories of (a) or (b) above.

The appointment may be made at any time after the candidate submits his/her nomination form.

6.7 The candidate must give notice of the appointment of his/her election agent to the RO for the constituency to which the candidate belongs [s 26(3) of the EAC (EP) (DC) Reg]. The notice must be in the specified form, signed by both the candidate and the election agent, and delivered by hand, by post, by electronic mail or by facsimile transmission to the RO. If the notice of appointment is given on the polling day, it should not be delivered to the RO by post [s 26(5), (6) and (13) of the EAC (EP) (DC) Reg]. The appointment will not be effective until the notice of appointment is received by the RO [s 26(4) of the EAC (EP) (DC) Reg]. *[Amended in September 2011 and September 2015]*

6.8 An election agent must not incur election expenses for or on behalf of a candidate unless he/she has been appointed by the candidate as an election expense agent. Expenses incurred by an election agent purporting to be appointed as an election expense agent before the notice of appointment is duly received by the RO for promoting the election of a candidate or for prejudicing the election of another candidate or other candidates may, depending on the circumstances, still be treated as the election expenses incurred in respect of the candidate. **It is important to note that** it is an **illegal conduct** for any person other than a candidate or a candidate's election expense agent to **incur election expenses at or in connection with an election** [s 23(1) of the ECICO]. *[Amended in September 2015 and September 2019]*

Revocation

6.9 The appointment of an election agent may be revoked by the candidate at any time. The candidate must give notice of the revocation in writing in the specified form and deliver the signed notice by hand, by post, by

electronic mail or by facsimile transmission to the RO. If the notice of revocation is given on the polling day, it should not be delivered to the RO by post. A revocation of an appointment of an election agent will not be effective until such notice is received by the RO. [S 26(8), (9), (10) and (13) of the EAC (EP) (DC) Reg] *[Amended in September 2011 and September 2015]*

6.10 If an election agent dies or has his/her appointment revoked, the candidate may appoint another election agent. In such a case, the candidate must give notice of the replacement appointment in the specified form to the RO in accordance with para. 6.7 above [s 26(11), (12) and (13) of the EAC (EP) (DC) Reg]. Like other election agents, the new election agent has to follow the arrangements set out in paras. 6.12 to 6.16 below, including the requirement to submit an application to the CEO if he/she wishes to observe the poll at a dedicated polling station situated in a penal institution (other than a maximum security prison). *[Amended in January 2010 and September 2019]*

Notification

6.11 Not later than ten days after the close of the nomination period, and thereafter as required, each validly nominated candidate or his/her election agent will receive from the RO a notice containing the particulars of all the election agents (e.g. names and correspondence addresses) appointed by all candidates for the constituency concerned [s 27(1), (3) and (7) of the EAC (EP) (DC) Reg]. The RO must also display outside his/her office a notice of the particulars of the election agents [s 27(5) of the EAC (EP) (DC) Reg]. *[Amended in September 2011]*

Role of an Election Agent

6.12 A duly appointed election agent ranks in the **most important position** amongst all types of agents of a candidate. He/She has the **authority**

to do everything a candidate is authorised to do under the EAC (EP) (DC) Reg for the purposes of the election, **except:**

- (a) to sign the nomination form or make any requisite declaration in relation to a candidate's nomination;
- (b) to withdraw the candidate's candidature;
- (c) to incur election expenses save where he/she has been appointed as an election expense agent by the candidate;
- (d) to authorise an election expense agent to incur election expenses;
and
- (e) to enter a dedicated polling station situated in a maximum security prison.

[S 26(14) and (15) of the EAC (EP) (DC) Reg] *[Amended in September 2007, January 2010 and September 2015]*

IMPORTANT :

An election agent is, along with the candidate, responsible for the management of the election campaign. A candidate is responsible for all the acts of his/her election agent. If the election agent fails in his/her duties, he/she may contravene the law, in particular the ECICO, and other criminal offences for which the candidate may also be liable, with serious consequences. An election agent will need to be authorised as an election expense agent by a candidate to incur election expenses. If so authorised, the election agent will also become

an election expense agent (see Part VI of this chapter).
[Amended in September 2012]

6.13 Candidates and their election agents are normally allowed admission to polling stations, counting stations and ballot paper sorting stations in respect of the constituency concerned and are entitled to be present at the counting of the votes. Depending on whether they are observing the poll or the count, they should observe the rules applicable to the polling agents and/or counting agents. They are therefore advised to familiarise themselves with the guidelines set out in Parts VII and VIII of this chapter. Due to security reasons, only candidates may enter dedicated polling stations situated in maximum security prisons to observe the poll. An election agent who wishes to observe the poll at a dedicated polling station situated in a penal institution other than a maximum security prison must deliver an application in the specified form to the CEO by hand, by post, by electronic mail or by facsimile transmission at least one week before the polling day. The election agent may not be admitted to that dedicated polling station unless the CCS has given consent to his/her admission. If the CCS refuses to give consent to the application received, he/she will notify the candidate or the election agent as soon as practicable. [S 26(15) and (18) of the EAC (EP) (DC) Reg]
[Amended in January 2010, September 2015 and September 2023]

6.14 The CCS may, upon an application delivered to the CEO during the week before the polling day, give consent if he/she is satisfied that a person imprisoned or held in custody by the CSD, who is entitled to vote for the relevant constituency at the relevant dedicated polling station, is admitted or transferred to the penal institution concerned during that week and that the application is made without undue delay after the admission or transfer [s 26(17) of the EAC (EP) (DC) Reg]. The REO will post and update on its website the number of registered electors who are imprisoned or held in custody in individual penal institutions daily from Monday to Friday (other

than a general holiday) starting from three weeks before the polling day and on the Saturday immediately before the polling day for candidates' reference. *[Added in January 2010, amended in September 2012 and September 2015]*

6.15 No election agent may enter a dedicated polling station situated in a penal institution if a polling agent has already been appointed by the same candidate for that polling station [s 26(16) of the EAC (EP) (DC) Reg]. *[Added in January 2010]*

6.16 The PRO of a polling station may regulate the number of candidates, election agents and polling agents to be admitted to the polling station at any one time, for the purpose of maintaining order in the polling station and ensuring that the polling is conducted smoothly [s 47(2) of the EAC (EP) (DC) Reg]. *[Amended in January 2010 and September 2023]*

PART VI : ELECTION EXPENSE AGENTS

Authorisation

6.17 A candidate may authorise **any number** of election expense agents to incur election expenses on his/her behalf in the DC election [s 28(1) of the EAC (EP) (DC) Reg]. The authorisation will remain in force until the end of the election period, i.e. the end of the polling day or the last polling day if there is more than one polling day, unless it is revoked earlier [ss 2 and 23(7) of the ECICO]. *[Amended in September 2007]*

6.18 The authorisation of an election expense agent made by a candidate shall be in writing in the specified form and state the name, identity document number and residential address of the election expense agent, and must specify the maximum amount of election expenses the agent may incur.

It should be signed by both the candidate and the election expense agent [s 28(3), (4) and (5) of the EAC (EP) (DC) Reg]. A copy of the authorisation must be delivered by hand, by post, by electronic mail or by facsimile transmission to the relevant RO, or the CEO if the RO has not been appointed [s 28(6) and (7) of the EAC (EP) (DC) Reg]. *[Amended in September 2007 and September 2015]*

6.19 The authorisation of an election expense agent is not effective until it has been received by the relevant RO or the CEO as the case may be [s 28(7A) of the EAC (EP) (DC) Reg]. Before the authorisation is received by the relevant RO or the CEO (as the case may be), no election expenses should be incurred by a person purporting to be authorised as an election expense agent. It is also important to note that it is an **illegal conduct** for any person other than a candidate or his/her election expense agent to **incur election expenses** [s 23(1) of the ECICO]. The expenses so incurred may also be counted as the candidate's election expenses.

Revocation

6.20 The authorisation of an election expense agent may be revoked by a candidate at any time. The candidate must give notice of the revocation as soon as possible in writing in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the relevant RO, or the CEO if the relevant RO has not been appointed [s 28(11), (12) and (12A) of the EAC (EP) (DC) Reg]. The revocation of the authorisation of an election expense agent will only be effective when the relevant RO or the CEO, as the case may be, receives the notice [s 28(13) of the EAC (EP) (DC) Reg]. The election expenses already incurred before the RO or the CEO receives the notice will still be counted as election expenses of the candidate. *[Amended in September 2007 and September 2015]*

Role of Election Expense Agents

6.21 An election expense agent is authorised **to incur election expenses on behalf of a candidate**. He/She must not incur election expenses in excess of the amount specified in the agent's authorisation; otherwise he/she commits a criminal offence [s 23(4) of the ECICO].

Candidate's Duty to Know the Details of Election Expenses Incurred by his/her Election Expense Agents

6.22 Every candidate (whether elected or not or returned uncontested, or having withdrawn the candidature before the close of nominations or been decided as not validly nominated, or not having incurred any election expenses) **must**, subject to criminal penalty for breach, submit to the CEO a return and declaration of his/her election expenses and election donations ("election return") with supporting invoices and receipts issued by the goods or service providers or to donors (as the case may be). According to s 2 of the ECICO, "candidate" means a person who stands nominated as a candidate at an election and also means a person who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate at the election. The candidate must ensure that the election return is lodged before the expiry of the period of 60 days after the election is settled in relation to the constituency concerned (and in relation to all the constituencies concerned if the election is held for 2 or more constituencies) or within such extended period as may be allowed by the CFI under the relevant law. An election is settled in relation to a constituency on the date on which any of the following events occurs:

- (a) the result of the election is notified in the Gazette; or
- (b) the election is declared to have failed.

[S 37(1), (1F), (1G) and (1N) of the ECICO and Part V of Chapter 15]
[Amended in September 2023]

For the efficient and effective discharge of his/her duty, the candidate should **make sure** that his/her election expense agents will keep account of all election expenses incurred on his/her behalf and will provide to him/her, as soon as practicable but not later than the period mentioned above, a detailed statement of expenditure in which each item of expenditure of \$500 or above has to be supported by an invoice and a receipt. If any item of expenditure incurred by the election expense agents is paid or defrayed or contributed to by a donation, the candidate should **make sure** that they will provide him/her with a statement stating the expenses. If any item is not explicit in monetary terms, it should be assessed at a reasonable value. If any item of donation is valued at more than \$1,000, it should be supported by a copy of the receipt for the donation issued to the donor (in a standard form signed by the candidate). Should any election expense agents fail to provide such statements together with the invoices and receipts issued by goods or service providers or to donors, as the case may be, the candidate will have difficulty in discharging his/her duty to file the election return, which **may render him/her liable for a criminal offence** under s 38 of the ECICO. *[Amended in September 2007, September 2011, September 2019 and September 2023]*

Public Inspection of Authorisation of Election Expense Agents

6.23 The RO will make available for public inspection all copies of authorisations of election expense agents submitted by candidates until the expiration of the period during which copies of the election returns lodged by the candidates are available for inspection, i.e. the period ending with the 60th day before the first anniversary of the date of the deadline for lodging the relevant election returns (disregarding any order made by the CFI under s 40 of the ECICO allowing a candidate to lodge an election return within a further

period as specified by the CFI [s 41(6) of the ECICO]. This offers the public and other candidates an opportunity to scrutinise the maximum amount of election expenses that could be incurred by the election expense agents on behalf of the candidates. [S 29 of the EAC (EP) (DC) Reg] *[Amended in September 2011, September 2019 and September 2023]*

PART VII : POLLING AGENTS

Appointment

6.24 A candidate may appoint a **maximum of two polling agents** for each polling station, other than a dedicated polling station situated in a penal institution, used for polling for the constituency for which he/she is nominated [s 45(3) of the EAC (EP) (DC) Reg]. The notice of appointment must be in writing, in the specified form, signed by the candidate and delivered by hand, by post, by electronic mail or by facsimile transmission to the relevant RO, at least **seven days** before the polling day [s 45(5), (5D) and (8) of the EAC (EP) (DC) Reg]. Where a candidate wishes to appoint a polling agent after the above deadline, he/she is required to give notice of the appointment to the PRO of the polling station concerned. The written notice must be delivered by the candidate or his/her election agent **in person** to the PRO of the relevant polling station on the polling day [s 45(6) of the EAC (EP) (DC) Reg]. The appointment of a polling agent will not be effective until the notice of appointment is received by the relevant RO or PRO, as the case may be [s 45(7) of the EAC (EP) (DC) Reg]. *[Amended in January 2010 and September 2015]*

6.25 In respect of the appointment of a polling agent to be admitted to a dedicated polling station situated in a penal institution, the following provisions apply:

- (a) only the candidate is allowed to be present in a dedicated polling station situated in a maximum security prison [s 45(5A)(c) of the EAC (EP) (DC) Reg];
- (b) only one polling agent may be appointed for a dedicated polling station situated in a penal institution (except a maximum security prison). The appointment is effective only when a notice of the appointment made in the specified form is delivered to the CEO by hand, by post, by electronic mail or by facsimile transmission at least **seven days** before the polling day, and the CCS has given consent to the presence of the agent [s 45(5A) and (5D) of the EAC (EP) (DC) Reg]; and
- (c) for a dedicated polling station situated in a penal institution (except a maximum security prison), no polling agent may be appointed if the CCS has already given consent to the presence of the election agent of the same candidate at that polling station [s 45(5A)(b) of the EAC (EP) (DC) Reg].

[Amended in January 2010, September 2015 and September 2019]

6.26 If the CCS refuses to give consent to the appointment, he/she will notify the candidate or his/her election agent as soon as practicable [s 45(5C) of the EAC (EP) (DC) Reg]. The CCS may, upon receipt of a notice of appointment given during the week before the polling day, still give consent if he/she is satisfied that a person imprisoned or held in custody by the CSD, who is entitled to vote for the relevant constituency at the dedicated polling station situated in a penal institution, is admitted or transferred to the penal institution concerned during that week and that the notice of appointment is given without undue delay after the admission or transfer [s 45(5B) of the EAC (EP) (DC) Reg]. The REO will post and update on its website the number of registered

electors who are imprisoned or held in custody in individual penal institutions daily from Monday to Friday (other than a general holiday) starting from three weeks before the polling day and on the Saturday immediately before the polling day for candidates' reference. *[Added in January 2010, amended in September 2015 and September 2019]*

Revocation

6.27 The appointment of a polling agent may be revoked by the candidate at any time. The candidate must give notice of revocation in writing in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the relevant RO (other than on the polling day). If the notice of revocation is given on the polling day:

- (a) for a polling agent appointed for a polling station other than a dedicated polling station situated in a penal institution, such notice must be delivered to the relevant PRO by either the candidate or his/her election agent **in person**;
- (b) for a polling agent appointed for a dedicated polling station situated in a penal institution, such notice must be delivered to the relevant RO by hand, by electronic mail or by facsimile transmission.

[S 45(9), (10), (11) and (11A) of the EAC (EP) (DC) Reg] *[Amended in September 2015]*

6.28 A revocation of an appointment of a polling agent is not effective until the notice thereof is received by the relevant RO or PRO, as the case may be [s 45(12) of the EAC (EP) (DC) Reg]. If a replacement of polling agent is appointed and he/she wishes to observe the poll at a dedicated polling station

situated in a penal institution (other than a maximum security prison), he/she is required to follow the arrangements set out in paras. 6.24 to 6.26 above. *[Amended in January 2010 and September 2015]*

Role of Polling Agents

6.29 Polling agents are appointed **to assist a candidate in observing the conduct of the poll**, to detect impersonation or other irregularities at the polling stations.

Provisions which the Polling Agents should be Aware of

6.30 Only one polling agent of each candidate may be admitted at any one time to the polling station for which he/she has been appointed, on behalf of the candidate [s 47(6) of the EAC (EP) (DC) Reg]. Inside the polling station, the polling agent is required to stay and keep his/her movements within the area designated for observation of the poll and not outside. Where a candidate or his/her election agent is present within a polling station, a polling agent of that candidate will not be allowed to be present at the same time within the polling station [s 47(7) and (8) of the EAC (EP) (DC) Reg] (see Part V of Chapter 4 regarding the admission of candidates, election agents and polling agents to the polling station). *[Amended in January 2010]*

6.31 Every person, other than electors and the police officers, officers of the CSD, officers of any law enforcement agency or members of the CAS on duty, must make a Declaration of Secrecy on the specified form before entering a polling station and observe the provisions governing the secrecy of voting [s 93(1) and (5) of the EAC (EP) (DC) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a polling station will observe the secrecy of the vote of the elector and, in particular, will not divulge which elector has voted for which candidate. *[Amended in January 2010]*

6.32 Upon arrival at the polling station for which he/she has been appointed, a polling agent shall report to the PRO and produce his/her identity card and the Declaration of Secrecy completed by him/her for inspection [s 47(10) of the EAC (EP) (DC) Reg].

6.33 The polling agents should pay attention to the following procedures that shall apply on the polling day:

(a) Before the poll

- (i) About 30 minutes before the commencement of the poll (or about 15 minutes for dedicated polling stations situated in penal institutions), the PRO will inform the candidates or their agents (either election agents or polling agents), if present, of the number of ballot papers in the PRO's possession, and open the sealed packets of ballot papers to show them the books of ballot papers not yet issued to any elector ("**UNISSUED ballot papers**");
- (ii) About 15 minutes before the commencement of the poll, the PRO will show to the above persons the empty ballot boxes before proceeding to lock and seal them.

(b) During the poll

- (i) Where a person, claiming to be a particular elector entered on the FR, applies for a ballot paper after an earlier person has already been issued with a ballot paper under the name of such an elector, the PRO may issue a ballot paper with the words "**TENDERED**" and "**重複**" endorsed on the front to the latter elector **only if** he/she is not certain that

the latter person is the former person who was issued with a ballot paper earlier, and the latter person has answered the appropriate questions in accordance with the law as set out in para. 4.45 of Chapter 4 to the satisfaction of the PRO. Such a ballot paper shall not be counted at the counting of votes. [Ss 60 and 78(1)(b) of the EAC (EP) (DC) Reg];

- (ii) Any elector who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him/her may ask the PRO to exchange it for another unmarked ballot paper. If the PRO considers the request reasonable, he/she will issue a new ballot paper to the elector in exchange for the spoilt one. The PRO shall endorse the words “**SPOILT**” and “**損壞**” on the front of the spoilt ballot paper and keep it in his/her own custody. The spoilt ballot paper will not be put into a ballot box and will not be counted at the counting of votes. [Ss 62 and 78(1)(c) of the EAC (EP) (DC) Reg];

- (iii) For any ballot papers which have been issued and abandoned or found left behind anywhere in the polling station, the PRO shall endorse them with the words “**UNUSED**” and “**未用**” on the front and keep them in his/her own custody. Such ballot papers shall not be put into a ballot box and will not be counted at the counting of votes. [Ss 61 and 78(1)(d) of the EAC (EP) (DC) Reg] Under these circumstances, the PRO will show to each candidate or his/her election agent or polling agent, if present at the relevant time, such ballot papers.

(c) After the poll

The PRO shall, in the presence of persons at the polling station, lock and seal the flaps of the inserting slots of the ballot boxes. He/She will also inform each candidate or his/her agent, if present, of the number of each type of ballot papers in his/her possession (i.e. unissued ballot papers, spoilt ballot papers and unused ballot papers) [s 63A(1) of EAC (EP) (DC) Reg]. Candidates, their election agents, polling agents and counting agents, if present, may stay inside the polling station to observe the conversion of the venue into a counting station [s 63(1A) of EAC (EP) (DC) Reg]. The count will commence upon the completion of the conversion (except for small polling stations and dedicated polling stations, see Part XI of Chapter 4 for the relevant arrangement).

[Amended in August 2008, September 2015, September 2019 and September 2023]

6.34 Generally speaking, a polling agent may observe all proceedings in the polling station for which he/she has been appointed and record his/her observations but shall not do anything that may interfere with the conduct of the poll. A polling agent **may**:

- (a) observe the opening of sealed packets of ballot papers and the locking and sealing of empty ballot boxes before the poll commences, and the locking and sealing of the ballot boxes during or at the close of the poll; *[Amended in September 2012]*

IMPORTANT :

Any polling agent who signs the sealing certificate of a ballot box as witness is required to write his/her name in block letters beneath his/her signature for easy identification. Candidates are advised to keep a list of their own polling agents to facilitate checking when the sealing certificate is broken at the counting station.

- (b) leave the polling station at any time within the one-hour slot after he/she is admitted to the polling station; in that case his/her place may be taken by the relevant candidate, election agent or another polling agent (representing the same candidate) appointed to attend at the polling station (see para. 6.30 above);
- (c) subject to para. 6.35(b) below, observe the issue of ballot papers to an elector by the polling staff (including their making a record in the entry relating to the elector in the EPR or drawing a line across the relevant entry in the printed copy or extract of the FR (if used)) provided that the polling agent will not interfere with the work of the polling staff;
- (d) where there is reasonable ground for questioning the bona fides of an elector, ask the PRO to put the following prescribed questions (subject to necessary modifications) to that person at the time of his/her application for a ballot paper (but not afterwards):
 - (i) “Are you the person registered in the FR now in effect for this District Committees constituency/District Council geographical constituency (as the case may be), as follows (the PRO to read the whole entry as it is recorded in the

copy or extract of the FR supplied to that PRO)?”

- (ii) “Have you already voted for this or any other District Committees constituency/District Council geographical constituency (as the case may be) in this election?”

IMPORTANT :

The person will not be issued with any ballot paper unless he/she has answered the questions to the satisfaction of the PRO [s 54(2), (3) and (4) of the EAC (EP) (DC) Reg].

- (e) where there is reasonable cause to believe that a person who has applied for a ballot paper has engaged in corrupt conduct by impersonation, inform the PRO for appropriate action before that person leaves the polling station. This may possibly lead to the arrest of the person. The polling agent must however undertake in writing to give evidence to substantiate the allegation in a court of law. [S 55 of the EAC (EP) (DC) Reg]

[Amended in January 2010, September 2012, September 2015, September 2019 and September 2023]

6.35 Inside a polling station, a polling agent **must not**:

- (a) interfere with or attempt to influence any elector;
- (b) speak to or communicate with any elector, or interfere with or attempt to interfere with any ballot boxes, ballot papers, backup storage device of the EPR system, the marked copy of the FR of electors in printed form (if used) or other relevant election

materials. In this regard, a polling agent should station within the designated area demarcated by red adhesive tapes, and must not enter, or move close to, the restricted zone delineated with yellow tapes which is about 1 metre or 2 metres (depending on the configuration) around the voting compartments. Moreover, a polling agent must not ask an elector about his/her identity card number or check an elector's identity card;

- (c) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of any elector. A polling agent should read and observe carefully the provisions governing the secrecy of voting issued with the form of Declaration of Secrecy;
- (d) exhibit, leave or distribute any campaign material;
- (e) display or wear any promotional material, such as any badge, emblem, clothing or head-dress, which:
 - (i) may promote or prejudice the election of a candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or to a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or
- (f) use a mobile telephone, paging machine or any other device for electronic communication.

[Ss 48, 94 and 112 of the EAC (EP) (DC) Reg] *[Amended in September 2007, September 2011, September 2015 and September 2023]*

6.36 A polling agent must not misconduct himself/herself in or in the vicinity of a polling station or fail to obey any lawful order of the RO or the PRO; otherwise he/she commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months [s 48(4) and (7) of the EAC (EP) (DC) Reg] and may be ordered by the RO or the PRO to leave the area. If he/she fails to leave immediately, he/she may be removed by:

- (a) a police officer if the polling station is not a dedicated polling station;
- (b) an officer of the CSD or any law enforcement agency if the polling station is a dedicated polling station; or
- (c) any other person authorised in writing by the RO or the PRO to remove him/her.

The person so removed may not re-enter the polling station during that day except with the permission of the RO or the PRO. [S 49(2), (3) and (4) of the EAC (EP) (DC) Reg] *[Amended in January 2010]*

Other Useful Information for Polling Agents

6.37 Polling staff, candidates, their election agents and polling agents will be required to wear an identification device issued by the RO or the PRO for identification. If in doubt, a polling agent may enquire with the PRO as to the identities of the persons inside the polling station. No attempt, however, should be made to obtain information as to the identity of any elector who is about to vote or has voted. *[Amended in September 2015]*

6.38 Electors with mobility difficulty may be permitted to vote in a designated special polling station. Candidates or their agents can make enquiries with the RO for information.

6.39 Only the PRO, the DPRO or an APRO may, in the presence of one polling staff as a witness, help an elector mark a ballot paper if the elector claims that he/she is unable to read or is incapacitated from marking his/her vote by himself/herself due to visual impairment or other physical causes [s 59(1) and (2) of the EAC (EP) (DC) Reg]. The candidates or their agents present should be informed when such a request for assistance is received. Candidates or their polling agents in the polling station may suggest to the PRO, the DPRO or an APRO a particular polling staff not working at the ballot paper issuing desk as the witness, but the final decision as to which polling staff should be the witness remains with the PRO, DPRO or APRO. Under no circumstances should an elector's relative, friend or any other person be allowed to accompany the elector in the course of voting. *[Amended in September 2012 and September 2015]*

6.40 In each polling station, subject to practicability of production, a number of **braille templates** are made available for persons with visual impairment in need to facilitate marking their votes on the ballot papers [s 59(3) of the EAC (EP) (DC) Reg]. The basic features of the template are as follows:

- (a) the template for each constituency is of the same width and length as the ballot paper;
- (b) the template contains numbers in braille and Arabic numerals printed in relief (if any)³⁸ starting with the first numeral which represent the candidate numbers assigned to the candidates of the constituency and are arranged from the top downwards in ascending order; on the left hand side against each of the number is a round hole;

³⁸ In the DC ordinary election, due to the constraint of the size and design of the ballot paper for the DCC, only braille representing the candidate number will be embossed on the template for the constituency.

- (c) the **top left hand corner** of the ballot paper as well as that of the template are cut so as to guide the person with visual impairment to place the template on top of the front side of the ballot paper in the proper direction; and
- (d) when the template is placed properly on the ballot paper, each braille number corresponds with the candidate number of the constituency; and each of the holes on the template corresponds with the circle/oval on the ballot paper against the candidate number. The number of holes equals the number of candidates in the constituency.

In the case of an election in respect of a DCC which adopts the “block vote” voting system, a person with visual impairment should fill the oval through the holes of the template against the candidate number of the candidate of his/her choice. A maximum of 30 candidate numbers can be embossed in a braille template. It is not practical to produce braille templates if there are more than 30 candidates in a DCC. A person with visual impairment may request the PRO to mark the ballot paper of his/her choice on his/her behalf. In the case of an election in respect of a DCGC which adopts the “double seats and single vote” voting system or a by-election of the DCC which adopts the “block vote” voting system, a person with visual impairment should affix the chop provided at the polling station to give a single “✓” in the circle through the holes of the template against the candidate number of the candidate of his/her choice.
[Amended in September 2015, September 2019 and September 2023]

6.41 No person may canvass, display or wear any promotional material relating to any candidate or the election within a polling station. Candidates and their agents should not bring electioneering materials into the polling station or leave them there, and should remove any promotional badges, emblems, clothing or head-dress before entering. No person is allowed to use

a sound amplifying system or device for any purpose within the NCZ; nor should he/she use such system or device or any activities (e.g. lion dance) for canvassing so that the sound emitted by it can be heard within the NCZ [s 43(13) of the EAC (EP) (DC) Reg]. However, an officer of the CSD may use a sound amplifying system or device in the NCZ of a dedicated polling station situated in a penal institution for the performance of his/her duties on the polling day [s 43(13A) of the EAC (EP) (DC) Reg]. Also, a person must not stay or loiter in the NSZ without the express permission of the PRO [s 43(13)(d) of the EAC (EP) (DC) Reg]. Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of the PRO, the relevant RO for the constituency, or a member of the EAC, commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 48(2) and (9) of the EAC (EP) (DC) Reg]. Normally such permission is only granted to government photographers as they have to take photos for publicity purposes. Polling agents should also read Parts II to XI of Chapter 4 on all matters relating to polling, and pay special attention to paras. 4.63 to 4.66 of Chapter 4 for activities that are prohibited and the consequences of conducting such activities in a polling station. *[Amended in September 2007, September 2011, September 2012 and September 2019]*

6.42 If a candidate or his/her election or polling agent has any complaint about whatever happens inside a polling station, he/she should follow the procedures laid down in Chapter 19 on Complaints Procedure of the Guidelines.

PART VIII : COUNTING AGENTS

Appointment

6.43 Each candidate may appoint **not more than two counting agents** to observe the counting of votes at a counting station of the constituency contested by the candidate, and the sorting of ballot papers received from dedicated polling stations at a ballot paper sorting station [ss 2(3), 66(1) and (2) of the EAC (EP) (DC) Reg]. A person appointed as a counting agent need not be, but may be, appointed as a polling agent at the same time. *[Amended in January 2010 and September 2019]*

6.44 The notice of appointment must be in writing, in the specified form signed by the candidate and delivered by hand, by post, by electronic mail or by facsimile transmission to the relevant RO at least **seven days** before the polling day [ss 2(3), 66(4), (4A) and (6) of the EAC (EP) (DC) Reg]. Where a candidate wishes to appoint a counting agent after the above deadline, the notice of the appointment must be delivered by the candidate or his/her election agent **in person** to the PRO for the relevant counting station on the polling day during the period from the commencement of the poll to the conclusion of the count (for counting stations) or the completion of the sorting of ballot papers (for ballot paper sorting stations) [ss 2(3) and 66(5) of the EAC (EP) (DC) Reg]. The appointment of a counting agent is only effective when the notice of such appointment is received by the RO or the PRO, as the case may be [ss 2(3) and 66(7) of the EAC (EP) (DC) Reg]. *[Amended in January 2010 and September 2015]*

Revocation

6.45 The appointment of a counting agent may be revoked by the candidate at any time. The candidate must give notice of the revocation in

writing in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the RO (other than on the polling day) [ss 2(3), 66(9) and (9A) of the EAC (EP) (DC) Reg]. If the candidate intends to revoke the appointment on the polling day, the notice of revocation must be delivered by the candidate or his/her election agent **in person** to the PRO [ss 2(3) and 66(10) of the EAC (EP) (DC) Reg]. A revocation of appointment of a counting agent is not effective until the notice thereof is received by the RO or the PRO, as the case may be [ss 2(3) and 66(11) of the EAC (EP) (DC) Reg]. *[Amended in January 2010, September 2012 and September 2015]*

Role of Counting Agents

6.46 Counting agents are appointed to:

- (a) observe in the counting stations the breaking of the seals on the ballot boxes, the sorting, separation and counting of ballot papers and the counting of votes on the valid ballot papers; or
- (b) observe in the ballot paper sorting stations the breaking of the seals on the ballot boxes received from dedicated polling stations and the sorting of the envelopes in the ballot boxes which contain ballot papers cast at the dedicated polling stations.

This arrangement ensures the transparency of the sorting and counting process and is conducive to the principle of openness and fairness (see Parts XII and XIII of Chapter 4). *[Amended in January 2010]*

Provisions which the Counting Agents should be Aware of

6.47 Every person authorised to stay at a counting station or a ballot

paper sorting station, other than the police officers, the officers of the CSD, the officers of any law enforcement agencies and members of the CAS on duty, must make a Declaration of Secrecy on a specified form before the counting of votes or sorting of ballot papers commences and observe the provisions governing the secrecy of voting [s 93 of the EAC (EP) (DC) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a counting station or a ballot paper sorting station will observe the secrecy of the vote of the elector and, in particular, will not divulge which elector has voted for which candidate. Members of the public present within the area designated by the PRO are not required to make a Declaration of Secrecy. [Ss 68(5) and 93(2) of the EAC (EP) (DC) Reg] *[Amended in January 2010 and September 2011]*

6.48 Upon arrival at the counting station or the ballot paper sorting station, a counting agent shall report to the PRO and produce his/her identity card and the Declaration of Secrecy completed by him/her for inspection [ss 2(3) and 68(4) of the EAC (EP) (DC) Reg]. *[Amended in January 2010]*

6.49 Counting agents are entitled to be present throughout the count to observe the entire counting proceedings. They will be allowed by the PRO to stay close to and around the counting tables to observe the count. Nonetheless, they must not touch any ballot papers. A counting agent **may**:

- (a) observe the breaking of the seals on the ballot boxes and the opening of the ballot boxes and, where applicable, envelopes containing cast ballot papers for the relevant constituency by the PRO; *[Amended in September 2012]*
- (b) inspect any papers other than ballot papers taken from the ballot boxes before they are disposed of;

- (c) observe the conduct of the count by counting staff, including how votes on individual ballot papers are counted;
- (d) observe the determination of questionable ballot papers by the PRO and make representations on behalf of the candidate concerned [s 79(1) of the EAC (EP) (DC) Reg]; and
- (e) observe, where he/she wishes, the packing of ballot papers by the counting staff and the PRO at the conclusion of the count.

[Amended in January 2010, September 2015 and September 2019]

6.50 A counting agent in a ballot paper sorting station **may**:

- (a) observe the opening of the ballot boxes received from dedicated polling stations;
- (b) inspect any papers other than the envelopes containing cast ballot papers taken from the ballot boxes before they are disposed of;
- (c) observe the counting of the envelopes containing cast ballot papers in each ballot box;
- (d) observe the sorting of the aforesaid envelopes according to each constituency; and
- (e) observe the sealing of the receptacles containing the sorted envelopes before they are delivered to the PRO of the respective main counting stations of the relevant constituencies.

[Added in January 2010]

- 6.51 A counting agent **must not**:
- (a) touch, handle, separate or arrange ballot papers or envelopes; and
 - (b) misconduct in or in the vicinity of a counting station or a ballot paper sorting station, or fail to obey any lawful order of the PRO, otherwise he/she commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months and may be ordered by the PRO to leave the area [s 69(2) and (3) of the EAC (EP) (DC) Reg]. If he/she fails to leave immediately, he/she may be removed by a police officer or by any other person authorised in writing by the PRO. The person so removed may not re-enter the counting station or the ballot paper sorting station, as the case may be, during that day except with the permission of the PRO. [Ss 2(3), 70(3) and (4) of the EAC (EP) (DC) Reg]

[Amended in January 2010, September 2015 and September 2019]

6.52 Counting agents should read Parts XII and XIII of Chapter 4 on all matters relating to sorting of ballot papers and counting of votes, and pay special attention to paras. 4.74 to 4.78 and paras. 4.82 to 4.87 of Chapter 4 for activities that are prohibited and the consequences of conducting such activities in ballot paper sorting stations and counting stations. *[Amended in September 2007 and January 2010]*

CHAPTER 7

ELECTION ADVERTISEMENTS

PART I : GENERAL

7.1 Election expenses are regulated by the law to ensure that the candidates compete on a level playing field within a reasonable level of expenditures. For the regulation of election expenses, see Chapter 15. *[Added in September 2019]*

7.2 Only candidates and their election expense agents are permitted to incur election expenses (see Chapter 6). As EAs account for an important portion of election expenses, it is necessary to set down statutory regulations for EAs. *[Added in September 2019 and amended in September 2023]*

7.3 EAs refer to any publicity materials which are published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. As to whether an individual statement will be construed as an EA, the overall circumstances, including the background, time of publication (e.g. whether the candidate has publicly declared his/her intention to stand for the election or whether the incident happens during the election period) etc., must be taken into account so as to infer whether there is any intention to promote or prejudice the election of a candidate or candidates. If the statement is simply for expression of views and comments based on the facts without any intention to promote or prejudice the election of a candidate or candidates at the election, then it is not to be treated as an EA. *[Added in September 2019]*

7.4 According to the provisions in s 106(2) and (3) of the EAC (EP) (DC) Reg and the requirements of the EAC, a candidate is required to post a copy of any EA he/she has published as well as the relevant information and documents (see **Appendix 4** for details) onto an open platform³⁹ maintained by the CEO or a person authorised by the CEO (“Central Platform”) or an open platform maintained by the candidate or a person authorised by the candidate (“Candidate’s Platform”), or submit a copy of the EA to the RO for public inspection within three working days after publication of the EA (see para. 7.56 below for details). This is not to restrict the contents of EAs. Rather, it keeps track of candidates’ publication of EAs for the purpose of regulating their election expenses. False statements in EAs are dealt with by other provisions under the subsisting law (see para. 7.22 below). *[Added in September 2019 and amended in September 2023]*

7.5 It is an illegal conduct at an election to publish materially false or misleading statements of fact about a candidate under s 26 of the ECICO (see para. 16.11 of Chapter 16 for details). In this regard, candidates must ascertain the factual basis of the contents in their EAs (including any reference made to any other candidates)⁴⁰. *[Added in September 2023]*

7.6 Interactive EAs published on Internet platforms are being updated constantly. When it is technically impracticable to post each and every EA separately onto the Candidate’s Platform or the Central Platform, the law permits candidates to upload the relevant hyperlinks onto the Candidate’s Platform or Central Platform showing the publication of the EAs concerned and allowing public inspection of the EA contents. *[Added in September 2019 and amended in September 2023]*

³⁹ An open platform means a platform operated through the Internet to which the public has access without having to go through an access control process put in place for that platform.

⁴⁰ In the 2019 DC Ordinary Election, the CFI of the High Court ruled in the election petition (HCAL 3665/2019) that an elected candidate (i.e. the first respondent) was not duly elected because that candidate had published a false and misleading statement about another candidate in one of the EAs.

7.7 With the proliferation of the Internet, online platforms are widely used to publish election-related opinions, which may sometimes constitute EAs. In case the publication involves the incurrance of election expenses, the publisher may have committed offences of incurring election expenses illegally if he/she is not a candidate or a candidate's election expense agent. Hence, legislative amendments have been made to provide exemption to third parties who are neither candidates nor candidates' election expense agents that where such person has published information constituting EAs, he/she will be exempted from criminal liability for incurring election expenses if the only expenses incurred are electricity charges and/or charges necessary for accessing the Internet. However, **it is important to note that** the exemption does not apply to candidates or election expense agents. In other words, all expenses incurred by a candidate, a candidate's election expense agent or a person who is authorised by a candidate or his/her election expense agent for publishing an EA of the candidate on the Internet, including electricity charges and/or charges necessary for accessing the Internet, will be included in the election expenses of the candidate and should be at the same time in compliance with the requirements set out in para. 7.56 below. *[Added in September 2019 and amended in September 2023]*

PART II : WHAT CONSTITUTES AN ELECTION ADVERTISEMENT

7.8 An EA means:

- (a) a publicly exhibited notice, leaflet, circular, bill, booklet, placard or poster;
- (b) a notice, leaflet, circular, bill, booklet, placard or poster delivered by hand or electronic transmission;

- (c) a public announcement made by radio or television or by video or cinematographic film; or
- (d) any other form of publication,

published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. [S 2 of the ECICO and s 2 of the EAC (EP) (DC) Reg] *[Amended in September 2012]*

IMPORTANT :

“Candidate” includes a person who has publicly declared an intention to stand for an election at any time before the close of nominations for an election, whether or not he/she has submitted a nomination form. [S 2 of the ECICO and s 2(2) of the EAC (EP) (DC) Reg]

“Publish” means print, display, exhibit, distribute, post up, publicly announce or make publicly known by any other means, and includes continue to publish. [S 105(1) of the EAC (EP) (DC) Reg] *[Added in September 2012]*

Any person who authorises the publication of an EA, that EA is taken to have been published by that person. [S 105(2) of the EAC (EP) (DC) Reg] *[Added in September 2012]*

7.9 Any form of publication containing messages for the purpose of promoting or prejudicing the election of a candidate or candidates at the election constitutes an EA, examples include:

- (a) address, notice, bill, placard, poster, board, banner, roll-up banner, flag, standard, colour, sign, message, sound, name card, letter paper bearing the name and/or logo of the candidate, image or picture and any article, thing or material; *[Amended in August 2008]*
- (b) audio/video cassette tape or disc, diskette, electronic message (e.g. messages published through social networking platforms, mobile messaging apps, communication networks, etc.), website, facsimile transmission, balloon, badge, emblem, carrier bag, head-dress and clothing; or *[Amended in September 2007]*
- (c) any form of publication published by any person or any organisation, including political organisation, professional or trade organisation, owners' corporation, tenants' association, owners' committee, etc. (irrespective of whether or not the candidate concerned is its office-bearer or member) showing support for any candidate or advertising the platform or services of such an organisation with reference to a candidate or candidates by name or photograph. *[Amended in September 2011 and September 2023]*

7.10 Any publicity materials published by any person or organisation during or before the election period to appeal directly or indirectly to electors to vote or not to vote for an organisation or organisations which a candidate or certain candidates belong to or are affiliated with, irrespective of the form of publication and whether they contain any names or photographs of a candidate or candidates, may also be regarded as EAs depending on all the circumstances (e.g. the materials concerned may be capable of being reasonably understood by an elector as referring to certain identified candidate or candidates). Materials issued through the press with the intent to promote or prejudice the

election of a candidate or candidates at an election may also be regarded as EAs. The expenses incurred for the publication of such materials will be regarded as election expenses incurred by or on behalf of the candidates. If expenses are involved in the publication of an EA and the publisher is neither a candidate nor a candidate's election expense agent, the publisher may have violated s 23(1) of the ECICO. If a candidate instructs that person or organisation to publish the EA, and such expenses are not accounted for as election expenses, the candidate will also violate the law. *[Added in September 2019 and amended in September 2023]*

7.11 In accordance with s 23(1A) of the ECICO, a person (other than candidates or their election expense agents) is exempted from the relevant criminal liability under s 23(1) of the ECICO if the person publishes an EA on the Internet and the only election expenses thus incurred are electricity charges and/or charges necessary for accessing the Internet. However, if a candidate, a candidate's election expense agent or a person who is authorised by a candidate or his/her election expense agent publishes an EA of the candidate on the Internet, any costs incurred, even though the costs only involve electricity charges and/or charges necessary for accessing the Internet, will still have to be included in the election expenses of the candidate. The candidate should also fully fulfill the requirements relating to publication of EAs as set out in para. 7.56 below. *[Added in September 2015 and amended in September 2019]*

7.12 Under s 105(1) of the EAC (EP) (DC) Reg, the definition of "publish" includes "continue to publish". In this regard, for any person who intends to stand as a candidate at the election, after he/she has been nominated as a candidate or has publicly declared an intention to stand as a candidate at the election, if he/she continues to publish any previously published publicity materials, irrespective of the form, with an intent to promote his/her election, such publicity materials **may** be regarded as EAs. For the sake of prudence, the person concerned should remove all the published publicity materials

before he/she is nominated as a candidate or publicly declares an intention to run for the election. *[Added in September 2019 and September 2023]*

7.13 Under s 105(4) of the EAC (EP) (DC) Reg, a document published by a candidate **during** an election period that gives details of the work done by the candidate in the capacity of:

- (a) the CE;
- (b) a member of the Election Committee (“EC”);
- (c) a member of the LegCo;
- (d) a member of a DC;
- (e) a member of the Heung Yee Kuk;
- (f) the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee within the meaning of s 3(3)(a) of the Heung Yee Kuk Ordinance (Cap 1097); or
- (g) a Rural Representative (“RR”),

is also regarded as an EA.

[Amended in September 2012, September 2015 and September 2023]

7.14 For the avoidance of doubt, if a person has publicly declared his/her intention to stand as a candidate at an election **before** the election period, and then publishes a document as mentioned in para. 7.13 above, the document will also be regarded as an EA as long as it is published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. It is important to note that a document referred to in this

paragraph and para. 7.13 above must comply with all the requirements for an EA and the expenses so incurred must be accounted for as election expenses.
[Amended in September 2012 and September 2015]

7.15 If a person publishes a document to give details of the work done by him/her in a capacity listed in para. 7.13 above without promoting or prejudicing the election of a candidate or candidates at the election before submitting the nomination form or publicly declaring an intention to stand as a candidate, the document will not be construed as an EA. On such basis, the expenses incurred in the publication of such a document would not be counted as election expenses. *[Amended in September 2012]*

7.16 A candidate at an election should put up and display EAs in accordance with all the relevant laws and regulations and this set of Guidelines.

Election Advertisements Prejudicing the Election of a Candidate

7.17 There are occasions that a candidate or a third party may publish EAs for the purpose of prejudicing the election of other candidates at the election. At a contested election, the concept of “promoting” and “prejudicing” the election of someone can be relative. Any kind of publication with the intent to persuade electors not to vote for one candidate would have the effect of improving the chances of success of other candidates and could therefore be said to have the purpose of promoting the latter’s election. For example:

- (a) If candidate A criticises candidate B in his/her own EAs with a view to prejudicing B’s candidature at the election, candidate A has to include the expenses incurred in his/her election expenses;

- (b) If a third party criticises candidate B in an EA and the EA has the effect of indicating support for candidate A, the third party must obtain candidate A's prior written authorisation for incurring the production expenses before he/she produces that EA, and the expenses incurred will have to be included in candidate A's election expenses; or
- (c) If the third party publishes an EA as described in (b) above without the prior written authorisation of candidate A, that third party will be in breach of s 23 of the ECICO (unless exempted under s 23(1A) as mentioned in para. 7.11 above) because only a candidate or a person who has been duly authorised by a candidate as his/her election expense agent may incur election expenses. It would only be fair to candidate A that the third party needs to obtain candidate A's written authorisation before incurring such expenses. This requirement would also prevent candidate A from circumventing the law by asking the third party to publish materials prejudicing candidate B without having to account for the expenses of those materials.

[Amended in September 2015 and September 2019]

7.18 Materials published by any person, including a candidate, for the purpose of prejudicing the election of other candidates are treated as EAs if reference could be made from the materials to identify the candidate or candidates being prejudiced.

7.19 The **election expenses** allowed by the law to be incurred by a candidate include the expenses he/she incurs for the preparation, publication and/or display of EAs. (For the definition of election expenses, see s 2 of the ECICO)

7.20 There is no restriction as to the quantity of EAs published by a candidate, but the relevant expenses together with other election expenses must not exceed the maximum amount of election expenses, otherwise the candidate commits an offence[s 24 of the ECICO]. The maximum amount allowed for the DCC and DCGC elections are specified in ss 3 and 3A of the Maximum Amount of Election Expenses (District Council Election) Regulation (Cap 554C) respectively (see para. 15.17 of Chapter 15 for details). *[Amended in September 2007, September 2011, September 2015, September 2019 and September 2023]*

7.21 However, if election expenses exceeding the prescribed maximum amount have been incurred by a candidate, he/she may apply to the CFI for a relief order according to the relevant legislation. The CFI may make an order relieving the candidate from consequences of the illegal conduct if it is satisfied that the illegal conduct of incurring election expenses over the prescribed maximum amount was due to inadvertence, an accidental miscalculation or any other reasonable cause and was not due to bad faith, and considers that the candidate should not be subjected to corresponding penalties/punishments under the principle of justice [s 31 of the ECICO]. Any person who, because of any reason not due to bad faith, may incur election expenses exceeding the prescribed maximum amount should seek independent legal advice to ascertain whether the statutory requirements for applying a court relief order may be fulfilled before incurring such election expenses. *[Added in September 2023]*

7.22 A candidate must ensure the correctness and accuracy of the factual information in his/her EAs. In particular, a candidate is reminded to comply with the requirements for obtaining prior written consent of support from other persons or organisations, which are summarised in paras. 16.12 to 16.16 of Chapter 16 and Chapter 17. If a candidate has any question about the statutory requirements on EAs and election expenses, he/she should seek

independent legal advice. (For criminal sanctions, see ss 25, 26 and 27 of the ECICO) [*Amended in September 2015 and September 2019*]

PART III : PERIOD AND AREA OF DISPLAY

7.23 After obtaining the necessary **written permission or authorisation**, a candidate may display EAs on government or private land and property. [S 104A(1) of the Public Health and Municipal Services Ordinance (Cap 132) (“PHMSO”) and s 4 of the Land (Miscellaneous Provisions) Ordinance (Cap 28)]

7.24 Display spots are classified into two types:

- (a) **designated spots** which are spots on government land/property allocated to candidates by the Government (can be on government or privately owned land/property); and
- (b) **private spots** which are spots on private land/property in respect of which written permission or authorisation for display has to be obtained from the owner or occupier concerned by the candidate himself/herself.

Government or Private Land/Property – Designated Spots

7.25 Designated spots for **contested** candidates to display their EAs will be allocated by the RO of the relevant constituency. Some of the government land/property have been allocated to public authorities, such as the Housing Authority, and are under their respective control. The RO for the relevant constituency may designate spots on such allocated land/property in coordination with the said authorities. **Each candidate** (who has registered

his/her interest in displaying EAs at designated spots) **competing in the same constituency** will be allocated **the same number of designated spots**.
[Amended in September 2011, September 2012 and September 2023]

7.26 Prospective candidates and political organisations are welcome to suggest to the respective ROs the locations of display in which they are interested. The ROs concerned will take into consideration such suggestions in drawing up the list of “**designated spots**”, but with absolute discretion to decide whether to adopt the suggestions.

IMPORTANT :

Suggestions under para. 7.26 should reach the CEO not later than **eight weeks before the polling day**. *[Amended in August 2008 and September 2012]*

Other Land/Property – Private Spots

7.27 Candidates who wish to display their EAs on land/property other than government land/property and other than the designated spots must **obtain the prior written permission or authorisation** of the owner or occupier [s 104A(1) of the PHMSO]. The obtaining of written permission or authorisation from the private owner or occupier is a matter for private arrangement between the candidate and the owner or occupier. A copy of all the permissions or authorisations obtained by a candidate himself/herself must be provided by him/her for public inspection in the manner as set out in para. 7.56 below (also see para. 7.32 below). Any consideration, fee or money incurred or agreed to be paid by or on behalf of the candidate to the owner or occupier for display of his/her EAs forms part of his/her election expenses. If the private spot secured for displaying the EA is normally used for commercial purpose, or for non-commercial advertising purpose but similar spaces

belonging to other owners or occupiers are normally used for commercial advertising purpose, the actual rent charged or the usual rent or market rent that would normally be charged should be counted as the election expenses of the candidate concerned, irrespective of whether that private spot is owned by the candidate or whether the owner of it allows the candidate to use it free of charge (in which case it would be a donation of the rent). The provision of this kind of rent-free spaces is regarded as election donations and should be counted as election expenses. This requirement is to ensure that the candidate concerned will not have any unfair advantage over the others who do not have access to such facilities. For details on how the estimated value should be assessed, see para. 15.30 of Chapter 15. If a space is not the type normally used by any private owners or occupiers for commercial advertising, there is no need for the candidate to account for its value. *[Amended in September 2012 and September 2015]*

7.28 For the display of EAs at the common parts of private land/property (those parts for which exclusive rights of use or occupation do not belong to a particular owner or tenant), the EAC appeals to owners or occupiers of the private land/property concerned to give all candidates competing in the same constituency **fair and equal treatment**. (See Chapter 8) *[Amended in September 2019]*

7.29 Candidates should note that public corporations (e.g. the MTR Corporation Limited) may have their own rules for display of EAs in properties under their management. *[Amended in September 2015]*

Allocation of Designated Spots

7.30 In principle, available designated spots in each District will be allocated to the relevant constituency on the following basis:

<u>Constituency</u>	<u>Proportion in total</u>
DCC	1/3
DCGC	2/3

The RO for each constituency will allocate the designated spots to candidates of his/her constituency either in accordance with the agreement among the candidates or by the drawing of lots after the number of validly nominated candidates in the relevant constituency is ascertained. **The RO will not allocate designated spots for an uncontested election. No display of EAs will be allowed on any designated spots before the allocation** (also see the requirements in para. 7.36 and Part VII below). EAs displayed by the candidates on government land/property other than designated spots are unauthorised display and will be removed (save those EAs displayed during electioneering activities approved by the Lands Department, see para. 7.53 below). A candidate will be provided with a list of the designated spots allocated to him/her, together with a set of maps to help identify the designated locations for display of EAs. *[Amended in August 2008, September 2012 and September 2023]*

7.31 Candidates using the designated spots are required to read and comply with all the requirements and conditions stipulated in the “Conditions for Display of Election Advertisements at Designated Spots”, which will be provided to each candidate in the candidate’s folder and uploaded onto the EAC’s website. To safeguard the safety of road users, candidates must ensure that the EAs on display do not distract motorists or interfere with the sight lines of motorists and pedestrians, or obscure any traffic sign or traffic light signal, or obstruct the circulation of pedestrians. *[Amended in September 2015 and September 2023]*

Written Permission or Authorisation

7.32 The RO will obtain prior approval from the relevant authorities under s 104A(1) of the PHMSO and s 4 of the Land (Miscellaneous Provisions) Ordinance for candidates to display their EAs at designated spots. Immediately after the allocation of designated spots is made, a copy of that permission or authorisation as required under the relevant legislation will be provided to the candidates by the RO of the constituency concerned (see Part IV of this chapter). For display of EAs on private land/property, written permission or authorisation of the private owner or occupier will have to be obtained by the candidates themselves [s 104A(1)(a) of the PHMSO]. A person displaying an EA without the necessary written permission or authorisation commits an offence and will be liable to a fine at level 3 (\$10,000) and, where the offence is a continuing offence, an additional penalty of \$300 for each day during which it is proved to the satisfaction of the court that the offence has continued [ss 104A(2), 150 and the Ninth Schedule of the PHMSO]. A copy of all the permissions or authorisations obtained by a candidate himself/herself, as opposed to those provided to him/her by the RO, must be furnished by him/her for public inspection in the manner as set out in para. 7.56 below. All candidates should note that if building works (including erection of signboards) in private premises or on private land are involved for the display of an EA, the relevant provisions of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121) or the Buildings Ordinance (Cap 123) (“BO”) and its subsidiary regulations must be complied with. In this regard, prior to the commencement of works, it is advisable to consult Building Professionals, Registered Contractors and, where necessary, Authorised Persons on whether the building works are in compliance with the requirement of relevant ordinances. Subject to the nature, scale, complexity and safety risks of the works project, minor works should be dealt with in accordance with the simplified requirements of the Minor Works Control System, or the work plans should be submitted to the Buildings Department for

approval and consent prior to the commencement of the project. *[Amended in September 2012, September 2015, September 2019 and September 2023]*

No Canvassing Zone

7.33 No EA may be displayed within the boundaries of a polling station or within any NCZ on the polling day (see Chapter 13), except for static display of EAs that are authorised by the RO (e.g. EAs mounted at designated spots). Where there are premises situated within the NCZ, the RO should issue a notice in advance to all the candidates for the constituency concerned asking them to remove all of their EAs displayed at the premises within the NCZ before the polling day. The exhibition of portable displays of EAs on vehicles (whether in motion or parked within the NCZ) or held or carried by persons is also regarded as a canvassing activity which is forbidden within an NCZ. Therefore, candidates are required to arrange the removal of EAs on the windows or bodywork of any public service vehicles (e.g. public light buses, taxis, etc.) before the polling day if those vehicles will pass through or be parked within the NCZ concerned on the polling day. If a candidate fails to remove the EAs as requested by the RO, the RO may issue a warning to him/her to remove the offending EAs immediately. If the candidate does not comply, the EAC may issue a censure or reprimand. The RO for the constituency will provide each candidate of that constituency with one set of sketch maps or plans showing the boundaries of all polling stations in respect of the relevant constituency and all NCZs outside those polling stations. *[Amended in September 2019]*

PART IV : ALLOCATION OF DESIGNATED SPOTS

7.34 A candidate can obtain the following information from the RO for his/her constituency upon submission of the nomination form: *[Amended in September 2012]*

- (a) the general locations of the designated spots, which may include unleased government land, property and buildings managed by the Housing Department, and private land/property (if any) available for allocation of designated spots to the candidates. The size and number of spots for allocation will be finalised by the RO, taking into account the number of contested candidates in the constituency, **after** the close of the nomination period. In order to allow all contested candidates to display their EAs at all locations (particularly popular ones), the size of each spot may vary from location to location; and
- (b) the date and time for conducting the allocation of designated spots, which would normally be held within five to ten working days after the close of the nomination period. The RO will invite representatives from the relevant authorities relating to government land/property, save those that have already given a blanket approval, to be present to give the necessary written authorisation for the spots allocated. *[Amended in September 2023]*

7.35 The RO for the constituency will need to know the exact number of candidates who wish to display EAs at designated spots, so that he/she can finalise the number of designated spots and their size for allocation. Therefore, candidates who wish to display EAs at designated spots **must register their interest in writing by filing the relevant form to the RO of their constituencies within the nomination period.** *[Amended in September 2012]*

7.36 The principle of allocation of designated spots is that candidates contesting in the same constituency should each be allocated the same number and an equal area of designated spots. Designated spots are allocated by

agreement among the representatives of all the contested candidates of a constituency or by drawing of lots. After allocation of the spots and the necessary authorisations have been obtained from the relevant authorities [s 104A(1) of the PHMSO and s 4 of the Land (Miscellaneous Provisions) Ordinance], and subject to the requirements set out in Part VII of this chapter being complied with, the candidate may display EAs at the allocated spots. *[Amended in September 2015]*

7.37 A copy of the permissions or authorisations obtained by a candidate himself/herself, as opposed to those provided to him/her by the RO, must be furnished by him/her in the manner as set out in para. 7.56 below for public inspection [s 106 of the EAC (EP) (DC) Reg]. *[Amended in September 2007, September 2011 and September 2012]*

7.38 Subject to para. 7.40 below, designated spots allocated are neither transferable nor exchangeable with other spots. Where a candidate of a particular constituency no longer wishes to use one or more of the designated spots allocated to him/her, he/she should inform the RO of that constituency in writing within one week after the allocation of those spots. At a contested election, upon request by any other candidate of the same constituency, the RO, if he/she considers appropriate, will re-allocate those spots by agreement or by the drawing of lots among all other candidates who are eligible to be allocated with designated spots of the same constituency. In such a case, the procedures mentioned in paras. 7.36 and 7.37 above apply. *[Amended in August 2008 and September 2012]*

7.39 In principle, candidates of each constituency in all elections (including ordinary election and by-election(s)) will not be allocated designated spots outside the District of the DCC or the relevant DCGC in which they stand for election. In the case of a by-election, if the spots for display in the District of the relevant DCC or DCGC are occupied for other purposes already, there

may be insufficient designated spots for the candidates contesting in the by-election. Then the RO may include designated spots outside the District of the relevant DCC or DCGC of the by-election to ensure that a reasonable number of designated spots can be made available for allocation to the candidates concerned. *[Amended in September 2011, September 2015, September 2019 and September 2023]*

7.40 An EA advertising two or more candidates of the same or different constituencies jointly is allowed to be displayed at the designated spots allocated to these candidates. Nevertheless, it is important to ensure that, for each one of the joint candidates, the total area of all the spaces actually occupied for advertising the candidate on all his/her EAs, including the joint EAs, mounted at the designated spots (as measured by the dimension of EAs) does not exceed the total area of the designated spots allocated to each of the candidates. A joint EA is also subject to the size restrictions specified in para. 7.43 below. Candidates using a joint advertisement to promote themselves at the election would all benefit from the joint advertisement. The expenses incurred for the joint EA will therefore have to be borne by the candidates concerned in equal or proportional shares as their respective election expenses, to be calculated by the proportion of the size of the portion advertising each. Any candidates involved in a joint EA or his/her election expense agent must be authorised to incur expenses for that particular EA[s 23 of the ECICO]. In order to comply with the requirement stipulated in s 27 of the ECICO, the candidates concerned also have to seek prior written consent of support from each other before publishing the joint EA. (See paras. 6.17 to 6.21 of Chapter 6 and para. 17.12 of Chapter 17) Besides, each of the candidates concerned must make available a copy of each of his/her EAs, and the relevant information/documents for public inspection in accordance with para. 7.56 below. *[Amended in September 2007, September 2011, September 2012, September 2015 and September 2023]*

PART V : CONDITIONS AND LIMITATIONS ON DISPLAY

Name of the Constituency

7.41 To avoid possible confusion to electors, EAs of all candidates of the constituency must bear the name of the constituency for which the candidate concerned is standing. Similarly, in respect of joint EAs or joint canvassing activities, the name of the constituency in relation to each of the candidates should be stated in the EAs or displayed during the activities clearly. Either the full name of the constituency or its abbreviated name (to be advised by the RO for the constituency) may be used, dependent on the choice of the candidate for the constituency. In the case of a breach for EAs displayed at designated spots, the approval for the use of the designated spots in question may be revoked. *[Amended in September 2019 and September 2023]*

Re-use of Old Publicity Boards

7.42 A candidate may re-use old publicity boards used at a previous election. However, any information in relation to the previous election, such as the candidate number, name of constituency, party affiliation and names of persons who supported the candidate at that election, should be updated with the information in relation to the current election to avoid confusion to electors or violation of the law by not obtaining consent of support from certain persons at the current election. The cost incurred in refurbishing as well as the estimated value of the old publicity boards will be counted towards the candidate's election expenses. *[Amended in September 2011 and September 2023]*

Size

7.43 As a general rule, EAs displayed at designated spots should not exceed 1 metre high and 2.5 metres long. In the case of designated spots at roadside railings, the promotional messages of the relevant EAs must be **printed on one side only and facing the designated direction of the spots**. Before displaying any EAs, candidates are reminded to ensure that the EAs must not distract motorists or interfere with the sight lines of motorists and pedestrians, obscure any traffic sign or traffic light signal, or obstruct the circulation of pedestrians (see para. 7.31 above). For the rules on display of joint advertisements, see para. 7.40 above. *[Amended in September 2007, August 2008, September 2012, September 2015, September 2019 and September 2023]*

Mounting and Installation

7.44 The EAs must be firmly and separately fastened. The mounting and display of EAs must not cause any risk of injuries or property damage. *[Amended in September 2012]*

7.45 Permanent fixing devices, such as nails or insoluble glue, should not be used.

7.46 “Tie-on” posters (rather than “stick-on” posters or metallic wires) should be used to facilitate subsequent removal. *[Amended in September 2012]*

7.47 Use of metal wires for fixing flags onto any highway structure, railing, barrier, fence, post or any other street furniture, is strictly prohibited. *[Added in September 2019]*

7.48 Do not stick EAs on painted or varnished surfaces as their subsequent removal will cause damage or leave irremovable marks.

7.49 Do not excavate or erect any structure on public pavements, such as nailing boards to the ground. Do not use any tree or plant as anchor point for EAs. *[Amended in September 2012 and September 2023]*

7.50 Owners or occupiers of a property including a government authority may specify the way in which EAs are to be displayed, and may require an indemnity against any claim or damage arising from the display of such materials.

Dismounting

Government land / Property

7.51 All candidates should remove all their EAs displayed on government land/property **within 10 days** following an election. Failure to remove all EAs within the specified period may result in prosecution being brought against the offending candidate and such EAs removed and seized by the relevant authorities. The authorities will issue demand notes for the removal costs to the candidates concerned within 21 days after the publication of the election results in the Gazette (normally the first Friday after the polling day). The **cost of removal** will be construed as **election expenses** and the candidates must include all these costs as election expenses in their election returns. *[Amended in September 2007, September 2011, September 2012 and September 2019]*

Private land / Property

7.52 For EAs displayed on private land/property and on the windows or bodywork of any public service vehicles (e.g. public light buses, taxis, etc.), candidates should inform the owner or occupier of the private land/property concerned, and owner or manager of any public service vehicles to arrange the removal of all EAs as soon as possible after the election. If building works (including removal of signboards) in private premises or on private land are involved for the removal of an EA, the relevant provisions of the Buildings Ordinance (Application to the New Territories) Ordinance or the BO and its subsidiary regulations should be complied with. *[Added in September 2023]*

PART VI : APPLICATION FOR TEMPORARY OCCUPATION OF GOVERNMENT LAND AT PUBLIC PLACE FOR HOLDING ELECTIONEERING ACTIVITIES

7.53 For temporary occupation of government land including any public street, pavement, footbridge, public escalator system and pedestrian tunnel for holding electioneering activities (e.g. setting up a manned street counter and displaying EAs which may include banners, roll-up banners and vertical flying posters or bunting), candidates are required to submit applications specifying the scheduled date, time, location/spot and brief description of the proposed set-up to the relevant District Lands Office (“DLO”) of the Lands Department for consideration. DLOs will only consider applications from validly nominated candidates and applications from uncontested candidates will not be considered. The site approved for occupation must not exceed 2 m² (i.e. 1 m x 2 m) in area and 2 m in height. The DLO will consult the government departments concerned in considering the applications. Where necessary, the DLO may adjust the location of the government site to be occupied in light of the physical setting and actual

situation. The decision of the DLO shall prevail. *[Added in September 2015 and amended in September 2023]*

7.54 The Lands Department will issue detailed guidelines for candidates to apply for temporary occupation of government land at public places for holding electioneering activities during the election period. The deadlines for submission of applications will be specified in the guidelines. Applications should be submitted to the relevant DLO according to the designated deadlines. Applications for occupying government land on the polling day should be submitted to the relevant DLO by the deadline as specified in the guidelines. The DLO will arrange drawing of lots to determine the allocation if necessary. On the polling day, the approval will be deemed to have been revoked if and when the allocated spot falls within the NCZ. *[Added in September 2015]*

7.55 The DLOs will not consider applications for holding electioneering activities on government land outside the designated periods. No fee is required for the applications above. The display of EAs will not be permitted for a street counter not manned by staff. *[Added in September 2015]*

PART VII : REQUIREMENTS RELATING TO PUBLICATION OF ELECTION ADVERTISEMENTS

Copies for Public Inspection

7.56 In accordance with the provisions in s 106(2) and (3) of the EAC (EP) (DC) Reg and the requirements of the EAC, a candidate must make available a copy of each of his/her EAs and the relevant information/documents (see **Appendix 4**), including the publication information, permission or consent

in relation to the EAs, for public inspection **within three working days** (i.e. any day other than a general holiday and Saturday) **after the publication of the EAs** by the following means:

- (a) posting an electronic copy of each of his/her EAs and the relevant information/documents onto the Central Platform in accordance with the procedures set out in **Appendix 4**⁴¹;
- (b) posting an electronic copy of each of his/her EAs and the relevant information/documents onto the Candidate's Platform and providing the **electronic address** of the platform to the CEO **at least three working days before the publication of the first EA** (see **Appendix 4** for details);
- (c) if it is technically impracticable to comply with item (a) or (b) above for EAs published through an open platform on the Internet (e.g. when messages are exchanged on social networking or communication websites on the Internet, such as Instagram, Facebook or blogs, in a real-time interactive manner), posting hyperlinks of the EAs that are published through such open platform and the information/documents relevant to the EAs onto the Candidate's Platform or the Central Platform in accordance with the procedures set out in **Appendix 4**. In this case, if the hyperlink of the EAs has already been posted onto the Candidate's Platform or the Central Platform, there is no need for the candidate to upload each and every comment separately. Candidates must note that they must comply with the requirements set out in para. 1(b) of **Appendix 4** when they are

⁴¹ If the content and the manner/media of publication of the EAs are the same, candidates are only required to fill in clearly the number of publication (state the number of each type of recipients when the same message is published to a number of recipients), the manner/media of publication and other information, and upload one sample of that EA onto the Candidate's Platform or the Central Platform instead of posting each and every EA published separately.

posting the hyperlink to the entire website or to the dedicated social media page instead of the hyperlink of that EA;

- (d) providing two hard copies of each EA (or two identical full colour photographs/printouts/photocopies of each EA which cannot be practically or conveniently produced in specie) and a hard copy of the information/documents relevant to the EA to the RO; or
- (e) providing two identical copies of a CD-ROM or DVD-ROM each containing the EAs and a hard copy of the information/documents relevant to the EAs to the RO.

As an interim arrangement, pending the appointment of the RO and the establishment of the Central Platform, the candidates should deposit their EAs and the related information/documents with the CEO in the same manner as stated in item (d) or (e) above.

IMPORTANT :

According to s 106(9) of the EAC (EP) (DC) Reg, candidates who fail to comply with the above requirement commit an offence and shall be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months.

[S 106(2), (3) and (9) of the EAC (EP) (DC) Reg] *[Amended in September 2012, September 2019 and September 2023]*

Publication Details

7.57 A candidate should provide the information related to his/her EAs (e.g. number of copies published, date of publication, manner of publication

and details of printing (if applicable) (see Part VIII of this chapter) etc.) when posting the EAs onto the Candidate's Platform or Central Platform (see **Appendix 4**) or submitting the relevant information in a specified form to the RO **within three working days after the publication of the EAs** [s 106(1)(a), (4) and (6) of the EAC (EP) (DC) Reg]. A candidate must ensure the accuracy of all the information provided. *[Amended in September 2007, September 2012, September 2015 and September 2023]*

7.58 If the information of the EAs uploaded onto the Candidate's Platform or Central Platform or provided to the relevant RO as set out in para. 7.57 above contains a mistake, the candidate should post the corrected information onto his/her Candidate's Platform or the Central Platform or submit the corrected information in a specified form to the RO for public inspection. All the corrected information must be posted onto the Candidate's Platform or Central Platform or deposited with the relevant RO **within three working days at the latest after the polling day**. The corrected information will be used as the basis for checking the candidate's election return and for removing unauthorised or offending EAs on display. For the avoidance of doubt, any amendment to the content of an EA will be regarded as the publication of a new EA and hence subject to the requirements stated in paras. 7.56 and 7.57 above. However, if it involves only the addition of a candidate number allocated to the candidate onto a published EA, then it suffices to have a copy of the EA bearing the newly added particulars and the corrected information made available for public inspection in accordance with this paragraph. *[Amended in September 2012 and September 2019]*

7.59 Speeches orally delivered by a candidate during election meetings or ad hoc visits will not be treated as EAs, but speeches published in any form (e.g. the copies of speeches provided to the audience or media) will be regarded as EAs, the candidates concerned are required to comply with the requirements in this chapter regarding the publication of EAs. If the copies of speeches

provided to the audience are regarded as printed materials, the candidates concerned are also required to comply with the requirements in this chapter regarding printed election materials. *[Added in September 2007, amended in September 2011, September 2012 and September 2023]*

7.60 In the circumstances where candidates contesting in different constituencies use identical copies of an EA, these candidates should each submit an electronic copy or printed copy of the EA in accordance with the requirements set out in para. 7.56 above. [S 106(2) and (3) of EAC (EP) (DC) Reg] *[Amended in September 2012, September 2019 and September 2023]*

7.61 A candidate electing to comply with para. 7.56(b) above must ensure that the Candidate's Platform is maintained with the electronic copies of all EAs kept therein till the end of the public inspection period (i.e. the period ending with the 60th day before the first anniversary of the date of the deadline for lodging the relevant election return) to enable public inspection of the EAs [s 41(6)(b) of the ECICO and s 106(2)(b) of the EAC (EP) (DC) Reg]. The CEO will also make public the Central Platform and the electronic address of the Candidate's Platform for public inspection of the EAs. For a candidate electing to comply with para. 7.56(d) or (e) above, the RO concerned will keep and make available a copy of the EAs and the relevant information/documents for public inspection at a specified address as soon as practicable after copies of such EAs and information/documents have been furnished till the end of the aforesaid public inspection period [s 106(7) of the EAC (EP) (DC) Reg]. *[Amended in September 2012, September 2019 and September 2023]*

PART VIII : REQUIREMENTS RELATING TO PRINTED ELECTION MATERIALS

Printing Details

7.62 All printed EAs, with the exception of those printed in a registered local newspaper, should bear the printing details in Chinese or English stating the name and address of the printer, the date of printing and the number of copies printed. It applies to all materials reproduced by any method of producing copies (e.g. using printing machines, duplicators or photocopiers). The following are some suggested formats:

(a) Printed by ABC Printing Works,
XX XZY Street, HK
On (date) in (number) copies

or

(b) Printed by own office machine
XX XZY Street, HK
On (date) in (number) copies

[S 106(4), (5) and (6) of the EAC (EP) (DC) Reg] *[Amended in September 2011 and September 2012]*

Election Advertisements Placed in Print Media

7.63 Where an EA is placed in the print media and takes the form of a news report or any other form which does not clearly show that it is an EA, the words “**Election Advertisement**” or “**選舉廣告**” must be stated in the advertisement, to avoid misunderstanding among readers that it is not an EA.

Inadvertent Omission of Printing Details

7.64 A candidate who has inadvertently omitted the printing details from his/her printed EAs can make a statutory declaration to give the omitted details, and deposit such declaration with the relevant RO **within seven days after the publication** of the offending EA [s 106(6) of the EAC (EP) (DC) Reg]. Candidates who have taken this remedial step will not be prosecuted for contravention of s 106(4) of the EAC (EP) (DC) Reg. The statutory declaration will be made available for public inspection by the relevant RO till the end of the period in which copies of election returns are available for inspection under s 41(6)(b) of the ECICO [s 106(7) of the EAC (EP) (DC) Reg]. *[Amended in September 2012, September 2019 and September 2023]*

PART IX : NON-COMPLIANCE WITH THE LAW AND ITS CONSEQUENCES

Enforcement and Penalties

7.65 A candidate who fails to comply with the requirements set out in Parts VII and VIII of this chapter commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 106(9) of the EAC (EP) (DC) Reg]. *[Amended in September 2012]*

7.66 Each candidate must comply with the conditions imposed by the permissions or authorisations for the display of EAs. Any EAs displayed in contravention of these requirements will be removed and seized. Candidates and their supporters should report any non-compliance to the RO and should not take removal action themselves against any unauthorised or offending EAs. *[Amended in September 2019]*

7.67 Any unauthorised or offending EAs displayed may be seized, disposed of, destroyed, obliterated or covered by the RO or any person authorised by him/her [s 108 of the EAC (EP) (DC) Reg]. The candidate or his/her election agent responsible for the matter may also be prosecuted and liable on conviction to a fine and to imprisonment [s 106(9) of the EAC (EP) (DC) Reg]. The cost of removal, being a civil debt, will be counted as election expenses and must be reported in the candidate's election return. The seized articles may be kept as evidence and will be disposed of or returned upon application in accordance with the PHMSO or the Housing Ordinance (Cap 283), as the case may be, and the procedures of the relevant authority. [S 104C of the PHMSO and s 24 of the Housing Ordinance] *[Amended in September 2007 and August 2008]*

7.68 Any additional charges or compensations, incurred by a candidate due to violation of the conditions agreed between him/her and the owner or occupier of the private land or property concerned for the display of EAs, or any other reasons, may be construed as election expenses.

7.69 Complaints on EAs, if any, should be made to the relevant RO. After a complaint is received, the EAC may also issue a public statement in such manner as it deems fit to reprimand or censure any non-compliance with the Guidelines, and/or make referral to relevant departments for follow-up action.

Relief for Election Advertisements

7.70 Candidates and their agents bear the responsibility to better understand and comply with relevant laws and the requirements in this set of Guidelines. However, a person who publishes an EA without complying with the requirements as set out in paras. 7.56 (except the requirement for submitting the written permission or authorisation under s 104A(1) of the

PHMSO), 7.57, 7.58 and 7.62 above may apply to the CFI for an order allowing the publication of the above EAs to be excepted from the relevant requirements and relieving him/her from the penalties. The CFI may make such an order provided that the CFI is satisfied that the non-compliance was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith. [S 107 of the EAC (EP) (DC) Reg] The judgment of a precedent court decision⁴² regarding applications for the relief of election-related penalties and liabilities is extracted below:

“... 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 should exercise its discretion to grant relief. Section 40(2) gives the court a discretion. I think it is important that the discretion should be exercised in a manner which is consistent with the integrity of our election legislation. Those participate in election should be aware that these are serious matters and therefore they should take reasonable steps to comply with their legal obligation at the time when they put themselves forward as a candidate for any election.”

[Amended in September 2012 and September 2023]

**PART X : ADVERTISEMENTS OF POLITICAL BODIES,
PROFESSIONAL BODIES, TRADE ORGANISATIONS OR
OTHER ORGANISATIONS**

7.71 Any form of publication published by any organisation, including a political body, professional body or trade organisation, owners' corporation,

⁴² *Yiu Chun Fat* (HCMP 1482/2007), *Leung Wai Kuen Edward v. Secretary for Justice* (HCMP 1321/2012) and *Lee Hin Long (Timothy Lee) v. Secretary for Justice* (HCMP 1183/2020).

tenants' association or owners' committee, etc., which advertises its platform or services **with reference to a candidate** (irrespective of whether or not the candidate concerned is its office-bearer or member) **during or even before the election period** by name or photograph or otherwise with the intent to promote the election of the candidate at the election may be treated as an EA put up by, or on behalf of, or on account of, the candidate. The expenses of such EA may be construed as election expenses incurred by or on behalf of the candidate. A candidate should be responsible for election expenses incurred by himself/herself or his/her authorised election expense agents, excluding those incurred without his/her knowledge and consent. It is therefore a prudent step for the relevant organisations to suspend such advertising activities. However, if the material published by the organisation concerned, as opposed to the candidate himself/herself, advertises only a particular activity which:

- (a) is organised from time to time either as part of the organisation's normal functions, and/or according to the local tradition;
- (b) is not related to the election; and
- (c) does not explicitly or implicitly promote or prejudice the election of a candidate at the election,

then the appearance of the name and/or photograph of a candidate who is involved in organising the activity in the published material will not be regarded as an EA. *[Amended in September 2019 and September 2023]*

7.72 It is an offence for anyone to incur election expenses unless he/she is a candidate or an election expense agent of a candidate. [S 23 of the ECICO]

7.73 To protect their own interest, candidates should advise their political bodies or their organisations of these guidelines as soon as they have any intention or plan to run for an election.

7.74 In short, if any organisation, including a political body, publishes an EA promoting a candidate, then:

- (a) the expenses incurred will be treated as the candidate's own election expenses;
- (b) the officer-in-charge of the organisation must be authorised in writing by the candidate to be the candidate's election expense agent before any election expense is incurred, or else the organisation or the responsible person commits an offence under s 23 of the ECICO;
- (c) such advertisement must comply with the requirements of s 106 of the EAC (EP) (DC) Reg; and *[Amended in September 2012]*
- (d) such advertisement can only be displayed at the locations with the relevant written permission or authorisation. *[Amended in September 2015]*

PART XI : FREE POSTAGE FOR ELECTION ADVERTISEMENTS

Conditions for Free Postage

7.75 A candidate of a constituency who has been declared validly nominated in the notice of valid nominations published in the Gazette in accordance with regulations made under the EACO is permitted to send **one** letter to each elector of the constituency for which he/she is validly nominated

free of postage [s 37 of the DCO]. However, before the publication of the notice of valid nominations in the Gazette, a candidate wishing to exercise his/her right to free postage must furnish the Postmaster General with a security (i.e. the postage of all items in that bulk to be posted) which will cover the postage payment in the event that his/her name is not subsequently shown in the notice of valid nominations aforesaid. [S 6(2)(a) of the Post Office Regulations (Cap 98A)] *[Amended in September 2012]*

7.76 The purpose of the free postage is to enable the candidate to mail EAs to promote or advertise himself/herself in relation to the election to electors in the relevant constituency. The free postage arrangement, which is a privilege of validly nominated candidates, should not be abused. In particular, it cannot and should not be used for any other purpose or any other election or for promoting or advertising any other person. **As a general requirement, a candidate should publish EAs in accordance with all applicable laws and this set of Guidelines. In this regard, EAs sent by a candidate through free postage should not contain any unlawful content.** *[Amended in September 2019]*

7.77 Specifically, the letter must:

- (a) be posted and delivered to an address in Hong Kong;
- (b) contain materials relating only to the candidature of the candidate at the election concerned; *[Amended in September 2015]*
- (c) not exceed 50 grams in weight;
- (d) be not larger than 165 mm x 245 mm and not smaller than 90 mm x 140 mm in size; *[Amended in September 2023]*

- (e) not exceed 5 mm in thickness at any part of the letter; and
[Added in September 2023]
- (f) not contain any obscene, immoral, indecent, offensive or libellous writing, picture or other thing. *[Added in September 2019]*

[S 102(2) of the EAC (EP) (DC) Reg and s 32(1)(f) of the Post Office Ordinance (Cap 98)]

IMPORTANT :

Under s 102(5) of the EAC (EP) (DC) Reg, a candidate sending postage-free mail items to electors in bulk is liable for payment of postage for all items in that bulk if any item therein does not meet the requirements in items (a) to (e) above. Besides, according to s 32(1)(f) of the Post Office Ordinance, item (f) above refers to prohibited articles.
[Amended in September 2007 and September 2023]

Postal Requirements Stipulated by Hongkong Post

Make-up

7.78 The letter may take the form of an envelope, a lettergramme, a postcard or a folder. Items in roll form or enclosed in plastic wrappers are **not** acceptable.

7.79 Postcards and folders must be made of ordinary cardboard or paper not less than 0.25 mm thick, and must be rectangular in shape.

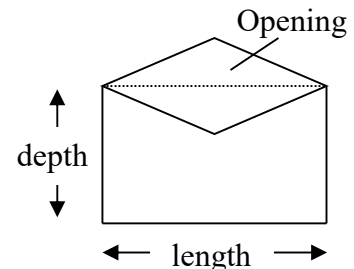
7.80 When a wrapper is used, it must be long enough to cover the full length of the item to be enclosed. Envelopes must not be fastened with staples or paper fasteners with sharp or pointy edges, but they may be sealed by means of an adhesive flap or tape.

7.81 Envelopes, folders and lettergrammes with an opening large enough to entrap smaller letters are prohibited. The **unsealed mail item** contained in envelopes with ordinary tuck-in flaps may be used subject to the following size limits (s 6.3 of the Post Office Guide):

Not over 90 mm in depth - opening not over 150 mm in length

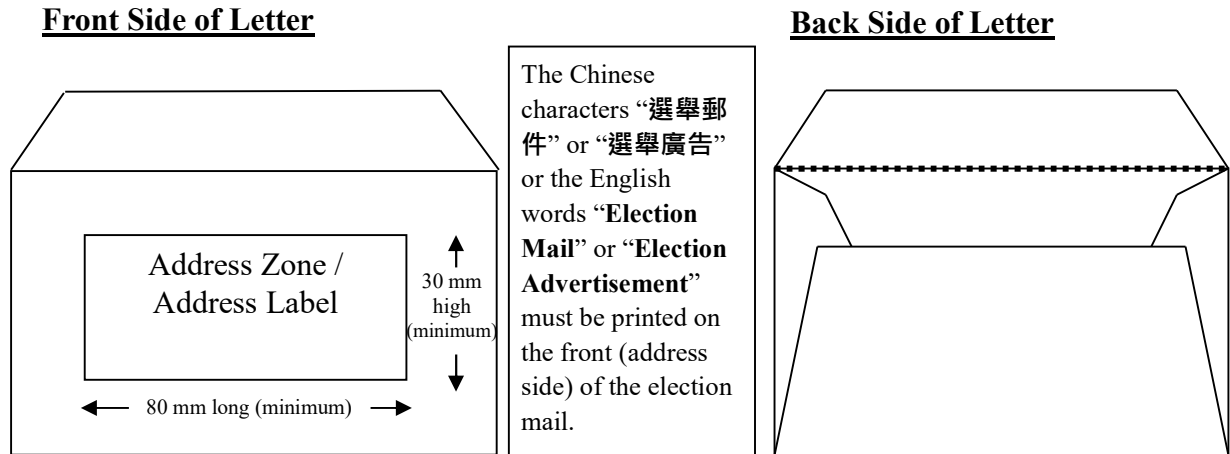
Not over 100 mm in depth - opening not over 140 mm in length

Over 100 mm in depth - opening not over 115 mm in length



7.82 Folders (e.g. A4 size paper) with openings should be sealed by means of adhesive flap or tape to avoid entrapping other letters of smaller sizes. All open edges must not be longer than 90 mm in width. Otherwise, adhesive tapes should be applied to the middle of the open edges to reduce the width. See the illustration in **Appendix 5** for details. *[Amended in August 2008]*

7.83 **The Chinese characters “選舉郵件” or “選舉廣告” or English words “Election Mail” or “Election Advertisement” must be printed on the front (address side) of the election mail or the folder (unenveloped mail). The layout of the election mail is as follows:**



[Amended in September 2007, August 2008 and September 2019]

Address

7.84 To avoid delay or misdelivery, the full postal address should be typed or legibly written on the front of the envelope in four rows as follows:

Name of addressee

Floor and flat number and name of building

Street number, name of street

Name of district

7.85 Address slips may be used for the mailing of EAs, provided that they are legible and **securely affixed** to the election mail. *[Amended in September 2007]*

IMPORTANT :

For the purpose of posting election mail, candidates may request the REO to provide one set of mailing labels in respect of the electors of the relevant constituencies and/or USB flash drives containing the “Candidate Mailing Label System”. To protect

the environment and respect the wishes of electors, candidates will not be provided with mailing labels in respect of electors who have provided their e-mail addresses for receiving EAs or who have indicated that they do not wish to receive any EA. *[Added in September 2019 and amended in September 2023]*

7.86 The name of the candidate and other publicity slogans, including photographs, should appear on the back or the front (address side) of the mail item. An address zone of at least 80 mm long and 30 mm high, preferably at the right-hand half or at the centre of the front (address side), should be reserved exclusively for the address. If an adhesive address label is used, it should not be less than 80 mm long and 30 mm high. The address label should only contain the name and address of the elector. The whole address zone and address label should be free of advertisement and the entire address label should be affixed to the address zone on the front of the mail item. The background colour of the address zone and address label should be white while the text colour of the postal address should be black. (See the clear illustration in para. 7.83 above) *[Amended in September 2007 and August 2008]*

7.87 No free postage will be given to any EA bearing an address outside Hong Kong. Specifically, **only one address is allowed on the postage-free election mail to electors.** *[Amended in August 2008]*

Posting Arrangements

7.88 In order to allow adequate time for Hongkong Post to process election mail during the election period, candidates are advised to send their postage-free EAs **before the posting deadline as designated by Hongkong Post.** Candidates and their agents are therefore **reminded that mail sent after**

the posting deadline will likely fail to reach the electors before the polling day. *[Amended in September 2007]*

7.89 Candidates should apply for a written approval from Hongkong Post of their EA specimens for free postage. They should read carefully the requirements regarding free postage for EAs before deciding on the content of their EAs, and should seek advice from Hongkong Post relating to the postal requirements and from the REO in respect of other matters as appropriate if in doubt. Candidates should make every effort to submit their EA specimens to Hongkong Post for written approval as early as possible before mass production of their EAs so as to allow sufficient time for revising the content of their EA specimens when necessary. *[Added in September 2011]*

7.90 Candidates should submit three unsealed specimens of their EAs, together with a “Notice of Posting of Election Mail” in duplicate (the notice will be provided by the REO to the candidates when they submit their nomination forms) to the designated manager(s) of Hongkong Post for written approval. At least **two clear working days** (excluding any Saturday, Sunday and general holiday) are required for Hongkong Post to process each set of specimens, and the EA should only be posted after an official approval has been received from Hongkong Post. As Hongkong Post may have to process a large quantity of EA specimens at the same time, there is no guarantee that the EA specimens will necessarily be approved in two working days immediately after the submission. *[Amended in September 2007, August 2008, September 2011, September 2015 and September 2019]*

7.91 To save time, candidates may consider submitting their EA specimens before being assigned with a candidate number or confirming the printing details of the election mail. Once the specimens concerned have been approved in writing by Hongkong Post, candidates may insert the candidate number or printing details into the election mail **without altering the**

approved design and content of the election mail. There is no need for the candidates to re-submit the revised specimens to Hongkong Post for approval.
[Added in September 2019]

7.92 To comply with the relevant requirements, candidates should attach the translations in Chinese or English together with the “Notice of Posting of Election Mail” if the EA specimens submitted contain languages other than Chinese and English. *[Added in September 2023]*

7.93 Candidates should post their postage-free election mail at the respective post offices designated by Hongkong Post for the election concerned. When posting those mails, candidates should furnish a copy of the election mail to such post office for record purpose. *[Amended in September 2007, September 2011 and September 2019]*

7.94 The election mail should be packed in bundles of 50 or 100 for easy counting. All of them must be stacked on the same side and arranged in the same order as the address labels/address lists (e.g. by building name or block number) provided by the REO. *[Amended in August 2008 and September 2019]*

7.95 When posting a mail item, the candidate or his/her election agent must present a signed “Declaration for Posting of Election Mail” (which will be given to the candidate by the REO when he/she submits the nomination form) **in duplicate** (the original to be kept by Hongkong Post while the duplicate copy to be duly signed by Hongkong Post and kept by the candidate or his/her election agent as a confirmation of the posting) on each occasion:

- (a) stating the quantity of mail items in the posting and the name of the candidate;

- (b) declaring that the mail to be sent is the postage-free mail of the candidate;
- (c) declaring that each mail packet contains materials relating only to the election concerned and that the item is identical to the unsealed specimen submitted by the candidate or his/her election agent for inspection and application for approval; and
[Amended in September 2012]
- (d) declaring that not more than one postage-free mail item will be sent to any of the electors.

It is important to note that under s 102(5) of the EAC (EP) (DC) Reg, a candidate sending postage-free mail items to electors in bulk is liable for the payment of postage for all the items in that bulk if the declaration made by him/her or his/her election agent is false in any particulars.

[Amended in September 2007, September 2011 and September 2023]

7.96 If a candidate sends the election mail in more than one batch, he/she must present the same “Declaration for Posting of Election Mail” at the same designated post office on each occasion. *[Amended in September 2011 and September 2023]*

7.97 If the name, logo or pictorial representation of another person or an organisation is included in the election mail, and the publication is in such a way as to imply or to be likely to cause electors to believe that the candidate has the support of the person or organisation concerned, the candidate must ensure that **prior written consent** has been obtained from the person or organisation concerned. See Chapter 17 for the detailed requirements.
[Added in September 2019]

7.98 The Government reserves the right to charge a candidate postage if any of the requirements under s 102(5) of the EAC (EP) (DC) Reg is not met or the free postage arrangements are abused in any way. The charge on postage counts towards the candidate's election expenses and must be included in his/her election return to be sent to the CEO. The EAC may also issue public statements in such a manner as it deems fit to censure any abuse of the free postage arrangements. *[Amended in August 2008]*

7.99 **The postal requirements stated in the above guidelines (paras. 7.78 to 7.96) are for general reference only. Candidates should comply with the latest requirements issued by Hongkong Post at the time of the election concerned.** *[Added in August 2008]*

Enquiries

7.100 For general enquiries concerning the posting of EAs, please contact:

Assistant Manager (Retail Business Support/Hong Kong)
Room 1M05
General Post Office
2 Connaught Place
Central
Hong Kong

Telephone: 2921 2190 / 2921 2307

Fax: 2501 5930

[Amended in September 2007, August 2008, September 2011 and September 2015]

**PART XII : ELECTION ADVERTISEMENTS FOR REGISTERED
ELECTORS IN THE CUSTODY OF CORRECTIONAL
SERVICES DEPARTMENT AND OTHER
LAW ENFORCEMENT AGENCIES**

7.101 Candidates may send EAs to registered electors held in custody in individual penal institutions if the electors have provided the addresses of the penal institutions concerned as their correspondence addresses for receiving EAs. For security reasons, candidates should adhere to the guidelines laid down by the CSD at **Appendix 16** when sending EAs to these electors. *[Added in January 2010, amended in September 2015 and September 2019]*

7.102 Candidates may note that registered electors imprisoned or held in custody by law enforcement agencies may have access to election-related information through the mass media in accordance with the existing policies of the law enforcement agencies on access to the mass media. *[Added in January 2010]*

**PART XIII : COMMERCIAL ADVERTISEMENTS RELATING TO
CANDIDATES**

7.103 Any commercial advertisement showing the portrait and/or name of a candidate (e.g. commercial advertisements displayed on the bodywork of buses or the exterior walls of buildings) will not be regarded as an EA if it is merely for business promotion without any intention to promote or prejudice the election of any candidate at the election. However, such a commercial advertisement may give extra publicity to the candidate concerned even though it is not an EA. In order to avoid such unfair publicity, the candidate should make his/her best endeavours to request the person-in-charge not to display the advertisement after his/her declaration of intention to stand for the election or

during the election period. The EAC appeals to persons-in-charge of such cases to accede to the request as far as practicable in order to avoid giving unfair publicity to the person concerned. Nevertheless, if the display of the advertisement cannot be suspended due to contractual obligation and the candidate has made best his/her endeavours to request the person-in-charge not to display the advertisement, the candidate will not be subject to any liability. (For commercial advertisements broadcast on television/radio or in cinemas, see paras. 10.31 to 10.32 of Chapter 10.) *[Added in September 2019 and amended in September 2023]*

CHAPTER 8

ELECTIONEERING ACTIVITIES IN PREMISES OR BUILDINGS WHERE ELECTORS RESIDE, WORK OR FREQUENT

PART I : GENERAL

8.1 There are occasions when candidates may wish to target their electioneering activities at an individual elector or a group of electors:

- (a) at their living/working places;
- (b) in the premises of the organisations to which the electors belong;
or
- (c) in the buildings which the electors frequent.

These electioneering activities may include visits, personal contact with people, using loudspeakers to advertise in the common parts of the building, display or distribution of EAs and holding of election meetings at the places mentioned above. **Appendix 6** gives some reference as to what activity is to be regarded as an electioneering activity. This chapter explains the general guidelines to be observed by candidates in conducting electioneering activities as well as the rights of various stakeholders, and appeals to the electors, the management bodies of the organisations to which the electors belong and the management organisations of the buildings which the electors frequent to **provide fair and equal treatment** to all candidates so as to ensure that the election is conducted fairly. *[Amended in September 2007]*

8.2 Occupiers who have exclusive possession of private properties (houses, flats, shops, offices or factories) have the right to decide whether to allow individual candidates to display EAs or conduct electioneering activities in their premises without having to treat all candidates equally. *[Added in September 2019]*

8.3 However, management organisations (e.g. owners' corporations, property management companies, etc.) of the common parts of buildings should accord fair and equal treatment to all candidates. Applications of all candidates for the display of EAs or the conduct of electioneering activities in the common parts of buildings should be processed impartially, especially if the chairmen or executive committee members of the management organisations are candidates or their relatives or friends, where the principle of fair treatment must be upheld and no preferential treatment should be given. *[Added in September 2019 and amended in September 2023]*

8.4 Candidates are reminded that different organisations/buildings may have their own guidelines to allow or disallow the conduct of electioneering activities in the premises under their management. To ensure the smooth conduct of electioneering activities in public or private places, candidates should consult the relevant authorities or management organisations in advance and, if required, obtain prior permission from them for the conduct of electioneering activities in the places within their jurisdiction. *[Added in September 2007 and amended in September 2012]*

8.5 The general guidelines to be observed for conducting electioneering activities at the living and working places of electors, premises of organisations to which electors belong and buildings which electors frequent are set out in Part III of this chapter. The specific guidelines to be observed for conducting electioneering activities in the premises managed by the

Housing Department and the Hong Kong Housing Society are set out in **Appendix 7**. *[Added in September 2007]*

8.6 For the purpose of ensuring fair treatment and equal opportunity of access for all candidates in conducting electioneering activities and to avoid causing disturbance to the public, Part IV of this chapter provides the owners/management organisations of premises and organisations with some guidelines in handling applications for conducting electioneering activities in the premises under their control. *[Added in September 2007]*

PART II : RIGHTS OF TENANTS AND OWNERS

Tenant's Right - His/Her House, Flat, Shop, Office or Factory

8.7 The tenant or occupier who has exclusive possession of a house, flat, shop, office or factory, as opposed to the owner, has the right to allow or deny access by anyone to the place.

Common Parts

8.8 The **common parts** of a building (those parts to which exclusive rights of use or occupation do not belong to a particular owner or tenant) are usually under the control and management of the owners of the various units in the building. Where there is an owners' corporation of the building incorporated under the former Multi-storey Buildings (Owners Incorporation) Ordinance or the present Building Management Ordinance (Cap 344), the control and management of the common parts are exercised by the owners' corporation representing all the owners of the building.

8.9 The carrying out of the powers and duties and the acts of an owners' corporation do not affect the rights of the tenants of the individual flats, shops, offices or factories in the building except for matters concerning the common parts. Candidates and tenants should note that as **a tenant** has exclusive possession of the unit that he/she occupies, he/she **has the right to invite anyone to visit his/her unit for any lawful purpose**, including electioneering, but he/she has no right to allow the invitee to approach other tenants' units, such as knocking on other people's doors, or to do anything in the common parts of the building, except for accessing and leaving his/her unit or for the purposes allowed by the owners.

Owners' Committees

8.10 For some buildings, no owners' corporation has been established, but instead an owners' committee is formed. While an owners' committee generally operates in the same manner as an owners' corporation, its powers vis-à-vis the rights of the individual owners are not standardised and may differ from case to case.

Management Companies

8.11 Very often, the management of the common parts of a building has been delegated by the owners or owners' corporation or owners' committee to a management company. Management companies are only managing the common parts on behalf of the owners and, unless specifically empowered to do so, have no independent right or power to decide whether electioneering by candidates in the common parts should or should not be allowed.

Tenants' Associations and Residents' Associations

8.12 Sometimes there are tenants' associations or residents' associations representing tenants' interests in the buildings. Vis-à-vis the owners, such organisations have no right to control or manage the common parts. If they are given the authority by the owners, then they are entitled to control and manage the common parts on behalf of the owners. *[Amended in September 2023]*

PART III : GUIDELINES TO BE OBSERVED BY CANDIDATES IN THE CONDUCT OF ELECTIONEERING ACTIVITIES

Visits to Living and Working Places of Electors

8.13 Candidates should note that electors have the right to allow or deny access by anyone, including the candidates, to their own living or working places. In other words, electors are free to invite, or accept the request from, particular candidates but not the others to visit them at their living or working places.

8.14 However, access to a private office may require the approval of the management organisations of the office building or the companies which employ the electors, and such management organisations when making a decision should have due regard to the **fair and equal treatment principle** mentioned in Part IV of this chapter. In conducting electioneering activities at the common parts of the living or working places of electors, candidates should observe the general guidelines set out in paras. 8.17 to 8.25 below. *[Added in September 2007]*

8.15 Any government offices, which are working places of electors, will be treated in the same manner as the premises referred to in this chapter. Electioneering activities may be allowed or denied at these offices as decided by the management authorities, but such decision should comply with the fair and equal treatment principle mentioned in Part IV of this chapter. *[Amended in September 2007]*

8.16 Due to security reasons, arrangements will not be made for in-person canvassing activities in a penal institution or the premises of a law enforcement agency. No one who visits a penal institution or the premises of a law enforcement agency for a business or official purpose is allowed to canvass for votes. This is to ensure that such a visitor will not therefore have an advantage over other persons who cannot make the visit. A person who canvasses for votes during the aforesaid visit commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months [s 88A of the EAC (EP) (DC) Reg]. *[Added in January 2010]*

Respect for the Decision and Privacy

8.17 After a candidate has been notified of the decision made by the management organisation relating to electioneering activities, he/she should ensure that he/she and his/her supporters comply with the decision and should not avail himself/herself of or obtain any unfair advantage over any other candidate(s). *[Amended in September 2011]*

8.18 If a decision to disallow electioneering in an organisation or a building has been made by the management organisation, the candidate or his/her supporters should not conduct electioneering activities in such places. If the candidate acts against the decision of the organisation or building in whatever manner, then he/she commits trespass and the organisation or building management can simply stop him/her from doing the contravening act

or carry out the decision to exclude the candidate. If the candidate refuses to leave, it would be wise in such circumstances for the organisation or building management, as the case may be, to report the matter to the Police in the first instance and then make a complaint to the EAC or its Complaints Committee. The EAC may publish a reprimand or censure against the candidate concerned.
[Amended in September 2007 and September 2012]

8.19 A candidate and his/her supporters should respect the decision of the organisation or building management, and it is unwise to enter into arguments with members of the organisation or the residents of the building who obstruct the candidate's electioneering inside the premises of the organisation or the building. Such arguments may affect the candidate's reputation or image with members of the organisation or the residents of the building. Any dissatisfaction with the decision or act of the organisation or the building should more properly be made a subject of a complaint as soon as possible to the EAC or its Complaints Committee, which will decide whether the decision or act is fair or unfair.

8.20 **Privacy of the electors should be respected.** The Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations and Members of the Public ("the Guidance") at **Appendix 8**, prepared by the Office of the Privacy Commissioner for Personal Data ("PCPD"), serves as a general reference for compliance with the requirements of the PD(P)O in relation to electioneering activities that may involve the collection and use of personal data of an individual. According to the Guidance, the act of canvassing for votes is not in contravention of the PD(P)O provided that the collection and handling of personal data comply with the data protection principles in Schedule 1 to the PD(P)O. The Guidance also reminds candidates, inter alia, that:

- (a) individuals should be informed of the purpose of collection of their personal data when collecting the data directly from them for electioneering;
- (b) personal data should not be collected by deceptive means or by misrepresentation (e.g. collecting personal data in the pretext of opinion polls or assistance for citizens to apply for government welfare);
- (c) before using personal data from sources other than the extract from the FR provided by the REO for electioneering purpose, express consent from the data subjects should be obtained unless the original purpose of collection of the data is directly related to the electioneering purpose; and
- (d) if election agents or other contractors are engaged to process personal data of electors on behalf of the candidates for electioneering purpose, necessary means (contractual or otherwise) must be adopted to prevent the personal data of electors transferred to the election agents or other contractors from: (i) being kept longer than is necessary for the electioneering purpose; and (ii) unauthorised or accidental access, processing, erasure, loss or use. Candidates should also ensure that only necessary and adequate but not excessive personal data is transferred. *[Amended in September 2023]*

In addition, in order to facilitate better understanding of the privacy concerns of the electors and compliance with the requirements of the PD(P)O by the candidates and other stakeholders, the PCPD has provided relevant complaint cases in the Guidance for illustration purpose. **Candidates and their election agents are strongly advised to strictly follow the Guidance provided by the**

PCPD when conducting electioneering activities. *[Amended in September 2012, September 2015 and September 2019]*

8.21 Validly nominated candidates are supplied by the REO with an **extract of the FR** which contains the names, residential addresses and email addresses of the electors for the relevant constituency (if the electors concerned have provided such email addresses to the REO for the purpose of receiving election mails from candidates), but **not their telephone numbers**. As a general rule, candidates should respect the privacy of electors when using their contact information for electioneering purposes. In particular, for mass distribution of election mails by email, candidates are reminded to use the “bcc” function of email or other proven means to ensure that the email addresses of individual electors would not be inadvertently disclosed to other recipients. To prevent an email containing an election mail from being mistakenly detected as a spam email and blocked by the email system, candidates are advised to understand the sending limit adopted 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. *[Amended in September 2023]*

8.22 Besides, candidates should note that some members of the public do not like or detest being called over the telephone or the entrance intercom system and some do not like their names being called out aloud. Many electors also consider canvassing messages sent to them through electronic devices annoying. Their dissatisfaction may be reflected in their choice of candidates on the polling day. It is therefore unwise to canvass for votes by calling or sending messages through electronic devices to electors who find such approaches objectionable or acting in any other way that may antagonise them. As a matter of good practice, candidates and their supporters should maintain a list of electors that they know finding such electioneering telephone

calls or messages or visits objectionable and avoid approaching these electors through these means again. On the other hand, electors who receive the objectionable telephone calls or messages can just disconnect them or block the sender. If the caller or sender does not desist from calling or sending messages and causes a nuisance, the elector should report the matter as soon as possible to the **Police**, which may take action against the caller or sender. *[Amended in September 2007, August 2008, September 2011, September 2015 and September 2019]*

IMPORTANT :

Information relating to a person contained in any FR or in any extract of any FR **can only be used for election-related purposes** prescribed by the electoral law. Any **abuse** or **misuse** of such information is an **offence** and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 22(3) of the EAC (ROE) (GC) Reg and s 7(1) of Schedule 4A to the DCO].

In accordance with Data Protection Principle 3 of Schedule 1 to the PD(P)O, personal data relating to a person (as a data subject) contained in any FR or in any extract of any FR shall not, without the prescribed consent of the data subject⁴³, or if the exemption under Part 8 of the PD(P)O is not applicable, be used for a “new purpose”⁴⁴. Moreover, according to s 64(3A) and (3B) of the PD(P)O, if a person (as a discloser) discloses any personal data relating to a person (as a data subject) contained in any FR or in any extract of any FR without the relevant consent of the data

⁴³ In accordance with s 2(3) of the PD(P)O, “prescribed consent” (a) means the express consent of the person given voluntarily; (b) does not include any consent which has been withdrawn by notice in writing served on the person to whom the consent has been given (but without prejudice to so much of that act that has been done pursuant to the consent at any time before the notice is so served).

⁴⁴ In accordance with Data Protection Principle 3(4) of Schedule 1 to the PD(P)O, “new purpose”, in relation to the use of personal data, means any purpose other than the purpose for which the data was to be used at the time of the collection of the data or a purpose directly related to that purpose.

subject with an intent to cause any specified harm⁴⁵ 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, the discloser commits an offence and will be liable to a fine of \$100,000 and to imprisonment for 2 years. According to s 64(3C) and (3D) of the PD(P)O, if the disclosure causes any specified harm to the data subject or any family member of the data subject, the discloser will be liable on conviction to a fine of \$1,000,000 and to imprisonment for 5 years.

[Added in September 2019 and amended in September 2023]

8.23 Some candidates or their supporters may use **loudspeakers** to assist their campaign. They should exercise restraint in the use of loudspeakers so as not to create a nuisance to the persons in the vicinity, including those who live in the buildings nearby and visually impaired persons. They should be mindful that some people working shift hours need to take rest during the daytime and the noise generated from the use of loudspeakers for electioneering activities may affect their daily life. In order to reduce the nuisance caused to members of the public, candidates are required **not** to use loudspeakers in electioneering **between 9 pm and 9 am**. If the EAC comes to know that a candidate has breached the time restriction, it may make a reprimand or censure against the candidate. Moreover, given that visually impaired persons rely upon audible signaling facilities to perceive their surroundings in their daily travel, candidates and their supporters should take such needs into account and, when using loudspeakers, stay away from locations with audible signaling facilities, such as pedestrian crossings and

⁴⁵ In accordance with s 64(6) of the PD(P)O, “specified harm”, in relation to a person, means (a) harassment, molestation, pestering, threat or intimidation to the person; (b) bodily harm or psychological harm to the person; (c) harm causing the person reasonably to be concerned for the person’s safety or well-being; or (d) damage to the property of the person.

escalators, as much as possible so as not to cause interference with the audible signals generated by those facilities and undermine the travel safety of the visually impaired persons. Excessive noise will amount to an offence and the Police may be called. Anyway, it is unwise to create a nuisance to the electors through the use of loudspeakers, as the dissatisfaction of the electors will obviously be reflected in their choice of candidates (also see Chapter 11). *[Amended in September 2012, September 2019 and September 2023]*

8.24 Canvassing through the use of the **entrance intercom system** by candidates and their supporters in a building is prohibited unless it is expressly allowed by the building management organisation. *[Amended in August 2008]*

Identification of Canvassers

8.25 For security reasons and for prevention of abuse, the EAC advises that each candidate should provide some forms of identification to his/her canvassers for them to enter the premises of an organisation or a building for electioneering purposes. The EAC suggests that the candidate should devise an authenticated identification document containing the name and photograph of his/her canvasser, who should then produce this identification document together with his/her identity card for inspection when seeking entry into the premises of an organisation or a building. Candidates should note that the production costs of this kind of identification documents will be counted as election expenses.

**PART IV : GUIDELINES TO BE OBSERVED BY OWNERS,
MANAGEMENT BODIES AND ORGANISATIONS FOR
HANDLING APPLICATIONS FOR CONDUCT OF
ELECTIONEERING ACTIVITIES IN THE PREMISES
WITHIN THEIR JURISDICTION**

**Electioneering at Premises of Organisations to which Electors Belong and
Buildings which Electors Frequent**

8.26 The premises of the organisations to which the electors belong and the buildings which electors frequent usually do not belong to a particular elector or group of electors. They are usually under the control of the management organisations of the organisations or buildings concerned.

[Amended in September 2007]

8.27 On or before the polling day, candidates and their supporters may wish to carry out canvassing or electioneering activities at the premises mentioned above. Such activities mainly consist of the following:

- (a) distribution of election leaflets or advertisements by delivering them to the flats in person, or putting them into mail boxes of the flats, or placing them in the common parts of the building for collection, or handing them out to residents or other persons in the common parts of the building (excluding distribution of publicity materials by post, which is not subject to the control of the management organisations of the private premises);
- (b) display of posters, banners, placards, boards and any other EAs at any of the places within the common parts of the building;

IMPORTANT :

Candidates who are allowed to display or distribute EAs at the premises mentioned above must comply with the guidelines set out in Chapter 7. *[Amended in September 2007]*

- (c) personal contact with people or using amplifying devices to advertise in the common parts of the building; and
- (d) household or home visits to occupiers of flats.

8.28 **A tenant's right to invite lawful visitors to his/her flat, shop, office or factory cannot be lawfully restrained by any decision made by the owners or owners' corporation.** If the tenant invites a candidate and the candidate's supporters into his/her premises, the owners or owners' corporation have no right to stop or obstruct it.

Decision to be Made at a Tenants' Meeting

8.29 During the electioneering, there may be tenants wishing to entertain the approaches by candidates and their supporters. As different tenants may invite different candidates to their units, arguments may arise as to which candidates should be allowed to electioneer in the building. It is therefore advisable for owners or owners' corporations to resolve such arguments by, having regard to the interests of all parties, making a decision on whether to allow candidates and their supporters to conduct electioneering activities in the building. It is also advisable for owners or owners' corporations to invite all the tenants to attend the meeting held for discussing this matter so that tenants' views will be heard before any decision is made to allow or not to allow electioneering activities of candidates in the building.

8.30 As a motion on whether or not electioneering should be allowed in a building concerns the rights of tenants and occupiers more than those of owners, it is advisable for owners or owners' corporations to allow tenants and occupiers who are not owners to vote on the motion and a secret ballot is always the fairest way of voting on such a controversial subject. If approval or consent has been obtained from the owners having the control of the common parts of the building or the owners' corporation, the building management organisation may conduct a questionnaire survey to collect the views of the tenants and occupiers of each unit, so that it can act according to the majority view and comply with the requirements set out in this chapter for matters covered by this chapter.

8.31 Candidates at an election treat electioneering as a form of freedom of expression whereby they present to electors their platforms, and the electors have a corresponding right to receive such information. Electors can only make an informed choice when casting their votes if they know the platforms of each of the contesting candidates.

8.32 If a decision is made to allow electioneering by all candidates in a building, the decision can also set out the hours of access and other conditions, such as not causing nuisance to occupiers and the maximum number of persons allowed for home visits, for the candidates to comply with (also see **Appendix 9**).

Decision Must Provide Fair and Equal Treatment

8.33 The EAC appeals to all management organisations of the organisations or buildings concerned to provide **equal opportunity** to all candidates competing in the same constituency for the purposes of electioneering. However, if it is decided **not** to allow a particular candidate to conduct electioneering activities in the premises of the organisation or in the

common parts of the building, no other candidate in the same constituency should be allowed to do so, for **it is important to provide fair and equal treatment to all candidates** so as to ensure that the election is conducted fairly. Discriminatory treatment of candidates may also lead to unequal treatment of tenants/occupiers, and adversely give rise to dissatisfaction and discord amongst neighbours.

8.34 For all types of building organisations, be it an owners' corporation, owners' committee, tenants' association, residents' association, management company or managers of the building, the decision that it makes relating to electioneering activities of candidates in the common parts of the building (including the office premises of the organisation, all private streets, etc.) **must comply with the fair and equal treatment principle.** *[Amended in September 2023]*

IMPORTANT :

The office bearers of building organisations must not abuse their positions in the organisations to give unfair treatment to any candidate in the conduct of electioneering or canvassing activities in the buildings concerned. This is particularly the case when the office bearers themselves or their close relatives are candidates at the election. Furthermore, it would be the responsibility of the building organisations to ensure that the fair and equal treatment principle is strictly complied with in all circumstances and no candidates will be given unfair advantage at the election. *[Added in September 2019]*

8.35 The organisation concerned should make a decision that applies fairly and equally to all candidates instead of dealing with each application from them separately. This will avoid having to convene a meeting to deal

with each application upon its receipt, which may sometimes cause delay in processing some applications. The EAC may treat such delay as a device to avoid compliance with the fair and equal treatment principle and may issue a reprimand or censure.

Notification of Decision

8.36 The management organisations of organisations and buildings are urged to notify the relevant RO in writing as soon as possible of their decision on electioneering by candidates, so that the RO could provide the correct information to the candidates/public upon their enquiries. A **form** of the notification to the RO can be obtained from the REO and can be downloaded from the REO's website. Candidates having enquiries may contact the RO concerned for the District in which the building is located. Nevertheless, candidates are advised to note that some buildings may not be able to make a decision on electioneering by candidates and therefore have not given the notification to the RO as required. When candidates come across these buildings, they should respect the interim decision of these buildings not to allow electioneering. *[Amended in September 2019]*

Display of Election Advertisements

8.37 The management organisations of the organisations or buildings concerned should avoid handling applications by candidates for display of EAs on a first-come-first-served basis as this may create unfairness. For example, if one candidate knows the decision and applies for putting up posters and banners on all available spots in the common parts of the building, no space will be left for other candidates who apply after him/her. To ensure fairness, a management organisation is advised to:

- (a) ascertain all the available spots in the premises for candidates to display posters and banners;
- (b) decide on the maximum size of posters and banners to be allowed; *[Added in September 2007]*
- (c) after the close of nominations of candidature, find out from the relevant RO how many candidates are contesting in the constituency concerned;
- (d) divide all the available spaces according to quality and quantity to ensure equality as far as possible into portions equivalent to the number of candidates;
- (e) when one of the candidates of the constituency concerned applies for display of EAs, allow him/her to draw lots to obtain a portion of the spots still available at the time of his/her application; and
- (f) where two or more candidates wish to display their joint EAs, they should be allowed to do so but the joint EAs should occupy no more than the total of all the portions of the spots allocated to them in accordance with the size restriction under (b) and the drawing of lots under (e) mentioned above. *[Added in September 2012]*

8.38 If any spaces in the common parts of the building can be made available through any arrangement including rental for candidates to display EAs or conduct other electioneering activities, the management organisation shall ensure that such spaces are **equally available** to all the candidates contesting in the same constituency, and give reasonable notice to all such candidates accordingly. Providing a space to only one of the candidates but

not the others will be considered to be offering an unfair advantage to that candidate and operating unfairly towards the other candidates. Candidates should not accept any such unfair advantage. *[Amended in September 2012]*

8.39 When a decision has been made by the management organisation, a notice of its contents together with the conditions should be posted up at the entrance of the building so that candidates and their agents will be able to know. This openness will help prevent misunderstanding and complaint.

8.40 The EAC will not intervene in a decision made by the management organisation, insofar as the decision does not breach the fair and equal treatment principle regarding electioneering activities of all candidates of the same constituency and such decision is not carried out unfairly towards any of the candidates.

8.41 An owners' corporation or other organisation or person should be very careful not to incur any election expenses when promoting a candidate, such as putting up a banner to show support for a candidate, because it is an illegal conduct for anyone other than a candidate or a candidate's election expense agent to incur election expenses at or in connection with the election. [S 23(1) of the ECICO]

8.42 Any person who displays any publicity materials, including those seemingly not election-related, before or during the nomination period in private premises should declare to the management organisation concerned in writing whether he/she is a candidate or intends to stand as a candidate at the election. This is to prevent prospective candidates from making use of such materials to promote himself/herself. The management organisation is also advised to exercise its own judgement on whether the publicity materials are serving electioneering purposes and then make a decision according to the fair and equal treatment principle.

**PART V : CONDUCT OF ELECTIONEERING ACTIVITIES IN
PREMISES UNDER THE MANAGEMENT OF HOUSING
DEPARTMENT AND HONG KONG HOUSING SOCIETY**

8.43 The specific guidelines to be observed by candidates and their agents in the conduct of electioneering activities in premises under the management of the Housing Department and the Hong Kong Housing Society are set out in **Appendix 7**. *[Amended in September 2007]*

PART VI : SANCTION

8.44 If the EAC receives a complaint of **unfair or unequal treatment** of candidates by any organisation or building or a person acting or purporting to act on behalf of such organisation or building, and is satisfied that the complaint is justified, it may make a **reprimand** or **censure** in a public statement which will include the names of the candidates favourably and unfavourably treated. Candidates should therefore advise the management bodies of organisations or building owners whom they approach of this set of Guidelines. On the other hand, if it is proved that a complainant has made a false, unfounded or unreasonable allegation of unfair treatment by an organisation or a building, the EAC may issue a reprimand or censure in a public statement against that complainant. *[Amended in August 2008]*

8.45 Candidates should also refrain from accepting any unfair advantage over other candidates even though such may be ready on offer by an organisation or a building. The EAC may publish a public **reprimand** or **censure** against the candidate who contravenes the guidelines in this chapter or whose act or behaviour results in any unfair or unequal treatment by organisations or buildings towards any other candidate.

CHAPTER 9

ELECTION MEETINGS

PART I : GENERAL

9.1 An **election meeting** is a meeting held to promote or prejudice the election of a particular candidate⁴⁶ or particular candidates [s 12(5) of the ECICO]. Expenses incurred before, during or after the DC election on account of an election meeting organised for any of the purposes stated above are election expenses [s 2 of the ECICO]. For the avoidance of doubt, election forums organised for all candidates in the same constituency are not treated as election meetings with election expenses incurred (see Part III of Chapter 10). During the election period, a candidate may attend any other meetings as part of his/her normal activities which are **not election-related**. Insofar as such meetings are **not** held for the purpose of promoting or prejudicing the election of a particular candidate or particular candidates, they will not be regarded as election meetings. *[Amended in September 2007 and September 2023]*

9.2 There may be cases where a meeting is not organised for any of the above purposes, but has nevertheless been used for such purposes by a candidate or any other person on his/her behalf. In that event, it will be for the candidate to assess the expenses which have been incurred for the said purposes (see Chapter 15). The person who uses the meeting for promoting the candidate may also be liable for prosecution for his/her failure in obtaining

⁴⁶ “Candidate” includes a person who has publicly declared an intention to stand as a candidate at a DC election at any time before the close of nominations for the election, regardless of whether he/she has submitted his/her nomination form, he/she has withdrawn his/her nomination after submission of the nomination form, or his/her nomination is ruled invalid by the DCERC [s 2 of the ECICO]. Regarding what it means to “have publicly declared an intention to stand as a candidate”, it depends on the overall circumstances as well as the objective facts and evidence.

the candidate's prior written authorisation to appoint him/her as the candidate's election expense agent for incurring election expenses on behalf of the candidate [s 23 of the ECICO]. *[Amended in September 2019]*

9.3 Similarly, sometimes a candidate may be invited to a meeting which is entirely non-election-related, but during the meeting, someone may act out of his/her own volition to promote the election of the candidate or prejudice the election of other candidates. In such case, the candidate should immediately make it clear that he/she has nothing to do with the acts of the person and ask the organiser to stop any act relating to the election. If the organiser fails to do so, the candidate should leave the meeting immediately in order to avoid incurring liability. Otherwise, the meeting will be regarded as an election meeting held to promote the election of the candidate or prejudice the election of other candidates and the expenses so incurred will have to be counted towards the candidate's election expenses. The organiser will contravene the relevant legislation for his/her failure in obtaining the candidate's prior written authorisation to appoint him/her as the candidate's election expense agent for incurring election expenses on behalf of the candidate. As to what constitutes election expenses, see Chapter 15. *[Added in September 2019]*

9.4 In addition to the election expenses incurred, candidates are responsible for the election meetings or public processions which they organise, including maintaining order and safety, controlling noise level, keeping places clean and shouldering other legal liabilities.

9.5 An election meeting may take place in a public place or in private premises. A public procession for election campaigning purposes is a form of election meeting, as is an exhibition organised with a view to promoting or prejudicing the election of a particular candidate or particular candidates.

9.6 Candidates are reminded that individual government departments and management authorities may have their own guidelines to allow or disallow the conduct of election meetings in the premises under their control. To ensure the smooth conduct of election meetings in public or private places, **candidates should consult the relevant authorities in advance and if required, obtain prior permission from each of them for the conduct of election meetings in the premises within their jurisdiction.** *[Added in September 2007 and amended in September 2012]*

9.7 The relevant statutory requirements for holding public meetings under the purview of the Hong Kong Police Force and the guidelines of the Housing Department/Hong Kong Housing Society for premises under their jurisdiction are set out in paras. 9.9 to 9.21 below. *[Added in September 2007 and amended in September 2019]*

PART II : ELECTION-RELATED “TREATING”

9.8 A person must not provide or pay all or part of the cost of providing another person with any food, drink or entertainment (e.g. singing performances) for the purpose of influencing that person’s or a third person’s voting preference (see the part on “Treating” in Part IV of Chapter 16). Nevertheless, serving non-alcoholic drinks at an election meeting in itself will not be deemed as the corrupt act mentioned above, unless the purpose of such treat is to influence the electors’ voting preference. If an election meeting held by a candidate involves consumption of food and drinks, and the participants have shared the costs of the food and drinks without the purpose of influencing the participants’ voting preference, it may not fall within the scope of s 12 of the ECICO. Nevertheless, since an election meeting serves the purpose of promoting or prejudicing the election of a particular candidate or particular candidates, such costs borne by each participant should be treated as

election expenses and election donations and the candidate should comply with the relevant statutory requirements accordingly. *[Added in September 2019 and amended in September 2023]*

PART III : ELECTION MEETINGS IN PUBLIC PLACES

9.9 Any person who organises an election meeting in a public place must notify the Commissioner of Police in writing **not later than 11 am on the same day of the week in the preceding week as the day on which the meeting is intended to be held. If the day in the preceding week falls on a general holiday, the person must do so not later than 11 am on the day immediately preceding that day which is not a general holiday** [s 8(1) of the Public Order Ordinance (Cap 245) (“POO”)]. “Public place” means any place to which for the time being the public or any section of the public are entitled or permitted to have access, whether on payment or otherwise, and, in relation to any meeting, includes any place which is or will be, on the occasion and for the purposes of such meeting, a public place [s 2 of the POO].

9.10 The written notification shall be **handed in** to the officer in charge of any police station in person by the person giving the notice, or by any person on his/her behalf. It should contain the following particulars:

- (a) the name, address and telephone number of the person organising the meeting, any society or organisation promoting or connected with the holding of the meeting and a person able to act, if necessary, in place of the organiser;
- (b) the purpose and subject matter of the meeting;
- (c) the date, location, time of commencement and duration of the meeting;

- (d) an estimate of the number of people expected to attend the meeting;
- (e) the number and names of persons proposed as platform-speakers for the meeting;
- (f) the amplification devices, if any, intended to be used at the meeting; and
- (g) the nature, form and content of the advertisements, printed matter, posters or banners intended for publication, distribution or display in respect of the meeting.

[S 8(4) of the POO]

A **form** of notification for a public meeting or procession together with guidance notes provided by the Police will be given to a candidate upon his/her submission of nomination. The Police has advised that the use of the form will speed up processing time.

[Amended in September 2007]

9.11 Notification to the Commissioner of Police of an election meeting is not required if the meeting is to be:

- (a) attended by not more than 50 persons;
- (b) held in private premises where the attendance at the meeting does not exceed 500 persons; or
- (c) held in a school registered or provisionally registered or exempted under the Education Ordinance (Cap 279), in a college registered under the Post Secondary Colleges Ordinance

(Cap 320), or in an educational establishment established by any Ordinance with the approval of an accredited society or similar body of such school, college or educational establishment **and** consent of the governing body of the establishment concerned.

[Amended in September 2019]

[S 7(2) of the POO]

Where in doubt, a candidate should seek advice from the Police.

9.12 The Commissioner of Police may prohibit the holding of any public meeting notified (see paras. 9.9 and 9.10 above) where he/she reasonably considers such prohibition to be necessary in the interests of national security or public safety, public order or the protection of the rights and freedoms of others. Under such circumstances, he/she shall give notice of the prohibition to the person giving the notification in accordance with s 8 of the POO or to the person who acts in place of the organiser not later than 48 hours prior to the time of commencement of the meeting or by publication in writing in such manner, or by posting a notice of the prohibition in such place, as the Commissioner of Police may think fit [s 9 of the POO]. On the other hand, the Commissioner of Police may give notice to the organiser and impose conditions for the meeting to take place, and the organiser must comply with such conditions and follow any instruction given by a police officer for ensuring compliance with or the due performance of the conditions and the requirements referred to in para. 9.13 below [s 11(2) and (3) of the POO].

[Amended in September 2007 and September 2019]

- 9.13 At every public meeting:
- (a) there shall be present throughout the meeting either the person who organised the meeting, or if he/she is not present, a person nominated by him/her to act in his/her place;
 - (b) good order and public safety shall be maintained throughout the meeting; and
 - (c) the control of any amplification device that is used in such a manner that it causes a noise that would not be tolerated by a reasonable person shall, if so required by a police officer, be surrendered to the police officer for the duration of the meeting.

[S 11(1) of the POO]

9.14 A guidance note on the safe conduct of election-related activities is at **Appendix 9**. It serves as a general advice to candidates and organisers of election-related activities, to enable them to conduct such activities safely.

Public Processions

9.15 A public procession for election campaigning purposes may be held without notification to the Commissioner of Police where:

- (a) it consists of not more than 30 persons;
- (b) it is held at a place other than a public highway, public thoroughfare or public park; or

- (c) it is of a nature or description specified by the Commissioner of Police by notice in the Gazette.

[S 13(2) of the POO] *[Amended in September 2015]*

9.16 In all other cases, written notification of a public procession, including a vehicle procession, must be given by the person organising the procession or by any person on his/her behalf, to the Commissioner of Police (which may be handed in to the officer in charge of any police station) **not later than 11 am on the same day of the week in the preceding week as the day on which the procession is intended to be held. If the day in the preceding week falls on a general holiday, the person must do so not later than 11 am on the day immediately preceding that day which is not a general holiday.** The notice should contain the following particulars:

- (a) the name, address and telephone number of the person organising the procession, any society or organisation promoting or connected with the holding of the procession and a person able to act, if necessary, in place of the organiser;
- (b) the purpose and subject matter of the procession;
- (c) the date, precise route, time of commencement and duration of the procession;
- (d) in respect of any meeting to be held in conjunction with the procession, the location, time of commencement and duration of the meeting; and
- (e) an estimate of the number of people expected to attend the procession.

A notification **form** mentioned in para. 9.10 above should be used. [S 13A(1) and (4) of the POO] *[Amended in September 2019]*

9.17 The Commissioner of Police may object to a public procession being held if he/she reasonably considers that the objection is necessary in the interests of national security or public safety, public order or the protection of the rights and freedoms of others. If the Commissioner of Police objects to the public procession being held, he/she shall as soon as reasonably practicable and within the time limit specified under the POO:

- (a) notify in writing the person who gave notice under s 13A of the POO or a person named for the purposes of s 13A(4)(a)(i) of the POO of his/her objection and reasons;
- (b) publish a written notice of objection and reasons in the manner he/she thinks fit; or
- (c) post a written notice of objection and reasons in the place he/she thinks fit.

[Ss 14(1), (2) and 15(2) of the POO] *[Amended in September 2007 and September 2019]*

9.18 The Commissioner of Police shall not issue a notice of objection for a public procession:

- (a) if notice of a procession is given in accordance with s 13A(1)(b) of the POO, later than 48 hours before the notified commencement time of the procession;

- (b) if shorter notice of 72 hours or more is accepted by the Commissioner of Police under s 13A(2) of the POO, later than 24 hours before the notified commencement time of the procession;
or
- (c) if shorter notice of less than 72 hours is accepted by the Commissioner of Police under s 13A(2) of the POO, later than the notified commencement time of the procession.

[S 14(3) of the POO] *[Added in September 2019]*

9.19 At every public procession:

- (a) there shall be present throughout the procession either the person who organised the procession, or if he/she is not present, a person nominated by him/her to act in his/her place;
- (b) good order and public safety shall be maintained throughout the procession; and
- (c) the control of any amplification device that is used in such a manner that it causes a noise that would not be tolerated by a reasonable person shall, if so required by a police officer, be surrendered to the police officer for the duration of the procession.

[S 15(1) of the POO]

PART IV : ELECTION MEETINGS IN PRIVATE PREMISES

9.20 Any person who organises an election meeting in private premises should consult the owner, occupier, owners' corporation or building management concerned, etc. in advance and, if required, obtain prior permission from them. Insofar as the decision regarding election meetings by candidates in the common parts of the premises accords the principle of fair and equal treatment to all candidates, the EAC will not intervene. Specific guidelines for conducting election meetings in the premises managed by the Housing Department and the Hong Kong Housing Society are set out in **Appendix 7**. [*Amended in September 2007, September 2012 and September 2023*]

9.21 Notification in writing to the Commissioner of Police needs to be given, in accordance with the procedures set out in paras. 9.9 and 9.10 above, if the attendance of the proposed meeting exceeds 500 persons.

PART V : ELECTIONEERING EXHIBITIONS

General

9.22 A candidate may hold an exhibition for election campaigning purposes. If such an exhibition is to be held, the candidate should consult the relevant management authorities of the premises concerned in advance, and, if required, obtain prior permission from the estate manager or officer-in-charge, owner, occupier, owners' corporation or building management concerned, etc. Relevant guidelines in the other parts of this chapter should also be observed, in addition to compliance with regulations and conditions imposed by other relevant authorities. [*Amended in September 2007, September 2012 and September 2023*]

Premises under the Purview of the Housing Department and the Hong Kong Housing Society

9.23 Where approval has been given by an estate manager or officer-in-charge for such an exhibition in any estate managed by the Housing Department and the Hong Kong Housing Society, the display of EAs at the venue of the exhibition will normally be subject to the conditions that they are displayed in connection with the activity in question and for a temporary duration of less than one day. The guidelines in Chapter 7 are applicable to such display items and must be observed by the candidate(s) concerned. The estate manager or officer-in-charge should send a copy of the letter of approval to the relevant RO for record and for public inspection, also see **Appendix 7**.
[Amended in September 2007 and September 2019]

PART VI : FUND RAISING ACTIVITIES AT ELECTION MEETINGS

9.24 A permit is required for organising, participating in, or providing equipment for any collection of money or sale of badges, tokens or similar articles or exchange of the same articles for donations in a public place [s 4(17) of the Summary Offences Ordinance (Cap 228) (“SOO”)]. Any person who wishes to raise funds at an election meeting for non-charitable purposes should apply to the Secretary for Home and Youth Affairs. A copy of the administrative guidelines and licensing conditions for the issue of such permits with an application form is at **Appendix 10** for reference.

CHAPTER 10

ELECTION BROADCASTING, MEDIA REPORTING AND ELECTION FORUMS

PART I : GENERAL

10.1 Based on the **principle of fair and equal treatment**, the EAC promulgates the guidelines for election-related programmes and reports, including news reports, election forums and feature reports, produced and published by broadcasters (covering television and radio stations licensed under the Broadcasting Ordinance (Cap 562) and the Telecommunications Ordinance (Cap 106) respectively) and the print media. *[Amended in September 2019]*

10.2 The EAC highly respects the freedom of the press and hopes that electors are able to obtain sufficient election information through media reporting for making informed choices. In setting out the guidelines in this chapter, the EAC does not seek to regulate the contents of media reporting, but aims to ensure a fair and equal opportunity of media coverage for all candidates. *[Added in September 2019]*

10.3 During the election period (i.e. from the commencement of the nomination period up to the end of the polling day), the media should treat all candidates in accordance with the **principle of fair and equal treatment** in handling programmes and reports relating to the election and the candidates and ensure that no favourable or unfavourable treatment is given to any candidates. *[Amended in September 2019]*

10.4 Provided that fair and equal treatment is given in reporting all candidates, the media can freely express opinions and comments based on

facts, and show approval or disapproval of the election platforms and views of individual candidates. *[Amended in September 2019 and September 2023]*

10.5 Most importantly, media organisations should ensure that their programmes or reports will not become EAs (i.e. promoting or prejudicing the election of a particular candidate or particular candidates) in order to avoid breaching the law due to the election expenses incurred by persons other than candidates or authorised election expense agents. See Chapters 7 and 15 for details. *[Added in September 2019]*

IMPORTANT :

The definition of “candidate” in this chapter (i.e. Chapter 10) is different from the definition under s 2 of the ECICO. According to s 2 of the ECICO, “candidate” means a person who stands nominated as a candidate at an election and also means a person who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate at the election. This legislative provision is applicable to the requirements on candidates’ EAs, election expenses or other requirements under the ECICO.

For the purpose of the principle of fair and equal treatment of candidates under the guidelines in this chapter (i.e. Chapter 10), “candidate” means a person whose nomination form has been received by the RO⁴⁷. Given the diverse means and platforms employed by different persons to publicly declare their intention to stand for election, the media may have practical difficulties in obtaining full information on all such persons. Hence, a

⁴⁷ Upon receipt of the nomination form, the RO must, as soon as practicable, forward the form to the DCERC for deciding the validity of nomination. Meanwhile, the information of the person being nominated will be uploaded onto the relevant election website for public information on the day when the RO receives the nomination form.

definition of “candidate” for the operational convenience of the media is specially given in this chapter. The media may, based on the list of candidates (whose nomination forms have been received by the RO) provided on the election website, treat all the candidates of the same constituency in accordance with the principle of fair and equal treatment. **It is important to note that the definition of “candidate” in this chapter is only an operational definition for the purpose of the implementation of the principle of fair and equal treatment, but is not a legal definition under any legislation.** In the aspect of legislation, as mentioned above, for compliance with the requirements on EAs, election expenses or other requirements under the ECICO, the definition of “candidate” under s 2 of the ECICO should prevail. *[Amended in September 2019 and September 2023]*

PART II : NEWS REPORTS (BROADCASTERS AND PRINT MEDIA)

10.6 News report means the report of events happening on the day or in a recent period. *[Added in September 2019]*

10.7 The media should follow the **principle of fair and equal treatment** in reporting news relating to the election and the candidates. However, the requirement of equivalent time/number of words is not applicable. *[Amended in September 2019]*

10.8 Election-related news involving a particular candidate can be reported on its own if there is no news about some of the candidates that day. However, the other candidates of the same constituency must at least be mentioned. The mention should be made in the same programme or publication by the media in an appropriate way. It may not necessarily appear within the content of the same report, but should in principle, keep the viewers,

listeners or readers informed of the other candidates. *[Added in September 2019]*

10.9 For the DCCs, due to the considerable number of seats and candidates involved, the media may have practical difficulties in mentioning all the other candidates of a DCC in the same programme or publication. Therefore, the media may choose to provide viewers, listeners or readers with the total number of candidates of a DCC during the programme or in the publication, and mention the platform maintained by the media (e.g. the webpage of the organisation/programme/publication) in which the names of the other candidates of the DCC can be found. *[Added in September 2023]*

10.10 News unrelated to the election, even if a candidate is involved, can be factually reported, as long as the status as a candidate is not mentioned in the report. Reference to other candidates of the same constituency needs not be made. In any case, the relevant news reporting should not give favourable or unfavourable treatment to any candidates. *[Added in September 2019]*

10.11 When determining whether any news reporting by the media is in breach of the principle of fair and equal treatment, the EAC may take into consideration the overall reporting by the media organisation during the election period. *[Added in September 2019]*

PART III : ELECTION FORUMS

10.12 During the election period, broadcasters may organise election forums. Broadcasters should ensure that the principle of fair and equal treatment is applied to all candidates. If a candidate is invited to take part in an election forum, then all candidates of the same constituency should also be invited so as to give them an equal opportunity to attend the forum and present

their election platforms. Some candidates may choose not to attend due to personal or other reasons. Under such circumstances, the broadcaster may proceed with the programme without contravening the principle of fair and equal treatment. A record must be kept by the broadcaster on the date, time and contents of the invitation and the notice until three months after the election. *[Amended in September 2019]*

10.13 The entire election forum should be produced and conducted by the broadcaster according to the principle of fair and equal treatment. The principle does not require that each participating candidate must be given the same time of expressing their views in the entire election forum, but it requires broadcasters to give each candidate “equivalent time” in the session of presenting his/her election platform. For other sessions of the forum, such as the debate session in which each candidate may freely express his/her views on specific issues, it is of utmost importance that the presenter should try his/her best to ensure that each candidate has the opportunity to express his/her views or make responses in accordance with the principle of fair and equal treatment at any time throughout the programme. *[Amended in September 2019 and September 2023]*

10.14 Other organisations or groups, such as professional bodies or trade organisations, academic institutions or schools, may also organise election forums for promoting civic education or other purposes. In line with the principle of fair and equal treatment of candidates, the EAC appeals to all organisers to invite all candidates of the same constituency to attend these forums, so that no unfair advantage will be accorded to or obtained by any candidate over others regarding election campaigning. Some candidates may choose not to attend due to personal or other reasons. Under such circumstances, the forum organiser may proceed with the activity without contravening the principle of fair and equal treatment. Information and records relating to the invitation must be kept by the relevant organisation or

group until three months after the election. *[Amended in September 2019 and September 2023]*

10.15 Broadcasters and other organisations or groups, during the conduct of election forums, should not give favourable or unfavourable treatment to any candidate and cause unfairness to any candidate. *[Amended in September 2019 and September 2023]*

10.16 The EAC appeals to all candidates to attend these election forums as far as possible so as to keep electors and the public apprised of their election platforms. *[Amended in September 2019]*

PART IV : FEATURE REPORTS (BROADCASTERS)

10.17 In line with the principle of fair and equal treatment, when producing a feature programme or interview to introduce individual candidates, whether in news bulletins or during the airtime of other programmes, broadcasters should give an equal opportunity and comparable time to all the candidates of the same constituency. *[Added in September 2019]*

10.18 When inviting any candidate to an interview, broadcasters should invite all candidates contesting in the same constituency and give them an equal opportunity to appear in interviews. The EAC appeals to all candidates to accept invitations to interviews as far as possible in order to enable electors and the public to be apprised of their election platforms. Some candidates may choose not to accept the invitations due to personal or other reasons. Under such circumstances, the broadcaster may proceed with the programme without contravening the principle of fair and equal treatment. A record must be kept by the broadcaster on the date, time and contents of the invitation and the notice until three months after the election. *[Amended in September 2019]*

10.19 To avoid misunderstanding, broadcasters should provide the viewers or listeners of the programmes with clear information on the total number and names of candidates of the same constituency. Nevertheless, for the DCCs, due to the considerable number of seats and candidates involved, the broadcasters may have practical difficulties in mentioning all the other candidates of a DCC in the same programme. Therefore, the broadcasters may choose to provide viewers or listeners with the total number of candidates of a DCC during the programme, and mention the platform maintained by the broadcasters (e.g. the webpage of the organisation/programme) in which the names of the other candidates of the DCC can be found. Furthermore, to ensure fair treatment to all candidates concerned, broadcasters should in particular take heed of the observations by the Court in an election petition relating to the 2010 LegCo By-election as set out in **Appendix 11** and, where appropriate, follow the arrangements set out therein when producing election-related multi-episode feature reports. *[Amended in September 2019 and September 2023]*

10.20 Broadcasters should note para. 10.5 above about the statutory requirements in relation to EAs and election expenses to be incurred, a person, other than a candidate or a candidate's election expense agent, engages in illegal conduct at an election if the person incurs election expenses at or in connection with the election [s 23(1) of the ECICO]. *[Added in September 2023]*

10.21 When determining whether an election-themed feature report produced by a broadcaster is in breach of the principle of fair and equal treatment, the EAC may take into consideration the overall circumstances of relevant feature reports produced by the broadcaster during the election period. *[Added in September 2019]*

PART V : FEATURE REPORTS (PRINT MEDIA)

10.22 If the print media conducts interviews to introduce individual candidates during the election period, it should also give the other candidates contesting in the same constituency an equal opportunity to be interviewed so as to ensure that the electors can access more relevant information about the election for making informed choices. *[Amended in September 2019]*

10.23 In the interview reports of individual candidates by the print media, mention of other candidates of the same constituency should be made. The mention may be made in an appropriate way by the media organisation. It may not necessarily appear within the content of the same report but should, in principle, keep readers informed of the other candidates. For instance, when an interview with a candidate is published on a newspaper, the names of other candidates of the same constituency may be listed on the same page of the report or on other pages. Nevertheless, for the DCCs, due to the considerable number of seats and candidates involved, the print media may have practical difficulties in mentioning all the other candidates of a DCC in the same publication. Therefore, the print media may choose to provide readers with the total number of candidates of a DCC in the publication, and mention the platform maintained by the print media (e.g. the webpage of the organisation/publication) in which the names of the other candidates of the DCC can be found. *[Added in September 2019 and amended in September 2023]*

10.24 The EAC appeals to the print media to accord **fair and equal treatment** and equal opportunity as far as practicable to all candidates in respect of reporting on candidates contesting in the same constituency and their electioneering activities. How to treat the candidates fairly and equally in practice depends on the actual circumstances. See **Appendix 12** for the elaboration. When determining whether any feature report by the print media is in breach of the principle of fair and equal treatment, the EAC may take into

consideration the overall reporting by the media organisation during the election period. *[Amended in September 2019]*

10.25 The print media should ensure that, during the election period, their reporting will neither give unfair publicity to a particular candidate, nor lead the public to perceive that such reporting is made for the publicity of that particular candidate. Publications (e.g. newspaper supplements or leaflets) that promote or prejudice the election of a particular candidate or particular candidates, whether for free or otherwise, may be regarded as EAs for the candidate(s) concerned and will be subject to the requirements on election expenses as stipulated in Chapter 15. The publisher, other than a candidate or an authorised election expense agent, may contravene the relevant legislation if it incurs election expenses at or in connection with the election [s 23(1) of the ECICO]. *[Amended in September 2019 and September 2023]*

PART VI : NON-ELECTION-RELATED PROGRAMMES AND ARTICLES

10.26 During the election period, a candidate may appear as a guest in a non-election-related programme on television/radio or an interview by the print media insofar as his/her participation is pertinent to his/her position, i.e. the candidate is invited because his/her professional knowledge or past experience is in close connection with the subject matters of the programme or interview. A documented record should be kept by the broadcaster/print media to provide justification regarding the choice of guests, including there being no better choice of alternative guests, etc. The broadcaster/print media should ensure that no election-related topics (including the electioneering campaigns of the candidate) will be mentioned in the programme/article and no unfair publicity will be given to the candidate. Otherwise, under the principle of fair and equal treatment, the broadcaster/print media should also give the other

candidates contesting in the same constituency an equal opportunity of making an appearance/being interviewed. *[Amended in September 2019]*

10.27 Likewise, during the election period, if a representative of a political party or political organisation with members contesting at the election, or a prescribed body the registered name or registered emblem of which is to be printed on the ballot papers at the election, is invited to appear as a guest in a non-election-related programme/interview, the broadcaster/print media should also ensure that the participation of the representative is pertinent to his/her position, i.e. the representative is invited because his/her professional knowledge or past experience is in close connection with the subject matters of the programme/interview. A documented record should be kept by the broadcaster/print media to provide justification regarding the choice of guests, including there being no better choice of alternative guests, etc. The broadcaster/print media should ensure that no election-related topics (including the electioneering campaigns) will be mentioned in the programme/article, no election-related materials (including badges and clothing) of the political party, political organisation or prescribed body to which the representative belongs will be displayed in the programme/article, and the programme/article will not cause any unfairness to any candidate. Otherwise, under the principle of fair and equal treatment, the broadcaster/print media should also give all the political parties or political organisations with members contesting at the election or prescribed bodies the registered names or registered emblems of which will be printed on the ballot papers at the election (whether or not they are contesting in the same constituency) and all independent candidates an equal opportunity of making an appearance/being interviewed. *[Amended in September 2019]*

PART VII : AVOIDING UNFAIR PUBLICITY

10.28 During the election period, media organisations should ensure that no favourable or unfavourable treatment will be given to any candidate, and **no** such unfair advantage should be **obtained** by candidates. If a candidate has more opportunities for publicity than other candidates on the basis of his/her background or profession, he/she should also endeavour to avoid obtaining such unfair publicity. *[Amended in September 2019]*

Candidates Appearing on Television/Radio/Movie as Presenters, Regular Contributors, Actors, Musicians, Singers or Other Entertainers

10.29 A presenter, including a guest presenter, or a regular contributor should not appear in any programme in his/her normal programme role after he/she has publicly declared his/her intention to stand for election or during the election period if he/she becomes a candidate. This is to avoid unfair publicity for him/her at the critical time, but he/she may appear as a candidate in election forums referred to in Part III of this chapter.

10.30 A person who has been contracted to appear as presenter, regular contributor, actor, musician, singer or any other form of entertainer in any performance scheduled to be shown before he/she has publicly declared his/her intention to stand for election, or before or after the election period may always do so and continue to do so. However, such a person should make his/her utmost endeavours to request the person(s)-in-charge not to broadcast his/her appearance in any media after he/she has publicly declared his/her intention to stand for election or during the election period if he/she becomes a candidate. The EAC appeals to the aforesaid person(s)-in-charge to accede to such a request as far as practicable in order to avoid giving unfair publicity to the person concerned. *[Amended in September 2007 and September 2011]*

Candidates Appearing in Commercial Advertisements

10.31 A person should not participate in the making of any advertisement in which his/her image, name or voice appears (“the relevant advertisement”) while knowing that the relevant advertisement will be broadcast on television/radio or in cinema after he/she has publicly declared his/her intention to stand for election or during the election period if he/she becomes a candidate.

10.32 In case that after the relevant advertisement has been made, the person then decides to stand for election while knowing that the relevant advertisement will be broadcast on television/radio or in cinema after he/she has publicly declared his/her intention to stand for election or after commencement of the nomination period if he/she becomes a candidate during that period, he/she should make his/her utmost endeavours to request the person(s)-in-charge not to broadcast the relevant advertisement after he/she has publicly declared his/her intention to stand for election or during the election period. The EAC appeals to the aforesaid person(s)-in-charge to accede to such a request as far as practicable in order to avoid giving unfair publicity to the person concerned. *[Amended in September 2007 and September 2011]*

Candidates Contributing Regularly to Print Media

10.33 A regular columnist should not contribute articles to the print media after he/she has publicly declared his/her intention to stand for election or during the election period if he/she becomes a candidate. This is to avoid unfair publicity for him/her at the critical time. A person who has been contracted to serve as a regular columnist should make his/her utmost endeavours to request the person(s)-in-charge not to publish his/her commentaries in any media after he/she has publicly declared his/her intention to stand for election or during the election period if he/she becomes a candidate. The EAC appeals to the aforesaid person(s)-in-charge to accede to

such a request as far as practicable in order to avoid giving unfair publicity to the person concerned. *[Amended in September 2011]*

PART VIII : PLACING ELECTION ADVERTISEMENTS IN MEDIA

10.34 Television stations licensed under the Broadcasting Ordinance are not allowed to broadcast advertisements of a political nature under the law. Radio stations licensed under the Telecommunications Ordinance are not allowed to broadcast advertisements of a political nature under the Code of Practice issued by the Communications Authority unless prior approval has been given by the Communications Authority. *[Amended in September 2019]*

10.35 A candidate may advertise in the print media to promote his/her candidacy. Where such an EA is placed in the print media and takes the form of a news report or any other form which does not clearly show that it is an EA, the words “**Election Advertisement**” or “**選舉廣告**” must be stated therein to avoid misunderstanding among readers that it is not an EA (see para. 7.63 of Chapter 7). The expenses so incurred must be accounted for in the election return. An EA placed in a registered local newspaper is exempted from the requirement on bearing printing details (see para. 7.62 of Chapter 7 for details). The EAC appeals to all members of the print media to give all candidates contesting in the same constituency **an equal opportunity** of placing EAs in the print media. *[Amended in September 2007, September 2011 and September 2015]*

PART IX : SANCTION

10.36 Whether the principle of fair and equal treatment is complied with or whether any favourable or unfavourable treatment is given to any candidate

by the media should be determined having regard to the overall reporting by the media organisation during the election period. *[Added in September 2019]*

10.37 Any broadcaster, member of the print media or forum organiser who is found to have treated the candidates in an unfair or unequal manner may be **reprimanded** or **censured** by the EAC in a public statement, in which the names of the candidates receiving favourable or unfavourable treatment as well as the names of the broadcaster, member of the print media or forum organiser concerned will be released. The EAC may also notify the relevant authorities for appropriate action to be taken. Moreover, the programme, news report or article concerned may very likely have the effect of promoting or prejudicing the election of a particular candidate or particular candidates and thus be construed as an EA for the candidate(s) concerned. As such, it may contravene the statutory requirements on EAs and election expenses (see Chapters 7 and 15), and both the media organisation and candidate(s) concerned may be subject to criminal liability. The EAC will refer cases of possible breaches to the relevant law enforcement agencies for follow-up. In view of the above, the EAC appeals to all broadcasters, members of the print media, forum organisers and candidates to strictly comply with the guidelines set out in this chapter and avoid any conduct which will cause public concern about the fairness of the election. *[Amended in September 2019]*

10.38 Candidates mentioned in paras. 10.29 to 10.33 above should make their best endeavours to avoid unfair publicity according to the guidelines stipulated in the corresponding paragraphs. If the EAC receives any complaint about the unfair publicity of a candidate and subsequently discovers that he/she fails to make such endeavours, it may **reprimand** or **censure** the candidate concerned in a public statement. *[Added in September 2011]*

CHAPTER 11

USE OF SOUND AMPLIFYING DEVICE AND VEHICLES

PART I : GENERAL

11.1 The legal provisions relevant to this chapter can be found in the POO, the SOO, the Noise Control Ordinance (Cap 400) (“NCO”) and the Road Traffic Ordinance (Cap 374) (“RTO”).

11.2 Candidates are reminded that some members of the public find the sound or noise emitted by loudspeakers annoying and intrusive. When using loudspeakers, candidates should particularly bear in mind possible annoyance caused to people in hospitals, residential care homes, schools or dwelling houses, and potential inconvenience caused to the daily travel of persons with visual impairment. Electors’ voting preference may be affected as a result of any noise nuisance caused by candidates or their supporters.
[Amended in September 2023]

11.3 The use of loudspeakers is not permitted within the NCZ outside the polling station, nor will it be permitted in the vicinity if the sound emitted can be heard within the NCZ. Candidates should also arrange the removal of EAs on the windows or bodywork of any public service vehicles if those vehicles will pass through or be parked within the NCZ on the polling day. Otherwise, the vehicles on which EAs are displayed will not be allowed to enter the NCZ on the polling day (also see Chapter 13). *[Added in September 2019]*

PART II : USE OF LOUDSPEAKERS AND VEHICLES

11.4 With effect from July 1995, the Commissioner of Police ceases issuing loudspeaker permits under s 4(29) of the SOO. Candidates are therefore **not** required to submit any application for a permit. However, this does not exempt candidates from complying with the requirements of the relevant law when any amplification device is used in an election meeting or procession. An amplification device includes a loudspeaker and any device which can emit or amplify sound (see Chapter 9).

11.5 Although no permit is now required, any person using a loudspeaker should ensure that the noise emitted through the loudspeaker does not cause a nuisance to any other person. Under s 5(1)(b) of the NCO, making a nuisance by using a loudspeaker, megaphone, or other device or instrument for magnifying sound from which the noise emitted is a source of annoyance in either domestic premises or public places at any time of the day is an offence, and this includes use of loudspeakers attached to vehicles. Candidates should be mindful that some people working shift hours need to take rest during the daytime and the noise generated from the use of loudspeakers for electioneering activities may affect their daily life. In order to reduce the nuisance caused to members of the public, candidates **must not** use loudspeakers in electioneering **between 9 pm and 9 am**. If the EAC comes to know that a candidate has breached the time restriction, it may make a reprimand or censure against the candidate. Candidates should note that some members of the public may find the noise emitted from loudspeakers on vehicles disturbing. They should therefore seriously take into account the public's tolerance of the noise level and try to keep the volume at a reasonable level. *[Amended in September 2007 and September 2012]*

11.6 Given that visually impaired persons rely upon audible signaling facilities to perceive their surroundings in their daily travel, candidates and their supporters should take such needs into account and, when using loudspeakers, stay away from locations with audible signaling facilities, such as pedestrian crossings and escalators, as much as possible so as not to cause interference with the audible signals generated by those facilities and undermine the travel safety of the visually impaired persons. *[Added in September 2023]*

11.7 Should any complaint be received by the Police concerning the volume of loudspeakers, the loudspeaker volume must be reduced according to the instructions of police officers. Persons disregarding the police officers' verbal warnings or instructions may be prosecuted.

11.8 All vehicles used for and in connection with canvassing activities must comply with the provisions and regulations under the RTO. Drivers of such vehicles are obliged to obey all directions given by uniformed police officers and traffic wardens. In addition, drivers of all vehicles must comply strictly with all the stopping and parking regulations under the RTO. Deliberate slow driving may constitute "careless driving" as it could be deemed as driving "without reasonable consideration for other persons using the road".

11.9 Paraphernalia attached to a vehicle must also comply with the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap 374A) under the RTO, and should not affect the safe operation of the vehicle. For the display of EAs on public light buses and taxis, their owners/operators shall obtain prior written approval from the Transport Department ("TD") and ensure that the display of EAs is in compliance with the conditions as stipulated by the TD in an approval letter, including in particular the following conditions:

- (a) (i) for taxis, no EA may be displayed on any windows;
- (ii) for public light buses, no EA may be displayed:
- (1) on windows except on the interior surface of:
- the window on the left of the first row of the single-seaters; and
 - the window on the right of the second row of the double-seaters,
- EAs to be displayed on each of the abovesaid windows shall not exceed a total size measuring 210 mm by 297 mm (equivalent to A4 size);
- (2) at areas between the windows and the exterior roof panel; and
- (3) on the exterior roof panel (except sticker-type EAs);
- (b) no luminous or reflecting material may be used for EAs; and
- (c) no EA may obstruct any statutory lighting/label/markings required to be shown on the vehicle body as specified by the Commissioner for Transport or stipulated in the RTO and its subsidiary legislation.

According to the TD's performance pledge which is applicable to only public light buses and taxis, it normally takes no more than 7 working days to process an application for the display of an advertisement on a public light bus or taxi.

The TD has issued general approval to all franchised bus companies for displaying advertisements on the bodies and windows of buses subject to conditions imposed by the TD. The bus companies should comply with the conditions set out in the TD approval letters when they handle all kinds of advertisements. In this connection, there are no special guidelines on the display of EAs on buses. For those non-franchised buses with approval from the TD for displaying advertisements on the bodies and windows of buses, they are subject to the conditions imposed by the TD. The non-franchised bus operators should comply with the conditions set out in the TD approval letters when they handle all kinds of advertisements. For the other modes of public transport, the operators concerned have their internal rules to govern the display of advertisements. In this regard, candidates should check with the operators for the relevant procedures and comply with the conditions imposed. *[Amended in September 2007, August 2008, September 2011, September 2012, September 2015 and September 2019]*

IMPORTANT :

The definition of “publish” in the context of publication of EAs includes “continue to publish”. If any person who intends to stand as a candidate at an election continues to display publicity materials previously published (e.g. EAs displayed on public light buses or taxis during the previous election) in the District of the DCC or DCGC concerned, in particular posters or banners bearing his/her name or photograph with the intent to promote his/her election at the current election in public places or common parts of buildings, after he/she has been nominated as a candidate or has publicly declared the intention to stand for the election, such publicity materials may be regarded as EAs. For the sake of prudence, that person should remove the publicity materials previously published before he/she is nominated as a

candidate or has publicly declared the intention to stand for the election. *[Added in September 2023]*

11.10 Candidates and their supporters shall observe the statutory requirements of the Road Traffic (Safety Equipment) Regulations (Cap 374F) and the Road Traffic (Traffic Control) Regulations (Cap 374G) under the RTO, including those relating to seating, wearing of seat belts and permission to carry passengers in a vehicle. Standing up in moving vehicles is **illegal** for both the drivers and standees except on trams, single-decked public service buses and the lower deck of double-decked buses. Passengers can also stand up on a vehicle used as a float if approved by the Commissioner for Transport. The registered owner of the vehicle concerned should apply to the Licensing Office of the TD for the exemption of the vehicles from carriage of standing passengers. *[Amended in September 2007 and September 2019]*

11.11 Any vehicle modified to a float configuration for display or canvassing purposes must be approved beforehand by the Commissioner for Transport and a movement permit for a vehicle must be obtained. Application procedures for approval of float design are included at **Appendix 13**. *[Amended in September 2023]*

11.12 Candidates should also note that the use of loudspeakers is not permitted within the NCZ outside the polling station, nor will it be permitted in the vicinity if the sound emitted can be heard within the NCZ [s 43(13)(b) and (c) of the EAC (EP) (DC) Reg]. Candidates should also arrange the removal of EAs on the windows or bodywork of any public service vehicles (e.g. public light buses or taxis) if those vehicles will pass through or be parked within the NCZ on the polling day. Otherwise, the vehicles on which EAs are displayed will not be allowed to enter the NCZ on the polling day (also see Chapter 13). *[Amended in September 2019]*

PART III : SANCTION

11.13 If the EAC comes to know that any candidate is in breach of the guidelines in this chapter, apart from notifying the relevant authorities for actions to be taken, it may make a **reprimand** or **censure** in a public statement which will include the name of the candidate concerned. The censure may be in addition to the criminal liability for offences inside the NCZ. The candidate concerned may be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months [s 48(7) of the EAC (EP) (DC) Reg]. Candidates should also remind their supporters to observe these guidelines when they are conducting electioneering activities on behalf of the candidates. *[Amended in September 2007 and August 2008]*

CHAPTER 12

ELECTIONEERING ACTIVITIES CONDUCTED IN SCHOOLS OR PARTICIPATED BY SCHOOL PUPILS

PART I : GENERAL

12.1 Candidates, school supervisors, principals and teachers are requested to take note of these guidelines when considering allowing the conduct of electioneering activities in schools or seeking the assistance of pupils in electioneering activities.

12.2 Involvement of school pupils in electioneering activities has always been a matter of public concern. School administrators **must not** use their position to exert undue influence on youngsters of school age under their charge to recruit them for electioneering activities. If the EAC comes to know that a person has abused his/her position by involving youngsters of school age under his/her charge in electioneering activities, it may make a reprimand or censure against the person. For regulatory provisions on the use of force or duress on a person's voting preference, see s 13 of the ECICO. *[Amended in September 2007]*

12.3 Candidates who are school administrators (e.g. school principals, teachers) should not distribute their EAs to the parents of pre-primary, primary or secondary school pupils through these pupils to avoid public impression of undue influence on youngsters of school age under their charge in the school. *[Added in September 2019]*

PART II : SCHOOL PUPILS

12.4 While it is for the promotion of civic education that school pupils are encouraged to take an interest in community affairs, including elections, it is considered undesirable to involve them in electioneering activities at too young an age. Unattended young children may cause control problems and, particularly where in large numbers or in overcrowded situations, may create a danger to themselves or others. Therefore, pre-primary or primary school pupils should not take part in electioneering activities. *[Amended in September 2012]*

12.5 Distribution of EAs is a form of electioneering activity. School supervisors, principals or teachers may be supporters of a particular candidate. While they are free to support any candidate they prefer, they should not distribute or help in the distribution of EAs of any candidate to the parents of pre-primary, primary or secondary school pupils through these pupils. Moreover, they should not ask pupils to request their parents to vote for any candidate. The guideline above also applies to candidates who are themselves school supervisors, principals or teachers. This guideline is based on the same principle stated in para. 12.2 above, and could avoid public impression of undue influence on pupils under their charge in the school.

12.6 The EAC adopts the advisory circular issued by the Secretary for Education to all schools for general guidance, emphasising the following points:

- (a) participation by pupils in electioneering activities must be **entirely voluntary**;
- (b) the **written consent** of a parent or guardian must be obtained beforehand;

- (c) in no circumstances should pre-primary or primary school pupils be asked to take part in such activities;
- (d) there should be no disruption of the pupils' education, and in no circumstances should normal lessons be interrupted to enable pupils to take part in such activities; and
- (e) in no circumstances should pupils be asked to take part in activities in areas where they may be subject to various elements of danger, including those of traffic.

12.7 Pupils who take part in canvassing activities should pay attention to their own school regulations, and in particular those regarding the wearing of school uniform in such activities.

12.8 The EAC recognises that school pupils who are 18 years of age or above are by law responsible for their own acts and making election-related decisions for themselves.

PART III : ELECTIONEERING ACTIVITIES IN SCHOOLS

12.9 During the election period, school supervisors, principals or teachers may invite or be approached by candidates to give talks on topical issues to pupils in their schools. Regardless whether the topic to be covered by such a talk involves an election, the presence of a candidate delivering the talk and copies of the speech which may be circulated to pupils and brought home to their parents may have the effect of promoting or advertising that candidate. Such activities should, therefore, be regarded as the candidate's electioneering activities (also see para. 12.5 above).

12.10 In line with the principle of **fair and equal treatment** of candidates, the EAC appeals to all school supervisors, principals and teachers to provide equal opportunity to all candidates of the same constituency for the purpose of electioneering. If a school authority has decided to allow a particular candidate to conduct electioneering activities in the school, other candidates of the same constituency should be given the opportunity to do the same, so that no unfair advantage will be accorded to or obtained by any candidate over others regarding electioneering activities. *[Amended in September 2019]*

PART IV : SANCTION

12.11 If the EAC comes to know that any candidate or school or person is in breach of the guidelines in this chapter, it may make a **reprimand** or **censure** in a public statement which will include the name of the candidate, the school or person concerned, and may also refer the case to the Education Bureau. Candidates should therefore apprise the schools or persons offering them assistance of the above guidelines. *[Amended in August 2008]*

CHAPTER 13

PROHIBITION AGAINST CANVASSING ACTIVITIES OUTSIDE POLLING STATIONS

PART I : GENERAL

13.1 This chapter deals with the ban on canvassing activities **outside polling stations** on the polling day. An NCZ will be designated outside each polling station to ensure that electors can gain access to the polling station without interference. In addition, an NSZ in which no one is allowed to stay or loiter will also be designated in the immediate vicinity outside the entrance/exit of the polling station to avoid any obstruction of the entry/exit. *[Amended in September 2019]*

13.2 No canvassing activities are allowed within the NCZ. Regarding buildings within the NCZ, all canvassing activities by candidates and their campaigners are prohibited in the entire building where a polling station is located as well as on the ground floor of other buildings, regardless of whether they are government or private premises, and even if approval from the building management concerned is obtained. *[Amended in September 2019]*

13.3 Any deliberate but disguised conduct for the canvassing of votes in the NCZ is prohibited, such as staying or loitering in the NCZ, smiling or showing goodwill to the electors, etc. for the purpose of canvassing votes. See **Appendix 6** for details. *[Added in September 2019]*

PART II : DETERMINATION OF NO CANVASSING ZONE AND NO STAYING ZONE

13.4 The RO for a constituency must determine, in respect of each polling station designated for that constituency, an area outside the polling station to be an NCZ. In so doing, he/she will take into account the characteristics and special conditions of individual polling station. He/She must also determine an area within the NCZ outside the entrance/exit of the polling station as an NSZ. These two zones are to be determined with reference to a map or plan. [S 43(1) of the EAC (EP) (DC) Reg] *[Amended in September 2007 and September 2012]*

13.5 For a polling station which serves more than one constituency, the determination of the NCZ and NSZ is to be made by the RO specified for the purpose by the CEO. [S 43(3) of the EAC (EP) (DC) Reg] *[Amended in September 2012]*

13.6 The RO who made the determination of an NCZ and an NSZ in respect of a polling station must, at least **seven days** before the polling day, give a notice of the determination to the candidates of his/her own constituency and, where appropriate, to the ROs of other constituencies for which polling will be held at that polling station so that each of the ROs of these relevant constituencies can notify the candidates of his/her own constituency of the determination as soon as practicable. [S 43(2), (3), (4) and (5) of the EAC (EP) (DC) Reg]

13.7 The notice will be given in writing, and may be delivered by hand, by post, by electronic mail or by facsimile transmission, to the candidates, the election agents or the polling agents of the candidates. [Ss 43(2), (3), (11) and 98(2)(e) of the EAC (EP) (DC) Reg] *[Amended in September 2007, September 2012 and September 2015]*

13.8 Where the circumstances so warrant, the RO may vary the NCZ or NSZ. Notice of the variation must be given as soon as practicable after the variation in the same manner as a notice referred to in para. 13.7 above [s 43(6) of the EAC (EP) (DC) Reg]. The notice of variation may however be given orally if delivering it in the manner as referred to in para. 13.7 above is not practicable on the polling day or is not suitable in the circumstances [s 98(3) of the EAC (EP) (DC) Reg]. A notice of variation needs not be given to the candidates if it is not reasonably practicable to do so before the close of the poll [s 43(10) of the EAC (EP) (DC) Reg]. *[Amended in September 2012 and September 2015]*

13.9 A notice of the determination or the variation, together with indication of the boundaries of the NCZ or the NSZ, must be displayed on the polling day at or near the relevant polling station, in order to make the determination or variation effective. [S 43(7), (8) and (9) of the EAC (EP) (DC) Reg]

13.10 The RO who is authorised to determine the NCZ and NSZ may authorise his/her ARO or the PRO of the relevant polling station to exercise the power to vary the determination and to perform the associated duties on the polling day. [Ss 43(8A) and 90 of the EAC (EP) (DC) Reg]

PART III : CONDUCT INSIDE THE NO CANVASSING ZONE AND NO STAYING ZONE

13.11 Canvassing activities (including displaying or wearing of propaganda materials, or suggesting voting or not voting for any candidate) will not be allowed within an NCZ, except for static display of EAs that are authorised by the RO (e.g. EAs mounted at designated spots) and the permitted

activities described in para. 13.12 below. [S 43(13) of the EAC (EP) (DC) Reg] *[Added in September 2019]*

13.12 Within an NCZ, door-to-door canvassing may be allowed on the storeys above or below the street level in any building other than the building in which the polling station is located, provided that permission has been obtained for entry to the building for canvassing votes, no obstruction is caused to any person and no sound amplifying system or device is used. For the purpose of such canvassing, the display or wearing of any promotional material (e.g. badge, emblem, clothing or head-dress which may promote or prejudice the election of a candidate or candidates at the election) or any material making direct reference to any body a member of which is standing as a candidate in the election, or the registered name or emblem of a prescribed body printed on any ballot paper for the election, may be allowed. However, no canvassing is allowed and in no case shall the above material appear at the street level (i.e. ground floor) within the NCZ. [S 43(13), (14) and (15) of the EAC (EP) (DC) Reg] *[Amended in September 2007, September 2011, September 2012, September 2019 and September 2023]*

13.13 Where there are private premises situated within the NCZ, the RO should issue a notice in advance to all the candidates of the constituency concerned asking them to remove all of their EAs, if any, posted up at the private premises within the NCZ before the polling day. The exhibition of portable EAs displayed on vehicles (whether in motion or parked within the area) or held or carried by persons is also regarded as a canvassing activity which is forbidden within an NCZ. Therefore, candidates should arrange the removal of EAs on the windows or bodywork of any public service vehicles (e.g. public light buses or taxis) if those vehicles will pass through or be parked within the NCZ on the polling day. If a candidate fails to remove the EAs as requested by the RO, the RO may issue a warning to the candidate to remove the offending EAs immediately. If the candidate fails to do so, the EAC may

issue a censure or reprimand. Canvassing activities may take many different forms. A list of common canvassing activities which are forbidden in an NCZ is at **Appendix 6**. *[Amended in September 2007, September 2011, September 2012 and September 2019]*

13.14 On the polling day, the PRO will use his/her best endeavours to ensure that no person carries out any activity other than those permitted activities described in para. 13.12 above in the NCZ in respect of his/her polling station to persuade or induce any elector to vote or not to vote. Any EAs in the NCZ not complying with any requirements of s 106 of the EAC (EP) (DC) Reg will be removed by the RO or other persons authorised by the RO [s 108 of the EAC (EP) (DC) Reg]; and any person found to have conducted canvassing activities prohibited in the area will be asked to leave the area [s 44(2) and (3) of the EAC (EP) (DC) Reg]. *[Amended in September 2007 and September 2023]*

13.15 It is not permitted to use loudspeakers or loud-hailers within the NCZ, or use any such device or conduct any activity (e.g. lion dance) in the vicinity, so that the sound emitted can be heard within the NCZ [ss 43(13) and 44(1) of the EAC (EP) (DC) Reg]. However, an officer of the CSD may use a sound amplifying system or device in the NCZ of a dedicated polling station situated in a penal institution for performing his/her duties on the polling day [ss 43(13A) and 44(1C) of the EAC (EP) (DC) Reg]. Save for canvassing activities permitted in para. 13.12 above, candidates and their supporters are not allowed to pass, let alone shout, any appeal message to any persons while inside the NCZ (see Part II of Chapter 11 regarding the use of loudspeakers). *[Amended in September 2012]*

13.16 There will be an **NSZ** within the NCZ but immediately outside the entrance/exit of each polling station (the entrance and exit of some polling stations are at the same location). No person is allowed to stay or loiter in the

NSZ, except where a person has been expressly permitted to do so by the PRO [ss 43(13)(d) and 44(1)(d) of the EAC (EP) (DC) Reg]. This is for the purpose of securing safe and smooth passage of electors into and out of polling stations. *[Amended in September 2007]*

13.17 No person is allowed to obtain or attempt to obtain (in any manner) information as to which candidate an elector of the relevant polling station is about to vote for or has voted for in an NSZ, or in an NCZ without the express permission of the EAC or the PRO. The PRO should recognise and give due regard to those who conduct exit polls in accordance with the requirements set out in Chapter 14. [S 94(7) of the EAC (EP) (DC) Reg] *[Amended in September 2019]*

13.18 Any person who misconducts himself/herself or carries out any forbidden activity in an NCZ or NSZ, or fails to obey any lawful order of the RO (who has made the determination in respect of that NCZ or NSZ) or the PRO, commits an offence and will be liable to a fine and to imprisonment and may be ordered by the RO or the PRO to leave the NCZ or NSZ [ss 44(2), 48(4) and (7) of the EAC (EP) (DC) Reg]. If he/she fails to leave, he/she may be removed from the relevant zone by a police officer, an officer of the CSD or any law enforcement agency, or by any other person authorised in writing by the RO or the PRO [s 44(3) of the EAC (EP) (DC) Reg]. The person so removed may not re-enter the NCZ or NSZ on that day except with the permission of the RO or the PRO [s 44(4) of the EAC (EP) (DC) Reg]. *[Amended in September 2007 and January 2010]*

13.19 Nevertheless, the RO or the PRO shall not exercise his/her powers to order an elector to leave or remove an elector from the NCZ or NSZ so as to prevent the elector from voting at the polling station allocated to him/her. [Ss 44(5) and 49(5) of the EAC (EP) (DC) Reg]

PART IV : PENALTY

13.20 Any canvassing within an NCZ except those exempted and any conduct prohibited under paras. 13.16 and 13.18 above will be an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months [s 48(7) of the EAC (EP) (DC) Reg]. Any attempt to obtain information as described in para. 13.17 above without the necessary permission will be an offence under s 94(10) of the EAC (EP) (DC) Reg and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. *[Amended in September 2007]*

CHAPTER 14

EXIT POLL

PART I : GENERAL

14.1 This chapter sets out the guidelines for the conduct, publication and broadcast of exit polls on the polling day. The EAC respects academic freedom and freedom of expression in conducting exit polls. However, the EAC also strives to uphold the principles of openness, honesty and fairness in the conduct of public elections, including the protection of electors from undue influence or interference and the maintenance of order outside the polling stations. As such, a fair balance between the two ends must be struck. *[Amended in September 2011, September 2019 and September 2023]*

14.2 Secrecy of the vote is an important principle under the electoral system. It is entirely voluntary for electors to participate in any exit polls and they are not required to disclose to the persons or organisations conducting the exit polls their voting preference unless they wish to do so. *[Added in September 2019]*

14.3 Voting polls inside a polling station or an NSZ are strictly prohibited by virtue of the secrecy provisions under the law. However, exit polls may be conducted within the NCZ outside the exit of the polling station if approval from the EAC has been obtained [s 94(7) of the EAC (EP) (DC) Reg]. *[Added in September 2019]*

14.4 No exit polls approved by the EAC should be used for electioneering purposes in promoting or prejudicing the election of a candidate or candidates. Persons or organisations conducting exit polls must not be

affiliated with the candidates, and must ensure that the results of exit polls will not be disclosed to any candidate or other persons before the close of the poll. The interviewers should make clear to the electors that participation in the exit polls is entirely voluntary. *[Added in September 2019]*

14.5 To strictly regulate the exit polls, all persons or organisations applying for the conduct of exit polls are required to make a statutory declaration of compliance with the terms and guidelines governing the conduct of exit polls (see para. 14.12 below). The approval may be revoked if the terms and guidelines are contravened. If the persons or organisations concerned knowingly make any false statutory declaration, they will be in breach of s 36 of the Crimes Ordinance and shall be liable on conviction to imprisonment for 2 years and to a fine. *[Added in September 2019]*

14.6 Except for exit polls conducted within the NCZ on the polling day mentioned in para. 14.3 above, election-related opinion polls conducted outside the NCZ or before the polling day are not regulated by the existing legislation. These polls do not fall within the scope of exit polls regulated by the EAC. *[Added in September 2019]*

14.7 **The EAC appeals to the media to act with self-discipline, goodwill and in a spirit of voluntary co-operation in publishing and broadcasting the results of exit polls and other election-related opinion polls by refraining from announcing the said results before the close of the poll, lest there be undue influence on electors' voting behaviour.** *[Amended in August 2008 and September 2019]*

PART II : SECRECY OF THE VOTE

14.8 **The ballot is secret.** It is an elector's right to keep his/her vote

secret. An elector does not have to disclose his/her choice of candidate if he/she does not want to. **It is a criminal offence for a person, without lawful authority, to require, or purport to require, an elector to disclose the name of, or any particular relating to, the candidate for whom the elector has voted at an election** [s 48 of the DCO and s 94(7) of the EAC (EP) (DC) Reg]. **Interviewers who conduct exit polls must respect the electors' right and wish not to be disturbed**, and should inform the electors being interviewed that their participation in the exit polls is voluntary prior to the conduct of exit polls. *[Amended in September 2007 and August 2008]*

14.9 Any announcement or disclosure of results of exit polls or predictions, particularly in relation to any individual candidate, during the polling hours may affect electors' voting preference and have an impact on election results. **The EAC, therefore, reminds the media and persons/organisations concerned that they should not announce the results of exit polls or make specific remarks or predictions on the performance of individual candidates before the close of the poll. Furthermore, interviewers of approved exit polls should not speak to or communicate with candidates or their agents when conducting the poll outside polling stations.** *[Amended in August 2008 and September 2015]*

PART III : CONDUCT OF EXIT POLLS

14.10 Any person or organisation may apply for conducting exit polls in respect of any constituency to the REO, which handles such applications on behalf of the EAC. Since the person or organisation applying for the conduct of exit polls is required to make a statutory declaration (see para. 14.12 below) of compliance with the relevant terms and guidelines governing the conduct of exit polls, for which there are serious consequences and possible criminal liability in case of breaches, the individual applicant must be at least 18 years

of age. Nevertheless, to avoid giving the public a misimpression of unfairness and to maintain order at the polling stations, approval would normally not be granted if the application involves one or more of the following circumstances:

- (a) the applicant has publicly expressed support for any candidate contesting in the constituency of which any polling stations are covered by the exit poll;
- (b) the applicant organisation has a member standing as a candidate contesting in the constituency of which any polling stations are covered by the exit poll;
- (c) the person responsible for the exit poll or the interviewer assigned for the conduct of the poll is currently a member of an organisation:
 - (i) which has a member standing as a candidate contesting in the constituency of which any polling stations are covered by the exit poll; or
 - (ii) which has publicly expressed support for any candidate contesting in the constituency of which any polling stations are covered by the exit poll;
- (d) the applicant organisation, the person responsible for the exit poll or the conduct of the proposed exit poll may cause embarrassment to the EAC given its role;
- (e) the conduct of the proposed exit poll may affect the operation of or cause disturbance at the polling station, compromise public perception of the credibility of the election, or lead to any concerns of public order or public health, etc.

Approval to the applications will be considered on a case-by-case basis and there are no exhaustive lists of considerations. An application will generally not be approved if the background of the applicant/organisation (including his/her/its affiliation) and the applicant/organisation/proposed exit poll's association with any person/matter may discredit or be perceived as discrediting the role of the EAC and the credibility of the election.

[Amended in August 2008, January 2010, September 2012, September 2015, September 2019 and September 2023]

14.11 For security reasons, no exit polls may be conducted for dedicated polling stations. For the purpose of better control of the conduct of exit polls, persons or organisations intending to conduct exit polls must provide the following to the REO at **the latest ten days before the polling day**:

- (a) the name and address of the person or organisation intending to conduct an exit poll on the polling day;
- (b) the identity document number and name of the person responsible for the exit poll together with his/her telephone number(s) for contact, especially during the polling hours; and
- (c) a list showing the number of persons who will be deployed for the conduct of the exit poll at each polling station on the polling day together with the identity document number and name of each of all the persons who will be so deployed.

[Amended in August 2008, January 2010 and September 2012]

14.12 A person or an organisation applying for the conduct of exit polls must make a statutory declaration by virtue of the Oaths and Declarations Ordinance (Cap 11) to abide by the relevant terms and guidelines governing the conduct of exit polls. Upon receipt of the application, the REO will consider the application and issue approval to the person or organisation concerned as appropriate. If a person or an organisation fails to comply with the terms stipulated in the approval letter and the guidelines set out in this chapter, the approval to conduct exit polls on the polling day or during the polling hours may be revoked. The EAC may also make a reprimand or censure in a public statement which will include the name of the person or organisation who/which fails to comply with the terms stipulated in the approval letter and the guidelines. A notice showing the persons or organisations allowed to conduct exit polls and their contact telephone numbers will be released to the public prior to the polling day for the reference of the public and candidates. Such a notice will also be displayed at the respective polling stations.

IMPORTANT :

Persons or organisations applying for the conduct of exit polls are not allowed to collect or retain any personal data relating to the identity of the electors (i.e. any data relating directly or indirectly to the electors, from which it is practicable for their identities to be directly or indirectly ascertained, such as names, Hong Kong identity card numbers, telephone numbers and addresses).

[Amended in August 2008, September 2011, September 2015, September 2019 and September 2023]

14.13 Exit polls must not be conducted inside polling stations and the NSZ. Interviewers should note that canvassing is prohibited within the NCZ and is subject to criminal sanction, with the exception of door-to-door

canvassing activities (in both residential premises and commercial premises such as restaurants or shops) on any storey above or below street level (i.e. not including the storey at the street level) in buildings other than the one in which a polling station is located, provided that permission has been obtained for entry to the building for canvassing votes, no obstruction is caused to electors and no sound amplifying device is used. Interviewers must therefore take extra care in conducting exit polls so as not to give rise to any suspicion that they are canvassing electors inside the NCZ. Interviewers, like any other person, are not allowed to stay or loiter in an area designated as an NSZ (within the NCZ but immediately outside the entrance/exit to each polling station). [S 43 of the EAC (EP) (DC) Reg] Interviewers are also not allowed to accost electors in the NSZ. All these measures are for the purpose of securing safe and smooth passage of electors into and out of polling stations. *[Amended in September 2007, September 2011 and September 2019]*

14.14 The PRO of a polling station may, if circumstances permit, designate an area **outside the exit of the polling station** for interviewers to conduct exit polls therein. As the entrance and exit of some polling stations are at the same location, interviewers conducting exit polls should keep a reasonable distance from the exit and ensure that electors entering the polling station will not be affected when the said exit polls are being conducted. *[Added in September 2019]*

PART IV : IDENTIFICATION OF INTERVIEWERS

14.15 There were cases where exit poll interviewers were mistaken for government officials or polling staff. Interviewers are therefore required to display prominently an identification device showing the identity of the person or organisation conducting an exit poll so that electors will not be misled into thinking that they are appointed by the Government. In addition, the

interviewers are required to make known to the electors that any response is entirely voluntary. Arrangements should be made for electors to be aware of the name of the person or organisation conducting the exit poll at the start of the interview and the fact that the exit poll is not commissioned by the Government. *[Amended in August 2008 and September 2012]*

14.16 After receipt of the information referred to in para. 14.11 above, the REO will notify the person or organisation concerned to collect a number of identification devices bearing the name of the person or organisation that is required to be displayed prominently by each of the persons included in the list in para. 14.11(c) above when conducting an exit poll. Any person not displaying prominently such a device will not be allowed to conduct an exit poll outside any polling station. *[Amended in August 2008]*

PART V : EXIT POLLS AND OTHER OPINION POLLS FOR ELECTIONEERING

14.17 As mentioned in para. 14.4 above, exit polls approved by the EAC are not allowed to be used for electioneering purposes in all circumstances. *[Added in September 2019]*

14.18 If a candidate makes use of the results of other opinion polls for the purpose of promoting the election of himself/herself or prejudicing the election of other candidates, the expenses incurred for conducting the polls will be regarded as his/her election expenses. *[Added in September 2019]*

14.19 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. *[Added in September 2019]*

PART VI : SANCTION

14.20 Apart from the criminal sanction provided in the DCO and the EAC (EP) (DC) Reg, if the EAC comes to know that any broadcaster or organisation has failed to heed or comply with the guidelines in this chapter, it may make a **reprimand** or **censure** in a public statement which will include the name of the broadcaster or the organisation concerned. *[Amended in August 2008 and September 2019]*

CHAPTER 15

ELECTION EXPENSES AND ELECTION DONATIONS

PART I : GENERAL

15.1 The law has prescribed the maximum amount of election expenses in order to ensure that all candidates compete on a level playing field within a reasonable level of expenditures. Candidates must submit an election return to the CEO after the election on time and in accordance with the statutory requirements, listing the election expenses incurred and the election donations received by them and their election expense agents. *[Added in September 2019]*

15.2 “Candidate” is defined as a person who stands nominated as a candidate at an election and a person who, before the close of nominations for an election, has publicly declared an intention to stand for an election. “Election expenses” is defined as expenses incurred or to be incurred at any time (i.e. whenever before, during or after the election period) for the purpose of promoting or prejudicing the election of a candidate. See Part II of this chapter for details. “Election expense agent” refers to a person authorised by a candidate to incur election expenses at an election on the candidate’s behalf. *[Added in September 2019]*

15.3 To ensure that election expenses do not exceed the statutory maximum amount, the law stipulates that only candidates and their authorised election expense agents may incur election expenses. Therefore, persons other than the candidates and election expense agents are not permitted to incur any election expenses, or else they engage in illegal conduct at an election. Nevertheless, a third party (other than a candidate and his/her election expense

agents) who publishes an EA on the Internet is exempt from the relevant criminal liability if the only election expenses incurred are electricity charges and/or charges necessary for accessing the Internet. *[Added in September 2019]*

15.4 Election expenses incurred by a third party without the consent or knowledge of a candidate are not attributed to the candidate concerned and the third party has to bear the responsibility. However, if the election expenses are incurred by the third party under the instruction of the candidate, especially when the maximum amount of election expenses is exceeded, the candidate should be held legally responsible. *[Added in September 2019]*

15.5 If the expenses incurred by a candidate are partly related to the election and partly the recurrent expenditures for other purposes, the candidate is required to apportion the election-related expenses and include them in the election return. The apportionment can be made on a pro rata basis having regard to the time and/or usage involved. *[Added in September 2019]*

15.6 Voluntary service is defined as any service provided by any natural person voluntarily, personally and free of charge in his/her own time for the purpose of promoting the election of a candidate or prejudicing the election of other candidates. Voluntary service is the only service rendered free of charge which can be excluded from being counted as election expenses. Nonetheless, goods or materials incidental to the provision of voluntary service and given to the candidate will be counted as election donations, which will be counted as election expenses when used. *[Added in September 2019]*

PART II : WHAT CONSTITUTES ELECTION EXPENSES

15.7 For the provisions relating to election expenses, please refer to the ECICO.

15.8 **“Election expenses”**, in relation to a candidate at an election, means expenses incurred or to be incurred **before, during or after the election period**, by or on behalf of the candidate for the purpose of promoting the election of the candidate, or prejudicing the election of another candidate, and includes the value of election donations consisting of goods and services used for that purpose [s 2 of the ECICO]. **“Candidate”** includes a person **who has publicly declared an intention to stand as a candidate** at an election at any time before the close of nominations for the election, regardless of whether he/she has submitted his/her nomination form, he/she has withdrawn his/her nomination after submission of the nomination form, or his/her nomination is ruled invalid by the DCERC [s 2 of the ECICO]. *[Amended in September 2023]*

15.9 Regarding what it means to “have publicly declared an intention to stand as a candidate”, it depends on the overall circumstances as well as the objective facts and evidence. As to whether a particular item of expense would amount to election expenses, candidates and other persons concerned should take heed of the points made by the CFA in a case relating to the 2008 LegCo General Election (FACV 2/2012), which state that expenses are likely to qualify as “election expenses” if they meet the following five criteria:

- (a) they have been incurred by or on behalf of a candidate (as such a person is defined under s 2(1) of the ECICO);
- (b) having identified the activities or matters to which the relevant expenses relate, such activities or matters are referable to a specific election;
- (c) such activities or matters go to the conduct or management of the election, in particular to the machinery of the election;
- (d) the expenses were incurred for the purpose of promoting the election of the relevant candidate or prejudicing the election of

another candidate; and

- (e) the activities or matters financed by the expenses have taken place or occurred either during the election period (as defined in s 2(1) of the ECICO) or during the period when the relevant person was a candidate.

The following two issues should also be noted:

- (a) the date when the relevant expenses were incurred should be ascertained (although this is not a critical question since election expenses may be incurred before, during or after an election period); and
- (b) in relation to the relevant activities or matters of which the expenses may be incurred for more than one purpose, it should be considered whether an apportionment exercise appropriate between election expenses and non-election expenses is necessary.

If candidates have doubt as to whether an expense falls within the criteria mentioned above or whether an expense should be regarded as an election expense, they should seek independent legal advice. Any legal fees so incurred will not be regarded as election expenses.

[Added in September 2023]

15.10 A prescribed person who has applied under the PCBP (LC & DC) Reg to have his/her emblem registered would not, by that act alone, be treated as having publicly declared an intention to stand for election. *[Amended in September 2007]*

15.11 A candidate may receive **election donations**. “Election donation”, in relation to a candidate or candidates at an election, means any of the following donations:

- (a) any money given to or in respect of the candidate for the purpose of meeting or contributing towards meeting the election expenses;
- (b) any goods given to or in respect of the candidate for the purpose of promoting his/her election or of prejudicing the election of another candidate or other candidates, including any goods given incidental to the provision of voluntary service; or
- (c) any service, other than voluntary service, provided to or in respect of the candidate for the purpose of promoting his/her election or of prejudicing the election of another candidate or other candidates (see para. 15.31 below).

[S 2 of the ECICO]

All such donations, whether in cash or in kind, are counted as election expenses when they are spent or used (see Part IV of this chapter for details).

15.12 Whether an expense incurred should be counted as election expenses depends on the actual circumstances of each case. As long as the expense is incurred for the purpose of:

- (a) promoting the election of a candidate; or
- (b) prejudicing the election of another candidate;

it will be counted as an election expense, irrespective of whether it is incurred or to be incurred before, during or after the election period, and regardless of the source of funding. *[Amended in September 2012]*

15.13 Whether a particular item of expenditure should be regarded as an election expense depends on the actual use of the expenses, and one should also take into account the nature, circumstances and context of the expenditure incurred. If an expense is used for more than one purpose, the expense should be apportioned between election-related purpose and other purposes. The candidate concerned should include relevant particulars of the expense in his/her election return. As a general principle, time and/or usage are relevant factors for consideration in apportioning expenses. The candidate may refer to the examples on the apportionment of expenses shown in the guide and the video on the completion of election returns mentioned in para. 15.35 (c) below (also see para. 15.33 below). The candidate may seek professional advice on the apportionment of expenses when necessary. Any fees incurred for such professional advice will not be regarded as election expenses. *[Amended in September 2015 and September 2019]*

15.14 Staff and other resources used by a candidate in his/her official capacity or when discharging his/her duties for the purpose of promoting his/her candidature at the election should be counted as an election expense. A list of common expenditure items to be counted towards election expenses is at **Appendix 14**. The list serves only as an illustration and should not be regarded as taking precedence over the legislation. Candidates should consult a legal adviser in case of doubt on whether an expenditure item should be counted as an election expense. Any legal fees so incurred will not be regarded as election expenses.

15.15 A candidate misappropriates any public resources for election purposes may be in breach of the law. *[Amended in September 2015 and September 2023]*

PART III : WHO MAY INCUR ELECTION EXPENSES AND THE LIMIT

Maximum Amount of Election Expenses

15.16 The maximum amount of election expenses for the DC election is prescribed by the Maximum Amount of Election Expenses (District Council Election) Regulation (Cap 554C). This regulation would prevent candidates with ample financial resources from having an unfair advantage. *[Amended in September 2007]*

15.17 The maximum amount of election expenses for the DCC (from the seventh term DC Ordinary Election onwards) is \$100,000 and the maximum amount of election expenses for the DCGC (from the seventh term DC Ordinary Election onwards) are set out in the following table:

District Council Geographical Constituency	Maximum Amount of Election Expenses
Central	\$512,400
Western	\$585,600
Wan Chai	\$951,600
Tai Pak	\$805,200
Hong Wan	\$878,400
Chai Wan	\$878,400

District Council Geographical Constituency	Maximum Amount of Election Expenses
Southern District Southeast	\$658,800
Southern District Northwest	\$585,600
Yau Tsim Mong South	\$732,000
Yau Tsim Mong North	\$732,000
Sham Shui Po West	\$878,400
Sham Shui Po East	\$951,600
Kowloon City North	\$951,600
Kowloon City South	\$878,400
Wong Tai Sin East	\$878,400
Wong Tai Sin West	\$951,600
Kwun Tong Southeast	\$732,000
Kwun Tong Central	\$732,000
Kwun Tong North	\$658,800
Kwun Tong West	\$805,200
Tsuen Wan Northwest	\$658,800
Tsuen Wan Southeast	\$732,000
Tuen Mun East	\$732,000
Tuen Mun West	\$805,200
Tuen Mun North	\$732,000
Yuen Long Town Centre	\$732,000
Yuen Long Rural East	\$658,800
Tin Shui Wai South and Ping Ha	\$732,000
Tin Shui Wai North	\$732,000

District Council Geographical Constituency	Maximum Amount of Election Expenses
Wu Tip Shan	\$658,800
Robin's Nest	\$658,800
Tai Po South	\$658,800
Tai Po North	\$732,000
Sai Kung and Hang Hau	\$658,800
Tseung Kwan O South	\$732,000
Tseung Kwan O North	\$732,000
Sha Tin West	\$732,000
Sha Tin East	\$805,200
Sha Tin South	\$732,000
Sha Tin North	\$732,000
Tsing Yi	\$805,200
Kwai Chung East	\$732,000
Kwai Chung West	\$732,000
Islands	\$732,000

[Ss 3 and 3A of the Maximum Amount of Election Expenses (District Council Election) Regulation] *[Amended in September 2007, September 2011, September 2015, September 2019 and September 2023]*

15.18 A candidate and his/her election expense agents must not incur election expenses in excess of the maximum amount prescribed by the law [s 24(1) of the ECICO].

Persons Authorised to Incur Election Expenses

15.19 Only a candidate or a person who has been duly authorised by a candidate as the candidate's election expense agent may incur election expenses [s 23(1) of the ECICO]. The authorisation should follow the procedures specified in Part VI of Chapter 6. *[Amended in September 2011]*

15.20 Any person who is going to carry out **negative campaigning (i.e. canvassing against other candidates)** for promoting the election of a candidate and hence incurring expenses should obtain the prior authorisation of the candidate who benefits from it to act as the election expense agent of the candidate. The expenses will be counted towards the election expenses of the candidate. If the negative campaigning includes EAs, it should also comply with all the requirements of the ECICO and of the EAC (EP) (DC) Reg. *[Amended in September 2007]*

15.21 Candidates who have the intention or plan to run for an election should inform those organisations with which they are associated and which may incur expenses to support them of the relevant requirements as soon as possible, to prevent the organisations from committing an offence out of ignorance.

15.22 A candidate is responsible for the whole amount of his/her election expenses. If the aggregate amount of election expenses incurred by the candidate and/or the person acting on his/her behalf exceeds the prescribed limit, the candidate shall be liable for contravening the law, unless he/she can prove that the excess amount is incurred without his/her consent or authorisation and is not due to any negligence on his/her part. Besides, the election expense agent should not incur election expenses exceeding the limit authorised by the candidate, or else he/she contravenes s 23(4) of the ECICO.

[Ss 23 and 24 of the ECICO] *[Amended in September 2007 and September 2011]*

PART IV : ELECTION DONATIONS

General Requirements

15.23 Any person who has made clear his/her intention to stand as a candidate at an election may receive election donations, but any money received can only be used for meeting, or contributing towards meeting, a candidate's election expenses, or in the case of an election donation consisting of goods or a service, for the purpose of promoting the election of the candidate or prejudicing the election of another candidate or other candidates. [S 18 of the ECICO] *[Amended in September 2023]*

15.24 Election donations can be made in cash or in kind, and include any money value, any valuable security or other equivalent of money and any valuable consideration. Election donations in kind include goods and services obtained free of charge or at a discount. All spent or used election donations, whether in cash or in kind, received before, during or after the election period (in relation to the machinery of the election), are counted towards the total amount of election expenses, and are subject to the maximum amount prescribed. *[Amended in September 2019]*

15.25 Any unspent or unused election donations to a candidate must be given to charitable institutions or trusts of a public character chosen by the candidate. Any amount of election donations that exceeds the maximum amount of election expenses must also be given to such charitable institutions or trusts. The disposal must be done before the election return is lodged in

accordance with s 37 of the ECICO. [S 19(3), (4) and (5) of the ECICO]
[Amended in September 2011]

15.26 Since the only lawful usage for election donations is to be spent for meeting or contributing towards meeting election expenses, donations are often regarded as election expenses. Every item of election expense which is avoided or reduced as a result of the provision of goods or services free of charge or at a discount normally involves a corresponding item of election donation. The only exception is voluntary service obtained which are not treated as election donations (however, any goods given incidental to the provision of voluntary service will be counted as an election donation). Relevant details are elaborated in paras. 15.29 to 15.31 below. *[Amended in September 2011]*

15.27 On receiving an election donation in the form of money or in kind of more than \$1,000 in value, a candidate must issue to the donor a receipt which specifies the name and address of the donor (as supplied by the donor) as well as the particulars of the donation. A standard form of donation receipt is available from the REO and will be given to a candidate when he/she submits the nomination form. Though it is common that some donors would like to make it anonymous, a donation, whether in cash or in kind, of more than \$1,000 in value must not be used for election-related purposes unless the donor's name and address (as supplied by the donor) are shown as required by the standard form of donation receipt. Donations over \$1,000 or, in the case of an election donation consisting of goods, of more than \$1,000 in value received from anonymous donors must not be used for meeting election expenses. Such a donation must be given to a charitable institution or trust of a public character chosen by the candidate. [S 19(1) and (2) of the ECICO]
[Amended in September 2007 and September 2019]

15.28 Any person or organisation (including a political party) acting as an agent to solicit, receive or collect election donations for a candidate or candidates should comply with all the requirements under the ECICO as in the case of election donations directly received by candidates. To avoid causing confusion to donors/members of the public, the agent is advised to note the points and adopt the good practice suggested in **Appendix 15**. *[Added in September 2015]*

Election Donations in Kind

15.29 Election donations in kind include goods and services obtained free of charge or at a discount. Unless the discount is generally available to all customers, the difference between the market/regular price and the price charged is an election donation and must be declared and included as such and accordingly as an election expense in the election return. The same principle applies to loans obtained at no interest or at an interest rate lower than usual, or goods rented free of charge or at a discount. Unless the loan conditions or the rental of such goods are generally available to others, the waived or discounted interest or rental must be declared and included as an election donation and election expense in the election return. For premises provided free of charge to a candidate for his/her election campaign, a reasonable amount should be determined as the assessed rental for the premises, and should be declared and included as an election donation and election expense in the election return. *[Amended in September 2023]*

15.30 For services or goods obtained free of charge, a candidate must declare them as election donations and declare in the election return their estimated value accordingly as election expenses. Where the services or goods are furnished by a person who deals in similar services or goods with the public, the estimated value of such services or goods should be assessed at the lowest prevailing price charged to the public. Where such services or goods

are furnished by a person who does not deal in similar services or goods with the public, their estimated value should be assessed at the lowest market price of such services or goods furnished by other persons.

15.31 **Voluntary service** is the only service rendered free of charge which can be excluded from being counted as election expenses. Nonetheless, goods or materials incidental to the provision of voluntary service and given to the candidate will be counted as election donations. Apart from being provided free of charge, the service must be provided by a natural person, voluntarily and personally, in his/her own time for the purpose of promoting the election of the candidate or candidates, or of prejudicing the election of another candidate or other candidates [s 2 of the ECICO]. Otherwise, the service provided should be treated as an election donation and be counted towards election expenses at a fair estimated value. *[Amended in September 2007]*

PART V : ELECTION RETURN

15.32 A candidate must keep an accurate account of all election expenses incurred and election donations (whether in cash or in kind) received, and **submit to the CEO an election return before the expiry of the period of 60 days after the election is settled in relation to the constituency concerned (and in relation to all the constituencies concerned if the election is held for 2 or more constituencies) or within the extended period as permitted by the CFI under the relevant electoral law. The election return must be completed in the specified form. An election is settled in relation to a constituency on the date on which any of the following events occurs:**

- (a) **the result of the election is published in the Gazette; or**

(b) the election is declared to have failed.

[S 37(1), (1F), (1G) and (1N) of the ECICO] [*Amended in September 2007, September 2012, September 2019 and September 2023*]

15.33 The election return should set out all the election expenses incurred by the candidate and his/her election expense agents. For each paid expense of \$500 or more, the election return must be accompanied by an invoice and a receipt issued by the goods or service providers [s 37(2)(b) of the ECICO]. In addition, the candidate must also set out the details of all the outstanding claim(s) and draw up the schedule for settlement of such claim(s) in the election return, and submit within 30 days from the payment date the invoice and receipt for each election expense of \$500 or more after settlement of the claim(s) with the relevant suppliers according to the scheduled date(s). The invoice and receipt for an election expense may be submitted in separate documents, or may be included in the same document. Invoices and receipts submitted by a candidate should contain the following particulars:

- (a) date;
- (b) details of the expenditure item (i.e. information and amount of the goods or services);
- (c) information of the organisation or person (other than the candidate himself/herself) providing the goods or services; and
- (d) information which proves that the organisation or person (other than the candidate himself/herself) providing the goods or services has received the relevant payment in full (e.g. name and signature of the payee or stamp of the organisation or signature of its authorised representative).

[Amended in September 2011, September 2019 and September 2023]

15.34 A candidate must also set out in the election return all election donations received by him/her or his/her representatives, whether in cash or in kind (including goods and services obtained free of charge or at a discount). The election return must be accompanied by copies of receipts issued by the candidate for each election donation of more than \$1,000 in value. For any unspent or unused election donations, anonymous donations of more than \$1,000 in value or election donations exceeding the limit of election expenses, the election return must also be accompanied by copies of receipts issued by the charitable institutions or trusts of a public character for the receipt of relevant election donations. A declaration verifying the contents of the election return must also be submitted together with the election return. [S 37 of the ECICO] *[Amended in September 2011 and September 2019]*

15.35 At the time when a candidate submits his/her nomination form, he/she will be given:

- (a) the specified form for election return mentioned in para. 15.32 above, together with a standard form of receipt for election donations mentioned in para. 15.27 above;
- (b) the standard form for advance return of election donations (see paras. 15.42 to 15.43 below);
- (c) a guide on how to complete the election return (accompanied by the link of the relevant video); and
- (d) a full set of Frequently Asked Questions (“FAQs”) relating to the election return.

Candidates should read the explanatory notes attached to the election return carefully, and refer to the guide, the video and the FAQs before completing the election return. *[Amended in September 2012 and September 2019]*

Statutory Relief Mechanism for Errors and False Statements

15.36 If a candidate is unable or fails to send to the CEO the election return before the statutory deadline (see para. 15.32 above) due to his/her own illness or absence from Hong Kong, or the death, illness, absence from Hong Kong or misconduct of any agent or employee of the candidate, or inadvertence or accidental miscalculation by the candidate or any other person, or any reasonable cause, and was not due to the candidate's bad faith, he/she can make an application to the CFI for an order allowing him/her to send in the election return to the CEO within a further period as specified by the CFI [s 40(1) and (2) of the ECICO]. The legal costs so incurred will not be regarded as his/her election expenses. *[Amended in September 2007, September 2011, September 2012 and September 2015]*

15.37 If a candidate makes an error or a false statement in the election return due to misconduct of any agent or employee of the candidate, or inadvertence or accidental miscalculation by the candidate or any other person, or any other reasonable cause, and was not due to the candidate's bad faith, he/she may apply to the CFI for an order allowing him/her to correct any error or false statement in the election return or in any document accompanying the election return [s 40(3) and (4) of the ECICO]. The legal costs so incurred will not be regarded as his/her election expenses. For previous court decisions regarding applications for the relief of election-related penalties and liabilities, see the relevant judgments in para. 7.70 of Chapter 7. *[Added in September 2011, amended in September 2015 and September 2023]*

15.38 Notwithstanding the provision set out in para. 15.37 above, if a candidate makes any error and/or false statement in the election return, the nature of which is either a failure to set out in the election return any election expense of the candidate at the election or any election donation received by or on behalf of the candidate in connection with the election, or incorrectness in the amount of any election expense or any election donation, **and** the aggregate value of the errors and/or false statements does **not** exceed \$5,000 [item (6) of the Schedule to the ECICO], he/she may, subject to the conditions set out in para. 15.39 below, seek to have the error and/or false statement rectified in accordance with a simplified relief arrangement for minor errors or false statements as provided under s 37A of the ECICO. Under the arrangement, the candidate may write to notify the CEO of his/her request for lodging a revised election return to rectify the error and/or false statement and provide the necessary details for consideration of the request. If it is deemed appropriate to allow the candidate to lodge a revised election return under the simplified relief arrangement, the CEO would issue a notice to the candidate. Upon receipt of the notice, the candidate may, within the specified period, lodge with the CEO a revised election return. The revised election return should be a copy of the original election return earlier submitted to the CEO with markings of the necessary revision to the errors or false statements. An error or false statement made in an election return also includes an error or false statement in any document accompanying the election return; or failure to send any document required by s 37(2)(b) of the ECICO in relation to the election return [s 37A(12) of the ECICO]. *[Added in September 2011, amended in September 2012, September 2019 and September 2023]*

15.39 A copy of the revised election return lodged by a candidate is of no effect unless it is:

- (a) lodged within 30 days after the date on which the candidate receives a notice from the CEO relating to the error(s) and/or

false statement(s) in the election return;

- (b) accompanied by all relevant documents as required under s 37(2)(b) of the ECICO (e.g. invoices and/or receipts) and, if applicable, an explanation; and *[Amended in September 2012]*
- (c) accompanied by a declaration to be made by the candidate in a specified form verifying the contents of the revised election return.

[S 37A(6) of the ECICO]

A copy of the revised election return made under the relief arrangement cannot be withdrawn or further amended after it has been lodged with the CEO. If the candidate does not correct the errors or false statements within the specified period, the original election return will be subject to the normal checking and investigation under the ECICO. *[Added in September 2011, amended in September 2015 and September 2019]*

15.40 It is an illegal conduct under s 24 of the ECICO if, after including the cumulative amount of the errors or false statements, the aggregate amount of election expenses incurred at or in connection with the election exceeds the maximum amount of election expenses prescribed for a particular election. In such case, the relief arrangement will not be applicable. If the ICAC receives any complaint or information indicating that a candidate may have made a statement that he/she knows or ought to know is materially false or misleading (an act which amounts to corrupt conduct under s 20 of the ECICO), the ICAC will conduct an investigation into the case. The rectifications of the election return under the relief arrangement will not exempt the candidate from being investigated or subsequently prosecuted under the ECICO in such circumstances. Moreover, this relief

arrangement will not relieve the candidate from liabilities for other offences provided under the ECICO if the election return concerned is in breach of any such provisions. [S 37A of the ECICO] *[Added in September 2011]*

15.41 If the candidate finds himself/herself in any of the situations set out in paras. 15.36 and 15.37 above, other than the situations where correction of errors or false statements is allowed under the relief arrangement in para. 15.38 above, it is advisable for him/her to make an application to the CFI and inform the REO as soon as possible. The legal costs so incurred will not be regarded as his/her election expenses. It is corrupt conduct if a candidate makes, in an election return lodged under s 37 of the ECICO or a copy of an election return lodged under s 37A of the ECICO, a statement that he/she knows or ought to know is materially false or misleading [s 20 of the ECICO]. *[Amended in September 2007 and September 2011]*

PART VI : ADVANCE RETURN OF ELECTION DONATIONS

15.42 Any candidate who is an incumbent public servant under the POBO, such as a serving member of the LegCo or a DC, may disclose to the CEO in advance any election donations received. This helps the incumbent member to avoid being suspected of any contravention of the provisions of the POBO relating to the acceptance of “advantages”⁴⁸. Even though the above

⁴⁸ Under s 2 of the POBO, “**advantage**” means –

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;
- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- (e) the exercise or forbearance from the exercise of any right or any power or duty; and
- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) and (e).

election donations have disclosed in advance, they must still be set out in the election return (see para. 15.32 above) [s 37(1), (1F), (1G) and (1N) of the ECICO]. Candidates must also observe the general provisions regarding election donations in Part IV of this chapter. *[Amended in September 2007, September 2012, September 2019 and September 2023]*

15.43 Any **advance return of election donations** must be made on the standard form mentioned in para. 15.35 above. There is no restrictions on the number of advance return. *[Amended in September 2012 and September 2023]*

PART VII : FINANCIAL ASSISTANCE

15.44 Under the Financial Assistance Scheme for candidates standing in DC elections in respect of election expenses, candidates who get elected or who have received 5% of valid votes or more and are not disqualified will be eligible for financial assistance as follows:

- (a) in respect of a candidate in a contested constituency, the amount payable is the lowest of the following:
 - (i) the amount obtained by multiplying the total number of valid votes cast for the candidate by the specified rate at \$16 per vote (from the seventh term DC Ordinary Election onwards);
 - (ii) 50% of the maximum amount of election expenses that can be incurred by or on behalf of the candidate under s 3 of the Maximum Amount of Election Expenses (District Council Election) Regulation; or

- (iii) the declared election expenses of the candidate.
- (b) in respect of a candidate in an uncontested constituency, the amount payable is the lowest of the following:
- (i) the amount obtained by multiplying 50% of the number of electors for the constituency by the specified rate at \$16 per elector (from the seventh term DC Ordinary Election onwards);
 - (ii) 50% of the maximum amount of election expenses that can be incurred by or on behalf of the candidate under s 3 of the Maximum Amount of Election Expenses (District Council Election) Regulation; or
 - (iii) the declared election expenses of the candidate.

[Ss 60C, 60D and Schedule 7 of the DCO]

The amount of election donations received by a candidate will not affect the calculation of the amount of financial assistance payable to the candidate. As election donations will not be netted off in calculating the amount of financial assistance payable to a candidate, the amount of financial assistance payable to a candidate in some cases may be greater than the amount of his/her net election expenses. Any such “surplus” financial assistance may be used by the candidates for their future political or community work, or it may be expended generally as a token recognition of their efforts in election. The broad procedural and documentary requirements for making a claim, and general conditions for payment to be made are provided in Part VA of the DCO. The EAC (FA) (APP) Reg sets out the detailed implementation procedures for the Scheme. *[Added in September 2007, amended in September 2011,*

September 2015, September 2019 and September 2023]

15.45 In the claim for financial assistance, a candidate should deduct the estimated value of the reused publicity materials (if the expenses of the materials had been the subject of claims for financial assistance in a previous election) from calculation of the amount of financial assistance to be made payable to the candidate. *[Added in September 2012]*

Making Claims and their Submissions

Requirements to be complied with when making claims

15.46 A claim for financial assistance shall be made by a candidate in a specified form (which will be provided by the REO at the time when candidates submit their nominations). It shall be signed by the candidate. The claim form shall be accompanied by an election return made under s 37 of the ECICO. *[Amended in September 2011]*

15.47 Candidates are not required to submit an auditor's report on the amounts of their election expenses when making their claims for financial assistance. However, for cases in respect of which the REO considers that more in-depth checking is required, the REO may appoint an auditor to assist in verifying the claims. [Ss 3 and 5 of the EAC (FA) (APP) Reg] *[Added in September 2007]*

Submission of claims

15.48 If a candidate makes a claim for financial assistance, the claim form, together with the supporting documents, shall be submitted in person at the office of the CEO during ordinary business hours by the candidate or his/her agent before the expiry of the period or extended period provided for in

s 37 of the ECICO for lodging an election return (see para. 15.32 above). [S 37(1), (1F), (1G) and (1N) of the ECICO and s 4 of the EAC (FA) (APP) Reg] *[Added in September 2007, amended in September 2012 and September 2019]*

Verification of Claims

Verification by the CEO

15.49 On receiving a claim, the CEO will check the eligibility for financial assistance of the candidate. He/She will also verify whether the claim conforms to the requirements set out in the EAC (FA) (APP) Reg.

Requirement for further information

15.50 The CEO may, through a written request, require the claimant to provide further information to verify the claim. The claimant must provide the information within 14 days from the date of receipt of the written request or within the period or extended period provided for in s 37 of the ECICO for lodging an election return, whichever is the later. If the claimant fails to provide the information within the period, the CEO may stop processing the claim without any prior notice. [S 5(3), (5) and (6) of the EAC (FA) (APP) Reg] *[Added in September 2007 and amended in September 2011]*

Withdrawal of Claims

15.51 A claim may be withdrawn before a payment of financial assistance is made by submitting a notice of withdrawal at the office of the CEO during the ordinary business hours. The notice of withdrawal has to be served in person by the candidate or his/her agent. It must be in a specified form and signed by the candidate. [S 7 of the EAC (FA) (APP) Reg] *[Added*

in September 2007, amended in September 2011 and September 2012]

Payment of Claim after Verification

Payment to be made by the Director of Accounting Services

15.52 After verifying the claim, the CEO will certify the amount of financial assistance and notify the Director of Accounting Services (“DAS”) of the amount payable and the person to whom it is to be paid. As soon as practicable after receiving the notification, the DAS must make the payment in accordance with the notification. [S 8 of the EAC (FA) (APP) Reg] *[Added in September 2007]*

Recovery of Payment

15.53 Where a payment of financial assistance is made and the recipient is not entitled to receive the whole or part of the amount paid, the CEO is required to send a written notice under s 60G(1) of the DCO by registered post to the recipient requiring repayment within three months after the date of the notice. The recipient may make the repayment, in person or by any of his/her agents, at the office of the CEO or send the repayment by post. Any amount that is not repaid may be recovered as a civil debt due to the Government. [S 60G(1) and (2) of the DCO and s 12(1) of the EAC (FA) (APP) Reg] *[Added in September 2007, amended in September 2011 and September 2023]*

PART VIII : ENFORCEMENT AND PENALTY

Enforcement

15.54 The election returns will be made available at the REO for public

inspection up to the 60th day before the first anniversary of the date of the deadline for lodging the relevant election return (disregarding any order made by the CFI under s 40 of the ECICO allowing a candidate to lodge an election return within a further period as specified by the CFI) (see para. 15.32 above). Copies of the election returns will be furnished to any person upon request subject to the payment of a copying fee at a fixed rate. [S 41 of the ECICO] *[Amended in September 2019 and September 2023]*

15.55 Any complaint or report of breach of the relevant legislation may be made directly to the relevant RO, the REO, the EAC or its Complaints Committee. The EAC or its Complaints Committee may, after consideration, refer the cases to the relevant authorities for investigation and prosecution. *[Amended in September 2012]*

15.56 The REO will check all election returns. Irregularities detected will be reported to the relevant authorities for investigation.

Penalties

15.57 Other than the exemption mentioned in para. 15.3 above, it is an illegal conduct for a person other than a candidate or a candidate's election expense agent to incur election expenses. It is an illegal conduct for a candidate to incur election expenses in excess of the maximum amount prescribed and for an election expense agent to incur election expenses in excess of the amount authorised. The exemption mentioned in para. 15.3 above is not applicable to the candidate or his/her election expense agent. An offender is liable to a fine of \$200,000 and to imprisonment for 3 years. [Ss 22, 23 and 24 of the ECICO] In accordance with s 23(1A) of the ECICO, a person (other than a candidate or a candidate's election expense agent) is exempt from the relevant criminal liability under s 23(1) of the ECICO if the person publishes an EA on the Internet and the only election expenses incurred

by the person for that purpose are electricity charges and/or charges necessary for accessing the Internet. However, if a candidate, a candidate's election expense agent or a person authorised by a candidate or his/her election expense agent publishes an EA of the candidate on the Internet, any costs incurred should be included in the election expenses of the candidate even if the costs involved are only electricity charges and/or charges necessary for accessing the Internet. *[Amended in September 2019 and September 2023]*

15.58 A candidate or other person who uses any election donation for any purpose other than for meeting or contributing towards meeting his/her election expenses, or fails to dispose of unspent or excessive election donations in accordance with s 19 of the ECICO engages in corrupt conduct and shall be liable to a fine of \$500,000 and to imprisonment for 7 years. [Ss 6, 18 and 19 of the ECICO]

15.59 If a candidate fails to submit the election return by the prescribed date or fails to provide an accurate account of all election expenses incurred and all election donations received with the required supporting invoices and receipts issued by the goods or service providers, he/she commits an offence and shall be liable to a fine of \$200,000 and to imprisonment for 3 years. [S 38(1) of the ECICO] *[Amended in September 2011]*

15.60 A candidate who makes a statement that he/she knows or ought to know is materially false or misleading in his/her election return lodged under s 37 of the ECICO or a copy of an election return lodged under s 37A of the ECICO, engages in corrupt conduct and shall be liable to a fine of \$500,000 and to imprisonment for 7 years. [Ss 6 and 20 of the ECICO] *[Amended in September 2011 and September 2015]*

15.61 If a candidate, having been elected to a DC, acts in the office or participates in the affairs of the DC as a member without lodging an election

return before the statutory deadline, he/she commits an offence and shall be liable to a fine of \$5,000 for each day for acting in the office or participating in the affairs of the DC as a member in contravention of s 37 of the ECICO. [S 39(1) and (2) of the ECICO] *[Amended in September 2015]*

15.62 A person convicted of **corrupt or illegal conduct** within the meaning of the ECICO will, in addition to the penalties set out in paras. 15.57 to 15.61 above, be disqualified:

- (a) from being nominated as a candidate for the election of, or from being elected as, the CE, a member of the LegCo or DC, or an RR, if the election is held within five years after the date of conviction, or from being appointed as a member of the DC or being registered as an ex officio member of the DC within five years after the date of conviction [ss 14 and 20 of the Chief Executive Election Ordinance (Cap 569) (“CEEEO”), s 39 of the LCO, ss 14, 19 and 21 of the DCO and s 23 of the Rural Representative Election Ordinance (Cap 576) (“RREO”)]; and
- (b) from being nominated as a candidate at the EC Subsector Elections, and from being elected as a member of the EC if the election is held within five years after the date of conviction, or from being nominated as a member of the EC for five years from the date of conviction, or from being registered as an ex officio member of the EC within five years after the date of conviction [ss 5M, 9 and 18 of the Schedule to the CEEEO].

[Amended in September 2007, January 2010, September 2011, September 2015, September 2019 and September 2023]

15.63 If a candidate is convicted of the offence under s 38(1) of the ECICO (i.e. having failed to lodge an election return as required by s 37), apart from facing the penalties set out in para. 15.59 above, he/she will also be subject to the same disqualifications as a person convicted of having engaged

in illegal conduct (see para. 15.62 above). [S 38(4) of the ECICO] [*Added in September 2023*]

CHAPTER 16

CORRUPT AND ILLEGAL CONDUCT

PART I : GENERAL

16.1 This chapter sets out the guidelines against corrupt and illegal conduct in conducting election-related activities. It is important that candidates are aware of the common pitfalls in election activities, which may involve corrupt and illegal conduct, and take appropriate preventive measures to guard against committing offences out of oversight.

16.2 Provisions relating to corrupt and illegal conduct can be found in the ECICO. To help candidates and their agents to get acquainted with the major provisions of the Ordinance, the ICAC has prepared an Information Booklet on “Clean District Council Election” for distribution to candidates. The content of the Information Booklet has also been uploaded onto the website of the ICAC (www.icac.org.hk/elections). *[Amended in September 2011]*

16.3 A person who engages in:

- (a) **corrupt conduct** will be liable to a fine of \$500,000 and to imprisonment for 7 years and to pay to the court the amount or value of any valuable consideration he/she or his/her agents received in connection with the conduct or such part of the amount or value as specified by the court [s 6(1) and (3) of the ECICO]; and *[Amended in September 2015]*
- (b) **illegal conduct** will be liable to a fine of \$200,000 and to imprisonment for 3 years [s 22(1) of the ECICO].

In addition to these penalties, a convicted person will be disqualified from being nominated as a candidate in future elections. See para. 16.38 below for details. *[Amended in January 2010 and September 2011]*

16.4 The ECICO applies to all conduct concerning an election, whether the conduct is engaged in within Hong Kong or elsewhere. [S 5 of the ECICO] *[Added in September 2019]*

16.5 Under no circumstances is it permissible to induce an elector to vote or not to vote for a particular candidate or particular candidates by offering advantages, food, drink or entertainment, by using force or duress against a person, or by a deception, and to wilfully obstruct or prevent an elector from voting at the election. Such acts violate the ECICO. Electors may sometimes require assistance or transportation service from others in accessing the polling station. However, the above acts must not be done during the process to induce an elector to vote or not to vote for a particular candidate or particular candidates. *[Added in September 2023]*

16.6 According to s 27 of the ECICO, if a candidate includes the name, logo or pictorial representation of a person or an organisation in his/her EA, and publishes the EA in such a way as to imply that the candidate has obtained the support from that person or organisation, he/she has to obtain written consent to the inclusion before the publication of the EA. Oral consent or retrospective written consent obtained after the publication of the EA does not comply with the statutory requirements. See paras. 16.12 to 16.16 below and Chapter 17 for details. *[Added in September 2019 and amended in September 2023]*

PART II : CORRUPT CONDUCT RELATING TO NOMINATION AND WITHDRAWAL OF CANDIDATURE

Offences Relating to Candidature

16.7 A person engages in corrupt conduct at an election if he/she commits any acts to affect another person's candidature by bribery, force, duress or deception. Candidature includes standing as a candidate or not standing as a candidate, or withdrawal of nomination. A person engages in corrupt conduct if he/she corruptly:

- (a) offers an advantage to another person as an inducement or reward to affect that person's candidature or for not using his/her best endeavours to promote his/her election;
- (b) offers an advantage to another person as an inducement or reward to affect the candidature of a third person or get the third person not to use his/her best endeavours to promote his/her election;
- (c) solicits or accepts an advantage from another person as an inducement or reward to affect his/her candidature or for not using his/her best endeavours to promote his/her election; or
- (d) solicits or accepts an advantage from another person as an inducement or reward to affect the candidature of a third person or get the third person not to use his/her best endeavours to promote his/her election.

[S 7(1) of the ECICO]

16.8 Similarly, a person engages in corrupt conduct if he/she uses or threatens to use force or duress against another person to affect the candidature of that other person or a third person. The use of deception to induce another person to affect the candidature of that other person or a third person is also corrupt conduct. [Ss 8 and 9 of the ECICO] *[Amended in September 2011]*

16.9 It is also corrupt conduct if a person defaces or destroys a completed or partly completed nomination paper with intent to prevent or obstruct another person from standing for election. [S 10 of the ECICO] *[Amended in September 2011]*

PART III : ILLEGAL CONDUCT RELATING TO ELECTIONEERING

False Statement that a Person is or is not a Candidate

16.10 A person must not publish any statement (i) that he/she is no longer a candidate at an election (if he/she is a candidate), or (ii) that another person who has been nominated as a candidate is no longer a candidate at the election, or (iii) that he/she or another person is a candidate at an election, knowing that the statement is false. [S 25 of the ECICO]

False or Misleading Statement about a Candidate

16.11 A person must not publish any materially false or misleading statement of fact about a particular candidate or particular candidates for the purpose of promoting or prejudicing the election of the candidate or candidates. “Candidate” is defined as a person who stands nominated as a candidate at an election, including a person who, at any time before the close of nominations for an election, has publicly declared an intention to stand for election [s 2 of the ECICO]. Regarding what it means to “have publicly declared an intention

to stand as a candidate”, it depends on the overall circumstances as well as the objective facts and evidence. Similarly, a candidate must not publish any materially false or misleading statement of fact about himself/herself or another candidate or other candidates for the purpose of promoting the election of himself/herself or prejudicing the election of another candidate or other candidates. Any such publication will amount to illegal conduct. It is important to note that statements about a candidate include, but are not limited to, statements concerning the character, qualifications or previous conduct of the candidate. [S 26(3) of the ECICO] For example, a person who makes a materially false or misleading statement of fact about a candidate, thereby calling into question the integrity and honesty of that candidate, may contravene the above provision. Any person who wishes to publish a statement about a candidate or candidates should make every effort to ensure its accuracy before its publication. *[Amended in September 2011 and September 2023]*

Claim of Support

(Also see Chapter 17)

16.12 A candidate, who uses the name, logo or a pictorial representation of a person or an organisation in any of his/her EAs as an indication of support from that person or organisation, engages in illegal conduct if he/she fails to obtain **written consent** to the inclusion before the publication of the EA unless he/she has neither requested or directed nor authorised any person to request or direct the inclusion of the aforesaid name, logo or pictorial representation in his/her EAs. Under s 27(7) of the ECICO, **support** (支持), in relation to a candidate, includes support for the policies or activities of the candidate. In addition, should any content of an EA (where either the candidate has obtained the prior written consent mentioned above or the candidate has neither requested or directed nor authorised any person to request or direct the inclusion of the name, logo or pictorial representation in his/her EAs) be

provided by a person or an organisation, the candidate engages in illegal conduct if he/she modifies, or authorises any person to modify, the name, logo, or pictorial representation or the content, unless **before** the modification, the person or organisation concerned has **consented in writing** to the inclusion of the modified name, logo, pictorial representation or content in the EA. [S 27(1), (1A), (1B) and (7) of the ECICO] *[Amended in September 2019]*

16.13 Oral consent or retrospective written consent obtained after the publication of the EA does **not** comply with the statutory requirements. The EAC provides a sample form for candidates to seek **consent of support** in writing from a person or an organisation (“consent form”). A candidate is required to post the consent form relevant to the EA concerned onto the Candidate’s Platform or Central Platform or deposit a copy of the consent form with the relevant RO in the manner as set out in para. 7.56 of Chapter 7 [s 106 of the EAC (EP) (DC) Reg]. It is important to note that it still constitutes an offence even if such an EA contains a statement to the effect that it does not imply support by the person or organisation for a candidate or candidates [s 27(4) of the ECICO]. It is also an offence for a person to give information which he/she knows or ought to know is materially false or misleading to a candidate or candidates for promoting or prejudicing the election of the candidate or candidates [s 27(6) of the ECICO]. *[Amended in September 2007, September 2012, September 2019 and September 2023]*

16.14 Although confusion may be caused, a person or an organisation may support two or more candidates who are competing in the same constituency. This must be indicated in the written consent. A sample form prepared by the EAC for candidates to seek **consent of support** in writing from a person or an organisation will be available at the REO and the relevant RO’s office after the gazettal of a notice specifying a period and location for submitting nomination forms for the election. The forms may also be downloaded from the REO website. It will also be provided to a candidate

upon his/her submission of a nomination form for the election. Candidates should keep in mind that it is an offence to make a false claim of support (see Chapter 17). *[Added in September 2019]*

16.15 Consent given can be revoked. In case of a revocation, in order to avoid dispute, it is advisable for the person or organisation revoking the consent to send a notice of the revocation to the candidate concerned. The candidate is required to notify the relevant RO in writing of the revocation of consent or post a copy of the revocation onto the Candidate's Platform or the Central Platform in the manner as set out in para. 7.56 of Chapter 7. The candidate concerned should immediately cease to publish any EA which contains the support of the person or organisation who has made the revocation. *[Amended in September 2012 and September 2019]*

16.16 S 28 of the ECICO provides for an injunction order by the CFI to restrain the publication of any materially false or misleading statement or false claim of support. An application for such an injunction order may be made by a candidate in the same constituency, his/her election agent, an elector of the constituency concerned and the person or body to whom or which the false information is related. *[Amended in September 2012]*

Inciting Another Person Not to Vote or to Cast Invalid Vote by Activity in Public

16.17 A person engages in illegal conduct if he/she carries out any activity in public during the election period that incites⁴⁹ another person not to vote or to cast an invalid vote, and will be liable to a fine of \$200,000 and to imprisonment for 3 years. According to s 27A(5) of the ECICO, activity in

⁴⁹ Although wording such as "encourage" or "advocate", etc. has been used in the criminal legislation of some common law jurisdictions in recent years, there is no difference in the concept expressed in that of "incite" under the common law. There have been precedents pointing out that "incite" included "urge, encourage, persuade". The prosecution must prove the relevant intent, i.e. the defendant intends to make the person being incited to do the incited act.

public includes any of the following activities, whether or not the person carrying out the activity is in a public place while carrying out the activity:

- (a) any form of communication to the public, including speaking, writing, printing, displaying notices, broadcasting, screening and playing of tapes or other recorded material;
- (b) any conduct (not being a form of communication referred to in para. (a)) observable by the public, including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia; or
- (c) the distribution or dissemination of any matter to the public.

[Ss 22(1) and 27A of the ECICO] *[Added in September 2023]*

16.18 It is important to note that in determining whether any activity in public incites another person not to vote or to cast an invalid vote, regard may be had to the contents of the activity, the intended audience of the activity and the circumstances in which the activity is carried out. Besides, it is a defence for a person who had lawful authority or reasonable excuse for doing the act to which the charge relates. [S 27A(3) and (4) of the ECICO] *[Added in September 2023]*

PART IV : CORRUPT CONDUCT RELATING TO ELECTIONEERING AND VOTING

Bribery

16.19 A person engages in corrupt conduct at an election if he/she commits any acts to affect a person's voting preference by offering, soliciting

or accepting an advantage [s 11 of the ECICO]. Voting preference covers voting for a particular candidate or particular candidates, not voting at an election or not voting for a particular candidate or particular candidates.

16.20 During the election period, candidates are advised to refrain from engaging in any monetary dealing which may be perceived as influencing a person's voting preference. Besides, during the election period, any person should avoid engaging in any act that may be perceived as electoral bribery, such as attaching election leaflets of candidate(s) to leaflets of community activities on free medical check-up, free legal consultation, free courses or discounted meals, etc. for distribution. *[Added in September 2019 and amended in September 2023]*

Treating

16.21 A person must not provide or meet all or part of the cost of providing another person with any food, drink or entertainment (e.g. singing performance) for the purpose of influencing that person's or a third person's voting preference. Likewise, it is corrupt conduct at an election to solicit or accept any of such treating. [S 12 of the ECICO]

16.22 The act of serving non-alcoholic drinks at an election meeting in itself will not be deemed as engaging in the corrupt conduct mentioned in para. 16.21 above, unless the purpose of such treat is to influence the electors' voting preference [s 12(5) of the ECICO]. An election meeting is any meeting held to promote or prejudice the election of a particular candidate or particular candidates (see Chapter 9 for details). *[Amended in September 2019]*

16.23 Where a person or an organisation hosts a banquet for a non-election-related purpose but, during the occasion, calls on the guests to

vote for a particular candidate, the candidate, if present, should immediately stop any promotion of his/her election and dissociate with whatever has been said or done to promote his/her candidature. Otherwise, the occasion will be regarded as an election meeting held to promote his/her candidature and the expenses incurred will have to be counted towards his/her election expenses. At the same time, the host who uses the occasion for promoting the candidate may also be liable to prosecution for his/her failure in obtaining the candidate's prior authorisation to appoint him/her as the candidate's election expense agent for incurring election expense on behalf of the candidate. (See paras. 9.2 to 9.3 of Chapter 9 and s 23 of the ECICO) *[Amended in September 2011 and September 2012]*

16.24 It is an offence under s 12 of the ECICO for any candidate or any person to offer food, drink or entertainment to affect another person's voting preference. *[Amended in September 2011, September 2012 and September 2019]*

Force and Duress

16.25 The use of or the threat to use force or duress against a person to induce him/her to vote or not to vote at an election, or to vote or not to vote for a particular candidate or particular candidates or to get a third person to do so is corrupt conduct. [S 13 of the ECICO] *[Amended in September 2011]*

16.26 Persons in position to exert pressure and influence on others should be careful not to breach the provisions under the ECICO, such as employers over employees, school principals or teachers over students, religious advisers over believers and doctors over patients, etc. *[Amended in September 2007]*

Deception or Obstruction

16.27 Furthermore, 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. Engaging in the above corrupt conduct will be liable to a fine of \$500,000 and to imprisonment for 7 years. [Ss 6(1), 14(1) and (1A) of the ECICO] It is also an offence to aid, abet, incite or attempt the said offence. *[Added in September 2023]*

Voting Offences

16.28 It is corrupt conduct for any person:

- (a) to impersonate another person to apply for a ballot paper at an election or, having voted at an election, to apply again at the same election for a ballot paper in the person's own name;
- (b) to vote at an election knowing that he/she is not entitled to vote at that election;
- (c) to vote at an election after having knowingly or recklessly given materially false or misleading information to an electoral officer, or to vote at an election after having knowingly omitted to give material information to an electoral officer;
- (d) except as expressly permitted by an electoral law, to vote at an election more than once in the same constituency, or to vote in

more than one constituency; or

- (e) to invite or induce another person to commit (b), (c) or (d) above.

[Ss 15, 16(1) and (2) of the ECICO]

Candidates must note that all their electioneering and canvassing activities must be conducted within the confines of the ECICO. While candidates may engage in activities to promote themselves or to provide assistance or facilitation for electors to vote at an election, they must be extremely careful to ensure that these activities are not in breach of the provisions of the ECICO at any time. *[Amended in September 2019 and September 2023]*

PART V : CORRUPT AND ILLEGAL CONDUCT RELATING TO ELECTION EXPENSES AND ELECTION DONATIONS

16.29 Candidates should be careful when handling election expenses and election donations as non-compliance with the relevant requirements will be corrupt or illegal conduct. Regarding the requirements that have to be observed, see Chapter 15 for details.

PART VI : POWER OF COURT TO EXCUSE INNOCENT ACTS

16.30 S 31 of the ECICO provides a mechanism for a candidate to apply to the CFI for an order to relieve himself/herself of criminal responsibility if he/she contravenes the illegal conduct provisions due to inadvertence, accidental miscalculation or any reasonable cause, and not due to bad faith. For precedent court decisions regarding applications for the relief

of election-related penalties and liabilities, see para. 7.70 of Chapter 7 for the relevant judgments. No prosecution against the candidate may be instituted or carried on until the application is disposed of by the CFI. He/She will not be liable to be convicted of an offence if the illegal conduct is the subject of the court order. *[Amended in September 2023]*

16.31 A candidate who is unable or has failed to send to the CEO the election return before the expiry of the statutory deadline (see para. 15.32 of Chapter 15) due to his/her own illness or absence from Hong Kong, or the death, illness, absence from Hong Kong or misconduct of any agent or employee of the candidate, or by reason of inadvertence or accidental miscalculation by the candidate or any other person, or any reasonable cause, and not due to the candidate's bad faith, can make an application to the CFI for an order to allow him/her to send to the CEO the election return within a further period as specified by the CFI. [S 40(1) and (2) of the ECICO] *[Amended in September 2007, September 2011 and September 2012]*

16.32 If a candidate makes an error or a false statement in the election return due to misconduct of any agent or employee of the candidate, or by reason of inadvertence or accidental miscalculation by the candidate or any other person, or any reasonable cause, and not due to the candidate's bad faith, he/she may apply to the CFI for an order to allow him/her to correct any error or false statement in the election return or in any document accompanying the election return. [S 40(3) and (4) of the ECICO] *[Added in September 2011]*

16.33 When the candidate finds himself/herself in any of the situations set out in paras. 16.31 and 16.32 above, other than the situations where correction of errors or false statements is allowed under the relief arrangement in para. 15.38 of Chapter 15, it would be wise of him/her to make the application to the CFI and inform the REO as soon as possible. *[Amended in September 2007 and September 2011]*

PART VII : NON-COMPLIANCE WITH THE LAW AND SANCTION

16.34 Any complaint or report of breach of the relevant legislation may be made to the relevant RO, the REO, the EAC or its Complaints Committee direct. The EAC or its Complaints Committee may, after consideration, refer the cases to the relevant authorities for investigation and prosecution.
[Amended in September 2015]

16.35 The ICAC may, subject to the decision of the Secretary for Justice, prosecute, issue a warning or caution to candidates and any other persons in appropriate cases concerning any breach of the electoral law or regulation, especially the ECICO.

16.36 The Director of Public Prosecutions has informed the EAC that the Department of Justice will not hesitate to prosecute appropriate cases of electoral offences.

16.37 The EAC may also issue public statements in such manner as it deems fit to reprimand or censure any non-compliance with these guidelines.

16.38 A person convicted of **corrupt or illegal conduct** within the meaning of the ECICO will, in addition to the penalties set out in para. 16.3 above, be disqualified:

- (a) from being nominated as a candidate for the election of, or from being elected as, the CE, a member of the LegCo or DC, or an RR, if the election is held within five years after the date of conviction, or from being appointed as a member of the DC or being registered as an ex officio member of the DC within five years after the date of conviction [ss 14 and 20 of the CEEO, s 39 of the LCO, ss 14, 19 and 21 of the DCO and s 23 of the RREO];

and

- (b) from being nominated as a candidate at EC Subsector Elections and from being elected as a member of the EC if the election is held within five years after the date of conviction, or from being nominated as a member of the EC for five years from the date of conviction, or from being registered as an ex officio member of the EC within five years after the date of conviction. [Ss 5M, 9 and 18 of the Schedule to the CEEO]

[Amended in September 2007, January 2010, September 2011, September 2015, September 2019 and September 2023]

16.39 It is worth noting that the courts of Hong Kong consider election-related offences and contravention of the ECICO as serious crimes. On 27 November 1997, the Court of Appeal laid down sentencing guidelines that a person found guilty of any serious election-related offence should be punished by an immediate custodial sentence. The District Court also reaffirmed this position in May 2022 when it concluded a case of engaging in illegal conduct at an election by incurring election expense⁵⁰, with the following reasons for sentence:

“A clean election is essential for ensuring fair and just elections. It is also an important foundation for experiencing, practising and developing democracy and a prerequisite for maintaining the credibility of elections. The courts must take a serious view of all corrupt and illegal conduct in elections. *[Quoted from Secretary for Justice v. LEE YORK FAI and four others (CAAR 3/2011)]*

...

⁵⁰ *HKSAR v. Tai Yiu Ting* (DCCC 683/2021).

Corrupt and illegal practices in an election would ruin the integrity of the election. ...The court has the responsibility to convey to the public a clear and important message: that is, any person who has committed corrupt or illegal practices in any election will no longer receive lenient sentences as in the past and will be punished harshly. If lenient sentences continue to be imposed, this would lead to the breakdown of the whole election system. *[Quoted from Secretary for Justice v. LAI WAI CHEONG ([1998] 1 HKLRD 52)]*⁵¹

[Amended in September 2023]

⁵¹ Chinese source text: 「廉正的選舉是確保選舉公平公正的要素，亦是體驗、實踐和發展民主的重要基石，更是維護選舉公信力的必需條件，對選舉舞弊和非法行為，法庭需嚴厲對待。… 選舉發生舞弊及非法行為，會破壞該選舉的完整性…法庭有責任向大眾傳達一個明確及重要的訊息：就是任何觸犯選舉舞弊或非法行為的人，將不會再受到如以往般寬大對待，必須加以嚴懲。假如繼續給予輕判，必會使整個選舉制度崩潰。」香港特別行政區訴戴耀廷 (DCCC 683/2021) [13 及 14 段]

CHAPTER 17

NAMEDROPPING

PART I : GENERAL

17.1 According to s 27 of the ECICO, if a candidate includes the name, logo or pictorial representation of a person or an organisation in his/her EA, and publishes the EA in such a way as to imply that the candidate has obtained the support from that person or organisation, he/she has to obtain written consent to the inclusion before the publication of the EA. Oral consent or retrospective written consent obtained after the publication of the EA does not comply with the statutory requirements. *[Added in September 2019 and amended in September 2023]*

17.2 If the consent of support is given by a supporter in his/her personal capacity and he/she intends to mention his/her office title or the name of the organisation that he/she belongs to, the candidate should be careful not to give the impression that it represents the support of the whole organisation. If the EA indicates support by the relevant organisation, approval should be given by the governing body of the organisation or by a resolution of the members of the organisation passed at a general meeting. *[Added in September 2019]*

17.3 In respect of EAs published by a candidate through online platforms, a person or an organisation may show his/her/its support to the candidate out of his/her/its own volition by indicating “like”, giving response or including his/her/its name, logo or pictorial representation in such an EA published by the candidate. If the candidate has neither requested or directed nor authorised any person to request or direct the person or organisation to show his/her/its support, the candidate is not required to seek prior written

consent provided that he/she must not modify that EA. *[Added in September 2019]*

PART II : CLAIM OF SUPPORT

17.4 A candidate who uses the name, logo or pictorial representation of a person or an organisation in any of his/her EAs as an indication of support from that person or organisation engages in illegal conduct if he/she fails to obtain **written consent** to the inclusion of the name, logo or pictorial representation in the candidate's EA before the publication of the EA unless he/she has neither requested or directed nor authorised any person to request or direct the inclusion of the aforesaid name, logo or pictorial representation in his/her EAs. It is important to note that there were legal proceedings over disputes concerning candidates claiming to have the support of certain individuals or organisations in their EAs. Two such cases involving a DC ordinary election were handled by the CFI of the High Court. In one of the cases, a candidate sought the court order to relieve him from the consequences of breaching the relevant law (HCMP 1321/2012) and the trial judge referred to the legal stipulations and pointed out in the judgment that:

“The crucial issue is not whether the Applicant actually had the support of these 52 supporters, but whether he had their written consent for the inclusion of their names as his supporters in his election advertisements prior to their dispatch.”

The order of relief was eventually not granted. In another case involving an election petition (HCAL 247/2020), the trial judge put forward in his judgment that:

“... to qualify as a written consent mentioned in section 27(1A) of the ECICO, the consent has to be a single document

expressing consent to include one's name, logo or pictorial representation in the advertisement. It cannot be a composite document with more than one document read together. It cannot be permitted to be inferred from a chain of correspondence or messages ...”

Therefore, a consent of support, regardless of the number of individual(s) signing to give consent, has to be a single document rather than a composite document comprising multiple letters, documents or a chain of correspondence messages. The EAC has prepared a sample form for candidates to seek **consent of support** in writing from a person or an organisation.

[Amended in September 2023]

17.5 Under s 27(7) of the ECICO, **support** (支持), in relation to a candidate, includes the support for the policies or activities of the candidate. In the case that the content of an EA (where either the candidate has obtained the prior written consent mentioned above or the candidate has neither requested or directed nor authorised any person to request or direct the inclusion of the name, logo or pictorial representation in his/her EAs) is provided by a person or an organisation, the candidate engages in illegal conduct if he/she modifies, or authorises any person to modify, the name, logo, or pictorial representation or the content, unless the person or organisation concerned has **consented in writing** to the inclusion of the modified name, logo, pictorial representation or content in the EA **before** such modification. [S 27(1), (1A), (1B) and (7) of the ECICO]

Moreover, when including personal data⁵² (which may include but is not limited to the name, logo or pictorial representation and/or the content) of a person in the EA, all practicable steps shall be taken to ensure that the personal data is correct and accurate. Otherwise, it may contravene the Data Protection Principle 2(1)(a)⁵³ in Schedule 1 to the PD(P)O. *[Amended in September 2012, September 2019 and September 2023]*

(Also see paras. 16.12 to 16.16 of Chapter 16.)

17.6 It is not uncommon that a candidate publishes EAs through online platforms such as social networks or communication websites to promote his/her candidature. There may be cases that a person shows his/her support to the candidate out of his/her own volition by giving response or indicating “like” in the EA published by the candidate, or by appearing in the live broadcast of an electioneering activity published by the candidate. The candidate is not required to seek the prior written consent of the person if the candidate has neither requested or directed nor authorised any person to request or direct the inclusion of the name, logo or pictorial representation of the person in the EA. Nevertheless, if a person is invited by the candidate to show his/her support by giving response to the online EA or by participating in the electioneering activity which is covered by the live broadcast, the candidate should obtain prior written consent from the person. [S 27(1) and (1A) of the ECICO] *[Added in September 2019]*

⁵² S 2(1) of the PD(P)O provides that “personal data” means any data:

- (a) relating directly or indirectly to a living individual;
- (b) from which it is practicable for the identity of the individual to be directly or indirectly ascertained; and
- (c) in a form in which access to or processing of the data is practicable.

⁵³ Data Protection Principle 2(1)(a): All practicable steps shall be taken to ensure that personal data is accurate having regard to the purpose (including any directly related purpose) for which the personal data is or is to be used.

17.7 Oral consent or retrospective written consent obtained after the publication of the EA does **not** comply with the statutory requirements. As set out in para. 17.4 above, a written consent is a requirement under the ECICO. It protects the candidates from unnecessary complaints and disputes which may arise if only oral consent is obtained. It also protects the electors from being misinformed as to whether a candidate has the support of a person or an organisation. The EAC provides a sample form for candidates to seek **consent of support** in writing from a person or an organisation for this purpose. Prior written consent is required if the inclusion of the name, logo or pictorial representation of a person or an organisation, as the case may be, implies support towards the candidate concerned. What amounts to “support” will depend on the circumstances of each case. The question to consider is whether any reasonable person, as opposed to the candidate or any other person publishing or authorising the publication of the EA, will have the perception that the persons appearing in the EA support the candidate after seeing the pictorial representation. *[Amended in September 2012, September 2019 and September 2023]*

17.8 It is important to note that it is still an offence even if such an EA contains a statement to the effect that the EA does not imply support by the person or organisation for a candidate or candidates [s 27(4) of the ECICO]. It is also an offence for a person to give information which he/she knows or ought to know is materially false or misleading to a candidate or candidates for the purpose of promoting or prejudicing the election of the candidate or candidates [s 27(6) of the ECICO].

17.9 For the avoidance of doubt, it is advisable for the written consent to set out clearly whether consent is given:

- (a) by a supporter in his/her personal capacity - in which case the office title of the supporter should not be mentioned in the

candidate's EAs and campaign activities;

- (b) by a supporter with the mention of his/her office title (bearing no reference to the name of the organisation concerned) - in which case the consent should indicate whether the supporter consents to the mention of his/her office title and the description of the title. If the office title is to be mentioned in an EA, the supporter and the candidate should take particular care to ensure that the usage of the information does not give a misleading impression that the candidate has obtained the support of the organisation concerned.

For example, if the office title of “the school principal” (e.g. “Chan Tai Man, the Principal”) or “chairman of an owners’ corporation” (e.g. “Chan Tai Man, Chairman of Owners’ Corporation”) is to be included in an EA, and the EA is to be posted in the school or the building in which the person is serving, then it will be desirable for the candidate to seek the relevant organisation’s prior written approval;

- (c) by a supporter with the mention of his/her office title and the name of the organisation concerned - in which case the candidate should ensure that the supporter has obtained the prior written approval of the organisation, in accordance with the organisation’s internal rules and procedures or any established convention (e.g. approved by the governing body of the organisation or by a resolution of that organisation passed at a general meeting), for the candidate to use both the supporter’s office title and the name of the organisation. In case of doubt, the candidate or the supporter should consult the organisation concerned on the aforesaid internal rules and procedures. The

candidate should be careful not to give the impression that he/she has obtained the support of the whole organisation; and

- (d) by an organisation - in which case the consent should indicate that approval has been given by the governing body of the organisation or by a resolution of the members of the organisation passed at a general meeting [s 27(5) of the ECICO]. The consent must be signed by an authorised person such as the director, chairman, chief executive, etc. of the organisation concerned.

[Amended in September 2015 and September 2019]

17.10 Although confusion may arise, consent can be given to two or more candidates contesting in the election, even if they are competing in the same constituency. A consent given can be revoked. In case of a revocation, in order to avoid dispute, it is advisable for the person or organisation revoking the consent to send a notice of the revocation to the candidate concerned. The candidate is required to notify the relevant RO in writing of any revocation of consent or post a copy of the revocation onto the Candidate's Platform or the Central Platform in the manner as set out in para. 7.56 of Chapter 7.

[Amended in September 2015 and September 2019]

17.11 Once consent has been revoked, the candidate concerned should be careful and immediately cease to use any EA which contains the support of the person or organisation who/which has made the revocation. In accordance with the requirements of Data Protection Principle 2(2) of Schedule 1 to the PD(P)O, the candidate must take all practicable steps to ensure that the personal data of the person is not retained for a period longer than necessary⁵⁴,

⁵⁴ Personal data should not be kept longer than is necessary for the fulfillment of the purpose (including any directly related purpose) for which the data is used.

particularly if his/her consent of support for the candidate has been revoked. The costs incurred for the production of EAs bearing such support should still be regarded as the candidate's election expenses and be clearly listed in the election return. *[Amended in September 2015, September 2019 and September 2023]*

17.12 If candidate A's name or photograph appears in an EA of candidate B to indicate support for candidate B, the issue of whether the expenditure incurred for the EA should be borne by candidate A will depend on whether the publicity material in question has explicitly or implicitly promoted the election of candidate A. There may be two different scenarios in such cases:

Scenario One

If the appearance of the name and photograph of candidate A in candidate B's EA is solely to indicate support for candidate B but not to promote the election of candidate A, the EA should not be treated as a joint EA. The election expenses incurred should be counted as candidate B's election expenses only, but not as candidate A's. Candidate B has to obtain the prior written consent of support from candidate A before using candidate A's name or photograph in his/her EA [s 27 of the ECICO].

Scenario Two

If candidate B wishes to publish the EA for promoting his/her candidature and that of candidate A as well, he/she must obtain prior written authorisation from candidate A to act as Candidate A's election expense agent. The expenses incurred by the EA should be borne by candidates A and B in equal or proportional

shares, according to their respective portions in the size of the EA, as their election expenses.

It is important to note that the EA mentioned in Scenario Two above should be treated as a joint EA. To comply with the requirement stipulated in s 27 of the ECICO, both candidate A and candidate B should seek written consent of support from each other before publishing the joint EA. *[Added in September 2012]*

17.13 It is not uncommon for candidates to put photographs with the appearance of other persons (who may include other candidates standing for the same election) in their EAs to show their past activities. Candidates should exercise due care in handling photographs in their EAs. If a candidate includes such a photograph in his/her EA and the publication of that EA implies or is very likely to cause electors to believe that the candidate has obtained the support of the persons appearing in the photograph, prior written consent from the persons concerned must be obtained by the candidate **before** the publication of the EA. Otherwise, the candidate should take effective measures to avoid implying or causing electors to believe that he/she has obtained the support of the persons appearing in the photograph. For instance, if an EA carries a photograph of the candidate attending an activity with other attendees, the candidate may add a caption specifying the particular nature and relevant information of the event underneath the photograph in such a way that, to any reasonable and neutral person (as opposed to the candidate or any other person publishing or authorising the publication of the EA), it will not imply or will not be likely to cause the beholder to believe that the candidate has obtained the support of those persons appearing in the photograph. However, if the photograph concerned is still likely to cause electors to believe that the candidate has obtained the support of those persons appearing in the

photograph, it is still an offence even if such an EA contains a statement to the effect that the EA does not imply that support of those persons has been obtained [s 27(4) of the ECICO]. In such circumstances, prior written consent of support from those persons must be obtained by the candidate. *[Amended in September 2011 and September 2023]*

17.14 To avoid misleading the electors to believe that a candidate has obtained support from a certain person, organisation, government agency or department when it is not the case, no candidate should attach any materials published by any such person, organisation, government agency or department together with his/her own EAs.

17.15 According to the PD(P)O, any data (including images) relating directly or indirectly to a living individual, from which it is practicable for the identity of the individual⁵⁵ to be directly or indirectly ascertained and in a form in which access to or processing of the data is practicable, constitute personal data of the individual. The use of such images without the consent of the person concerned for a purpose other than the original purpose of data collection, or for a purpose that is not directly related to the original purpose of data collection, not only infringes that person's personal privacy, but also constitutes a possible contravention to Data Protection Principle 3(1) of Schedule 1 to the PD(P)O. Therefore, when using such images, candidates should observe the relevant data protection principles as set out in the "Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations and Members of the Public" at **Appendix 8**. *[Added in September 2011, amended in September 2015, September 2019 and September 2023]*

⁵⁵ As advised by the PCPD, such data can be, for example, an image with a caption from which it is practicable for the identity of the individual in the image to be directly ascertained; or it can be an image without caption or additional information but it is practicable for the identity of the individual in the image to be indirectly ascertained (e.g. when the individual in the image is generally recognised by the public).

Written Consent

17.16 As stated in para. 17.4 above, a written consent cannot consist of several documents, nor can it be inferred from a chain of correspondence or messages. The EAC has prepared a sample form for candidates to seek **consent of support in writing from a person or an organisation**. After the publication in the Gazette of the notice specifying the period and place for the submission of nomination forms, the form of written consent will be available at the offices of the REO and the relevant RO and for download from the REO website. The sample form will also be provided to candidates upon their submission of nomination forms for the election. *[Amended in September 2011, September 2012, September 2019 and September 2023]*

17.17 Among the allegations and complaints received in the past, there were cases where the compliance of the law by a candidate had to be ascertained. Therefore, candidates are required to post the written consent for EAs onto the Candidate's Platform or Central Platform or deposit with the relevant RO a copy of the written consent in the manner as set out in para. 7.56 of Chapter 7 [s 106 of the EAC (EP) (DC) Reg]. If consent has been revoked, candidates are also **required to post** onto the Candidate's Platform or Central Platform a written notice of revocation **or notify** the relevant RO of such revocation in the manner as set out in para. 7.56 of Chapter 7. Copies of the written consent and notice of revocation received by the RO will be made available for public inspection (with the identity document numbers, if any therein, of the persons involved obliterated) at a specified location. *[Amended in September 2012]*

Powers of the Court to Grant Relief

17.18 Under s 31 of the ECICO, if a candidate breaches any offences of illegal conduct due to inadvertence, an accidental miscalculation or any

reasonable cause (and not due to bad faith), the candidate may apply to the CFI for an order exempting him/her from the criminal liability (see Part VI of Chapter 16 for details). For previous court decisions regarding applications for the relief of election-related penalties and liabilities, see the relevant judgments in para. 7.70 of Chapter 7. *[Added in September 2023]*

Penalty

17.19 It is an illegal conduct under ss 22(1) and 27 of the ECICO for a person to make any false claim of support, and offenders will be liable to a fine of \$200,000 and to imprisonment for 3 years. Part VII of Chapter 16 of the Guidelines also stipulates details of the contravention of the ECICO and its penalties. *[Amended in September 2012 and September 2023]*

CHAPTER 18

PARTICIPATION IN ELECTION-RELATED ACTIVITIES BY CIVIL SERVANTS AND OFFICIALS UNDER THE POLITICAL APPOINTMENT SYSTEM AND ATTENDANCE OF PUBLIC FUNCTIONS BY BOTH CIVIL SERVANTS AND CANDIDATES

PART I : GENERAL

18.1 This chapter sets out the general guidelines on the participation in election-related activities of a DC election by civil servants and officials under the Political Appointment System (“politically appointed officials”) and the attendance of civil servants at public functions which are also attended by candidates. The guidelines in respect of civil servants in paras. 18.2 to 18.6 below are also equally applicable to the non-civil service government staff (see para. 6.5 of Chapter 6 for the definition of non-civil service government staff). *[Amended in September 2011, September 2012, September 2019 and September 2023]*

IMPORTANT :

“Candidate” includes a person who has publicly declared an intention to stand for election at any time before the close of nominations for the election, whether or not he/she has submitted a nomination form [s 2 of the ECICO].

PART II : PARTICIPATION IN ELECTIONEERING ACTIVITIES BY CIVIL SERVANTS

18.2 Civil servants who wish to participate in electioneering activities

in a DC election should observe the regulations, rules and guidelines issued by the Civil Service Bureau. Civil servants, other than directorate officers, Administrative Officers, Information Officers, police officers and those officers acting in the above grades or ranks with a view to substantive appointment thereto (i.e. other than acting for temporary relief purpose), may act as agents of candidates or assist in their electioneering activities **provided that** they are not already appointed as the ROs, AROs, PROs, polling or counting staff, that there is no conflict of interest with their official duties, that no use of public resources is involved, and that no government uniform is worn. To avoid any unfairness or appearance of unfairness or conflict of interest, civil servants who work in a constituency or have extensive contacts with the public in a constituency are strongly advised not to accept appointment by a candidate in that constituency to be his/her agent and/or participate in electioneering activities in the constituency concerned. Civil servants who participate in electioneering activities, including the seeking of election donations, for any candidates should not use or give the impression of using any public resources in such activities. *[Amended in September 2007, August 2008, September 2011, September 2012 and September 2015]*

PART III : ATTENDANCE OF PUBLIC FUNCTIONS BY CIVIL SERVANTS

On the Occasion of Being Invited

18.3 Civil servants should exercise care in accepting invitations from persons or organisations to attend any public function that may also be attended by a candidate/candidates (“the function”). *[Amended in September 2012]*

18.4 Civil servants should take such care when any person has publicly declared an intention to run for election in respect of a particular

constituency or when the nomination commences, whichever is the earlier, up to the end of the polling day.

18.5 Before deciding to attend the function, a civil servant should satisfy himself/herself that:

- (a) by attending the function, he/she is performing an official duty normally required of the post he/she is currently holding; and
- (b) to his/her best knowledge, the organiser of the function has no intention whatsoever of making use of the function to promote or prejudice the election of any candidate.

[Amended in September 2012]

During the Function

18.6 The EAC appeals to civil servants to avoid having photographs taken with any candidate at the function since such photographs, if published, may be seen as their lending support to the candidate. However, a civil servant may have photographs taken with candidates under the following circumstances: *[Amended in September 2012]*

- (a) such photographs are needed for him/her to perform his/her official duty at the function normally required of the post he/she is currently holding;
- (b) taking such photographs is a natural part of the function and his/her refusal would be seen as acting against proper etiquette of the function; or

- (c) it is a group photo with all the candidates of the same constituency.

[Amended in September 2011]

PART IV : ATTENDANCE OF PUBLIC FUNCTIONS BY CANDIDATES

18.7 Similarly, the EAC appeals to all candidates who attend public functions not to have photographs taken with any civil servant, since such photographs, if published, may lead to the perception that the candidate is being given an unfair advantage over other candidates. However, a candidate may have photographs taken with civil servants under the following circumstances:

- (a) such photographs are needed for him/her to perform his/her role at the function as requested by the function organiser;
- (b) taking such photographs is a natural part of the function and his/her refusal would be seen as acting against proper etiquette of the function; or
- (c) it is a group photo with all the candidates of the same constituency.

[Amended in September 2011]

PART V : OFFICIALS UNDER THE POLITICAL APPOINTMENT SYSTEM

18.8 The term “civil servants” used in the earlier parts of this chapter does not include politically appointed officials. Politically appointed officials are political appointees and they may belong to or be affiliated with political organisations. Politically appointed officials have to comply with a “Code for Officials under the Political Appointment System”. *[Amended in August 2008 and September 2012]*

18.9 Politically appointed officials may, subject to the guidelines below, participate in election-related activities. *[Amended in August 2008]*

18.10 Politically appointed officials are disqualified from being nominated as a candidate at an election of the CE, of the LegCo or of a DC (for details related to the DC elections, see para. 3.13 in Chapter 3). *[Amended in August 2008 and September 2012]*

18.11 As far as the DC elections are concerned, politically appointed officials should not use any public resources for any election-related activities. A politically appointed official should ensure that when taking part in such activities, great care should be taken that there is no actual or potential conflict of interest with the business of the Government or his/her own official duties. *[Amended in August 2008]*

CHAPTER 19

COMPLAINTS PROCEDURE

PART I : GENERAL

19.1 This chapter deals with the procedures for making complaints relating to **any breach or non-compliance of electoral guidelines and the provisions of the EAC (EP) (DC) Reg or the spirit thereof.** The guidelines and regulations seek to ensure the conduct of public elections under the principles of openness, honesty and fairness.

19.2 A complaint against criminal, corrupt or illegal activities may be made direct to the relevant authorities such as the Police or the ICAC. The procedures for making and processing such a complaint are formulated by these authorities, and will not be covered in this chapter.

19.3 The EAC will solemnly handle complaints against any breach of the principles of fairness and equality as set out in the electoral guidelines. Investigation must be conducted in accordance with the principle of procedural fairness and based on factual evidence. The party concerned must be given the opportunity to make representation in defence. In considering whether any conduct is unfair in the absence of contravention of the law, a decision could not be made lightly without careful consideration of all relevant matters and circumstances. Furthermore, while complaints are often received shortly before the polling day, the EAC should not circumvent or compress the established procedure because of the time constraint so as to avoid any unfairness. *[Added in September 2019]*

19.4 If a complaint is substantiated, the EAC may, if necessary, make a censure in a public statement to keep the electors and the public informed of any major occurrences during the election. The EAC may also issue press statements on matters of principle which have attracted widespread public concern in order to set the record straight. *[Added in September 2019]*

PART II : TO WHOM A COMPLAINT MAY BE MADE

19.5 The EAC is an impartial, independent and apolitical body established under the EACO to deal with all matters concerning the conduct of elections including handling election-related complaints. If necessary, the EAC may, set up a **Complaints Committee** consisting of the incumbent EAC members and one or more professionals, who are independent and politically neutral. *[Amended in September 2011 and September 2019]*

19.6 Without limiting the right of a citizen to make a complaint to the Police or the ICAC or other authorities, a complaint for breach of or non-compliance with the electoral guidelines or the provisions of the EAC (EP) (DC) Reg or relating to election matters can be made to any of the following bodies or persons:

- (a) the RO of the relevant constituency appointed by the EAC to deal with electoral arrangements;
- (b) the REO;
- (c) the EAC or its Complaints Committee; or
- (d) the PRO (on the polling day).

[Amended in September 2012 and September 2019]

19.7 **It is important to note that** if the complaint is against the conduct, behaviour, or acts of any of the REO staff or any RO, it should be addressed directly to the EAC or its Complaints Committee and the envelope must be marked “CONFIDENTIAL” to ensure that only the EAC or its Complaints Committee receives the complaint.

PART III : TIME AND PROCEDURE FOR MAKING COMPLAINT

19.8 This set of Guidelines deals with election-related activities. Any non-compliances, abuses and irregularities, if can be redressed, should be remedied as soon as practicably possible. It is **imperative** that **all complaints should be made as soon as possible**, as any delay in the making of complaint may affect the effectiveness of the remedial measures and result in the loss of necessary evidence. Therefore, complaints should be lodged **not later than 45 days** after the polling day of the relevant election. *[Amended in September 2012]*

19.9 No specific format or use of a specified complaint form is required for making a complaint. A complaint can be made either orally or in writing. A person who wishes to make an oral complaint can call the EAC Complaints Hotline. *[Amended in September 2012]*

19.10 In each case, the complainant is required to identify himself/herself and provide his/her correspondence address, telephone number or other means of contact. A written complaint must be confirmed by signature. Save where it relates to a matter of minor nature or which requires urgent action, an oral complaint received will be recorded in writing and the complainant will be required to sign the written record afterwards. All

personal particulars of a complainant will be handled in accordance with the PD(P)O. *[Amended in September 2019]*

PART IV : COMPLAINTS INSIDE A POLLING STATION

19.11 If a person wishes to complain about anything that occurs inside a polling station, he/she should follow the following procedures:

- (a) he/she should direct the complaint to the PRO, the DPRO or an APRO immediately;
- (b) if the matter remains unresolved, or if the complainant still feels aggrieved, or if it is a complaint against the PRO, the DPRO or an APRO, he/she should as soon as possible report the matter to the RO of the relevant constituency of the polling station by calling the telephone number listed in the guide on procedures for handling complaints;
- (c) where the matter is still not resolved by the RO, the complainant should call without any delay the EAC Complaints Hotline to give a brief account of his/her complaint. He/She should then try to collect as much evidence as possible in support of the complaint. As he/she is not allowed to talk to or communicate with any elector inside the polling station, the complainant may need to go outside the polling station to collect the necessary evidence; and
- (d) a member of the EAC or its Complaints Committee or the REO staff will handle the complaint as soon as practicable.

A copy of the guide on procedures for handling complaints at a polling station (together with telephone numbers of the relevant RO(s) and the EAC Complaints Hotline) will be displayed inside each polling station.

19.12 Any complaint mentioned in para. 19.11(a) and (b) above and any other complaints and enquiries relating to the particulars of an elector should be recorded by the PRO or his/her DPRO or APRO.

PART V : THE PROCESSING OF COMPLAINTS

19.13 The CEO, ROs and PROs are obliged under s 101 of the EAC (EP) (DC) Reg to report irregularities to the EAC or its Complaints Committee. In accordance with this set of Guidelines, they are also required to report all complaints received by them to the EAC or its Complaints Committee. Except where a complaint is of a minor nature or the RO has been delegated with the authority to deal with it, any complaint received by the RO or the REO will be forwarded to the EAC or its Complaints Committee together with comments and all relevant information relating to the complaint. When the EAC or its Complaints Committee receives a complaint, it may seek additional information and comments from the relevant RO or the REO, if necessary.

19.14 The EAC or its Complaints Committee, the RO or the REO (if authorised by the EAC or its Complaints Committee), may seek further information on the complaint from the complainant or may arrange interviews with the complainant in order to seek clarification or evidence. The complainant may be required to make a statutory declaration stating that the complaint or statement is true and correct. If the complainant fails to provide the required information, or refuses to be interviewed or to make the statutory declaration, the EAC or its Complaints Committee, the RO or the REO may or may not take further action on the complaint.

19.15 All bona fide complaints will be processed and considered by the RO who has been delegated with the necessary authority or by the EAC or its Complaints Committee as soon as reasonably practicable, taking into account the merits of the complaint with all the information and evidence gathered. [S 6(3) of the EACO]

19.16 Where a complaint is substantiated, a decision will be made on the appropriate course to be taken, including one or more of the following:

- (a) take remedial measures concerning the complaint, such as the removal of EAs displayed in breach of the guidelines in that regard;
- (b) issue to the relevant person a warning on the matter under complaint after making a reasonable effort to contact the person and giving him/her a reasonable opportunity to give explanations. Where necessary, immediate rectification action against a complaint substantiated on the spot should be taken without delay;
- (c) publish a public statement of reprimand or censure against the acts or omissions and the person being complained of (see various chapters in this set of Guidelines) after making a reasonable effort to contact the person and giving him/her a reasonable opportunity to make representations [s 6(4) of the EACO];
- (d) with or without comments, refer the matter to the ICAC for investigation and/or further action [s 5(e) of the EACO]; and
- (e) with or without comments, refer the matter to the Secretary for

Justice or the Police for further action such as prosecution of the suspected person [s 5(e) of the EACO].

[Amended in September 2007]

19.17 The EAC or its Complaints Committee will also notify the complainant in writing of its decision, and an explanation if the decision is that the complaint is not substantiated. It is common that a large number of complaints are received during the election period. As each complaint requires detailed investigation, it may take time to complete investigations into all complaints. *[Amended in September 2007, September 2015 and September 2019]*

PART VI : ELECTORAL AFFAIRS COMMISSION'S REPORT ON COMPLAINTS

19.18 The EAC is required to report to the CE on any complaint made to it in connection with an election within three months of the conclusion of the election. [S 8(1) and (2) of the EACO]

PART VII : OBLIGATIONS OF THE RETURNING OFFICER, THE PRESIDING OFFICER AND THE CHIEF ELECTORAL OFFICER

19.19 The RO(s), the PRO(s) and the CEO are required to report as soon as practicable to the EAC or its Complaints Committee (in writing or otherwise as circumstances may demand) on any complaints received by them and on any occurrence which they consider to be a material irregularity relating to an election, a poll or a count. *[Amended in September 2012]*

PART VIII : SANCTION FOR FALSE COMPLAINT

19.20 Any person who knowingly makes or causes to be made to an ICAC officer a false report of the commission of any offence or misleads such an officer by giving false information or by making false statements or accusations commits an offence and will be liable to a fine at level 4 (\$25,000) and to imprisonment for 1 year [s 13B of the ICAC Ordinance (Cap 204)]. Likewise, an offence is committed where a false report is made or false information is given to a police officer [s 64 of the Police Force Ordinance (Cap 232)]. It is also an offence for a person to make a false complaint and give false information to the EAC or its Complaints Committee knowing that the EAC or its Complaints Committee will refer or direct such complaint and information to the ICAC or the Police. If a person knowingly and wilfully makes a false statement on a particular material matter in a statutory declaration submitted to the EAC or its Complaints Committee, the RO or the REO, he/she commits an offence and will be liable to a fine and to imprisonment for 2 years [s 36 of the Crimes Ordinance]. *[Amended in September 2007 and September 2023]*

APPENDICES

Composition of District Councils

	<u>District Council</u>	<u>Number of members</u>			
		<u>Appointed members</u>	<u>District Committees constituencies</u>	<u>District Council geographical constituencies</u>	<u>Ex officio members</u>
1.	Central and Western District Council	8	8	4	0
2.	Eastern District Council	12	12	6	0
3.	Southern District Council	8	8	4	0
4.	Wan Chai District Council	4	4	2	0
5.	Kowloon City District Council	8	8	4	0
6.	Kwun Tong District Council	16	16	8	0
7.	Sham Shui Po District Council	8	8	4	0
8.	Wong Tai Sin District Council	8	8	4	0
9.	Yau Tsim Mong District Council	8	8	4	0
10.	Islands District Council	4	4	2	8
11.	Kwai Tsing District Council	13	12	6	1
12.	North District Council	8	8	4	4
13.	Sai Kung District Council	12	12	6	2

<u>District Council</u>		<u>Number of members</u>			
	<u>Appointed</u> <u>members</u>	<u>District</u> <u>Committees</u> <u>constituencies</u>	<u>District</u> <u>Council</u> <u>geographical</u> <u>constituencies</u>	<u>Ex officio</u> <u>members</u>	
14. Sha Tin District Council	17	16	8	1	
15. Tai Po District Council	8	8	4	2	
16. Tsuen Wan District Council	8	8	4	2	
17. Tuen Mun District Council	13	12	6	1	
18. Yuen Long District Council	16	16	8	6	
<u>Total</u>	179	176	88	27	

[Part 1 of Schedule 3 to the District Councils Ordinance (Cap 547)] *[Added in September 2023]*

District Council Election
Action Checklist for Candidates

<u>Time</u>	<u>Action</u>
Before and during the Nomination Period	<ol style="list-style-type: none"> 1. Obtain the following from the Returning Officer (“RO”), any District Office (“DO”) of the Home Affairs Department or the Registration and Electoral Office (“REO”): <ol style="list-style-type: none"> (a) Nomination Form; (b) grid paper for the production of the “Introduction to Candidates” and “Guide on Completion of Grid Paper”; (c) the form of “Request by a Candidate for a Legislative Council Geographical Constituency, a Legislative Council Functional Constituency or a District Council Geographical Constituency to Print Particulars Relating to the Candidate on a Ballot Paper” (not applicable to candidates of the District Committees constituencies (“DCCs”)); (d) the form of “Consent Form of a Prescribed Body in relation to the Request by a Candidate to Print its Particulars as Particulars relating to the Candidate on a Ballot Paper”; and (e) the form of “Intention to Display Election Advertisements at Designated Spots”.
During the Nomination Period	<ol style="list-style-type: none"> 2. Except where the Chief Electoral Officer (“CEO”) authorises otherwise, hand in the following to the RO by the candidate in person <u>before the close of the Nomination Period</u>: <ol style="list-style-type: none"> (a) the duly completed Nomination Form; and (b) an election deposit of \$3,000 in cash or by cashier order or by crossed cheque made payable to “The Government of the Hong Kong Special Administrative Region”.

In order to avoid the risk of invalidation of the nomination due to dishonoured cheques, candidates should submit the election deposit in cash or by cashier order as far as practicable.

3. Apply to Hongkong Post for written approval of candidates' election mail specimens for free postage. Candidates should:
 - (a) carefully study the requirements governing free postage for election mail before deciding on the contents of their election mail and seek advice from Hongkong Post relating to postal requirements and from the REO on other matters as appropriate if in doubt; and
 - (b) make every effort to submit their election mail specimens to Hongkong Post for written approval as early as possible to allow sufficient time for revising the contents of their election mail specimens, if necessary.

4. Obtain from the RO a Candidate Folder containing various forms and reference materials for use by candidates participating in the election.

5. Lodge with the RO a "Notice of Withdrawal of Candidature" if the candidate wishes to withdraw his/her candidature.

6. (a) Ensure that all printed election advertisements ("EAs"), except for the category exempted, contain the name and address of the printer, date of printing and the number of copies printed.
 - (b) Ensure that all prior written consent of support or permission/authorisation have been obtained before the publication of EAs and lodged with the RO (or the CEO if an RO has not yet been appointed), if applicable.

Any time before, during or after handing in the Nomination Form

- (c) (i) Candidates who choose to post the electronic copy of EAs and relevant information/documents onto the open platform maintained by the candidate(s) or a person authorised by the candidate(s) (“Candidate’s Platform”) for public inspection should provide the CEO with the **electronic address** of the platform **at least three working days** (i.e. any day other than a general holiday or Saturday) **before the publication of the first EA**. The Candidate’s Platform, as well as the attachments uploaded, should be maintained and kept by the candidate(s) until the end of the period during which copies of the “Return and Declaration of Election Expenses and Election Donations” (hereafter referred to as “election return”) are available for public inspection under section 41(6)(b) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”).
- (ii) Candidates who choose to post the electronic copy of EAs and relevant information/documents onto the open platform maintained by the CEO or a person authorised by the CEO (“Central Platform”) for public inspection should submit to the CEO the “Application for Creating an Account of the Central Platform and Undertaking in respect of the Terms and Conditions in Using the Central Platform for Candidates”.

The CEO will provide each of the candidates with a username and two sets of passwords **within three working days** upon receipt of the duly completed application and undertaking.

- (d) Make available a copy of each of the EAs and relevant information/documents, including publication information and permission/consent of support in relation to the EAs, for public inspection **within three working days after the publication of the EAs** by:

- (i) posting an electronic copy of each of the EAs and relevant information/documents onto the Central Platform in accordance with the procedures set out in **Appendix 4**;
- (ii) posting an electronic copy of each of the EAs and relevant information/documents onto the Candidate's Platform and providing the CEO with the **electronic address** of the platform **at least three working days before the publication of the first EA (for details, see Appendix 4)**;
- (iii) if it is technically impracticable to comply with (i) or (ii) above for EAs published through an open platform on the Internet (e.g. when messages are exchanged on social network or communication websites on the Internet, such as Instagram, Facebook or blogs in a real-time interactive manner), posting a hyperlink of each of the EAs that is published through the open platform (the hyperlink to the specific EA published should be provided, rather than the hyperlink to the entire election website or dedicated social media page) and the information/documents relevant to the EAs onto the Candidate's Platform or the Central Platform in accordance with the procedures set out in **Appendix 4**;
- (iv) providing two hardcopies of each of the EAs (or two identical full colour photographs/printouts/photocopies of each EA which cannot be practically or conveniently produced in actual form) and one hardcopy of information/documents in relation to the EAs to the RO; or
- (v) providing two identical copies of a CD-ROM or DVD-ROM each containing the EAs and one hardcopy of information/documents in relation to the EAs to the RO.

Candidates may make submission as required from time to time. Candidates should keep records of all relevant information/documents and the EAs uploaded onto the Central Platform or lodged with the RO.

7. (a) Record all election expenses incurred and all election donations received.
- (b) Keep all original invoices and receipts issued by the goods or service providers for each item of expenditure of \$500 or above.
- (c) Issue a receipt to the donor for any non-anonymous donation of more than \$1,000 and keep a copy of the receipt. (Candidate may use the “Standard Receipt for Election Donations” provided by the REO.)
- (d) Submit to the CEO an “Advance Return and Declaration of Election Donations” when an election donation is received (if required and as appropriate).

Any time before handing in the Nomination Form until the end of the election period

8. Appointment of Election Expense Agent(s):
 - (a) Lodge with the RO (or the CEO if an RO has not yet been appointed) the “Authorisation to Incur Election Expenses”.
 - (b) Each candidate can authorise one person or more as the election expense agent(s) to incur election expenses on his/her behalf (at a prescribed amount specified by the candidate). A candidate **may** also authorise his/her election agent as an election expense agent. These agents can only incur election expenses upon authorisation by the candidate. It is important to note that the authorisation is not effective until it has been received by the RO or the CEO (if the RO has not yet been appointed).
 - (c) An election expense agent needs to be a person who has attained the age of 18 years.

Any time after handing in the Nomination Form

9. Appointment of Election Agent:

- (a) Lodge with the RO a “Notice of Appointment of Election Agent”.
- (b) Each candidate can only appoint one election agent. An election agent has the authority to handle all affairs a candidate is authorised to handle under the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap 541F) for the purposes of the election, **except**:
 - (i) to sign the Nomination Form or make any requisite declaration in relation to a candidate’s nomination;
 - (ii) to withdraw the candidate’s candidature;
 - (iii) to incur election expenses (unless he/she has been so authorised by the candidate);
 - (iv) to authorise a person as an election expense agent to incur election expenses; and
 - (v) to be present at a dedicated polling station situated in a maximum security prison.
- (c) An election agent must be a holder of the Hong Kong Identity Card and must have attained the age of 18 years.

Any time after handing in the Nomination Form, but before the close of the Nomination Period

10. (a) If a candidate wishes to have his/her photograph and electoral message printed in the “Introduction to Candidates”, he/she should:

- (i) lodge with the RO a duly completed grid paper affixed with a colour photograph of the candidate which must be in a specified size and taken within the last six months; and
- (ii) provide two additional copies of the photograph identical to the one affixed to the grid paper with the candidate’s name label affixed on the back.

(If a candidate does not submit the grid paper, the “Introduction to Candidates” will only show his/her name and the candidate number, with the sentence “Relevant information has not been provided by the candidate” printed in the space provided for the electoral message.)

- (b) Lodge with the RO the form of “Intention to Display Election Advertisements at Designated Spots”.
- (c) If a candidate for a District Council geographical constituency (“DCGC”) wishes to have his/her photograph and particulars printed on a ballot paper (not applicable to candidates for the DCCs), he/she should lodge with the RO:
 - (i) a duly completed form of “Request by a Candidate for a Legislative Council Geographical Constituency, a Legislative Council Functional Constituency or a District Council Geographical Constituency to Print Particulars relating to the Candidate on a Ballot Paper”;
 - (ii) a colour photograph of the candidate, in a specified size and taken within the last six months, which should be affixed to the form at (c)(i) above, and an additional copy of his/her photograph identical to the one affixed to the form with his/her name label affixed on the back; and
 - (iii) the duly completed “Consent Form of a Prescribed Body in relation to the Request by a Candidate to Print its Particulars as Particulars relating to the Candidate on a Ballot Paper”.

(If a candidate does not submit the duly completed forms of request and consent, if any, specified above, only his/her name and candidate number will be printed on a ballot paper.)

- Any time after handing in the Nomination Form, but not later than three weeks before the polling day
11. Make a request to the CEO for the provision of a set of mailing labels of elector’s addresses for the relevant DCC or DCGC (“constituency”) and/or a set of USB flash drives containing information of electors in the Candidate Mailing Label System (“CMLS”). (Candidates or their election agents are required to sign the “Undertaking on the Use of Electors’ Information” when making the request.)
- (Note: The information will be provided to validly nominated candidates. To protect the environment and respect the preferences of the electors, the CEO will not provide mailing labels in respect of electors who have provided their email addresses for receiving election mails and who have indicated that they do not wish to receive any election mails.)
- Any time after handing in the Nomination Form, but at least seven days before the polling day
12. Lodge with the RO the “Notice of Appointment of Polling Agent for a Polling Station not Situated in a Penal Institution” by hand, by post, by electronic mail or by facsimile transmission.
13. Lodge with the RO the “Notice of Appointment of Counting Agents” by hand, by post, by electronic mail or by facsimile transmission.
14. Lodge with the CEO the “Notice of Appointment of Polling Agent for a Dedicated Polling Station Situated in a Penal Institution (other than a Maximum Security Prison) and Application for Consent to the Presence of Election Agent/Polling Agent in a Dedicated Polling Station Situated in a Penal Institution (other than a Maximum Security Prison)” to seek consent from the Commissioner of Correctional Services to the presence of an election agent or a polling agent at a dedicated polling station situated in a penal institution (other than a maximum security prison).

- (Note: (a) No consent will be given to the presence of an election agent at a dedicated polling station situated in a penal institution (other than a maximum security prison) if a polling agent has been appointed for that polling station. Similarly, if consent has been given by the Commissioner of Correctional Services to the presence of an election agent at a dedicated polling station situated in a penal institution, no polling agent may be appointed for that polling station.
- (b) No polling agent may be appointed for, nor may the election agent be present at, any dedicated polling station situated in a maximum security prison.)

Around seven working days after the close of the Nomination Period

15. Attend the lots drawing session held by the RO to determine the candidate numbers and the designated spots allocated for the display of EAs.
16. Receive from the RO a copy of the permission/authorisation for the display of EAs at the allocated designated spots (except for candidates for uncontested constituencies, who will not be allocated with designated spots for display of EAs).

After the Lots Drawing Session

17. Check the ballot paper printing proof (not applicable to candidates for the DCCs) and verify the particulars relating to the candidate for the DCGC to be printed on the ballot paper. If a candidate or his/her election agent cannot perform the checking in person, the candidate may authorise a representative in writing to check the particulars concerned on the ballot paper printing proof on his/her behalf.

(If a candidate or his/her election agent/authorised representative does not perform the checking at the date and venue specified by the REO, the ballot paper printing proof will be adopted for printing without further notice.)

18. Attend the briefing session for candidates.
- After the close of the Nomination Period
19. Receive from the RO the notification on the validity of the candidate's nomination (which will also be sent to all other validly nominated candidates for the same constituency, if any).
- Within ten days after the close of the Nomination Period
20. Receive from the RO the information about the election agents appointed by other candidates for the same constituency.
- Around 14 days after the close of the Nomination Period
21. Before the deadline specified by the REO, send the completed e-form of the text version of "Introduction to Candidates" (available on the website) by e-mail to e-intro_to_can@reo.gov.hk for uploading onto the dedicated election website.
- (If a candidate fails to submit the electronic file by the said deadline, his/her part in the "Introduction to Candidates" will only indicate his/her name and candidate number, with the sentence "Relevant information has not been provided by the candidate" printed in the appropriate space.)
- At least ten days before the polling day
22. Receive from the RO the notification of the time and place for the counting of votes.
- Not later than seven days before the polling day
23. Receive from the RO the location maps of the polling and counting stations; information regarding the delineation of the no canvassing zones and no staying zones outside the polling stations (including dedicated polling stations); and name badges for candidates and their agents.
- During the week before the polling day
24. Lodge with the CEO the "Notice of Appointment of Polling Agent for a Dedicated Polling Station Situated in a Penal Institution (other than a Maximum Security Prison) and Application for Consent to the Presence of Election Agent/Polling Agent in a Dedicated Polling Station Situated in a Penal Institution (other than a Maximum Security Prison)" **only when** –

- (a) during the week before the polling day, an elector imprisoned or held in custody who is entitled to vote for the relevant constituency at the aforesaid dedicated polling station situated in a penal institution is admitted or transferred to the penal institution; and
- (b) the application is lodged without undue delay after the admission or transfer.

At least two clear working days before posting postage-free election mail

25. Notify Hongkong Post of the date of posting the postage-free election mail by submitting the “Notice of Posting of Election Mail” (in duplicate), and submit three specimens of unsealed election mail to the designated manager(s) of Hongkong Post for inspection and approval.

Send postage-free election mail before the deadline as specified by Hongkong Post

26. Post the postage-free election mail and present to Hongkong Post the “Declaration for Posting of Election Mail” (in duplicate). Furnish a copy of the election mail for the attention of the designated manager(s) of Hongkong Post for record purpose.

(Note: Election mail sent after the deadline may fail to reach the electors before the polling day.)

Before entering the polling station, counting station or ballot paper sorting station

27. Complete the “Declaration of Secrecy” (a declaration of secrecy should be made by all candidates, their election agents, polling agents and counting agents).

Any time before the polling day

28. Lodge with the RO the “Notice of Revocation of Appointment of Agent”, if any, by hand, by post, by electronic mail or by facsimile transmission.

On the polling day

29. Attend and observe the poll or the count if the candidate so wishes, bringing along the “Declaration of Secrecy”.

30. If the “Notice of Appointment of Polling Agents for a Polling Station not Situated in a Penal Institution” and “Notice of Revocation of Appointment of Agent” are not lodged with the RO in the manner specified in paras. 12 and 28 respectively, candidates or their election agents must deliver the notices to the relevant Presiding Officer (“PRO”) (except for PROs at dedicated polling stations situated in penal institutions) in person.
31. If it is necessary to revoke the appointment of a polling agent for a dedicated polling station situated in a penal institution but the “Notice of Revocation of Appointment of Agent” is not lodged in the manner specified in para. 28, the notice must be delivered to the RO by hand, by electronic mail or by facsimile transmission.
32. If the “Notice of Appointment of Counting Agents” and “Notice of Revocation of Appointment of Agent” are not lodged with the RO in the manner specified in paras. 13 and 28 respectively, candidates or their election agents must deliver the notices to the relevant PRO in person.
- Within three working days after the polling day
33. Post the corrected EA particulars onto the Candidate’s Platform or the Central Platform and place them next to the original version, together with the date of correction; or submit the “Notification of Corrected Information in relation to Election Advertisements” to the RO.
- Within ten days after the polling day
34. Remove all EAs on display on government land/property.
- Within two weeks after the polling day
35. Destroy the USB flash drives containing the CMLS, unused mailing labels (if any), and all electors’ information copied (candidates are advised to use data erasure software to erase the information completely), **and** return the reply slip on “Confirmation of Destruction of CMLS in the USB Flash Drives and the Relevant Electors’ Information” to the REO.

Before the statutory deadline for the submission of election returns as required under section 37 of the ECICO

(The REO will issue letters to inform candidates of the deadline for lodging election returns)

36. (a) Lodge with the CEO an election return setting out all election expenses incurred by the candidate or the election expense agents on his/her behalf and all election donations received by or on behalf of the candidate.

Candidates are required to submit an election return even if no election expenses have been incurred or no election donations have been received.

- (b) As required under section 37 of the ECICO, candidates should ensure that the election return is accompanied by invoices and receipts for each election expense of \$500 or more, copies of receipts issued to donors for each election donation of more than \$1,000 in value, and copies of receipts issued by charitable institutions or trusts of a public character for the collection of any unspent election donations, anonymous donations of more than \$1,000 in value and election donations exceeding the limit of election expenses (see Chapter 15 of the Guidelines for details).
- (c) A candidate must make a declaration/supplementary declaration verifying the contents of the election return before a Commissioner for Oaths (at DOs), a Justice of the Peace or a solicitor holding a practising certificate.
- (d) Any candidate who is unable/fails to lodge the election return before the deadline may apply to the Court of First Instance (“CFI”) for an order allowing him/her to lodge the election return within an extended period as specified by the CFI.
- (e) Any candidate who has submitted an election return and wishes to make amendments to the election return before the deadline may lodge with the CEO before the deadline a supplementary declaration stating the amendments, accompanied by the relevant supporting documents (e.g. receipts) as appropriate.

- (f) Any candidate who wishes to correct any error or false statement in his/her election return (including any document accompanying his/her election return) after the deadline must apply to the CFI for an order enabling him/her to do so. Nevertheless, if the aggregate value of the errors or false statements in the election return does not exceed the prescribed relief limit for election as stipulated in section 37A of the ECICO (i.e. \$5,000), the candidate may, upon receipt of notification from the CEO of the error and/or false statement in the election return, rectify the error or false statement in the election return within a specified period in accordance with the simplified relief arrangement for minor errors or false statements in section 37A of the ECICO (see paras. 15.36 to 15.41 of the Guidelines).

37. Eligible candidates who wish to apply for financial assistance should complete a Claim for Financial Assistance. The completed form, together with the candidate's election return, should be presented in person by the candidate or his/her agent (i.e. any other person on behalf of the candidate) to the CEO before the statutory deadline for submission of election return.

Until the end of the period for which copies of election returns are available for inspection under section 41(6)(b) of the ECICO

38. Maintain the Candidate's Platform for public inspection of the EAs and relevant information/documents. If the hyperlink to a website on which an EA is published has been uploaded onto the Central Platform, candidates must ensure that the hyperlink is valid and the relevant website continues to operate.

Note:

Most of the forms mentioned in this checklist can be downloaded from the REO website at <https://www.reo.gov.hk>.

(This “Action Checklist for Candidates” is for general reference only. Candidates are advised to refer to the “Action Checklist for Candidates” which will be included in the Candidate Folder for the relevant DC ordinary election/by-election.)

[Amended in January 2010, September 2011, September 2012, September 2015, September 2019 and September 2023]

**Specified Persons Eligible to Inspect Registers of Electors for
Geographical Constituencies and Register of Electors for
District Committees Constituencies**

Statutory Document	Specified Person
(1) Omissions List for Geographical Constituencies (“GCs”)	<p>(a) a person who is a subscriber to the Government News and Media Information System maintained by the Director of Information Services; or</p> <p>(b) a body or organisation that is incorporated, or is registered or exempt from registration, under any law of Hong Kong and —</p> <p style="padding-left: 2em;">(i) was provided an extract of the registers by the Electoral Registration Officer (“ERO”) for a purpose related to a previous election^{Note 1};</p> <p style="padding-left: 2em;">(ii) was represented by a validly nominated candidate at a previous election; or</p> <p style="padding-left: 2em;">(iii) has publicly declared an intention to arrange for any person (including a person yet to be specified) to stand as a candidate at a coming election^{Note 2}.</p> <p>[S 10 of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Geographical Constituencies) Regulation (Cap 541A) (“EAC (ROE) (GC) Reg”)]</p>

Note 1 In relation to a register of electors for GCs, “previous election” means—

- (a) the last Legislative Council (“LegCo”) general election that was held before the publication date;
- (b) any LegCo by-election for a GC that was held after the election mentioned in paragraph (a) and before the publication date;
- (c) the last District Council (“DC”) ordinary election that was held before the publication date; or
- (d) any DC by-election for a DC constituency that was held after the election mentioned in paragraph (c) and before the publication date.

Note 2 In relation to a register of electors for GCs, “coming election” means any of the following elections that is held within one year after the publication date—

- (a) a LegCo general election;
- (b) a LegCo by-election for a GC;
- (c) a DC ordinary election; or
- (d) a DC by-election for a DC constituency.

Statutory Document	Specified Person
(2) Provisional Register of Electors for GCs	<p>(a) a person who is a subscriber to the Government News and Media Information System maintained by the Director of Information Services; or</p> <p>(b) a body or organisation that is incorporated, or is registered or exempt from registration, under any law of Hong Kong and —</p> <p>(i) was provided an extract of the registers by the ERO for a purpose related to a previous election;</p> <p>(ii) was represented by a validly nominated candidate at a previous election; or</p> <p>(iii) has publicly declared an intention to arrange for any person (including a person yet to be specified) to stand as a candidate at a coming election.</p> <p>[S 13 of the EAC (ROE) (GC) Reg]</p>
(3) Final Register of Electors for GCs	<p>(a) a person who is a subscriber to the Government News and Media Information System maintained by the Director of Information Services; or</p> <p>(b) a body or organisation that is incorporated, or is registered or exempt from registration, under any law of Hong Kong and —</p> <p>(i) was provided an extract of the registers by the ERO for a purpose related to a previous election;</p> <p>(ii) was represented by a validly nominated candidate at a previous election; or</p> <p>(iii) has publicly declared an intention to arrange for any person (including a person yet to be specified) to stand as a candidate at a coming election; or</p>

Statutory Document	Specified Person
	<p>(c) at a coming election —</p> <p>(i) a person who is a validly nominated candidate for a LegCo constituency; or</p> <p>(ii) a person who is a validly nominated candidate for a DC constituency.</p> <p>[S 20 of the EAC (ROE) (GC) Reg]</p>
<p>(4) Register of Electors for District Committees Constituencies</p>	<p>(a) a person who is a subscriber to the Government News and Media Information System maintained by the Director of Information Services; or</p> <p>(b) a body or organisation that is incorporated, or is registered or exempt from registration, under any law of Hong Kong and —</p> <p>(i) was provided an extract of the registers by the ERO for a purpose related to a previous election;</p> <p>(ii) was represented by a validly nominated candidate at a previous election; or</p> <p>(iii) has publicly declared an intention to arrange for any person (including a person yet to be specified) to stand as a candidate at a coming election; or</p> <p>(c) a person who is a validly nominated candidate for a District Committees constituency at a coming election.</p> <p>[S 5(10) of Schedule 4A to the District Councils Ordinance (Cap 547)]</p>

[Added in September 2023]

**Submission Method, Format and Standard
for Posting Electronic Copy of Election Advertisement and Relevant
Information onto an Open Platform for Public Inspection
(with Annex (I) and Annex (II) on the guidelines and basic layout
design requirements for Candidate’s Platform)**

1. To comply with the requirement on public inspection of election advertisements (“EAs”) under s 106(2) of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap 541F) regarding the electronic submission of EAs, a candidate must post the following EA particulars as applicable, **within three working days**^{Note 1} after the publication of an EA, onto either an **open platform**^{Note 2} maintained by the Chief Electoral Officer (“CEO”) or a person authorised by the CEO (“Central Platform”) or one maintained by the candidate himself/herself or a person authorised by him/her (“Candidate’s Platform”) for public inspection:

- (a) an electronic copy of the EA^{Note 3};
- (b) a hyperlink of each EA that is published through an open platform (the hyperlink to the specific EA published must be provided, rather than the hyperlink to the entire election website or to the dedicated social media page. Where it is technically impracticable to post the hyperlink of each and every EA separately onto the Central Platform or the Candidate’s Platform (e.g. when messages are exchanged in a real-time interactive manner through social network on the Internet such as Instagram, Facebook, blogs, etc.), a candidate may post the hyperlink of the open platform and the information/documents relevant to the EAs onto the Central Platform or the Candidate’s Platform. In this case, if the hyperlink of the open platform has already been posted onto the Central Platform or the Candidate’s Platform, there is no need for the candidate to upload each and every comment separately. The candidate must however note that the relevant open platform of such hyperlink must be the dedicated election website of the

Note 1 A “working day” means any day other than a general holiday or Saturday.

Note 2 An “open platform” means a platform operated through the Internet to which the public has access without having to go through an access control process put in place for that platform.

Note 3 If the content and the manner/media of publication of the EAs are the same, candidates are only required to fill in clearly the number of publication (state the number of each type of recipient when the same message is published to a number of recipients), the manner/media of publication and other information, and upload one sample of the EAs onto the Central Platform or the Candidate’s Platform instead of posting each and every EA published to different recipients separately.

candidate which all content within that website must be EAs. In addition, the candidate may only post the hyperlink of the website instead of posting each and every EA separately when it is technically impracticable to post each and every EA separately onto the Central Platform or the Candidate's Platform, otherwise misunderstanding or complaints may arise. Besides, the candidate must retain every EA published on the dedicated election website for public inspection (i.e. EA published should not be removed without permission));

(c) printing/publication information pertaining to the EA including:

- name and address of the producer/printer;
- date of production/printing;
- dimension/size;
- manner of publication;
- date of publication;
- number of copies published; and
- number of copies produced/printed

as applicable;

(d) an electronic copy of each permission/authorisation for the publication of such EA, as applicable (except those provided by the Returning Officer ("RO") in connection with the allocation of designated spots); and

(e) an electronic copy of each document giving consent of support.

Central Platform

2. If a candidate chooses to post the EA particulars onto the Central Platform, he/she must comply with the requirements set out in the ensuing paragraphs.

Submission Method

3. A candidate is required to apply to the CEO in a specified form for the creation of an account to access the Central Platform before posting the EA particulars onto the platform for public inspection. Each candidate can only create one account.

4. The CEO will inform the candidate concerned upon the creation of the account and provide the candidate with a username and two sets of passwords (which can be changed subsequently by the candidate) **within three working days** upon receiving an application. Afterwards, the candidate can access the Central Platform by using the registered username and passwords.

5. EA particulars uploaded onto the platform at any one time by a candidate will be treated and referred to as one single submission. As long as the size of each file does not exceed the limit as stipulated in para. 7 below, there is no restriction on the number of EAs or other documents to be attached in each submission. If subsequent correction to any submitted EA particulars is required, the candidate must post the corrected EA particulars, including the corrected printing/publication information (“corrected information”) of the EA, onto the Central Platform by selecting the EA particulars concerned. If accepted, both the original and the corrected EA particulars will be displayed alongside for public inspection. The corrected information should be posted onto the Central Platform **not later than three working days after the polling day**.

6. An acknowledgement of receipt in the form of a summary report of the EA particulars uploaded will be automatically generated and displayed on the computer screen for reference by the candidate after each successful submission. In addition, the acknowledgement of receipt will also be sent to the e-mail address and mobile phone number as specified on the application form for account creation.

File Size

7. The size of each file to be uploaded **must not exceed 100 MB (Megabyte)** or else the submission will be rejected.

8. Files attached to a submission may be compressed in the format of Zip (.zip), RAR (.rar) or GNU zip (.gz).

9. A file exceeding the size limit will not be accepted. In such a case, the candidate may upload the EA particulars in separate files.

Format

10. Files attached to a submission must be given, served or presented in the following file formats:

General Document

- (a) Rich Text Format (RTF) or Microsoft Word Format (DOC/DOCX);
- (b) Hypertext Mark Up Language (HTML) Format;
- (c) Adobe Portable Document Format (PDF); or
- (d) Plain Text (TXT);

Graphics/Images

- (e) Graphics Interchange Format (GIF);
- (f) Joint Photographic Experts Group (JPEG);
- (g) Tag Image File Format (TIFF); or
- (h) Portable Network Graphics (PNG);

Audio

- (i) Waveform Audio Format (WAV); or
- (j) MPEG-1 Audio Layer 3 (MP3);

Video

- (k) Audio Video Interleave (AVI); or
- (l) Moving Picture Experts Group (MPEG).

Files (including texts, videos, etc.) uploaded onto the Central Platform should be accessible for persons with visual impairment as far as possible.

Computer Instructions

11. The files uploaded must not contain any computer viruses or any computer instructions including, but not limited to, macros, scripts and fields which depend on the execution environment and the execution of which will cause changes to the files themselves or the information system displaying the files.

Candidate's Platform

12. If a candidate chooses to maintain a platform of his/her own for the

posting of EA particulars for public inspection, he/she must provide the electronic address of the platform to the CEO **at least three working days before the publication of the first EA**. To avoid causing confusion to members of the public, the platform should be dedicated to the sole purpose of posting EA particulars for public inspection. Candidates of different District Committee constituencies or District Council geographical constituencies (“constituencies”) are allowed to use a common platform but the EA particulars there should be presented in a way that will not cause confusion to the public during the inspection process. The EA posted onto the platform should be virus-free and should be arranged in descending order of the date of submission. The required printing/publication information should also be posted alongside the corresponding EA particulars. To maintain the consistency in design and to facilitate public inspection, the CEO will provide guidelines and specify the basic layout design requirements for such platform for candidates to follow (see **Annex (I) and Annex (II)**). The guidelines and basic layout design requirements can also be downloaded from the Electoral Affairs Commission (“EAC”) website.

13. If the candidate wishes to correct any uploaded EA particulars on the platform, he/she should post the corrected EA particulars, together with the date of correction, alongside the original EA particulars for public inspection (see **Annex (II)**). Any such corrected information should be posted onto the platform **not later than three working days after the polling day**.

14. Candidates are not allowed to remove any EA particulars that have already been uploaded onto the Candidate’s Platform, unless such removal is directed by the CEO, the EAC or the court (as applicable) due to unlawful or non-EA related content/information. In the event that an EA has to be removed as directed by the CEO, the EAC or the court, the candidate should post a note onto the platform to inform the public about the removal of the EA and the reason for such removal. Other information/documents related to the removed EA should still be displayed on the platform for public inspection (see **Annex (II)**).

15. When posting EA particulars onto the Candidate’s Platform, candidates should also follow the requirements on file format and computer instructions as detailed in paras. 10 and 11 above.

16. The CEO will arrange to publicise the electronic address of the platform to facilitate public inspection of the EA particulars.

Important Notes

17. EA particulars must conform to the requirements as set out above. Any electronic file containing images should have sufficient resolution to ensure that the content is both legible and readable.

18. Each candidate must be solely responsible for (and the CEO has no responsibility to him/her or any third party for) the content/information of the EA uploaded and posted onto the Central Platform, including hyperlinks to external websites. The CEO reserves the right to remove any of the EA particulars posted on the Central Platform containing unlawful, non-EA related or computer virus infected content/information. In the event that the EA has to be removed due to computer virus contamination, the candidate will be informed to upload the relevant EA particulars onto the Central Platform again.

19. Candidates should observe all existing statutory requirements on personal data privacy when uploading information onto the aforesaid platforms for public inspection. In particular, for documents containing/conveying the required permission/authorisation and/or consent of support pertaining to an EA, candidates are reminded to obliterate the identity document numbers therein, if any, of the persons providing such permission/authorisation and/or consent of support before uploading them onto the platforms.

20. When posting a hyperlink of an EA onto the Central Platform or Candidate's Platform, candidates must ensure that the hyperlink is valid and the relevant website on which the EA is uploaded continues to operate until the end of the period for which copies of election returns are available for public inspection pursuant to s 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554)^{Note 4} to facilitate public inspection of the EAs.

[Added in September 2012, and amended in September 2019 and September 2023]

^{Note 4} Pursuant to s 41 of the Elections (Corrupt and Illegal Conduct) Ordinance, the RO must keep all the election returns and relevant copies at his/her office, and ensure that copies of the documents are made available for inspection by any person who asks to inspect the documents during ordinary business hours, until the 60th day before the first anniversary of the date of the deadline for lodging the relevant election return (regardless of any relief granted by the Court of First Instance to candidates in certain circumstances).

Points to Note for Building Candidate's Platform**General**

1. The name of the election should be shown on the Candidate's Platform, e.g. 20XX District Council Ordinary Election/XX District Council By-election (name of District Committees constituency/name of District Council geographical constituency).
2. The name of the constituency should be shown on the Candidate's Platform.
3. The name of the candidate should be shown on the Candidate's Platform.
4. The candidate number should be shown on the Candidate's Platform once available.
5. The EA particulars (including the electronic copy, hyperlink, consent, permission or authorisation documents, etc. of the EA) should be displayed and arranged in descending order according to the date of publication.
6. The required information to be shown for each EA on the Candidate's Platform can be found in **Annex (II)**.
7. The corrected EA particulars should be posted next to or under the original version.
8. Candidates are not allowed to remove any EA that has already been uploaded onto the Candidate's Platform unless such removal is directed by the CEO, the EAC or the court (as applicable) due to unlawful or non-EA related content/information. In the event that an EA has to be removed as directed by the CEO, the EAC or the court, the candidate should post a note onto the platform to inform the public about the removal of the EA and the reason for such removal. Other information/documents related to the removed EA should still be displayed at the platform for public inspection.
9. The file format and computer instruction should follow the details shown at **Appendix 4** of the Guidelines on Election-related Activities in respect of the District Council Election.
10. Sensitive personal data should not be posted onto the Candidate's Platform. For example, identity document numbers in Hong Kong shown on the consent form should be masked before the consent form is uploaded onto the Candidate's Platform.
11. Candidates should, where applicable, provide an e-mail address and/or a telephone number on the platform for public enquiries and technical assistance when necessary.

Security Measures

1. The Candidate's Platform should be installed with firewall and/or an Intrusion Protection System to prevent intruder attacks.
2. All files should be properly scanned by anti-virus software before they are posted onto the Candidate's Platform.
3. To protect against data loss of the Candidate's Platform, backup exercises should be conducted on a regular basis.
4. The hyper-links to external websites should be checked regularly in order to ensure that they are up-to-date.
5. For more information and resources on online information security, please visit www.infosec.gov.hk.

Accessibility

1. The Candidate's Platform should be accessible by browsers and operating systems commonly used in personal computers.
2. For any electronic files containing images, they should have sufficient resolution to ensure that the content is both legible and readable.
3. The Candidate's Platform should be available in both English and Chinese, and the text should be readable and understandable. Suitable instructions should also be provided for easy navigation of the Candidate's Platform.
4. The Candidate's Platform should be easily accessible to persons with visual impairment as far as possible.

[Added in September 2012, amended in September 2019 and September 2023]

候選人平台建議版面設計 Proposed Layout Design of Candidate's Platform

選舉 Election: 20XX 年*區議會一般選舉/XX 區議會補選(地區委員會界別名稱/區議會地方選區名稱)
20XX *District Council Ordinary Election/XX District Council By-election (name of District Committees constituency/name of District Council geographical constituency)

區議會名稱 (註 1)Name of District Council (Note 1): XX 區議會 XX District Council

界別/選區名稱 (註 1)Name of Constituency (Note 1): XX 界別/選區 XX Constituency

候選人編號 Candidate No.: 1

候選人姓名 Name of Candidate: 陳大文 Chan Tai Man

選舉廣告詳情(依發布日期降序排列) Election Advertisement Particulars (in descending order according to 'Date of Publication')

項目 Item	修正日期 Date of Correction (dd-mm-yyyy)	選舉廣告類別 Election Advertisement Type	製作/ 印刷日期 Date of Production/ Printing (dd-mm-yyyy)	尺寸/ 面積 Dimension/ Size	製作數量/ 印刷的 文本數目 Quantity Produced/ Number of Copies/ Printed	發布數量/ 發布的文本 數目 Quantity Published/ Number of Copies Published	發布日期 Date of Publication (dd-mm-yyyy)	發布的方式 Manner of Publication	製作人/ 印刷人的 姓名或名稱 Name of Producer/ Printer	製作人/ 印刷人的 地址 Address of Producer/ Printer	選舉廣告 檔案/連結 Election Advertisement File/Link	准許/授權 文件 Permission/ Authorisation Document	選舉廣告 檔案/連結 移除日期 Date of Removal of Election Advertisement File/Link (dd-mm-yyyy) [原因 Reason]
1	-	小冊子 Pamphlets	15-9-20XX	A4	100	100	17-10-20XX	街頭派發 Distributed on street	AA 印刷公司 AA Printing Company	地址 Address	File1.jpg	-	-
2	-	橫額 Banners	11-9-20XX	1 米 x 2.5 米 1m x 2.5m	20	20	17-10-20XX	懸掛於 路邊鐵欄 Hung on roadside railing	BB 製作公司 BB Producer	地址 Address	File2.jpg	Authorisation .jpg	-
註 2 Note2	18-10-20XX	-	-	-	-	-	-	-	-	-	File2 (Revised).jpg	-	-
3	-	電子海報 Electronic posters	10-9-20XX	10Mb	1501	3	17-10-20XX	Facebook, Instagram	CC 廣告設 計公司 CC Advertising Company	地址 Address	http://www. XXX.com.hk/ poster.jpg	Permission .jpg	-

註 1：只適用於區議會一般選舉。 Note 1: Only applicable to District Council ordinary elections.

註 2：只顯示曾被修正的資料。 Note 2: Only corrected particulars should be shown.

* 請刪去不適用者。 Please delete as appropriate.

同意書 Consent

項目 Item	檔案 File	備註 Remark
1	Consent1.jpg	
2	Consent2.jpg	同意書已於 20-10-20XX 撤銷 Consent revoked on 20-10-20XX

[Added in September 2012, and amended in September 2015, September 2019 and September 2023]

Methods of Folding of Election Mail for Free Postage

免費郵遞選舉郵件應採用的摺疊方法⁽¹⁾

Figure 1 : Folder of A4 (296mm) size
圖示一：對摺的A4（296毫米）尺寸紙張

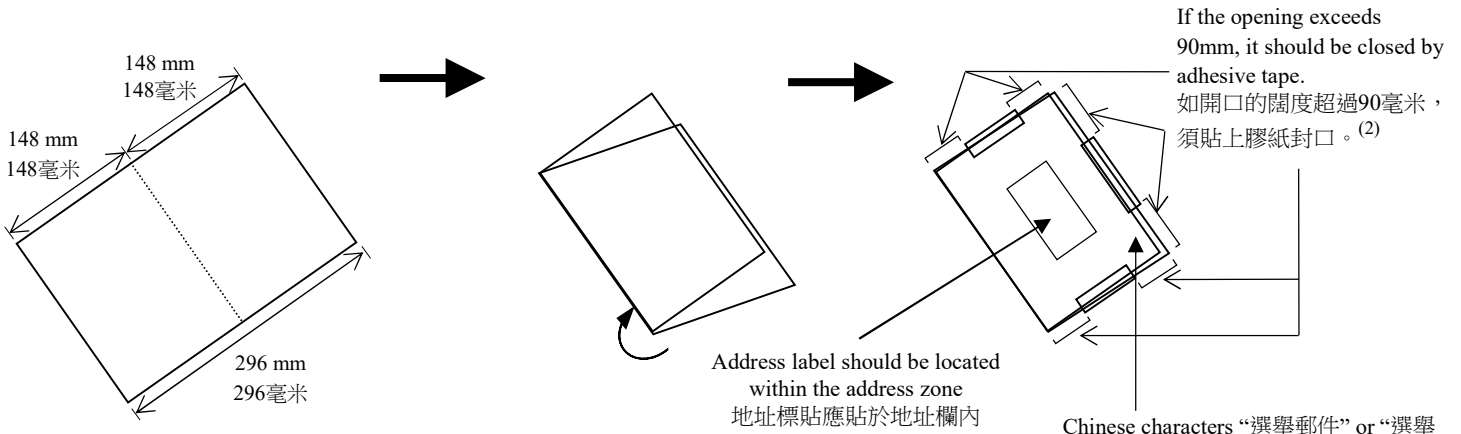


Figure 2 : Folder of A4 (296mm) size with 2 folds
圖示二：兩摺的A4（296毫米）尺寸紙張

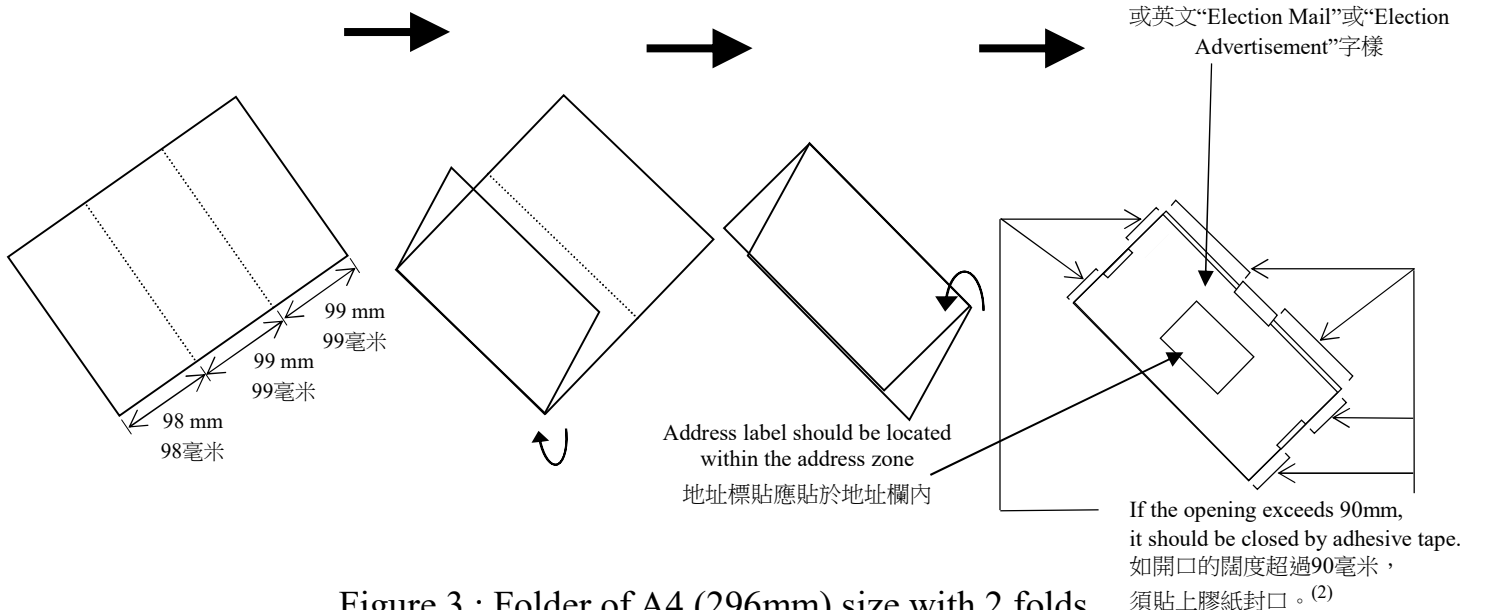
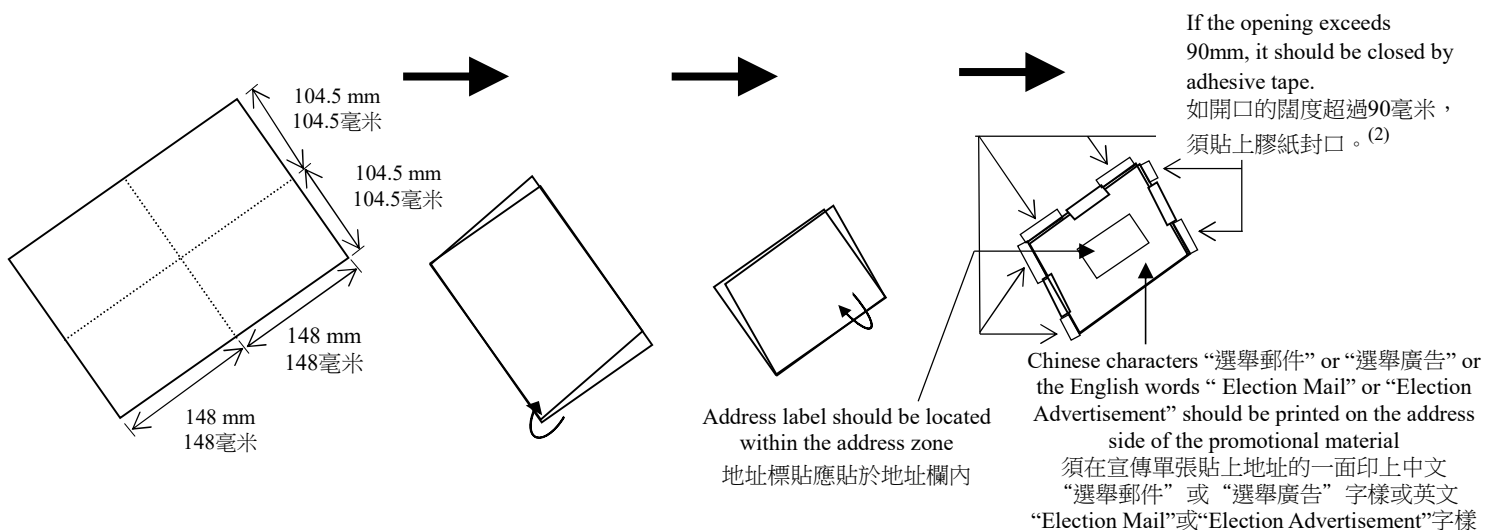


Figure 3 : Folder of A4 (296mm) size with 2 folds
圖示三：兩摺的A4（296毫米）尺寸紙張



Methods of Folding of Election Mail for Free Postage 免費郵遞選舉郵件應採用的摺疊方法⁽¹⁾

Figures 4A&4B : Folder of A4 (296mm) size sealed with address label
圖示四A及四B：以地址標貼封口的A4（296毫米）尺寸紙張

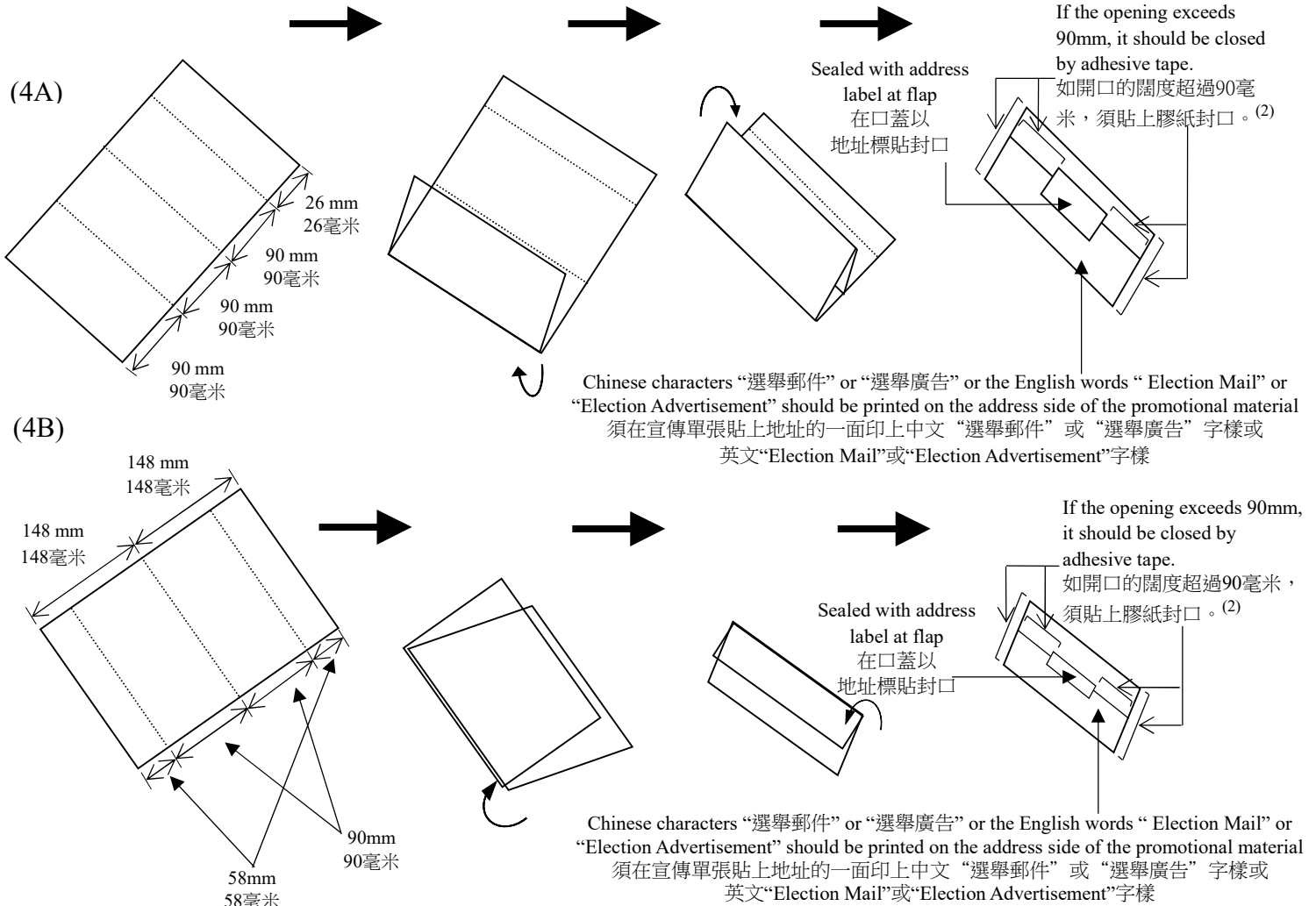
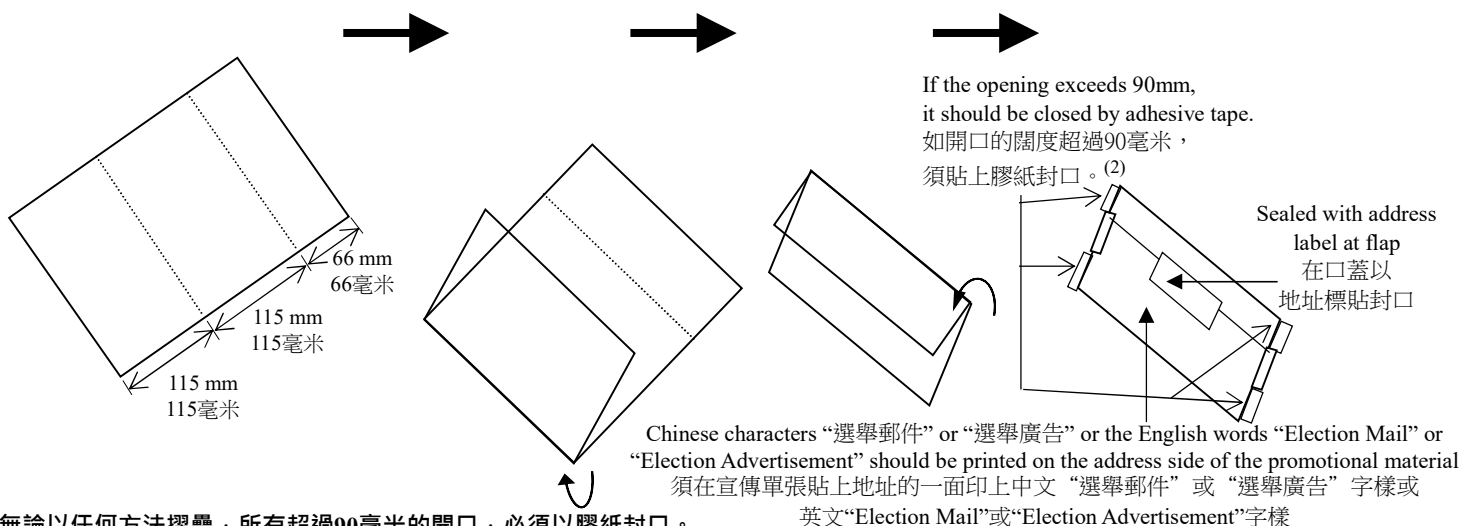


Figure 5 : Folder of A4 (296mm) size sealed with address label
圖示五：以地址標貼封口的A4（296毫米）尺寸紙張



(1) 無論以任何方法摺疊，所有超過90毫米的開口，必須以膠紙封口。

For any methods of folding, all openings exceeding 90 mm should be closed by adhesive tape.

(2) 無論選舉郵件的開口是否已經封口，所有開口部分不得超過90毫米，否則須以膠紙封口。

Regardless of whether the opening of the election mail is closed or not, all openings should not exceed 90 mm. Otherwise, they must be closed by adhesive tape.

Canvassing Activities which are Forbidden
Within a No Canvassing Zone

(Note: (1) This list is by no means an exhaustive list of the canvassing activities which are prohibited within a No Canvassing Zone (“NCZ”). It only serves to illustrate some of the common forms of canvassing activities.

(2) Within an NCZ, door-to-door canvassing and for the purpose of such canvassing, the display or wearing of any promotional material such as any badge, emblem, clothing or head-dress which may promote or prejudice the election of a candidate or candidates at the election or which makes direct reference to a body any member of which is standing as a candidate in the election or to a prescribed body the registered name or registered emblem of which has been printed on ballot papers for the election may be allowed on storeys **above or below the street level (i.e. excluding the storey at the street level) in any building** (including residential premises and commercial premises such as restaurants or shops) **other than the building in which the polling station is located**, provided that permission has been obtained for entry to the building for canvassing votes, no obstruction is caused to any person and no sound amplifying system or device is used (except for the performance of duties by officers of the Correctional Services Department on the polling day at dedicated polling stations situated in penal institutions). **Nevertheless, it is important for candidates to note that canvassing activities are strictly prohibited on the storey at the street level of all buildings within an NCZ.)**

1. Unauthorised static display of election advertisements (“EAs”) on walls (including the outer walls of the polling station), windows, railings, fences, etc.
2. Exhibition of portable EAs displayed on vehicles (whether in motion or parked within an NCZ), or held or carried by persons.

3. Except for the purpose of door-to-door canvassing referred to in Note (2) above, displaying or wearing any promotional material such as any badge, emblem, clothing, carrier bags or head-dress which:
 - (a) may promote or prejudice the election of a candidate or candidates at the election; or
 - (b) makes direct reference to a body any member of which is standing as a candidate in the election or a prescribed body the registered name or registered emblem of which has been printed on ballot papers for the election.
4. Distribution of EAs.
5. Canvassing for votes by:
 - (a) talking to electors;
 - (b) greeting electors by smiling, waving, nodding, shaking hands, etc.;
 - (c) shouting slogans or the name or number of a candidate or any appeal message;
 - (d) singing or chanting; or
 - (e) making signs or signals to electors.
6. Broadcast of audio or video recording to appeal to or induce electors to vote, or not to vote.
7. Using loudspeakers or loud-hailers (whether carried by a person or mounted on a vehicle or installed in any other manner) to broadcast any message which appeals to or induces electors to vote or not to vote.
8. Candidates wilfully stay or loiter in the NCZ and show goodwill to electors, which constitutes canvassing for votes.

[Amended in September 2011, September 2012, September 2015 and September 2019]

**Conduct of Electioneering Activities and Election Meetings
in Premises under the Management of the Housing Department and
the Hong Kong Housing Society**

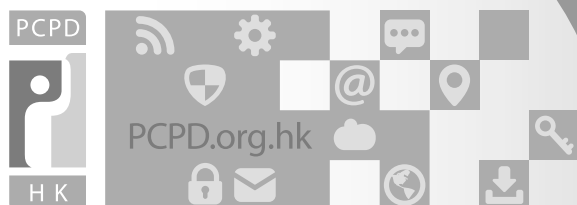
Candidates must obtain **prior approval** ^{Note} from an estate manager or officer-in-charge before conducting any electioneering activities or election meetings within a housing estate, in addition to compliance with regulations and conditions imposed by other relevant authorities. An **application** for approval **should be made at least two clear working days (excluding a Saturday, Sunday and public holiday) before the proposed electioneering activity/election meeting**, and the applicant will be notified as soon as practicable after a decision is arrived at. To avoid any conflict that may arise from allowing two or more candidates and their supporters to hold electioneering activities/election meetings in a housing estate at the same venue and time, the Housing Department and the Hong Kong Housing Society will process the applications as soon as practicable and will adopt the following arrangements:

- (a) if only one application for holding an electioneering activity/election meeting at a particular venue and at a particular time is received, that application will be approved;
- (b) if two or more applications for the same venue and the same period are received by the Housing Department or the Hong Kong Housing Society two clear working days before the electioneering activity/election meeting takes place, the applicants will be advised to negotiate among themselves to reach a compromise on condition that no canvassing from two or more groups will be held at the same place and at the same time to avoid any dispute or clash. If no compromise can be reached, allocation of venue or time will be made by the drawing of lots at a time to be decided by the relevant estate office;

^{Note} The Housing Department and the Hong Kong Housing Society require candidates to be validly nominated and submit relevant proof before they can apply for approval to conduct electioneering activities or election meetings within a housing estate. Upon approval from the relevant estate office and completion of the lots drawing session for candidates conducted by the Returning Officer (“RO”), the validly nominated candidates will be allowed by the Housing Department and the Hong Kong Housing Society to conduct their electioneering activities or election meetings within the housing estate.

- (c) for the purpose of (a) and (b) above, an application for several periods will be dealt with as separate applications for each of the periods; and
- (d) the estate office should send a copy of the letter of approval to the relevant RO for record and for public inspection.

[Amended in September 2019 and September 2023]



Guidance Note

香港個人資料私隱專員公署
Office of the Privacy Commissioner
for Personal Data, Hong Kong

Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations and Members of the Public

1. Introduction

Collection, retention, processing and use of personal data are usually involved in election activities (including elector registration, candidate nomination, electioneering, public opinion researching, and casting and counting of votes). This guidance note provides assistance to candidates and their affiliated political bodies, government departments and public opinion research organisations in relation to compliance with the requirements under the Personal Data (Privacy) Ordinance (the Ordinance) when carrying out election activities. It also provides members of the public with advice on personal data protection in this regard.

2. Legal Liabilities of Candidates, Government Departments and Public Opinion Research Organisations as Principals

Candidates, government departments and public opinion research organisations (the Principals) may engage election agents, campaign staff, full-time or part-time employees, contractors and volunteers (the Agents) to assist in election-related activities. In such circumstances, the Principals are liable for the acts and practices of their Agents in the course of performing actions assigned

by them¹. The Principals are responsible for supervising their Agents to ensure compliance with the requirements under the Ordinance.

3. Guidance for Candidates and their Affiliated Political Bodies

Minimum Data Collection

3.1 When candidates collect personal data directly from an individual or indirectly from a third party (e.g. trade union, professional or political body) for election purposes (such as electioneering, organising an election forum, or fund raising), only adequate, and not excessive personal data, necessary for election purposes should be collected (for example, a Hong Kong Identity Card number should not be collected)².

Informed Collection

3.2 When a candidate or affiliated trade union, professional or political body solicits personal data directly from an individual for election purposes, the candidate should ensure that the individual is informed of the purpose of collection of the data and other matters³ set out in the Ordinance by, for example, providing a “Personal Information Collection Statement” (PICS) to the individual.

¹ According to section 65(1) and (2) of the Ordinance, any act done or practice engaged in by a person in the course of his employment or as agent for another person with the authority of that other person shall be treated as done or engaged in by his employer or that other person as well as by him.

² Data Protection Principle 1(1): Personal data shall not be collected unless the data is collected for a lawful purpose directly related to a function or activity of the data user; and the data collected is necessary, adequate but not excessive in relation to that purpose.

³ Data Protection Principle 1(3): On or before a data user collects personal data directly from a data subject, the data user shall take all reasonably practicable steps to ensure that the data subject has been informed of whether it is obligatory or voluntary for him to supply the data and the consequences for him if he fails to supply the data. The data subject shall be explicitly informed of the purpose of data collection and the classes of transferees to whom the data may be transferred as well as the name / job title and address of the individual to whom the request of access to and correction of the data subject's personal data may be made.

- 3.3 Candidates and their Agents may lobby electors by a variety of means⁴. In certain circumstances, the electors may have no previous dealings with the candidates and their Agents, and may be concerned as to where the candidates and their Agents obtained their personal data. When asked, candidates and their Agents should inform the electors as to how their personal data was obtained.

Case 1

A candidate of the District Council election collected feedback from members of the public on community affairs by distributing flyers. In the flyer, members of the public were requested to provide their names and contact details. However, there was no PICS in the questionnaire and some members of the public were worried about how their personal data would be used.

When the candidate solicited personal data directly from individuals (such as by distributing a flyer for filling in personal data), the candidate should have provided a PICS to the individuals so that they could decide whether their personal data should be provided.

Case 2

The Election Committee members of a subsector, and Legislative Councillors of the functional constituency concerned, co-organised an election forum to provide a platform for electors of that subsector to exchange ideas on candidates' manifestoes. A complainant was dissatisfied that the organisers had failed to provide a PICS on the online registration form.

In response to the complaint, the forum organisers revised the online registration form by stating that personal data collected would be used only for enrolling participants, and the data would be destroyed after the event without it being transferred to third parties. Information on making data access and data correction requests was also made available on the registration form.

Lawful and Fair Collection

- 3.4 Candidates should not collect personal data for election purposes by deceptive means or by misrepresenting the purpose of the collection, for example, by collecting personal data on the pretext of assisting citizens to apply for government welfare.⁵

Collection Purpose

- 3.5 If a trade union, or a professional or political body intends to provide their members' personal data to candidates for election purposes, or to directly send election-related communication to their members, the proper course of action is for such bodies to determine whether this is a permitted purpose for which the personal data was collected. Prior notification to members of such use of their data, and the classes of possible transferees of the data, should be provided.

Case 3

After completing a training course organised by a political party, the complainant was asked to complete a questionnaire and provide his personal data for "communication purposes". Subsequently, the political party used the complainant's personal data in canvassing him to vote for a candidate.

In response to the complaint, the party revised the PICS in the questionnaire by explicitly stating that the personal data collected would be used for "election purposes".

Case 4

The complainant had been a member of a trade union for years. In a recent election, the complainant received a telephone call from the trade union canvassing votes for a candidate. The complainant stated that the trade union had never informed him that his personal data would be used for election purposes when he joined the union.

Upon the PCPD's enquiry, it was found that the latest version of the PICS in the membership application form had stated that the trade union would use the members' personal data for election purposes. However, the trade union did not provide the latest version of the PICS to those members who had their membership renewed. The PCPD thus requested the trade union to provide the latest version of the PICS to the members when they renewed their membership in future.

⁴ Such as telephone, fax messages, SMS/MMS or emails.

⁵ Data Protection Principle 1(2): Personal data must be collected by means which are lawful and fair in the circumstances of the case.

Express Consent

3.6 Personal data may have been provided to candidates and their Agents for non-election purposes, such as in connection with the handling of building management matters, or requests for assistance. Should candidates or their Agents wish to use personal data so collected for an election purpose, express consent from the data subject must be obtained beforehand⁶.

Case 5

A resident of a building lodged a complaint with a political party in relation to the management of the building, and for this purpose supplied his personal data. Subsequently, the political party used his personal data in canvassing him to vote for a candidate in an election.

In response to the complaint, the political party undertook in future to obtain express and voluntary consent from any resident that had lodged a complaint with the party, before using their personal data for election purposes.

Disclosing personal data on social media

3.7 Social networks are rapidly evolving and developing. It is becoming common for political bodies, district councillors and community officers to provide information relating to the district to the residents and to stay connected with them through social media. Political bodies and district councillors must ensure that the personal data privacy of the residents is protected when sharing information that involves personal data.

Case 6

The PCPD has received complaints against councillors for not respecting the residents' privacy, for example, by uploading photos or videos which contained close-up facial images of individuals involved in disputes in the neighbourhood, or by disclosing the full addresses of patients confirmed of having contracted epidemic diseases.

The PCPD understands that councillors or political bodies may from time to time report on the local affairs in the community through social media, upload photos to reflect actual situations, or provide information to residents for combatting pandemic. However, if the information contains an individual's facial image, full address or any other personal data, councillors should take into account the data subject's wish and feeling. Individual's privacy right should be respected when sharing information on topical affairs and incidents on the social media.

Registers of Electors

3.8 When using personal data from published registers of electors, candidates should ensure that such personal data is used only for election purposes as prescribed by the relevant election legislation. Using any information on the register for a purpose other than a purpose related to an election is an offence under the current electoral legislations and is liable to a fine at level 2 (the prevailing amount is HK\$5,000) and to imprisonment for 6 months.

3.9 Besides, the PCPD noted that the Court of Appeal handed down a judgment on 21 May 2020 and a decision on 27 May 2020 regarding an appeal⁷ regarding the dismissal of an application for judicial review on whether the requirement of showing the names of the registered electors together with their principal residential addresses ("Linked Information") in the electoral registers for public inspection or provision to candidates is constitutional⁸. The Court of Appeal held, amongst others, that displaying the Linked Information of

⁶ Data Protection Principle 3: Personal data shall not, without the prescribed consent of the data subject, be used for a new purpose. New purpose, in relation to the use of personal data, means any purpose other than the purpose, or a directly related purpose, for which the data was to be used at the time of the collection of the data.

⁷ Junior Police Officers' Association of the Hong Kong Police Force and Anor (as the applicants) v Electoral Affairs Commission, Chief Electoral Officer, Electoral Registration Officer (as the respondents) Hong Kong Journalists Association (as the intervener) (CACV 73/2020, Date of Judgment: 21 May 2020).

⁸ In this appeal, the applicants challenged the constitutionality of section 20(3) of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Geographical Constituencies) Regulation (Cap.541A) and Section 38(1) of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap.541F) (together as "Impugned Provisions"). Under the Impugned Provisions, the Linked Information of a registered elector as recorded in the Final Register would be available (1) to the public for inspection at place(s) specified by the Electoral Registration Officer and (2) to the candidate(s) for the District Council geographical constituency to which the elector belongs.

electors in the electoral registers to an individual's right to privacy and is thus protected generally under Article 14 of section 8 in Part II of the Hong Kong Bill of Rights Ordinance⁹ (c.f. from Article 17(1) of the International Covenant on Civil and Political Rights). Hence, the requirement of displaying publicly the names and residential addresses of some individuals (for example victims of stalking or family violence) may cause a real risk of harm to them. As the ultimate guardian of the law, the Court of Appeal is obliged to consider if a proportionate balance is struck between the right of privacy and the right to vote (particularly the measures adopted in the current electoral system to achieve the transparent election aim)¹⁰. Nevertheless, the Court of Appeal also ruled that it is not its function to formulate electoral policy or to devise a particular electoral system.

- 3.10 In order to combat doxxing and protect citizens' personal data privacy, two offences targeting on doxxing took effect on 8 October 2021 pursuant to the Personal Data (Privacy) (Amendment) Ordinance 2021. If any person discloses any personal data of electors (as data subject) on the register without the relevant consent of the data subject, with an intent to cause specified harm¹¹ or being reckless as to whether specified harm would be caused to the data subject or any family member of the data subject, the discloser commits an offence under section 64(3A) of the Ordinance and is liable to a fine of HK\$100,000 and imprisonment for 2 years. If such disclosure causes specified harm to the data subject or any family member of the data subject, the discloser commits an offence under section 64(3C) of the Ordinance and is liable to a fine of HK\$1,000,000 and imprisonment for 5 years.

Personal Data in Other Public Domains

- 3.11 Other than for the register of electors, personal data available in the public domain (such as professional registers) is generally not intended to be used for election purposes. Before using personal data obtained from the public domain, candidates must take into account the original

purpose for which the public register was established, the restrictions on its use, and the reasonable privacy expectation¹² of the data subjects.

Option to Decline

- 3.12 As a matter of good practice, when candidates and their Agents canvass for votes from individuals directly, or indirectly through a third party (such as a trade union, or a professional body or political body), the individuals should be given an option to decline receipt of any subsequent electioneering communication from the candidates in relation to the election concerned, so as to avoid receipt of unwanted electioneering communication from such candidates.

List of "No"

- 3.13 Candidates should also maintain a list of individuals who, to their knowledge, find election-related communication, such as phone calls, mail, fax messages, emails or visits, objectionable, and avoid approaching them to canvass for their votes.

Data Security

- 3.14 When conducting election activities, candidates and their Agents should take all practicable steps to protect personal data of electors against accidental or unauthorised access¹³. For example, they should safeguard electors' personal data that they have obtained from the register of electors or government departments (such as a DVD of the "Candidate Mailing Label System", and mailing labels of electors). If it is absolutely necessary to access electors' information outside office premises for an election purpose, only the minimal and necessary data should be taken away from the office premises. Furthermore, the data should be encrypted and protected from unauthorised access or retrieval. After use, the data should be returned to the office, or be delivered to a safe place for proper storage as soon as possible.

⁹ Article 14 of section 8 in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383): (1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. (2) Everyone has the right to the protection of the law against such interference or attacks.

¹⁰ See paragraphs 95-96 of the judgment.

¹¹ According to section 64(6) of the Ordinance, "specified harm", in relation to a person, means (a) harassment, molestation, pestering, threat or intimidation to the person; (b) bodily harm or psychological harm to the person; (c) harm causing the person reasonably to be concerned for the person's safety or well-being; or (d) damage to the property of the person.

¹² Reference can be made to the *Guidance on Use of Personal Data Obtained from the Public Domain* issued by the office of the Privacy Commissioner for Personal Data, Hong Kong (PCPD).

¹³ Data Protection Principle 4(1): All practicable steps shall be taken to ensure that personal data (including data in a form in which access to or processing of the data is not practicable) held by a data user is protected against unauthorised or accidental access, processing, erasure, loss or use.

Case 7

A district councillor sent an email to a list of recipients canvassing votes for a candidate in an election without concealing the names and email addresses of the recipients. The complainant, being one of the recipients of that email, complained that his name and email address had been disclosed to all other recipients of the email.

In response to the complaint, the district councillor agreed to safeguard the security of the personal data of the electors when transmitting messages via electronic means (for example, by use of the “bcc” function).

Data Disposal

3.15 Personal data collected for election purposes should not be retained for a period beyond completion of all the election activities¹⁴. For example, after an election, candidates should dispose of all the electors’ personal data obtained from a published register of electors, or those provided by government departments for election purposes. When data processors¹⁵ are appointed or engaged by the candidates to destroy personal data of electors on their behalf, the candidates must use contractual or other means to prevent the personal data being transferred to data processors from: (i) being kept longer than is necessary for election purposes¹⁶; and (ii) unauthorised or accidental access, processing, erasure, loss or use¹⁷.

Distributing or Providing Assistance in Purchasing Supplies

3.16 Political bodies and councillors may from time to time distribute supplies to the residents and they may collect the residents’ personal data for identification purposes. Political bodies and councillors should respect the residents’ privacy and comply with the Ordinance when collecting, using and retaining the residents’ personal data.

Case 8

Political bodies, councillors and community officers provided assistance in purchasing anti-epidemic items through the internet or distributed anti-epidemic items to members of the public at roadside booths. This aroused a number of privacy concerns:

- 1) Even if there is a practical need for the organiser to collect personal data, for instance for the purposes of registration, compiling a waiting list, and collection or delivery of products, the organiser should collect the minimum amount of personal data in a lawful and fair manner¹⁸. As in the circumstances of shopping in the supermarket, providers of goods and services should not collect personal data that is unrelated to the transactions. Hence, the organiser should not collect data that is unrelated to and unnecessary for the transactions or delivery (for example, date of birth, income, family status, family members’ personal data and identity card copy).
- 2) No matter whether the organiser collects personal data through paper or electronic form, the organiser should inform members of the public of the purpose of collection, the classes of transferees and whether it is obligatory or voluntary to supply the data¹⁹. The good practice is to provide a PICS to them.
- 3) The organiser should not use the personal data collected for other purposes without the data subjects’ consent²⁰ (for example, for purposes other than the directly related purposes for which the data was collected, including marketing of commercial products or to advance political publicity)²¹. If the organiser intends to use the personal data collected for other purposes, the organiser should explain clearly to the data subject and seek the data subject’s consent. The consent given by the data subject must be express and voluntary.

¹⁴ Data Protection Principle 2(2): Personal data shall not be kept longer than is necessary for the fulfillment of the purpose (including any directly related purpose) for which the data is or is to be used.

¹⁵ “Data processor” means a person who processes personal data on behalf of another person; and does not process the data for any of the person’s own purposes. Reference can be made to the information leaflet *Outsourcing the Processing of Personal Data to Data Processors* issued by the PCPD.

¹⁶ Data Protection Principle 2(3): If a data user engages a data processor, whether within or outside Hong Kong, to process personal data on the data user’s behalf, the data user must adopt contractual or other means to prevent any personal data transferred to the data processor from being kept longer than is necessary for processing of the data.

¹⁷ Data Protection Principle 4(2): If a data user engages a data processor, whether within or outside Hong Kong, to process personal data on the data user’s behalf, the data user must adopt contractual or other means to prevent unauthorised or accidental access, processing, erasure, loss or use of the data transferred to the data processor for processing.

¹⁸ See footnote 2 and footnote 5.

¹⁹ See footnote 3.

²⁰ See footnote 6.

²¹ Except for those scenarios that are exempted under Part 8 of the Ordinance.

Case 8 (continued)

- 4) For the retention period of personal data, notwithstanding that the Ordinance does not require data users to inform data subjects of the retention period of personal data, data users are required to erase personal data that is no longer needed for the purpose for which the data is used²². Hence, the organiser should erase the personal data collected after distributing the supplies or providing the services (in other words, after fulfilling the purpose for which the data is used), in order to avoid potential data security problem.

4. Guidance for the Relevant Government Departments

Security Measures

- 4.1 In campaigns launched by government departments for the purpose of promoting elector registration or updating electors' particulars, such activities may involve collection of personal data in paper form (such as collection of elector registration forms at pavement booths). Government departments should take practicable steps to safeguard personal data so collected against accidental or unauthorised access by unrelated parties²³. For example, the responsible staff should be alert to data leakage risks in the surroundings when receiving completed forms. If notebook computers / tablets or portable storage devices are used, extra care must be taken (see paragraph 4.3 below for more details). The data should be returned to the office or delivered to a safe place for proper storage as soon as possible upon completion of the activities.
- 4.2 Government departments should, at all times, adopt all practicable security measures to protect the voluminous and sensitive personal data of electors held by them against unauthorised or accidental access, processing, erasure, loss or use²⁴. In addition to encrypting the database, government departments should also:
- Make available the personal data for access or use only on a "need-to-know" and "need-to-use" basis, especially when portable storage devices, such as notebook computers, are involved;
- 4.3 In circumstances when accessing electors' personal data outside office premises is required, a risk assessment should be conducted to ascertain the actual need of storing electors' personal data in portable storage devices (such as in USB flash cards, notebook computers / tablets, portable hard drives or optical discs). If it is necessary to store electors' personal data by such means, effective technical security measures commensurate with the quantity and sensitivity of the data should be adopted by, for example, use of two-factor authentication for data access. Adequate physical security measures should also be effected to safeguard devices (such as affixing the device with a cable lock to an appropriate fixture, or avoidance of departmental logos on the devices)²⁵.
- 4.4 Government departments should formulate, systematically review and update their current personal data security policies, procedures and practical guidelines, according to their functions and activities. Steps should be taken to effectively disseminate personal data security policies to all staff, and provide clear instructions as to how to access such policies. Government departments should also review and formulate a compliance check mechanism to ensure personal data security policies, procedures and practical guidelines are complied with.

²² See footnote 14.

²³ See footnote 13.

²⁴ See footnote 13.

²⁵ Reference can be made to the *Guidance on the Use of Portable Storage Devices* issued by the PCPD.

- 4.5 The multiple transfers and storage venues for the election documents increased the risk and harm of losing the documents. For the purposes of monitoring and reviewing the implantation of the security measures, government departments should set up procedures in respect of proper recording of movements of electoral documents, retrieval systems and dossier reviews.

Case 9

A backup notebook computer of a government department prepared for use in an election was discovered missing at the fallback election venue. The computer stored the names of Election Committee members eligible to vote in the election, and also the personal data of all electors in Hong Kong.

While the Privacy Commissioner for Personal Data, Hong Kong (Privacy Commissioner) considered the chance of leakage being low, as the personal data of the electors involved had already undergone multiple layers of encryption, the assessment and approval of the use of an enquiry system containing the electors' data was not well thought out or adapted to the special circumstances of the case. The data user had simply followed past practices and had failed to review, update or appraise the existing mechanism in light of the circumstances, in a timely manner. The investigation revealed that the data user lacked the requisite awareness and vigilance expected of it in protecting personal data. Rules of application and implementation of various guidelines had not been clearly set out or followed, and internal communication was not sufficiently effective. The data user failed to take all reasonably practicable steps in consideration of the actual circumstances, or to ensure that electors' personal data was protected from accidental loss, and thereby contravened Data Protection Principle 4(1)²⁶ of the Ordinance. An enforcement notice was served on the government department to remedy and prevent recurrence of the contravention²⁷.

Case 10

A government department lost a marked final register of electors after an election. The register contained the unique and sensitive information about electors' identity card numbers and their polling statuses.

The Privacy Commissioner found that there were no specific guidelines or standing procedures as security standards for managing the marked final register. Its inventory and movements were not properly and adequately documented. There were no dossier reviews, and retrieval systems for storerooms were not put in place.

In addition, human errors in handling physical and tangible records of personal data could have been caused by overly long work hours, scarce resources, inexperienced or under-trained staff, etc. The Privacy Commissioner served an Enforcement Notice to direct the government department to remedy and prevent any recurrence of the contraventions.

- 4.6 When handling requests for information that involve the personal data of individuals, including electors, candidates or nominees, government departments must carefully assess if the release of the requested information would amount to a breach of Data Protection Principle 3²⁸. In making such a determination, the exemptions provided in Part 8 of the Ordinance²⁹ are applicable. If necessary, more information may be sought from the requestor to facilitate appropriate consideration.

5. Guidance for Public Opinion Research Organisations

Informed Collection

- 5.1 Public opinion research organisations may conduct opinion polls to gauge public views on candidates' approval ratings or electors' voting preferences. An elector's voting preference is considered to be very sensitive personal data, and organisers of these activities should exercise due care to ensure that participants are informed of the purpose of collecting the personal data, and other matters required by the Ordinance³⁰.

²⁶ See footnote 13.

²⁷ The investigation report (R17-6249) is available on the PCPD website.

²⁸ See footnote 6.

²⁹ If application of Data Protection Principle 3 is likely to prejudice security, defence and international relations; crime prevention or detection; assessment or collection of any tax or duty; news activities; health; legal proceeding; due diligence exercise; handling life-threatening emergency situation, the relevant personal data is exempt from the use limitation requirements.

³⁰ See footnote 3.

- 5.2 For the purpose of gauging public views on candidates' approval ratings and the electors' voting preferences, public opinion research organisations need only the overall results of the survey and some macro parameters (for example, gender, age group, occupation categories, area of residence and income group). Hence, it is generally not necessary for the public opinion research organisations to indiscriminately collect the respondents' personal data (such as names, identity card numbers, telephone numbers and addresses). If data subjects are asked to provide these kinds of personal data for research purpose, they must check clearly the purpose of collection before considering to disclose such data, and should do so only on a well-informed and voluntary basis.

Case 11

A complainant provided his personal data in a signature campaign organised by a political body. He noticed that the purpose of collecting the personal data and data transfer arrangement was not stated on the form used for collecting personal data. According to the organiser, it had indicated on the form that "the personal data was collected solely for expressing views, and it would be destroyed afterwards".

In response to the complaint, the organiser undertook to take all practicable steps to supply relevant information to the participants in similar future events launched, including, for instance, the purpose for which the data was to be used, whether it was obligatory or voluntary for participants to provide the data, the classes of person to whom the data might be transferred, and their right to request access to a copy of their personal data and to request correction of the data.

Lawful and Fair Collection

- 5.3 When collecting personal data in opinion polls, organisers should carefully assess if the means of data collection could confuse or mislead the participants. Vigilance should be exercised to avoid providing untrue or misleading information concerning the background and objectives of the activities. If the organisers fail to identify themselves as the data user to the participants, or fail to state the nature of the activities clearly (e.g. whether the activities are "official" or "of legal effect"), this could amount to unfair collection of personal data³¹.

Data Security

- 5.4 If collection of personal data is involved, organisers of opinion polls should still safeguard personal data collected against accidental or unauthorised access by unrelated parties.³² When employing the use of computer programmes or software developed by third parties, assessment should be made to identify possible privacy risks (including, for example, the security issues related to data transmission and storage, technical safeguards of the system and network, and the restriction on data access by staff). Measures should be taken to ensure the personal data collected is appropriately protected.

Data Disposal

- 5.5 Organisers should not retain personal data collected in opinion polls after completion of these activities³³. If data processors are appointed or engaged by the organisers to destroy the personal data of participants on their behalf, the organisers must comply with the relevant requirements under the Ordinance (see paragraph 3.15 above).

6. Personal Data Protection Advice for Members of the Public

- 6.1 Upon receipt of emails or letters soliciting personal data in relation to election, members of the public must verify senders' identity to ensure there is no fraudulent collection of personal data in the name of government departments.
- 6.2 In submitting the completed elector registration form to the relevant authority, due care must be exercised regardless of the means of submission. For example, the envelope should be properly sealed and the information of recipients should be input correctly.
- 6.3 Members of the public may indicate on the elector registration form that emailing is their preference for receiving electioneering communications from the candidates. Otherwise, the email address provided would only be used by the relevant authority for communication purposes.
- 6.4 Electors may exercise their right to object to receipt of electioneering communications from the candidates and their affiliated political bodies.
- 6.5 Electors who have changed their registration particulars should report the change to the relevant authority as soon as possible for the record update.

³¹ See footnote 5.

³² See footnote 13.

³³ See footnote 14.

- 6.6 If participants of opinion polls need to provide personal data, they must ascertain if the organisers of these activities have clearly stated the nature of the activities (e.g. whether the activities are “official” or “of legal effect”) and identified themselves. Participants are also reminded to check if the organisers have provided them with information such as the purpose of collecting the personal data, and other matters required by the Ordinance³⁴. In case of doubts, enquiries should be made to the organisers.
- 6.7 If personal data is collected by political bodies in their activities such as distribution of or providing assistance in making purchases of supplies, the participants should ascertain whether the data collected will be used in subsequent elections. If the participants do not consent to such use, they should not provide their personal data.
- 6.8 Members of the public should not give up their personal data for small gains. Personal data belongs to the data subjects themselves. They are advised to be vigilant about protecting their own personal data. Before providing personal information through whatever channels, they should first read the PICS and the privacy policy, and get to know the other party’s identity and background, as well as their purposes of collection, the classes of transferees and whether the other party is collecting excessive personal data, etc.
- 6.9 If members of the public believe that their personal data have been collected or used improperly, they can consider raising their queries and negotiating with the individuals or organisations concerned. If they are dissatisfied with the individuals’ or organisations’ response, they can complain to the PCPD.

7. A Final Note

In view of the huge volume and sensitive nature of the personal data collected or used in election activities, candidates, government departments, public opinion research organisations and members of the public must make the best efforts to avoid leakage.

Data users are recommended to formulate a policy on data breach handling and the giving of breach notifications³⁵. In the unfortunate event of a data breach, data users should consider issuing notifications to lessen the harm caused by the breach.

The PCPD stands ready to offer assistance and respond to data breach notifications to all stakeholders. For enquiries, please visit our website from which all publications referred to in this guidance can be downloaded, or call our hotline at 2827 2827.

³⁴ footnote 3.

³⁵ Reference can be made to the *Guidance on Data Breach Handling and Data Breach Notifications* issued by the PCPD.



PCPD website
pcpd.org.hk

Enquiry Hotline : (852) 2827 2827
Fax : (852) 2877 7026
Address : Unit 1303, 13/F, Dah Sing Financial Centre, 248 Queen's Road East,
Wanchai, Hong Kong
Email : communications@pcpd.org.hk



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July 2023 (Eighth Revision)

Guidance Note on Safe Conduct of Election-related Activities

Introduction

1. This guidance note serves to provide general advice to candidates and organisers of election-related activities, for the safe conduct of such activities.

Election Meetings

2. The Public Order Ordinance (Cap 245) and Part III of Chapter 9 of the “Guidelines on Election-related Activities in respect of the District Council Election” (“the Guidelines”) set out the circumstances when a meeting, to be held in a public place, is to be notified to the Police and the procedures to be followed.

3. For the sake of safety and to minimise the potential confrontation with and/or harassment of candidates by those attending the meeting, irrespective of whether or not the election meeting is required to be notified to the Police, candidates should be mindful of the reactions of those attending the meeting. In this regard, consideration should be given to making appropriate arrangements with the relevant management office (if any) to facilitate the smooth conduct of the meeting. Should a candidate have any concerns over his/her own safety, consideration should be given to seeking advice from the local police station of the district concerned before the meeting.

Election Forums

4. In addition to the provisions of Part III of Chapter 10 of the Guidelines, organisers of election forums should be aware of the possible instances of harassment of candidates.

5. In order to ensure that order, fairness and impartiality are maintained throughout the activity without causing any embarrassment, where a forum is held in private premises, the organiser should arrange in advance with the owner, occupier, owners’ corporation or building management of the premises precautionary measures for the sake of the safety of all participants

and the orderly conduct of the forum. Where necessary, security guards should be employed and stationed on-site.

Electioneering at Living or Working Places of Electors

6. Chapter 8 of the Guidelines gives details regarding the conduct of electioneering activities at the living or working places of electors.

7. If owners or owners' corporations decide to allow electioneering by candidates, they may also set out the time of access allowed for the activity and impose other conditions. These conditions help minimise the potential confrontation with and harassment of candidates by those attending the meeting.

8. Candidates should have due regard to the feelings of tenants, occupiers and owners in planning and carrying out electioneering activities. This will help ensure that such activities can be carried out in a safe and orderly manner.

9. In addition to obtaining the formal approval or consent of the owner or owners' corporation having the right to control or manage the common parts of the building for the conduct of electioneering activities, candidates are advised to inform the management office when the electioneering activities are about to start.

Advice

10. Should any safety issues be of particular concern, consideration should be given to seeking advice from the local police station of the district concerned before conducting the activity.

[Amended in September 2011 and September 2023]

Application for a Permit under S4(17)
of Summary Offences Ordinance, Cap. 228
for Non-Charitable Purposes

This application should reach Division III of Home Affairs Department at 30/F, Southorn Centre, 130 Hennessy Road at least **FOUR WEEKS** before the date of the activity. This will enable the applicant to be notified of the result of his application about seven days before the event. Non-charitable fund-raising activities without permits for fund-raising for non-charitable purposes are subject to prosecution by the Police under S4(17) of Summary Offences Ordinance, Cap. 228 (“SOO”). For enquiries, please call 2835 1492.

1. Name of applicant : * Mr/Mrs/Miss/Ms _____

Name in Chinese (if any) : _____

2. Hong Kong Identity Card Number : _____

(Please enclose a photocopy of your Hong Kong Identity Card)

3. Address : _____

4. Contact Telephone No. : _____ Fax No. : _____

Email Address: _____

5. If this application is made on behalf of an organisation, please complete the following details :

i) Name of organisation (English) : _____

Name of organisation (Chinese) : _____

ii) Position of applicant in organisation : _____

iii) Details of key officers in organisation :

<u>Post</u>	<u>Name</u>	<u>Address</u>
<u>President/Chairman</u>	_____	_____
	_____	_____

<u>Secretary</u>	_____	_____
	_____	_____

<u>Treasurer/Accountant</u>	_____	_____
	_____	_____

iv) Date the organisation was formed : _____

v) Type of organisation : Society registered/exempt under the Societies Ordinance, or
Company incorporated in Hong Kong, or
Others (Please give details)

(Please enclose a copy of the certificate of registration/exemption of your organisation and also a copy of the memorandum and articles of association or the constitution or rules of your organisation whichever is applicable. If your organisation is a company incorporated in Hong Kong, a copy each of a Certificate of Incorporation and Certificate of Existence issued by the Companies Registry should also be produced.)

6. If the money raised is intended to benefit another organisation, please complete the following details :

i) Name of organisation (English) : _____

Name of organisation (Chinese) : _____

ii) Relationship between applicant and that organisation :

iii) Details of key officers in that organisation :

<u>Post</u>	<u>Name</u>	<u>Address</u>
<u>President/Chairman</u>	_____	_____
<u>Secretary</u>	_____	_____
<u>Treasurer/Accountant</u>	_____	_____

iv) Date the organisation was formed :

v) Type of organisation : Society registered/exempt under the Societies Ordinance, or
Company incorporated in Hong Kong, or
Others (Please give details)

(Please enclose a copy of the certificate of registration/exemption of the organisation and also a copy of the memorandum and articles of association or the constitution or rules of the organisation whichever is applicable. If the organisation is a company incorporated in Hong Kong, a copy each of a Certificate of Incorporation and Certificate of Existence issued by the Companies Registry should also be produced.)

vi) Has the organisation given consent to the activity being organised by you ? * Yes / No

7. If the applicant is making this application as an individual, please complete the following details :

i) Date and place of birth : _____

ii) Length of residence in Hong Kong : _____

iii) Are you a permanent resident of Hong Kong ? * Yes / No

8. ✦ Intended use of money to be collected : _____

9. ✦ Format of the activity : _____

10. ✦ Method for money collection (note) : _____

11. ✦ Date and time of the activity listed in priority : _____

(Note : To ensure a fair distribution of venues, dates and frequency of fund-raising among all potential applicants, there could be a restriction on the number of days approved, depending on prevailing circumstances.)

12. ✦ Venue and address : _____

Has permission to use venue been secured ? * Yes / No / Under application / Not applicable

(If the venues are in open public places, please give exact locations and enclose layout plan. Please also indicate where furniture (e.g. table) will be placed, if appropriate.)

✦ If approval is given to this application, the permit issued will specify the details given in these items. It will therefore be to the applicant's own advantage to plan the activity carefully, so as to avoid the need to seek fresh approval later on as a result of any changes to the above details.

13. Details of previous S4(17) application(s) to the Secretary for Home and Youth Affairs by the applicant, or the organisations named in 5(i) and 6(i) above, or any of the persons named in 5(iii) and 6(iii) above :

<u>Name of Applicant</u>	<u>Date of Application</u>	<u>Approved or Rejected</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- 14. State here any additional information which the applicant wishes to provide in support of this application (e.g. reasons for requesting that the administrative guidelines or licensing conditions for the issue of permit be waived in whole or in part.)

I declare that to the best of my knowledge and belief, the information supplied by me in this form is true and correct.

Signed : _____
(Applicant)

(Chop of organisation, if applicable) Date : _____

* Delete where applicable

(If there is not enough space in this form for the filling in of the required information, the applicant may provide details on a separate sheet of paper and attach it to the form.)

Note: If the activities concerned involve hawking in public places, please seek advice from the Food and Environmental Hygiene Department (Tel: 2867 5935) as to whether a temporary hawker licence is required.

Statement of Purpose

Purpose of Collection

The personal data provided by means of this form will be used by Home Affairs Department for the purpose of:

“to exercise functions on fund-raising activities for non-charitable purposes”

Classes of Transferees

2. The personal data you provided by means of this form may be disclosed to other Government bureaux, departments and relevant persons and bodies for the purposes mentioned in paragraph 1 above.

Access to personal data

3. You have a right of access and correction with respect to personal data as provided for in sections 18 and 22 and principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance. Your right of access includes the right to obtain a copy of your personal data provided by this form.

Enquiries

4. Enquiries concerning the personal data collected by means of this form, including the making of access and corrections, should be addressed to:

Executive Officer
Home Affairs Department
Tel. No. : 2835 1492

**Administrative Guidelines and Licensing Conditions
for the issue of Public Fund-raising Permits
for Non-Charitable Purposes**

Applications for permission under section 4(17) of the SOO to raise funds by collection of money or sale or exchange for donations of badges, tokens or similar articles in a public place should, where the funds are to be used for a charitable purpose, be referred to the Director of Social Welfare. Where the funds are to be used for any other purpose, such applications should be referred to the Secretary for Home and Youth Affairs.

Non-charitable fund-raising activities without permits for fund-raising for non-charitable purposes are subject to prosecution by the Police under S4(17) of the SOO, Cap. 228.

A. Administrative Guidelines for Consideration

When considering an application for a public fund-raising permit under section 4(17) of the SOO, the Secretary for Home and Youth Affairs will **normally** wish to be satisfied that -

- (i) the organisation or group on behalf of which the permit is sought, and the organisation or group to benefit from the collection if different, are, where applicable, properly registered under the laws of Hong Kong;
- (ii) if the applicant is an individual, he should be aged 21 or above, and should either be a permanent resident of Hong Kong within the meaning of the Immigration Ordinance, or have been ordinarily resident in Hong Kong for a minimum of seven years;
- (iii) the funds collected will be used for purposes which would contribute directly or indirectly to the development of representative government in Hong Kong;
- (iv) the fund-raising activity will not cause public order and public safety problems, and will not cause nuisance or harassment to the general public;
- (v) the fund-raising activity should not be held on a morning which is a “flag day” approved by the Director of Social Welfare unless it is to be held in a confined public place;

- (vi) the fund-raising activity should not be held at the same time and in the same venue or its vicinity as a charitable fund-raising activity;
- (vii) there will be no more than one non-charitable fund-raising activity in the same venue or its vicinity on the same day except where the activities are organised by the same applicant;
- (viii) there will be a fair distribution of venues, dates and frequency of fund-raising among all potential applicants. The number of non-charitable fund-raising activities by the same person or organisation will not be excessive so as to avoid undue inconvenience to the public. As a general rule, each approved activity should not last for more than five days in any two consecutive weeks and that each applicant (by an individual or an organisation) would not be allowed to conduct more than 20 fund-raising activities within a 12-month period. For an activity to be conducted in more than one location, a permit will be required for each location; and
- (ix) the permittee who had breached the conditions stipulated in the permit last granted would not be considered for a new permit unless explanations/justifications have been provided to the satisfaction of the Secretary for Home and Youth Affairs.

Each application will be considered on its own merits having regard to the above administrative guidelines.

B. Licensing Conditions

The following conditions will normally be imposed if an application is approved –

- (i) permission must have been obtained or is likely to be forthcoming from the relevant authorities, including the authority responsible for the management of the venue(s), for the fund-raising activity to be held;
- (ii) the funds collected will not be used to finance any profit-making ventures or activities;
- (iii) the funds collected will be used only in Hong Kong;

- (iv) no person will benefit improperly from the collection;
- (v) the permission given for the fund-raising activity is only valid for the details specified in the permit. If there are any changes to such details, the approval of the Secretary for Home and Youth Affairs will be required;
- (vi) the permission given for the fund-raising activity will become null and void if the funds collected are used for purposes other than those specified in the permit;
- (vii) within 90 days after the conclusion of the fund-raising activity, the permittee will cause the money received from the public, less any reasonable expenses incurred, to be applied for the purpose for which the permission is given;
- (viii) if after applying the funds collected as described in (vii) above, there is still a balance left, the permittee will donate the unspent funds to a charitable institution which is exempt from tax under section 88 of the Inland Revenue Ordinance (Cap. 112) for charitable purpose;
- (ix) the funds collected will be audited by a qualified accountant arranged by the permittee. A copy of the audited accounts will be submitted to the Secretary for Home and Youth Affairs within 90 days after the conclusion of the fund-raising activity. The audited accounts will also be made available to members of the public for inspection upon demand;
- (x) all donations are to be purely voluntary, and that the activity shall not create public order problems or cause nuisance, including excessive noise, or harassment to the general public, and that the manner in which the activity is conducted should not be such as to be likely to produce a reaction generally against public fund-raising activities;
- (xi) during the course of the fund-raising activity, the name of the organisation and a copy of the permit/approval letter should be prominently displayed. Every participant of the activity should also wear a clear and legible badge identifying the name of the participant and the name of the organisation; and
- (xii) children under the age of 14 must not be allowed to take part in the activity. Participation by young persons between the age of 14 - 18 must be entirely voluntary and the prior written consent of parents must be obtained.

The Secretary for Home and Youth Affairs may, if a particular application so warrants, impose additional conditions such as those required for the protection of the participants in the fund-raising event, for the preservation of law and order, for crowd control, or for public safety purposes. In specific circumstances, he may waive certain conditions where it appears reasonable for him to do so.

Upon approval of the application, the relevant details about the fund-raising activity including the name of the activity and the date, time and venue for conducting it will be uploaded on the GovHK website (<https://www.gov.hk/fundraising>) and Data.One (<https://data.gov.hk>).

July 2022

**Observations made by the Court in an Election Petition relating to
a Television Programme on 2010 Legislative Council By-election**

1. A candidate of the 2010 Legislative Council By-election made an election petition relating to a multi-episode television programme which introduced the election platforms of all candidates of the By-election. Due to the airtime constraint, only four candidates were introduced in each episode and the time allocated to each candidate was more or less the same.

2. There were five candidates in the constituency in which the aforesaid candidate contested and the candidate number allocated to him was 5. According to the candidate number, the broadcaster of the television programme mentioned above introduced the first four candidates of that constituency in the same episode, while the aforesaid candidate was covered in the next episode. However, there was no mention in the episode on the first four candidates that there was a remaining candidate in that constituency who would be introduced in the next episode. The Court considered that it was possible that such arrangement might cause misunderstanding to the audience who only watched the former episode that there were only four candidates in the constituency concerned.

3. The Electoral Affairs Commission considers that the broadcaster should let the audience know: (a) the total number and the names of all candidates in the same District Committees constituency or District Council geographical constituency (“DCC or DCGC”) in each relevant episode; and (b) the episode which will cover or has covered the candidate(s) who is/are not introduced in the current episode. Such an arrangement will ensure that the audience will be fully aware of the total number of candidates in the same DCC or DCGC even if they watch only one single episode instead of all episodes on the same DCC or DCGC and that equal treatment will be given to all candidates concerned.

4. Where appropriate, broadcasters are advised to follow the arrangement set out in para. 3 above when producing multi-episode programmes which are election-related.

[Added in September 2011 and amended in September 2023]

Fair and Equal Treatment of Candidates by the Print Media

1. Fairness and equality in treatment of candidates will be examined by the Electoral Affairs Commission (“EAC”) with reference to the surrounding circumstances on a case-by-case basis.
2. Practical problems that may be experienced by publishers (e.g. limitation of column space and staff resources; situations such as some candidates having extensive arguments on issues of public relevance while some others not expressing their views, or some candidates having made newsworthy statements or speeches while some others not making any comment; and the difference in status and standing of candidates as public figures) are examples of circumstances alongside which the EAC will judge whether the media have fulfilled the criteria of fair and equal treatment.
3. What is important is that practical problems, in general terms without specifics, should not be allowed to be used as pretexts for not giving fair and equal treatment and coverage to all candidates competing in the same District Committees constituency or District Council geographical constituency (“constituency”). Merely saying that practical problems gave rise to the selective reporting will be viewed as a lame excuse. However, if the other candidates had been approached but declined the interview and this fact is made known in the same article, there can hardly be any suspicion or complaint that the guidelines have been breached.
4. Equal treatment and coverage are not necessarily equal space given to and equal number of words written on every candidate of the same constituency. It is an idea that has to be examined together with all the circumstances of each individual case. Where a candidate says more on a topic and another candidate says less, a truthful and faithful report of this should not be criticised of unequal reporting. In other words, fair and equal treatment here is in the sense of **equal opportunity** being given to all candidates competing in the same constituency, so as to help electors make informed choices.
5. If there is fair and equal treatment of all candidates competing in the same constituency in a publication, its editorial line and the personal opinions of the writer on individual candidates can be freely expressed, insofar as they are fair comments and based on true facts. Any newspaper is at full

liberty to express its support for or disapproval of a candidate. The guidelines do not seek to impose any shackle on the expression of such ideas.

[Amended in September 2023]

Application Procedure for the Approval of Float Design

1. All applications in respect of the design of any float to be used in a procession or parade must be made in writing setting out the make, model and registration mark (or vehicle identification number for a brand new vehicle) of the vehicle to be used as a float.

2. The application should be accompanied by three copies of a drawing, certified by qualified electrical or mechanical engineers, in minimum A3 size, showing the following details:
 - (1) the float's decoration and the vehicle's outline, side, plan, front and rear views, with all major dimensions (both proposed and original) shown
 - (2) entry/exit to and from the driver's compartment
 - (3) location of rearview mirrors which enable the driver to view both sides of the float
 - (4) location of exhaust outlets of any internal combustion engines
 - (5) location of any auxiliary power equipment installed
 - (6) equipment to communicate with the passengers on the float
 - (7) location of the passenger compartment and means of support for passengers (seats, grab-rails, etc.) on the float

Applicants must pay attention to regulation 53(2) of the Road Traffic (Traffic Control) Regulations (Cap 374G) on the requirements for carriage of passengers: no driver of a vehicle on a road shall permit a passenger to travel in the vehicle unless seated in a properly constructed seat secured to the bodywork of the vehicle except-

- (a) where the vehicle is a public service vehicle licensed to carry standing passengers; or

- (b) where the vehicle is exempted under regulation 53A of the abovementioned Regulations.
- (8) detailed artwork is **not** required
3. All applications must be made at least **one month** in advance of the date of the event to:
- Engineer (Vehicle Approval and Planning)
Vehicle Safety and Standards Division
Transport Department
- (Tel: 3842 5729 Fax: 2802 7533)
4. If the application is approved in principle (subject to the vehicle inspection results), the applicant will be so advised within 14 days upon the receipt of the application, and also informed of further details of the vehicle inspection.
5. If the design is not accepted, the applicant should submit the revised drawings within one week upon the receipt of such notice.

[Amended in September 2011 and September 2023]

**Items of Expenses to be
Counted towards Election Expenses**

(Note : This list is by no means an exhaustive list of items of expenditure to be counted as election expenses. It only serves to illustrate the common items of election expenses.)

1. Fees and allowances, including travelling expenses, paid to agents and assistants engaged in relation to electioneering activities. (Remarks: If the agents and/or assistants are staff members currently employed by an incumbent member of District Council (“DC”) who is seeking re-election, the salary expenses of the staff members concerned should be appropriately apportioned and declared in the candidate’s election return.)
2. Costs of meals and drinks for agents and assistants before and on the polling day.
3. Costs of the design and production of election advertisements (“EAs”) such as:
 - (a) banners
 - (b) signboards
 - (c) placards
 - (d) posters
 - (e) handbills
 - (f) publicity pamphlets
 - (g) video and audio recordings
 - (h) electronic messages
 - (i) various forms of publications or publicity materials for promoting the election of a candidate or candidates or prejudicing the election of another candidate or other candidates.

(Remarks: Costs of publicity materials used to express gratitude for electors’ support after the election will not be counted as election expenses.)

4. Costs of the display and removal of EAs including labour charges. If the EAs have not been removed by the deadline specified by the Electoral Affairs Commission, the removal costs for the EAs charged by government departments should also be included.

5. Costs incurred by the relevant departments for the removal of EAs displayed without authorisation.
6. Costs incurred for renting accommodation for electioneering purposes. (Remarks: (a) If a candidate who is an incumbent member of DC seeking re-election uses his/her own ward office for electioneering activities, an appropriate apportionment of the rentals paid should be declared in his/her election return and relevant invoices and receipts should be obtained from the landlord, instead of being issued by the incumbent member of DC. (b) If a candidate who is not an incumbent member of DC rents part of the ward office of an incumbent member of DC for electioneering activities, an appropriate apportionment of the rentals paid should be declared in the candidate's election return and relevant invoices and receipts should be obtained from the recipient of the apportioned rentals paid by the candidate.)
7. Costs of stationery used for electioneering activities.
8. Operation/miscellaneous costs in connection with the electioneering activities, such as photocopying, rental costs of telephone and fax lines. (Remarks: Election deposits will not be counted as election expenses.)
9. Postage for the mailing of publicity materials.
10. Costs of the hire of transport for electioneering purposes.
11. Costs of deploying vehicles for publicity. (Remarks: If a vehicle is lent to the candidate by any person free of charge, the candidate should, apart from reporting the free goods or service as an election donation, declare the estimated market value of rental of similar vehicles in his/her election return.)
12. Costs of advertisements by means of the media, taxis or other public transport.
13. Costs of organising election meetings, including venue charges.
14. Costs of T-shirts, armbands, caps and other identification materials for election agents and assistants.
15. Costs of refurbishing old publicity boards and their estimated value.

16. Costs of the publication by a candidate during the election period (i.e. from the commencement of the nomination period to the day on which a declaration is made under s 39 of the District Councils Ordinance (Cap 547) or s 25A(1) and (2) of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap 541F); or the day on which the polling ends) of a document that gives details of work done by the candidate in the capacity of:
- (a) the Chief Executive;
 - (b) a member of the Election Committee;
 - (c) a member of the Legislative Council, a DC or the Heung Yee Kuk;
 - (d) the Chairman, Vice-chairman or a member of the Executive Committee of a Rural Committee; or
 - (e) a Rural Representative.
17. Costs incurred by a political body or organisation with which the candidate is affiliated to promote his/her candidacy. (Remarks: Costs of organising meetings to publicise the platform of the political body or organisation without specific reference to the candidate will not be counted as election expenses. Besides, for the avoidance of doubt, costs incurred by an uncontested candidate who participates in electioneering activities (e.g. campaign rallies) to promote the election of other contested candidates after the declaration of the election result in respect of his/her constituency will not be counted as election expenses of the uncontested candidate.)
18. Costs of obtaining legal/professional advice in respect of the conduct of an election (e.g. (a) where a candidate hires a lawyer to vet an election publicity pamphlet to make sure that the content does not constitute defamation; and (b) where a candidate engages a building professional to advise on or carry out building works for the erection of EAs). (Remarks: Costs of obtaining (a) legal advice on the general interpretation/application of the electoral laws, including whether a particular item of expense can be regarded as “election expenses” and “election donations”, and (b) professional advice on the apportionment of expenses between purposes related to an election and any other purposes, will not be regarded as election expenses.)
19. Interest incurred from a loan to finance the electioneering activities of a candidate. (For an interest-free loan, the interest waived should be declared as an election donation and counted as election expenses. A reasonable amount should be determined with reference to the market

interest rate.)

20. Allowances provided for organising promotional activities for a candidate is a form of election donation which should be counted as election expenses (e.g. (a) an allowance given by an organisation to the staff of the activity to promote the election of a candidate and/or (b) a sponsorship given by the organisation for the said activities).
21. Although certain persons may work for or provide goods, labour or services to candidates free of charge (except for voluntary services), the difference between the reasonably estimated charges of these items and the discounts or concessions generally available to customers is in itself an election expense (which should be accordingly counted as an election donation made by the providers).
22. Goods given incidental to the provision of voluntary service.
23. Costs of organising charitable activities to promote a candidate.
24. Costs of any negative publicity launched against rival candidates.

[Amended in September 2011, September 2012, September 2015, September 2019 and September 2023]

Acceptance of Election Donations

1. Any person or organisation^{Note} (including a political party) acting as an agent for a candidate or candidates to solicit, receive or collect election donations is advised to:

- (1) have the prior consent/authorisation of the candidate(s);
- (2) set up a dedicated ledger account for receiving and handling election donations;
- (3) state the apportionment of donations between candidates or other parties if more than one candidate or other parties are involved;
- (4) comply with all the requirements under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) in respect of election donations, as in the case of donations received by the candidate(s) direct. For example, for donation of more than \$1,000 in value, a receipt should be issued to the donor by the candidate concerned instead of by the agent;
- (5) ensure that donors are clearly advised of the purposes/uses of their donations; and
- (6) apply for permission from the Secretary for Home and Youth Affairs if the donations are collected through fund-raising activities in a public place for non-charitable purposes.

2. On the other hand, while there is no prohibition against the solicitation of donations by a candidate on behalf of a political party or any other organisation, the candidate must make sure that the message conveyed is clear enough so that members of the public are well advised of the purpose and nature of the donation and that in no circumstances would they be misled to believe that the donation is solicited and used for the election of the candidate.

[Added in September 2015]

^{Note} In this context, all costs incurred by the person or organisation in the course of rendering service to any candidate should be counted towards election expenses, and are therefore subject to the relevant requirements governing authorisation of election expense agents as set out in Chapter 6. If the person renders his/her service to the candidate for electioneering matters free of charge, voluntarily, personally in his/her own time, the service is regarded as "voluntary service" according to s 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554). The candidate is, therefore, not required to include the costs of such service in his/her election expenses (this exemption does not apply to services rendered by an organisation).

**Guidelines on Sending
Election Advertisements to Registered Electors
in the Custody of the Correctional Services Department**

(Note: The following guidelines serve to illustrate that certain mail items which, if possessed by electors in the custody of the Correctional Services Department (“CSD”), may cause security hazards to penal institutions, and hence will be rejected. The list of items set out below is by no means exhaustive.)

For security reasons and to maintain good order and discipline in penal institutions, any election advertisement (“EA”) mailed to registered electors in the custody of the CSD will be subject to security checks. An EA will be rejected if it falls within any of the following categories:

Materials

- (a) made of metal or plastic materials;
- (b) laminated materials;
- (c) sharp objects; or
- (d) materials coated with powder-like substances.

Content/Information

- (a) on how to manufacture arms, ammunition, weapons, explosives, harmful or deleterious substances, intoxicating liquor, or any dangerous drugs within the meaning of the Dangerous Drugs Ordinance (Cap 134);
- (b) that depicts, describes or encourages violence in penal institutions, or the escape by any inmate/prisoner from penal institutions;
- (c) that encourages gambling in penal institutions, or adversely affects the rehabilitation of electors in the custody of the CSD;
- (d) that abets or induces electors in the custody of the CSD to commit offences enumerated in the Prison Rules (Cap 234A) or any other criminal offences;
- (e) that poses threat to any individual’s personal safety or to the security, good order and discipline of penal institutions; or
- (f) that is obscene/indecent.

Size and Volume

- (a) items larger than A4 size; or
- (b) oversized items.

Remarks: For enquiries, please contact the Principal Officer (Penal Operations)3 of the CSD at 2582 4023.

[Amended in September 2023]