

CHAPTER 1

AN OVERVIEW

Section 1 – Introduction

1.1 The second term of the District Councils (“DCs”) with 400 elected members for a four-year term expired on 31 December 2007. An ordinary election was held on 18 November 2007 to return 405 members for the third term of four years from 1 January 2008 to 31 December 2011.

1.2 The number of elected seats for the 2007 DC Election increased from 400 to 405 to match the sharp population growth in the new towns of Sai Kung and Islands Districts since the last DC Election held in 2003. The details of this exercise are given in paragraph 2.4.

1.3 Amongst all the DC ordinary elections conducted under the supervision of the Electoral Affairs Commission (“EAC” or “Commission”) since 1999, the 2007 DC Election was by far the most competitive. There was a new record high of 907 validly nominated candidates of whom 41 were returned uncontested. The remaining 866 candidates ran for the seats in the other 364 constituencies. Competition was most keen in the Tsim Sha Tsui East Constituency, with seven candidates competing for one seat. In addition, there was a total of eight constituencies (viz Jordan East, Yat Chak, Wah Ming, Tin Ping East, Hong King, Kwai Shing West Estate, Tung Chung North and Cheung Chau South), each with five candidates competing for one seat.

1.4 The number of electors turning up at the polls on the polling day of the 2007 DC Election was also a record high with a total of 1,148,815 electors casting their votes, representing 38.83% of the total electorate of 2,958,953 for the contested constituencies. The DC electors' turnout was higher than that of the two previous DC Elections held in 1999 and 2003, in which 816,503 and 1,066,373 electors had voted respectively. The overall turnout rate of 38.83% was, however, slightly lower than that of 44.10% in the 2003 DC Election.

New Measures

1.5 With a view to refining the electoral process and encouraging more public-spirited candidates to participate in public elections, a number of new measures were introduced in this election for the convenience of electors and candidates. Firstly, a new design of ballot papers was adopted to allow the printing of photographs and emblems of the candidates and the names and emblems of the bodies which support the candidates to enable easy identification of candidates by the electors. Secondly, a financial assistance scheme (similar to that for the Legislative Council ("LegCo") Election first introduced in 2004) was introduced so that candidates who are elected or who have obtained 5% or more of valid votes could apply for financial assistance. Thirdly, the maximum amount of election expenses a candidate could incur also increased from \$45,000 to \$48,000.

1.6 A detailed account of these new measures is given in the ensuing paragraphs 1.7 to 1.20.

Section 2 – Legislation Governing the Election

1.7 Like any other public elections, the 2007 DC Election operated within the bounds of the law. The election was governed by the following ordinances:

- (a) the Electoral Affairs Commission Ordinance (Cap 541) (“EACO”), which empowers the EAC to perform its various functions in the supervision and conduct of the election;
- (b) the District Councils Ordinance (Cap 547) (“DCO”), which provides the legal basis for conducting the election;
- (c) the Legislative Council Ordinance (Cap 542) (“LCO”), which lays down the qualification for registration as an elector; and
- (d) the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”), which prohibits election-related corrupt and illegal matters and is administered by the Independent Commission Against Corruption (“ICAC”).

1.8 These ordinances are complemented by the following pieces of subsidiary legislation which provide the detailed procedures for the conduct of the election:

- (a) the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap 541F) (“EAC (EP) (DC) Reg”);

- (b) the Electoral Affairs Commission (Nominations Advisory Committees (District Councils)) Regulation (Cap 541E) (“EAC (NAC) (DC) Reg”);
- (c) the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap 541A) (“EAC (ROE) (GC) Reg”);
- (d) the District Councils (Subscribers and Election Deposit for Nomination) Regulation (Cap 547A);
- (e) the District Councils (Election Petition) Rules (Cap 547C);
- (f) the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation (Cap 541M) (“PCBP (LC & DC) Reg”);
- (g) 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”); and
- (h) the Maximum Amount of Election Expenses (District Council Election) Regulation (Cap 554C) (“EE (DC) Reg”).

The District Councils (Amendment) Bill 2006

1.9 Financial assistance for election candidates was first introduced in the 2004 LegCo Election. There had been calls by political groups and parties to extend the financial assistance scheme to DC elections. After considering the views received from the LegCo Panel on Constitutional Affairs and the public consultation exercise on the Review on the Role, Functions and Composition of DCs, the Administration introduced the District Councils (Amendment) Bill 2006 (“the Bill”) into the LegCo on 20 December 2006. The Bill mainly sought to provide a legal basis to implement the financial assistance scheme for DC election candidates.

1.10 The Bill proposed amendments to the DCO, the LCO and the EACO so that:

- (a) for a contested constituency, the amount payable as financial assistance to a DC candidate was the amount obtained by multiplying the total number of valid votes cast for the candidate by the specified rate (ie \$10 per vote); or 50% of the declared election expenses of the candidate, whichever was the lower;
- (b) for an uncontested constituency, the amount payable as financial assistance to a DC candidate was the amount obtained by multiplying 50% of the number of registered electors for the constituency by the specified rate (ie \$10 per registered elector); or

50% of the declared election expenses of the candidate, whichever was the lower;

- (c) the formulae in paragraphs 1.10(a) and 1.10(b) would also apply to the financial assistance scheme for LegCo election candidates; and
- (d) DC candidates would be exempted from the auditing requirement which was required when applying for financial assistance in respect of a LegCo election.

The Bill also introduced other technical amendments relating to the claim and payment of financial assistance.

1.11 The Bill was passed by the LegCo on 17 January 2007 and came into operation on 1 September 2007.

Amendment Regulations Made by the EAC

1.12 Before the 2007 DC Election, the EAC amended and revised the PCBP (LC & DC) Reg, the EAC (EP) (DC) Reg, the EAC (FA) (APP) Reg and the electoral guidelines taking into account the operational experience of past elections as well as suggestions and complaints received from the public and other parties concerned with a view to improving the conduct of the upcoming election.

1.13 The EAC introduced the Particulars Relating to Candidates on Ballot Papers (Legislative Council) (Amendment) Regulation 2007 (“Amendment

Regulation to Cap 541M”) on 20 March 2007. Its purpose was to extend to DC elections the arrangement, adopted in LegCo elections since 2004, of allowing candidates to have the following particulars printed on ballot papers:

- (a) the names, the abbreviations of the names and the emblems of prescribed bodies¹;
- (b) the personal emblems and the photographs of candidates; and
- (c) the words “Independent Candidate” or “Non-affiliated Candidate”.

1.14 The Amendment Regulation to Cap 541M was published in the Gazette on 23 March 2007 and tabled in LegCo on 28 March 2007. It came into operation on 18 May 2007.

1.15 The EAC introduced the Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2007 (“Amendment Regulation to Cap 541F”) and the Electoral Affairs Commission (Financial Assistance for Legislative Council Elections) (Application and Payment Procedure) (Amendment) Regulation 2007 (“Amendment Regulation to Cap 541N”) on 7 May 2007.

¹ A “prescribed body” means-

- (a) a prescribed political body, i.e. a body or organization operating in Hong Kong that is a political party, purports to be a political party, or the principal function or main object of which is to promote or prepare a candidate for election as a LegCo or DC member; or
- (b) a prescribed non-political body, i.e. a body or organization operating in Hong Kong other than a prescribed political body as described in (a) above.

1.16 The Amendment Regulation to Cap 541F proposed the following amendments:

- (a) miscellaneous amendments to align the electoral procedures for DC elections, where appropriate, with those for the LegCo, the Election Committee Subsector and the Chief Executive (“CE”) elections; and
- (b) consequential amendments arising from the Amendment Regulation to Cap 541M.

1.17 The Amendment Regulation to Cap 541N provided the detailed operational procedures of the financial assistance scheme for DC election candidates.

1.18 The Amendment Regulation to Cap 541F and the Amendment Regulation to Cap 541N were published in the Gazette on 11 May 2007 and tabled in the LegCo on 16 May 2007. They came into operation on 1 September 2007.

Subsidiary Legislation Made by the Administration

1.19 The CE in Council endorsed the EE (DC) Reg on 8 May 2007. The purpose of this regulation was to increase the maximum amount of election expenses that might be incurred by or on behalf of a candidate for a DC election from \$45,000 to \$48,000.

1.20 The EE (DC) Reg was published in the Gazette on 11 May 2007 and tabled in LegCo on 16 May 2007. It came into operation on 1 September 2007.

Section 3 – This Report

1.21 The EAC is required under section 8(1) of the EACO to submit a report on an election to the CE within three months after the polling day of the election.

1.22 This report aims to give a comprehensive picture of how the EAC conducted and supervised the election at its various stages. It gives a detailed account of the preparatory work and the implementation of the electoral arrangements, reviews the effectiveness of these arrangements, explains how complaints were handled, and puts forth the EAC's recommendations for improvements on future elections in the light of the experience gained from this election.

CHAPTER 2

THE DEMARCATION EXERCISE

2.1 Under section 4(a) of the EACO, one of the functions of the EAC is to consider and review the boundaries of DC constituencies for the purpose of making recommendations on the boundaries and names of constituencies for a DC ordinary election.

2.2 In accordance with section 18 of the EACO, the EAC is required to submit to the CE a report on its recommendations for DC constituencies not more than 36 months from the preceding DC ordinary election. As the last DC ordinary election was held on 23 November 2003, the EAC was required to submit the report to the CE by 22 November 2006.

2.3 The Registration and Electoral Office (“REO”) provided the manpower required for carrying out the demarcation exercise. An Ad Hoc Subgroup, formed under the Working Group on Population Distribution Projections set up under the auspices of the Planning Department, took up the primary task of providing the EAC with the necessary population forecasts. The Ad Hoc Subgroup was requested to project the population distribution figures of the 18 Districts as at a date as close to the polling day as practicable. For the 2007 DC Election this date was 30 June 2007. The Ad hoc Subgroup made available the forecast population figures in late March 2006.

2.4 In view of the sharp population growth since the last DC ordinary election in 2003 in the new towns of Tung Chung and Tseung Kwan O in the Islands and Sai Kung Districts respectively, the Administration amended Part I of Schedule 3 to the DCO to increase the number of elected seats in the Islands DC and Sai Kung DC by two and three respectively for the 2007 DC Election. The amendment legislation was passed by the LegCo on 7 June 2006 and published in the Gazette on 9 June 2006. The change increased the total number of elected seats in the 2007 DC Election from 400 to 405.

2.5 In its Report on the recommended constituency boundaries for the 2003 DC Election, the EAC suggested revising the district boundary between Sham Shui Po and Kwai Tsing so that a private residential development named Nob Hill, which straddled the boundaries of the two Districts, could be included in one single district. In response to the EAC's suggestion, the Administration consulted local residents and relevant parties concerned on the issue. On the basis of the views received, the Administration proposed that the district boundary between the two Districts should be revised to include the whole of Nob Hill in Sham Shui Po District. The legislative amendment to revise the boundary for the two districts was passed by the LegCo on 21 June 2006.

2.6 The provisional proposals were drawn up by the EAC on the above basis in accordance with the statutory criteria stipulated in section 20 of the EACO and the working principles adopted by the EAC.

2.7 The EAC conducted a public consultation exercise for a period of 30 days on its provisional proposals from 27 July to 25 August 2006. The proposals, with maps, were open for public consultation during the consultation period, in accordance with section 19 of the EACO. Public forums were held on 15 and 16 August 2006 to receive oral representations on the proposals from members of the public.

2.8 Taking the public representations into consideration, the EAC finalised its recommendations and submitted the report to the CE on 21 November 2006. The report also contained a detailed account of the EAC's work in the demarcation exercise. The CE in Council accepted and approved the recommendations on 12 December 2006. The report was tabled at the LegCo on 10 January 2007 for vetting in accordance with statutory requirements. The EAC published the finalised set of maps with the delineations in April 2007 for public information.

CHAPTER 3

REGISTRATION OF ELECTORS

Section 1 – Eligibility to Vote and Qualification for Registration

3.1 To be eligible to vote in this election, a person is required to be registered as an elector for a geographical constituency (“GC”) under sections 24 and 27 to 31 of the LCO. His name should have appeared on the final register (“FR”) of GC electors published on 25 September 2007. The registration of GC electors was conducted in accordance with the provisions of the EAC (ROE) (GC) Reg. To be registered as a GC elector, a person must –

- (a) be aged 18 or above as at 25 September 2007;
- (b) be a permanent resident of Hong Kong;
- (c) ordinarily reside in Hong Kong, with his residential address stated in the application for registration being his only or principal residence in Hong Kong;
- (d) hold a valid identity document or be applying for a new/replacement identity document; and
- (e) not be disqualified from being registered as an elector.

3.2 An elector is entitled to vote only once at the election and in the constituency for which he is registered (section 29 of the DCO).

Section 2 – The Registration Campaign

3.3 To appeal to the eligible members of the public to register as electors and to remind those already registered to report to the REO any change of their addresses should they have moved, a large-scale registration campaign was coordinated by the Constitutional and Mainland Affairs Bureau (“CMAB”) (the former Constitutional Affairs Bureau) and launched from 2 June to 16 July 2007, with the joint efforts of the REO, Home Affairs Department (“HAD”), Information Services Department (“ISD”), Radio Television Hong Kong (“RTHK”) and ICAC. Publicity and promotional activities were staged, such as announcements in public interest (“APIs”) on the television and radio, advertisements on the newspapers, at major MTR stations and on bus bodies, and the display of posters and banners. The details of these activities are set out below.

3.4 A kick-off ceremony was held on 2 June 2007 to announce the commencement of the Voter Registration Campaign. Throughout the campaign, roving registration counters were set up at popular locations including major MTR stations and shopping malls to help people register or update their particulars.

3.5 To encourage more young people to register, registration counters were also set up at all Registration of Persons Offices of the Immigration Department to cater for 18-year old persons who turned up at these offices to apply for or to collect their new adult identity cards. Voter registration assistants were also deployed to station at higher education institutes for eligible students to register.

3.6 To target at those registered electors who have changed addresses, the HAD conducted household visits to new residential developments. The opportunity was also taken to appeal to those who had not yet registered to submit registration applications.

3.7 The REO also sent appeal letters to those households which have moved into new private developments to remind them to report changes in address and if they are not already registered electors, to register before the statutory deadline for registration.

3.8 As an on-going measure, the REO, having obtained the approval from the Privacy Commissioner for Personal Data, updated the addresses of registered electors living in the housing estates under the management of the Housing Department (“HD”) through matching the addresses record of the HD with that of the REO. With the assistance of the relevant District Offices and their staff, the REO also conducted household visits and set up counters in the large new housing estates. REO voter registration forms were also made available in the building lobbies with posters reminding local residents to update their addresses, and appealing to those who have not yet registered as electors.

3.9 The Immigration Department continued to provide the REO with information on change of address received by them under the Smart Identity Card Replacement System, subject to the consents given by the persons concerned.

3.10 To facilitate the registration, a dedicated voter registration website had also been set up, with hyperlinks to Government websites and websites which were popular with young people.

3.11 About 366,000 registration forms were received by the statutory cut-off date of 16 July 2007, and about 224,000 of them were received during the six-week voter registration campaign period. There were about 142,000 new electors, and the total number of electors in the 2007 FR reached a record high of 3,295,826.

Section 3 – The Registers

3.12 The REO published the provisional register of electors (“PR”) on 15 August 2007. It included the names and principal addresses of those whose names were included in the previous FR, but were updated/amended by the REO on the basis of information reported by the electors concerned or obtained from other sources, and the particulars of those eligible applicants who had applied for registration before 16 July 2007 (ie the deadline for registration).

3.13 An omissions list was published in conjunction with the publication of the PR on 15 August 2007. This list contained the particulars of the persons who were formerly registered in the 2006 FR but were not included in the 2007 PR and were proposed to be omitted from the 2007 FR on the grounds that the Electoral Registration Officer (“ERO”) had reasons to believe that these persons had been disqualified or had ceased to be eligible to be registered (eg they had passed away or had changed their principal address but the new address was not known to the ERO).

3.14 Both the PR and the omissions list were made available at the REO and the designated public enquiry centres of HAD for public inspection during the period 15 to 29 August 2007, when members of the public might lodge with the ERO objections against any entry in the PR. People whose applications for registration had been rejected or whose names had been put on the omissions list might also lodge claims with regard to such cases.

3.15 By the end of the public inspection period, the ERO received only one claim. The claim was subsequently forwarded to the Revising Officer, who was a member of the Judiciary, for consideration and ruling. The claim was rejected by the Revising Officer on the ground that the claimant's application form for registration as an elector had been received by the REO after the statutory deadline of 16 July 2007. Another 139 electors originally included in the omissions list informed the ERO of their updated principal addresses before the statutory deadline for change of particulars on 29 August 2007. They had satisfied all the eligibility criteria for registration as electors and thus had been added to the Final Register with the Revising Officer's approval.

3.16 The FR was published on 25 September 2007. An age and sex profile of these registered electors is at **Appendix I**.

Section 4 – Allocation of Electors to Constituencies

3.17 After the EAC's recommendations on the delineation and the names of the DC constituency areas ("DCCAs") were accepted and approved by the CE in Council on 12 December 2006, the REO proceeded to allocate each of the registered electors to a constituency area on the basis of their principal residential addresses as shown in the FR.

3.18 About 380,000 registered electors were affected by the change of DCCA delineation and/or re-naming of the DCCAs. The REO sent a notice to each of these electors in April 2007 informing them of the new constituencies or the new names of the constituencies to which they have been allocated.

CHAPTER 4

THE GUIDELINES

4.1 To facilitate the conduct and supervision of an election and to ensure that all public elections are conducted in an open, honest and fair manner, the EAC is empowered to issue guidelines under section 6(1)(a) of the EACO. The guidelines provide a code of conduct based on the principle of fairness and equality for conducting election-related activities. They also give directions in layman's language on how to comply with the relevant electoral legislation and identify common pitfalls so that candidates can avoid breaching the law due to inadvertence.

4.2 The EAC has at all times made its best endeavours in refining the electoral arrangements for elections. Before each general election, the EAC will revise the electoral guidelines. The revision is done on the basis of the guidelines used for previous elections, taking into account the operational experience of each election, as well as suggestions and complaints received from the public and other parties concerned. Before the promulgation of each set of guidelines, a 30-day consultation period will be announced during which representations are invited from the public and other parties concerned on the proposed guidelines. A public forum will also be held at which the EAC will receive oral representations from the public. The guidelines will then be revised taking into account the views received during the public consultation period before they are finalised for issue to the public. In 1999 the EAC published a set of guidelines for the exclusive use of the DC ordinary election held in that year. For the 2003 election the EAC published a

set of guidelines (“DC Guidelines”) which aimed at serving not only the 2003 ordinary election but would apply to all DC ordinary elections and by-elections conducted under the DCO after the date of its publication on 29 September 2003. A loose-leaf format was adopted to facilitate easy replacement when future amendments to the guidelines are necessary.

4.3 The DC Guidelines have been amended three times between 2003 and 2007. The revised pages of the Guidelines were issued in September 2004 and January and August 2005 in order to reflect the latest changes in electoral legislation.

4.4 The REO started revising the DC Guidelines in January 2007 for the 2007 DC Election, modelling on the most recent version of DC Guidelines, and making reference to the guidelines issued for the other previous elections including the 2004 LegCo Election, the 2006 Election Committee Subsector Elections and the 2007 CE Election. The operational experience in these elections, together with the DC by-elections and the Village Representatives elections, and the new statutory arrangements were reflected in the revisions.

4.5 The major changes proposed in the draft Guidelines, as compared with the revised Guidelines issued in August 2005, included the following:

- (a) adding a new section to set out the new statutory requirements for printing of specified particulars relating to the candidates on the ballot papers according to the PCPB (LC & DC) Reg;

- (b) adding a new section setting out the statutory provisions of the Financial Assistance Scheme for candidates under the EAC (FA) (APP) Reg;
- (c) providing details on the increased penalty under the law for infringing the secrecy of the vote and unauthorised filming, photographing, audio/video recording in polling stations;
- (d) allowing that a polling agent, besides the candidate and his election agent or counting agent, may also stay in the polling station, other than a small polling station or special polling station, while it is closed for the preparation of the counting of votes;
- (e) clarifying that the candidate, his election agent or a counting agent may inspect the ballot papers which are clearly invalid by their nature, but they are not entitled to make representations concerning such ballot papers;
- (f) updating the amount of the election expense limit which had been increased to \$48,000 under the EE (DC) Reg; and
- (g) clarifying that candidates may send the declaration and a copy of each election advertisement (“EA”) to the Returning Officer (“RO”) by fax or e-mail before submitting the original copy of the declaration and two copies of the EAs.

4.6 In the light of the past experience gained in the previous LegCo Election, items (a) and (b) were proposed to be extended to the DC election as the arrangements were well received by candidates and electors alike. Changes were also adopted for improving the polling, counting and other electoral arrangements.

4.7 In accordance with the EACO and as an established practice, the EAC conducted a 30-day public consultation exercise from 7 June 2007 until 6 July 2007. During this period, members of the public were invited to give their views on the proposed guidelines and submit written representations to the EAC. A forum was held on 22 June 2007 in the conference room of the REO when the EAC was present to listen to the oral representations put forth in person by those who attended the forum. There were views on various areas of electoral arrangements including the layout of candidates' introductory leaflet, no canvassing zone ("NCZ"), electronic voting and so on. By the close of the public consultation period, the EAC received a total of 13 representations.

4.8 The proposed guidelines were then revised taking into account the views received during the public consultation period before they were finalised and issued to the public.

4.9 The EAC held a press conference on 19 September 2007 to announce the publication of the finalised version of the DC Guidelines. Copies of the DC Guidelines were made available to the public for collection at District Offices and for browsing on the Internet. In line with previous practice, the finalised Guidelines were printed in loose-leaf format for easy updating as necessary.

CHAPTER 5

APPOINTMENTS AND NOMINATIONS

Section 1 – Appointment of Nominations Advisory Committees

5.1 In accordance with the established practice in previous ordinary elections, free legal advice on the eligibility of the candidates for nomination was available to the ROs and candidates in the DC ordinary election, when necessary. In the 2007 DC Election, four legal professionals were appointed as Nominations Advisory Committees (“NACs”) under the EAC (NAC) (DC) Reg. They were Messrs Kevin CHAN, HO Bing-kwan, LUI Kit-ling and WONG Ching-yue, Senior Counsel. All of them were experienced members of the legal profession and were not affiliated with any political organisations. Their appointment covered the period from 29 June to 18 October 2007, and was published in the Gazette on 29 June 2007. During their appointment period, the NACs received seven requests from the candidates for legal advice and no requests from the ROs.

Section 2 – Appointment of, and Briefing for, ROs

5.2 The District Officers (“DOs”) of the 18 districts were appointed as ROs by the EAC Chairman on 31 August 2007. Each DO served his own district.

5.3 The EAC Chairman hosted a briefing session for the ROs on 12 September 2007 in the Recital Hall of the City Hall in Central. Also present at the briefing session were the Chief Electoral Officer (“CEO”) and representatives

of the Department of Justice (“D of J”) and ICAC. The EAC Chairman highlighted the major electoral arrangements for the ROs’ attention, including the nomination procedure, appointment of agents, polling and counting arrangements, matters relating to the NCZ and no staying zone (“NSZ”), legislative provisions and guidelines governing EAs and election expenses, and handling of complaints. The ROs present raised questions and reflected their views on the various electoral arrangements.

Section 3 – Appointment of Assistant ROs

5.4 To provide assistance to the ROs, 30 Assistant ROs (“AROs”), who were either the Assistant DOs or Senior Liaison Officers of the relevant District Offices, were appointed. To provide legal advice to the ROs and Presiding Officers (“PROs”) during the count, 20 AROs (Legal) were also appointed. They were all legal officers, the majority of whom came from the D of J and the rest came from the Land Registry (“LandR”) and Legal Aid Department (“LAD”).

Section 4 – Eligibility for Nomination as a Candidate

5.5 To be qualified for nomination as a candidate of the election, a person must –

- (a) be aged 21 or above;
- (b) be a registered elector;

- (c) not be disqualified from voting in the election;
- (d) not be disqualified from being nominated as a candidate or elected as an elected member of a DC; and
- (e) have ordinarily resided in Hong Kong for at least three years preceding the date of his nomination.

5.6 The qualification and disqualification for the nomination of candidates are governed by the DCO and the nomination procedure is set out in the EAC (EP) (DC) Reg.

Section 5 – Nomination of, and Briefing for, Candidates

5.7 Nomination of candidates commenced on 2 October 2007 and closed at 5 pm on 15 October 2007, during which candidates handed in their nomination forms in person to the respective ROs. This two-week period was announced in a notice in the Gazette published on 31 August 2007. By the close of nomination the ROs received 918 nominations, of which 907 were confirmed valid by the ROs, six were ruled as invalid and five had been withdrawn before the close of nomination. The lists of all validly nominated candidates for each constituency were published in the Gazette Extraordinary on 25 October 2007.

5.8 To draw the attention of the candidates and their agents to the major provisions of the relevant electoral legislation and the guidelines and the important points they should look out for, two briefing sessions, chaired by the EAC

Chairman, were held in the evening on 17 and 18 October 2007 at the Hong Kong International Trade and Exhibition Centre in Kowloon Bay. The first briefing session was held for the candidates of the constituencies on Hong Kong Island and in Kowloon, and the second one was for the candidates for the constituencies in the New Territories. Also present at the two sessions were the CEO, representatives from the D of J, ICAC and Hongkong Post. Subjects covered included requirements relating to EAs and election expenses, appointment and roles of the various types of agents, conduct of electioneering activities, avoidance of corruption and illegal practices and the arrangements for the counting of votes.

5.9 The EAC Chairman appealed to the candidates and their agents to abide by the requirements laid down in the electoral legislation and guidelines and to co-operate with the authorities concerned to ensure that the election would be conducted in an open, fair and honest manner. He stressed that, to that end, the EAC and all the government departments concerned should make every endeavour to enforce the law and guidelines.

5.10 After the briefing sessions, the ROs drew lots to determine the order of the candidates' number that would appear on the ballot paper and to allocate designated spots to the candidates for displaying their EAs.

CHAPTER 6

POLLING AND COUNTING ARRANGEMENTS

Section 1 – Recruitment of Polling/Counting Staff

6.1 As in the previous ordinary elections, a service-wide recruitment exercise was launched to call for serving civil servants to work at polling stations on the polling day. As polling-cum-counting arrangement was adopted, the staff recruited would have to take up both polling and counting duties. About 13,500 staff members of government departments succeeded in their applications for taking up the posts of PRO, Deputy PRO (“DPRO”), Assistant PRO (“APRO”), Polling Officer and Polling Assistant.

Section 2 – Training for Polling/Counting Staff

6.2 To equip the recruited staff with the necessary operation know-how for discharging their duties, 10 general briefing sessions were organised on 31 October, 1 to 2, 5 to 9 and 12 to 13 November 2007 at Rotunda 3 of the Hong Kong International Trade and Exhibition Centre in Kowloon Bay to familiarise them with the polling and counting procedures and arrangements including hands-on practice of mock counting duties.

Section 3 – Polling Management Training for PROs and DPROs

6.3 Polling management training, which included crisis management, quality polling service, EQ training and experience sharing workshop, was exclusively held for the PROs and DPROs on 26 and 27 October 2007 at the Arena of Queen Elizabeth Stadium in Wan Chai.

Section 4 – Identifying Venues as Stations

6.4 Of the 907 validly nominated candidates, 41 of them were the only one nominated for their respective constituency and were hence elected uncontested. The remaining 866 candidates had to contest the other 364 seats. The REO had to identify suitable venues as polling-cum-counting stations for these constituencies, with at least one station for each constituency. The overriding principles in identifying these venues were that they should be easily and conveniently accessible to the electors in the constituency and, as far as practicable, be suitable for conducting both the poll and the count.

6.5 Successfully acquiring a suitable venue depended to a considerable extent on the co-operation of the owner or management of the venue and the availability of the venue on the polling day. In general, the process of identifying venues as polling stations was conducted smoothly. The REO staff however had encountered difficulties in securing permission from some owners or management bodies of private premises, including a few schools and kindergartens, for using their venues. In the end, the REO managed to get hold of 488 venues to be designated as stations. Compared with the 2003 DC Election, the number of polling stations increased by 65.

Section 5 – Polling Arrangements

Operation of Polling Station

6.6 Of the 488 polling stations, seven were designated as small polling stations as they served an electorate of less than 200. These stations were used for polling only. 360 stations were accessible to the disabled, representing approximately 74% of the total number of venues, as compared with approximately 52% of the 2003 DC Election. Some stations were also designated as special polling stations to be used for voting by persons with a disability who had difficulties in accessing the polling stations originally assigned to them.

6.7 On the day preceding the polling day the recruited polling staff, with the assistance of the REO staff, set up the designated venues as polling-cum-counting stations. The station was divided into two portions, one as the polling area with the voting compartments, ballot box and ballot paper issuing desks, and the other as the counting area, temporarily closed till after the close of poll and with markings made on the floor showing the counting zones. In some smaller venues where this arrangement was not practicable, the polling area would be converted to the counting area after the close of poll.

6.8 Outside each station, areas were designated by the RO as NCZs and NSZs to provide the electors with a free and safe environment on their way to the station. A notice was put up at a conspicuous spot at or near the station, notifying the public of the designation of the NCZs and NSZs.

6.9 The sanitary conditions of the stations were well looked after to ensure a hygienic space for the electors to cast their votes as well as the station staff to carry out their duties.

6.10 During polling hours, the PRO, assisted by the DPRO and APROs, would be the officer in charge of the polling function.

Ballot Paper and Ballot Box

6.11 As the arrangement of printing names, emblems and photographs on ballot papers adopted in the 2004 LegCo Election was well-received by the candidates and electors alike, the arrangement was extended to the 2007 DC Election to facilitate easy identification of candidates by electors. Candidates were allowed to have their personal photographs and their specified particulars printed on the ballot paper. The specified particulars included the registered names relating to not more than three prescribed bodies, the registered emblems relating to not more than three prescribed bodies and the candidate concerned, and with or without the words “Independent Candidate” or “Non-affiliated Candidate”.

6.12 Any prescribed persons and bodies may at any time apply to the EAC for the registration of the particulars. For the names and emblems to be used in the 2007 DC Election, a one-off arrangement was adopted by the EAC so that the application deadline would be extended from the normal deadline of 15 April to 18 June for relevant parties to lodge their applications. The EAC would then process their applications.

6.13 To cater for the new measures, the size of the new ballot papers was 70% larger than that of the 2003 DC Election.

6.14 To accommodate the increased size of the ballot paper, the REO tested the ballot boxes thoroughly and carefully to ensure that provision of ballot boxes to each station would be sufficient. Extra ballot boxes were put in reserve at the emergency depots in each of the 18 districts.

Section 6 – Counting Arrangements

6.15 Having regard to the successful implementation of the polling-cum-counting arrangement in the 2003 DC Election and subsequent by-elections, the EAC adopted the same arrangement for this election. This arrangement had proved to be more cost-effective in terms of both manpower and financial resources, and the overall election results could be announced earlier than before. It also reduced the time and risk involved in transporting ballot boxes from the polling stations to the counting stations.

6.16 With the exception of the small polling stations, the polling stations would be converted into counting stations after the close of poll. For a constituency with two or more polling stations, the station where the largest number of electors were to cast their votes was designated by the CEO as the dominant counting station. For a constituency with two or more polling stations, and one of which was a small polling station or special polling station, a station was designated by the CEO as the main counting station to which the ballot papers cast at the small polling station and/or special polling station would be sent for counting to be conducted.

6.17 When the count started, the PRO assumed the role of the counting supervisor, ie the officer overseeing the counting process. He was also responsible for determining the validity of questionable ballot papers.

Section 7 – Contingency Measures

6.18 To cater for possible inclement weather or other emergencies, the following contingency measures were put in place:

- (a) designating additional venues as reserve or replacement stations to take the place of stations which, for one reason or another, could no longer operate properly;
- (b) obtaining agreement from the management bodies of the 488 designated venues to use these venues as stations on the following Sunday, ie 25 November 2007, in case the election had to be postponed;
- (c) appointing about 200 polling staff to station at the 18 emergency depots and around 800 staff from District Offices who also handled election-related complaints as reserve polling staff in case any polling stations required additional staff;

- (d) setting up a Central Command Centre (“CCC”) at Guardian House to co-ordinate operation of emergency depots. An emergency depot was set up in each of the 18 districts to provide logistical support. Extra stocks of electoral equipment and materials such as ballot boxes, ballot papers and electoral forms were put in each depot to cater for emergency situations;
- (e) providing a total of 36 lorries and 45 vans for the 18 depots for delivery services. Government vessels were arranged for the stations located in the outlying islands;
- (f) providing PROs with a list of the Electrical and Mechanical Service contractors for handling lighting problems where necessary and the contact of telephone company; and
- (g) preparing for the announcement of the implementation of any contingency arrangements on the radio and television and by posting up notices at the stations concerned, wherever necessary.

CHAPTER 7

PUBLICITY

Section 1 – An Introductory Note

7.1 Publicity is an important element in the conduct of an election. It arouses the awareness of the public and appeals to them to actively participate in the election either by registering as electors, seeking candidature or assisting in canvassing/promotional activities. It also serves to disseminate the relevant information to candidates and electors efficiently and most importantly, to remind them to vote on the polling day. In the 2007 DC Election, the EAC and other government departments concerned contributed much to publicising the related events. The media of course also played a significant role in the exercise.

Section 2 – Voter Registration and Voter Turnout Publicity Campaigns

7.2 The EAC Chairman attended the kick off ceremony of the Voter Registration Campaign and the launching ceremony of the 2007 DC Election, which were organized by the RTHK, on 2 June and 15 September 2007 respectively. The Chairman also met the media on 14 November 2007 to talk about the 2007 DC Election and demonstrated the procedure of casting vote at one of the mock polling-cum-counting stations at Kowloon Park Sports Centre.

Section 3 – Other Means of Publicity by the EAC

7.3 The Chairman's briefings with the candidates were well covered by the media. The Chairman and the two EAC Members also met the media at the various stops during their visits on the polling day.

7.4 Four of the polling-cum-counting stations, namely Leighton Hill Community Hall, Kowloon Park Sports Centre, Tai Po Community Centre and Tuen Mun Town Hall, were open to the public on the two days before the polling day to allow members of the public to familiarise themselves with the voting procedure.

7.5 The REO issued press releases to keep the public informed of the various important events at the different stages of the election leading to the polling day.

Section 4 – Publicity Launched by Other Departments

7.6 The Administration, with a budget of \$15 million, launched a comprehensive publicity programme for the voter registration campaign and the 2007 DC Election, with a view to reaching out to as many people as possible, including TV and radio APIs, posters, buntings and banners hung on streets, newspaper advertisements and vantage point advertising, etc. The publicity programme was coordinated by the CMAB with the assistance of the HAD, ISD, ICAC, RTHK and the REO.

7.7 The RTHK organised election forums for some constituencies. The forums were broadcast on the TV and radio and could be viewed on the RTHK website.

7.8 The ISD launched a website containing all the information relating to the 2007 DC Election.

7.9 The ICAC had also produced an information booklet featuring the legal provisions and practical guidance as reference for the use of all candidates and their agents. Briefing for candidates and their agents on the legislative requirements were also organised. Posters were displayed at various spots. An ICAC leaflet reminding electors the importance of upholding clean election was produced and distributed to electors with the assistance of the REO. The ICAC also used APIs to publicise the clean election messages extensively.

CHAPTER 8

CENTRAL SUPPORT

Section 1 – The Central Command Centre

8.1 The CCC manned by REO staff was set up at the REO office in Guardian House throughout the polling day. Its function was to oversee the operation of the polling stations and to liaise with the regional command posts for the provision of back-up support to the stations whenever necessary.

8.2 In the CCC there was a Statistical Information Centre, where the telephones were equipped with the Interactive Voice Response System (“IVRS”) for receiving reports on hourly turnout rates from the PROs and on the number of complaints received at specified time from the ROs, PROs and the Complaints Centre (“CC”). There was also an area for the members of the media to collect relevant information at the press conference room in ISD Headquarter.

8.3 To provide back up in case of failure of the IVRS, the two servers of the system were strategically located in two separate call centres. The REO staff maintained a separate set of figures in stand alone personal computers in case of complete failure.

8.4 The REO office at Cornwall House was arranged as the fall back of the CCC in case of unexpected circumstances like fire outbreak. The Electrical and Mechanical Services Department (“EMSD”) was requested to provide a back up power generator for maintaining essential services in the event of power failure.

Section 2 – The Complaints Centre

8.5 At the REO office in Harbour Centre, a CC was set up to receive and process election-related complaints, which could be lodged by phone, by fax or through the Internet. The CC operated from 7.30 am to 10.30 pm.

8.6 A total of 299 complaints were received and handled by the CC on the polling day.

CHAPTER 9

THE POLL

9.1 On the polling day, 488 polling stations were opened. Polling hours started at 7.30 am and ended at 10.30 pm. Generally speaking, the poll went on smoothly throughout, though there were some individual complaints against the polling staff, the conduct of exit polls and the locations of the stations.

9.2 The electors' turnout broke the record high. A total of 1,148,815 electors were recorded to have turned up at their respective stations to cast their votes for the contested constituencies, which represented 38.83% of the voting electorate of 2,958,953. The number of electors who had turned up and the turnout rate of the last ordinary election in 2003 was 1,066,373 and 44.10% respectively. A breakdown of the turnout rate by district for this election is shown at **Appendix II**.

CHAPTER 10

THE COUNT

10.1 After the close of poll, all polling stations were closed and, with the exception of the small polling stations, were converted into counting stations. Candidates and their agents were allowed to stay at the polling station to observe the conversion process. Starting from the 2007 DC Election, polling agents may also stay at the polling station during the conversion process. The time of the conversion process varied from station to station, and the average was about an hour. Members of the media and the general public were admitted into the station after the conversion.

10.2 The ballot boxes containing ballot papers cast in the small polling stations were transported to the related main counting stations. These ballot papers were then mixed with those cast at the main stations and counted.

10.3 As in previous DC by-elections subsequent to the 2003 DC Election, the invalid ballot papers would be separated from the other ballot papers and not be regarded as questionable ballot papers. Candidates, their election agents and counting agents could examine these invalid ballot papers but they were not allowed to make any representations.

10.4 The PRO was solely responsible for determining the acceptance or rejection of questionable ballot papers. The ARO(Legal) would offer assistance to the PROs in determining the validity of these questionable ballot papers. An analysis of the ballot papers not counted (including those which were invalid

and questionable ones which were rejected by the PROs after consideration) is shown in **Appendix III**. In addition, an analysis of invalid ballot papers kept by the PROs is shown at **Appendix IV**.

10.5 When the count was completed, the PROs of all counting stations reported the results of the count conducted in their respective stations to the respective RO through the CCC using the IVRS. The CCC then verified the results and, when the results for all the counting stations of a constituency were available, passed the results to the RO. The RO would declare the election results by posting up a notice in his office. Thereafter he would fax a copy of the notice to the CCC, and the CCC would inform the PROs to make known the election results to the candidates, their agents, members of the media and members of the general public at the counting station.

10.6 The count and the determination of questionable ballot papers were generally conducted smoothly in the counting stations.

10.7 The vote-counting process took about five hours to complete after the close of poll. This was faster than that in the 2003 DC Election when counting was completed about six hours after the poll closed. The first result came out at 12.37 am on the day following the polling day and the last result was announced at 4.10 am. The EAC considered that the vote counting process was efficiently completed and was generally satisfied with the overall electoral arrangements for this election.

10.8 The election results of the 18 districts were published in the Gazette Extraordinary on 24 November 2007 and are now re-produced at **Appendix V** for easy reference.

CHAPTER 11

EAC VISITS

11.1 As in previous elections, the three Members of the EAC paid visits to the polling and counting stations to gain first-hand information about what was happening on the spot. Each of the Members had his individual itinerary throughout the day, which together covered a total of 21 polling-cum-counting stations in the 18 Districts. Early in the morning on the polling day they first cast their votes at the polling station to which they were allocated. Before noon they met at the Leighton Hill Community Hall, a polling station in the Wan Chai District, where they briefed the media on their views about the polling arrangements observed during their morning visits. After lunch they resumed their visits. They gathered together again at the Kowloon Park Sports Centre, a polling station in the Yau Tsim Mong District, to meet the media around 5 pm to round up their day-time round of visits.

11.2 In the evening of the polling day, the EAC Members joined together around 10.30 pm at the Wong Nai Chung Sports Centre, a counting station in the Wan Chai District, where the CE, EAC Chairman and Members, Secretary for Constitutional and Mainland Affairs and Secretary for Home Affairs opened and emptied the ballot boxes. After the close of count, the EAC Chairman met the media to give his views on the count.

11.3 The EAC was generally satisfied with the smooth conduct and completion of the count in all the counting stations. Although there were concerns that the announcement of the election result in one constituency was slower than expected, mainly because of the time taken by the CCC to confirm the accuracy of the counting results through a validation process, the EAC was of the view that it would be prudent for the CCC to check and confirm the accuracy of all the counting results so as to ensure the validity of the election results to be declared by the RO under the electoral law. However, the REO was tasked to review and streamline the validation process with a view to achieving greater efficiency.

CHAPTER 12

THE COMPLAINTS

Section 1 – A General View

12.1 The complaints-handling mechanism is one of the means adopted by the EAC to safeguard the fairness and integrity of the electoral system. With its experience gained from processing complaints in the past years, the EAC noticed that some complaints revealed deficiencies or errors in certain areas of electoral arrangements where improvements were necessary. This prompted the EAC to look for measures to bring about better arrangements for future elections.

12.2 Complaints provide a monitoring system for candidates to exercise mutual checks among themselves and through these complaints, they understand the electoral law and guidelines better.

12.3 The EAC has always endeavoured to vet the complaints received efficiently and fairly to ensure that the complaints-handling mechanism is not abused and to let the public know that justice and fairness is safeguarded.

Section 2 – The Complaints-handling Period

12.4 The complaints-handling period started from 2 October 2007, ie the day when the nomination period commenced, and ended on 2 January 2008, ie 45 days after the polling day.

Section 3 – The Complaints-handling Parties

12.5 During the complaints-handling period there were five parties involved in the task of processing complaints: the EAC, ROs, Police, ICAC and, on the polling day, the PROs as well. Members of the public could lodge their complaints with any of these parties. Each of these parties had their respective area of responsibilities for handling complaint cases. A Complaints Committee (“CCm”) was set up under the EAC to deal with cases that were within its jurisdiction and not covered by any statutory provisions involving criminal liability. The CCm comprised all three Members of the EAC and a District Court Judge. It was supported by the Complaints Unit of the EAC Secretariat. The ROs were responsible for handling complaint cases of a minor nature (eg those relating to EAs, electioneering activities conducted on private premises, use of sound amplifying devices, etc) under the authority delegated to them by the EAC. The Police handled cases that involved criminal liability, eg breaches of the EAC (EP) (DC) Reg and criminal damage of EAs. The ICAC attended to cases that involved breaches of the ECICO, Prevention of Bribery Ordinance and ICAC Ordinance. The PROs received complaints on the polling day at the polling stations and took action on the spot on those cases which required immediate attention, eg use of sound amplifying devices in the vicinity of the station, unlawful activities carried out in the NCZ or NSZ, etc.

Section 4 – The Complaints: Number and Nature

12.6 By the end of the complaints-handling period a total of 6,187 cases were received and processed by all of the five parties: the CCm (1,305 cases), ROs (2,491 cases), Police (1,423 cases), ICAC (332 cases) and PROs (636 cases). This is a record high figure, surpassing the highest number of complaint cases previously received and processed in a public election supervised by the EAC in Hong Kong. The majority of the cases concerned EAs (1,968 cases), disturbances to electors caused by loudspeakers/canvassing activities, over the phone or at the electors' residence (1,370 cases) and electioneering activities on private premises (406 cases). A detailed breakdown of these cases by the receiving party and nature is shown on **Appendices VI (A) – (F)**.

Section 5 – Handling of Complaints on the Polling Day

12.7 On the polling day, as mentioned in paragraph 8.5, a CC was set up in the REO office in Harbour Centre to handle the complaints received. There were designated police officers on duty in the police stations in the 18 Districts to attend to complaints. There were also ICAC officers designated to man a complaints hotline during the polling hours. The PROs dealt with complaints received at the polling/counting stations under their charge.

12.8 The number of complaint cases received by the CCm, ROs and PROs on the polling day amounted to 2,021. The majority of these cases concerned on-the-spot incidents and were expeditiously dealt with and resolved (eg cases of electioneering activities taking place in NCZs, noise nuisances caused by the use of

loudspeaker). Those cases received by the CCm were given prompt and thorough attention and referred immediately to the appropriate authority for action. Cases received by the ROs and PROs were also handled without delay.

12.9 There were cases which could not possibly be resolved on the spot, eg cases which involved breaches of the ECICO and required ICAC investigation. Follow-up action on these cases took a longer time.

12.10 Of the 2,021 cases handled by the CCm, ROs and PROs on the polling day, 1,627, or 80.5%, were resolved before the close of poll.

12.11 The CC received a total of 299 cases on the polling day. 122 complicated cases were submitted to the CCm for vetting in the same manner as those received during the rest of the complaints-handling period. The remaining 177 straightforward cases were resolved on the polling day by the CC.

12.12 A breakdown of the complaint cases received on the polling day is shown in **Appendices VII (A) – (F)**.

Section 6 – The Outcome of Investigations

12.13 As at 2 January 2008, of the 1,500 cases handled by the CCm (including those it received and those referred to it by the other parties), 102 were ruled as substantiated. The EAC issued a total of 156 warning letters to the offenders.

12.14 Of the 3,191 cases handled by the ROs (including those they received and those referred to them by the other parties), 1,103 were found substantiated as at 2 January 2008. Under the authority delegated by the EAC, the ROs issued warning letters to the offenders. There were 668 of these letters.

12.15 Of the 1,471 cases they handled, the Police had, as at 2 January 2008, investigated and found 244 substantiated, and prosecuted 14 offenders. As at the same date, of the 650 cases they handled, the ICAC investigated and found none substantiated. There were still 789 cases under investigation by these two parties.

12.16 A breakdown of the outcome of investigations as at 2 January 2008 is detailed in **Appendices VIII (A) – (D)**.

Section 7 – Four election-related incidents which occurred on the polling day

12.17 There were four election-related incidents on the polling day which had attracted public and media attention:

(a) The Lung Sing Incident

- (i) The PRO of the polling station for the Lung Sing Constituency of the Wong Tai Sin District received a complaint that the complainant and a person were surrounded by a crowd of supporters of her adversary in the NCZ and the crowd had caused obstruction to electors entering the polling station. The CCm conducted a detailed investigation into the complaint.

- (ii) **[This paragraph is obliterated for publication pending determination of an election petition.]**

(b) The Ka Wai Incident

- (i) There was a complaint that the PRO had wrongly issued the polling staff badges to a candidate and his agents at the polling station of the Ka Wai Constituency of the Kowloon City District. A detailed investigation was conducted into the complaint.

- (ii) **[This paragraph is obliterated for publication pending determination of an election petition.]**

(c) The Cheung Shek Incident

There was a complaint case against the PRO of the polling station for the Cheung Shek Constituency of the Tsuen Wan District for refusing entry of electors in wheelchairs to the polling station. After investigation, it was found that the polling station was not easily accessible for persons with a disability as there were many staircases on the way to the polling station. A private road to the polling station, which some wheelchair-users tried to use to access the polling station, was situated on a steep slope. Hence, the PRO considered that access to the polling station by this private road should not be allowed to avoid possible danger to electors. The REO had already reminded electors in advance that electors with special needs could apply to the REO for re-allocation to a special polling station. The CCm considered that the complaint was

unsubstantiated as the PRO's refusal of letting the wheelchair users enter the polling station from the private road was due to safety reason. There might be misunderstanding between the PRO and the electors concerned. Nevertheless, the PRO was advised to be more alert in handling similar situation and the REO had been tasked to strengthen its training for polling staff in the future elections.

(d) The Shun Tin Incident

The PRO of the polling station for the Shun Tin Constituency of the Kwun Tong District received two complaints alleging that electors were told by the polling staff to vote for a particular candidate. With the assistance of the REO, the CCm completed the investigation and considered that the two complaints were unsubstantiated as the complainants were not able to identify at the scene the polling staff whom they claimed to have instructed electors to vote for a particular candidate. The CCm was also of the view that the PRO had taken prompt and appropriate actions in response to the complaints.

Section 8 – Election Petitions

12.18 Four election petitions regarding the 2007 DC Election had been lodged by 24 January 2008, the deadline for lodging election petitions. The details are set out in the ensuing paragraphs.

12.19 Hon TAM Heung-man, one of the candidates of the Lung Sing Constituency, filed an election petition against one of her adversaries, Mr CHOI Luk-sing, and the RO, on the ground of material irregularity and corrupt and/or illegal conduct possibly engaged by Mr CHOI and his agents in relation to the election.

12.20 Mr LAU Ting-pong, a candidate of the Ka Wai Constituency, also lodged an election petition against his adversary, Mr LO Chiu-kit, and the RO, on the ground of material irregularity and corrupt and/or illegal conduct relating to the poll of the election possibly engaged by Mr LO and his agents.

12.21 Apart from the above two cases, Miss CHAN Yin-chu, a candidate of the Kwong Ming Constituency in Sai Kung District, and Mr LEUNG Wing-hung, a candidate of the Tai Wai Constituency in Sha Tin District, both lodged election petitions on the grounds of unfair treatment and illegal conduct possibly engaged by their adversaries respectively.

12.22 The hearing dates for these cases are yet to be fixed by the court.

12.23 After the statutory deadline, the Court of First Instance received an election petition lodged by Mr SO Chiu-chau, one of the candidates of the Tung Mei Constituency in Wong Tai Sin District, on the grounds of inappropriate designation of polling station for the constituency and illegal conduct possibly engaged by some persons. The Court dismissed his case as it was lodged out of time.

CHAPTER 13

THE REVIEW AND RECOMMENDATIONS

Section 1 – A General Remark

13.1 The EAC is generally satisfied with the smooth conduct of the 2007 DC Election, which was organised in an open, fair and honest manner. After completion of the election, the EAC, following past practices, conducted a comprehensive review of all aspects of the electoral procedures and arrangements with a view to improving the conduct of future elections. The areas reviewed and the related recommendations are set out in the ensuing paragraphs.

Section 2 – Matters relating to Preparation Work

(A) Delineation of Constituency Areas

13.2 As in the past elections, the EAC still received views from the electors during the election period on the delineation of their constituency boundary, long after the conclusion of the public consultation period for the demarcation exercise last year. Same as the past, the EAC did not disregard them and have put them on record.

13.3 **Recommendation:** The EAC would take these views into consideration in the next demarcation exercise.

(B) Electors – Change of Addresses

13.4 There were several enquiries from candidates on whether the information of electors in their contested constituencies had been duly updated. These candidates claimed that the registered addresses of some electors were in premises which had already been vacated or even demolished. On the polling day, the EAC also received a number of complaints from the electors who found their names missing from the register at the ballot paper issuing desks in the polling stations. Some candidates also claimed that the information relating to some registered electors was incorrect.

13.5 **Recommendation:** The EAC appreciates that such kind of situations may be inevitable as there is a time-gap between the publication date of final register and the polling day. However, the REO should make their best endeavours to ensure that more focused publicity programmes be launched to remind electors of the importance in promptly reporting their change of addresses and relevant particulars within the deadline specified by the REO. The EAC would also like to take this opportunity to appeal to the help of electors in updating their particulars promptly.

(C) Designation/Allocation of Polling Stations

13.6 A number of electors were not satisfied with the venue of the polling station to which they were allocated for casting their votes. They either found that the polling stations were too far away from their home or found them not easily accessible, especially for the elderly and those electors with a disability. While

noting the complainants' dissatisfaction, the EAC understands the difficulties encountered by the REO in securing the agreement of the schools or organisations for the use of their premises as polling stations and appreciates that it has done its best in identifying suitable venues as stations. In 2007 DC Election, a total of 360 polling stations were accessible to persons with a disability, representing an increase of 141 polling stations as compared with the 2003 DC Election.

13.7 **Recommendation:** The REO should try as far as practicable to allocate an elector to a polling station most suitable to him/her, but this would always be subject to the availability of the venues.

13.8 There was a complaint from a candidate against the location of the polling station of his constituency which was situated in the same building of the office of his adversary. The candidate considered that this would cause unfairness to him.

13.9 **Recommendations:** The EAC appreciates that there are relevant provisions such as rules prohibiting canvassing activities in the NCZ and NSZ in the electoral laws to guarantee that no one would gain advantages under such circumstances and the difficulties of REO in identifying suitable venues, in particular given that the polling stations are normally selected before the nomination period, and that the REO may not have information on the office address of the candidates. However, the REO should take these concerns into account in the selection of polling stations and in advising ROs in delineating the NCZ and NSZ to ensure that no unfair advantage would be resulted.

13.10 The EAC also noted that some electors were not aware of the fact that they had been allocated to a polling station different from the one to which they had been allocated in the previous election even though a note had been printed to this effect on the poll card sent to them.

13.11 **Recommendation:** The REO should consider including a more eye-catching reminder on the poll card.

13.12 For those electors who went to a wrong polling station (ie not the polling station allocated to them), the polling staff could help check through the REO's enquiry hotline their correct polling station. However, as polling stations did not have detailed information about the neighbouring stations, polling staff had difficulty in advising the electors how to go to their designated stations.

13.13 **Recommendation:** The EAC is pleased to note that for future elections the polling staff will be provided with the addresses of neighbouring polling stations so that they can assist the electors when necessary.

(D) Training for the PROs, DPROs and Polling Staff

13.14 The EAC considered it necessary to enhance the training programme for the PROs, DPROs and polling staff for future elections. Experience from the 2007 DC Election showed that some PROs, DPROs and polling staff were not very familiar with the electoral legislation, guidelines and the directives laid down in the operational manual, as revealed by the incidents described in paragraph 12.17(a) to 12.17(c) above. It was also noted that in some polling stations, the polling staff

did not allow children to follow their accompanying adults to enter the polling station, contrary to the provision given in paragraph 4.10(k) of the Guidelines and section 47 of the EAC (EP) (DP) Reg. In some cases, the polling staff read out the personal particulars of electors when issuing the ballot papers to them.

13.15 **Recommendations:** The EAC appreciates that the REO has stepped up the training for the PROs, DPROs and the polling staff. However, this should be intensified with more mock exercises and workshops to help the PROs, DPROs and the polling staff get familiar with the electoral legislation, guidelines and directions laid down in the operational manual. More reader-friendly and handy reference materials, such as a list of “Do’s and Don’ts” should be provided where practicable.

(E) Publicity

13.16 The EAC is of the view that enhanced publicity messages launched through TV and Radio APIs and print media would help remedy some of the drawbacks identified, eg reminding the electors to report to the REO any change in their addresses or other personal particulars (as recommended in paragraph 13.5 above) and their rights of not answering questions from interviewers of exit poll (as recommended in paragraph 13.19 below). Publicity could also help to remind the electors that on receipt of the poll card, they should pay special attention to the polling station allocated so that they would not go to the wrong station in case the station allocated for the current election was different from the one allocated to them in the last election.

13.17 **Recommendation:** Publicity campaign should be further enhanced and carefully designed to enable more effective dissemination of essential information with regard to the election and also serve to alert the electors on matters of important concern.

Section 3 – Matters relating to Operational Aspects

(A) Exit Polls

13.18 There was misunderstanding on the part of the electors at the polling stations that the conduct of exit polls was unlawful. On the other hand, some electors thought that the exit polls were conducted by the EAC or REO and queried the purposes of such polls.

13.19 **Recommendations:**

- (a) The exit poll interviewers should be reminded that they must wear their identification badges issued by the REO and they must make it clear to the interviewees that they have the full discretion on whether or not to answer the interviewers' questions, that it is an elector's right to keep his vote secret, and that an elector does not have to disclose his choice of candidate if he does not want to.

- (b) The REO should also make use of appropriate channels, such as publicity programmes through electronic and print media, to remind electors of their rights of not answering the interviewers' questions and the fact that exit polls are neither conducted by the EAC nor by any departments of the Hong Kong Special Administrative Region Government.

(B) Ballot Papers Not Marked with the Chop Provided

13.20 The EAC noted that PROs still classified ballot papers not marked with the “✓” chop provided as questionable ballot papers during the counting process. The PROs would therefore be required to make decisions on their validity later in the presence of candidates/agents. However, paragraph 4.42 of the Guidelines and section 78 of the EAC (EP) (DC) Reg have stated clearly that these ballot papers would be set aside as invalid on the spot and would not be counted nor be treated as questionable ballot papers.

13.21 **Recommendation:** As the electors have been very familiar with using the “✓” chop to mark the ballot papers since its introduction in the DC Election in 1999 and candidates are well aware that ballot papers not marked with the chop provided would be treated as invalid, the EAC considers that the REO should advise the PROs to follow strictly to the aforesaid provisions in the Guidelines and EAC (EP) (DC) Reg to set aside those ballot papers not marked with the “✓” chop as invalid on the spot in the future.

(C) Declaration of Results

13.22 The EAC noted that, in some constituencies, it took relatively long time after the completion of counting process for the ROs to declare the election results due to the time taken by the CCC of the REO for verifying the accuracy of the counting results.

13.23 **Recommendation:** The EAC appreciates that it would be prudent for the CCC to check and confirm the accuracy of all the counting results so as to ensure the validity of the election results to be declared by the ROs under the electoral law. However, to avoid undue delay, the REO should make further efforts to streamline the verification process for greater efficiency so that the ROs could announce the election results as soon as possible.

(D) Reduction of Paper Consumption on Election-related Materials

13.24 There had been appeals from the public, especially green groups, on the reduction of paper consumption on election-related materials. The EAC is pleased to note that the REO had implemented various measures to reduce paper consumption in the election, including:

- (a) reducing the thickness of papers used to print candidates' introductory leaflet from 100 grams per square meter to 80 grams per square meter;
- (b) reducing the space for each candidate to set out their platforms in the introductory leaflet from one half of an A4 page to a quarter of it;

- (c) dispensing with the arrangement of sending DOs' appeal letters to the electors; and
- (d) posting enlarged photocopies of candidates' introductory leaflets instead of plastic posters in polling stations.

Approximately more than 4 million sheets of A4-size papers had been saved due to the measures in (b) and (c) above. In addition, the REO had given the e-mail addresses collected from electors to candidates for sending election advertisements electronically, although less than 70,000 of the 3.3 million electors had provided their email address to the REO.

13.25 **Recommendations:** The EAC considers that further actions might be taken by the REO to reduce paper consumption in future elections. One of them is to suggest candidates to consider sending election-related publicity materials to electors on a household basis as far as practicable. Besides, continuous effort should also be made to solicit e-mail addresses from the electors.

(E) Use of Electors' E-mail Addresses by Candidates

13.26 There were a number of complaints from electors concerning the use of their e-mail addresses by candidates. Some complainants claimed that the candidates had disclosed their e-mail addresses to other recipients when sending them election advertisements. Others questioned the source by which candidates obtained their e-mail addresses. They worried that their e-mail addresses would be abused.

13.27 The EAC noted that electors were invited to provide their e-mail addresses when they applied for voter registration and the provision of e-mail address was voluntary. They have been informed via the registration form that the e-mail address would be provided to the candidates for the purpose of sending EAs. The candidates were also requested, when collecting electors' e-mail addresses, to sign an undertaking to confirm that the electors' information should only be used for the election-related purposes relating to the 2007 DC Election. Candidates were also reminded to enter electors' e-mail address in the b.c.c. field when sending out election advertisements via e-mail so that the e-mail address of individual elector would not be seen by others. It was disappointed that some candidates failed to do so.

13.28 **Recommendations:** The EAC considers it necessary to strengthen reminders to candidates and agents on the collection and use of electors' e-mail addresses through the candidates' briefing sessions and to include conspicuous reminders in the candidate's folder to this effect, among other things, drawing reference to the guidance note on personal data privacy in respect of electioneering activities at Appendix E to the Guidelines.

Section 4 – Matters relating to the Guidelines

(A) Activities Prohibited in NCZ

13.29 There were some enquiries on whether some particular activities were allowed or prohibited in the NCZ. The EAC is also aware of calls to clearly define what can be done and what cannot be done in the NCZ so that the candidates, their supporters, ROs and polling staff can easily follow. Appendix C to the

Guidelines has already listed out some common forms of canvassing activities, which are prohibited within NCZ. It is, however, not practicable to draw up an exhaustive list. All parties concerned should exercise sensible judgment on the matter and seek legal advice if in doubt.

13.30 **Recommendation:** The EAC considers it necessary to remind candidates and their supporters that, under sections 44 and 48 of the EAC (EP) (DC) Reg, a person commits an offence liable to fine and imprisonment if he/she misconducts himself/herself or fails to obey a lawful order of the RO/PRO in NCZ or NSZ, and that the person may also be ordered to leave or be removed by a police officer or by a person authorised in writing by the RO/PRO.

(B) Requirements of Free Postage for Election Mails

13.31 A candidate complained that there was a contradiction in the requirements of free postage for election mails between Chapter 7 of the Guidelines and the Summary on Free Postage for Election Mails (“the Summary”) issued by the Hongkong Post. The EAC noted that the alleged contradiction had arisen from misunderstanding of the wordings in the Guidelines. The technical requirements on free postage as stated in the EAC’s guidelines were for general reference only. Candidates should refer to the Summary, which contained the latest technical requirement issued by the Hongkong Post.

13.32 **Recommendations:** To avoid further argument, the EAC considers it necessary to state clearly in the guidelines that the postal requirements included in the guidelines are for general reference only. Candidates must comply with the latest requirements published by the Hongkong Post at the time of the election concerned.

(C) Canvassing by Telephone and Short Message Service

13.33 The EAC has received a large number of complaints from electors on being disturbed by candidates and their supporters through telephone calls and messages sent by short message service (“SMS”). The complainants queried if their personal data had been abused. The fact was that the REO would not provide telephone numbers of electors to candidates. Hence, the candidates should have obtained the information from other parties. Paragraph 8.17 of the Guidelines has already requested candidates and their supporters to respect the privacy of the electors and observe the guidance note on personal data privacy in respect of electioneering activities prepared by the Office of the Privacy Commissioner for Personal Data at Appendix E to the Guidelines. They are also reminded that some members of the public do not like or detest being called over the telephone.

13.34 **Recommendation:** The EAC considers it necessary to highlight in the guidelines that some members of the public do not like to be contacted by telephone. A similar paragraph on SMS should also be included.

Section 5 – Recommendation to Publish the Report

13.35 The EAC would like to recommend that this report be made public, at a time the CE thinks fit, so that the public may be kept posted fully in the picture as to how the EAC conducted and supervised the 2007 DC Election. Paragraphs 12.17(a)(ii) and 12.17(b)(ii) to the Chapter 12, however, should not be published until after the relevant election petitions have been determined by the Court of First Instance.

CHAPTER 14

ACKNOWLEDGEMENT

14.1 The 2007 DC Election has been successfully conducted, with a record-high electors' turnout. The EAC attributes this success to the dedicated and concerted efforts of all parties involved in the preparation for and conduct of the election.

14.2 The EAC would like to express its gratitude towards the following units of the Administration: the CMAB, Civil Aid Service, D of J, EMSD, Food and Environmental Hygiene Department, Home Affairs Bureau, HAD, Hong Kong Police Force, Hongkong Post, Housing Authority and HD, Immigration Department, ICAC, Office of Government Chief Information Officer, ISD, LAD, Lands Department, LandR, Leisure and Cultural Services Department, Marine Department, Official Languages Division (of the Civil Service Bureau), Planning Department, Government Logistics Department, RTHK, Social Welfare Department and Transport Department.

14.3 The EAC is particularly grateful for the reliable and unfailing support of the staff of the REO, who spent scores of months in the preparation work and were deeply engaged in the implementation of the electoral arrangements.

14.4 The EAC is also thankful to the officers serving as ROs, the legal practitioners serving on the NACs, the PROs and those polling and counting staff who conscientiously performed their duties and dutifully followed the relevant operational procedures.

14.5 The EAC would like to thank members of the media who have helped to enhance the transparency of the election substantially by giving the key events a wide and in-depth coverage.

14.6 The EAC shows appreciation towards those candidates, their helpers, building management bodies and members of the general public who had faithfully complied with the electoral legislation and guidelines.

14.7 Last but not the least, the support of the electors who participated in the poll was the prime element in making the election a success.

CHAPTER 15

LOOKING FORWARD

15.1 At the time of finalising the report, the EAC is heavily engaged in the preparation of the 2008 LegCo general election to be held in Autumn.

15.2 Despite the heavy workload and the tight time-frame, the EAC remains committed to fulfilling its mission of safeguarding the integrity of public elections in Hong Kong. It will continue with its efforts in keeping a vigilant watch over every election to ensure that openness, fairness and honesty is upheld. The EAC is always happy to accept positive and constructive comments from the public to bring about improvements to future elections.

