

CHAPTER 1

INTRODUCTION

PART I : THE CHIEF EXECUTIVE ELECTION

1.1 The Chief Executive (“CE”) of the Hong Kong Special Administrative Region (“HKSAR”) is the head of the HKSAR and the head of the HKSAR Government. The CE is elected by the Election Committee (“EC”) and appointed by the Central People’s Government (“CPG”). The specific method for selecting the CE is prescribed in Annex I to the Basic Law.

1.2 In accordance with Article 46 of the Basic Law, the term of office of the CE of the HKSAR shall be five years, and he may serve for not more than two consecutive terms. When a vacancy arises in the office of the CE other than due to expiry of the term of office, the new CE who is elected to fill the vacancy in a by-election may, if re-elected, only serve for one more term after the expiry of the remainder term. The remainder of the term is regarded as one term. *[Added in January 2007]*

1.3 The term of office of the CE shall commence on the date on which he assumes office being the date specified for this purpose by the CPG in the instrument of appointment and published by notice in the Gazette. The first term of office of the CE commenced on 1 July 1997 [Ss 3 and 4 of the CEEO]. *[Added in January 2007]*

1.4 Article 53 of the Basic Law stipulates that in the event that the office of the CE becomes vacant, a new CE shall be selected within 6 months in accordance with the provisions of Article 45 of the Basic Law. A polling date will be fixed in accordance with ss 10 and 11 of the Chief Executive

Election Ordinance (Cap 569) (“CEEEO”) to elect a CE. If an election for a new (5-year) term CE will be held within 6 months after a vacancy in the office of the CE has arisen, it will not be necessary to hold a by-election [s 6 of the CEEEO]. *[Added in January 2007]*

Governing Legislation

1.5 The CE elections are governed by the statutory requirements provided in 3 different ordinances, namely the CEEEO, the Electoral Affairs Commission Ordinance (Cap 541) (“EACO”) and the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”).

1.6 The CEEEO provides for the election of the CE in accordance with Annex I to the Basic Law. The Schedule to the CEEEO provides details on how the EC is to be constituted to elect the CE.

1.7 The EACO tasks the Electoral Affairs Commission (“EAC”) with the conduct and supervision of CE elections, and matters incidental thereto.

1.8 The ECICO prohibits election-related corrupt and illegal conduct and is administered by the Independent Commission Against Corruption (“ICAC”).

1.9 These ordinances are complemented by 6 pieces of subsidiary legislation which provide the detailed procedures for the conduct of the CE elections.

1.10 The electoral procedures for conducting CE elections are provided in the Electoral Procedure (Chief Executive Election) Regulation (Cap 541 J) (“EP (CEE) Reg”).

1.11 The Electoral Affairs Commission (Registration) (Electors for

Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap 541B) (“EAC (ROE) (FCSEC) Reg”) sets out the procedures for, amongst other things, registration of members of the EC who are to elect the CE. *[Amended in January 2007]*

1.12 The Election Committee (Registration) (Voters for Subsectors) (Members of Election Committee) (Appeals) Regulation (Cap 569B) sets out the procedures for, amongst other things, hearing and ruling by Revising Officers concerning the registration of Members of the EC. *[Amended in January 2007]*

1.13 The Election Committee (Appeals) Regulation (Cap 569A) sets out the procedures for appeal against results of subsector elections to the Revising Officer and in relation to registration of nominees declared by the Returning Officer (“RO”) as members of the EC.

1.14 The Chief Executive Election (Election Petition) Rules (Cap 569E) sets out the procedures for lodgement of petitions against the result of a CE election to the High Court.

1.15 The Maximum Amount of Election Expenses (Chief Executive Election) Regulation (Cap 554A) sets out the maximum amount of election expenses that can be incurred by or on behalf of a candidate at a CE election.

PART II : THE GUIDELINES

1.16 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 or any other person assisting a candidate, or any other person;
- (c) the election expenses;
- (d) the display or use of election advertisements or other publicity material; and
- (e) the procedure for making a complaint.

1.17 The aim of such guidelines is to provide a code of conduct based on the principle of fairness and equality for conducting election-related activities and some directions in layman's language on how to comply with the relevant electoral legislation so that candidates can avoid breaching them due to inadvertence. Guidelines are issued for reference by the public to ensure that all public elections are conducted in an open, honest and fair manner.

1.18 This set of Guidelines explains the various electoral arrangements made for CE elections, the legislative provisions and regulations as well as guidelines that should be observed by all parties concerned before, during and after an election and the procedure for lodging an election-related complaint. An action checklist for candidates can be found in **Appendix A**.

PART III : ADVISORY SERVICE TO CANDIDATES ON THE GUIDELINES

1.19 Any person including candidates and their election agents may make enquiries with the ICAC on the provisions of the ECICO. Candidates

may also seek their own legal advice in case of doubt. In addition, candidates (including those who have publicly declared their intention to stand for election, whether or not they have submitted a nomination form) may raise, in writing, with the EAC any questions that they may have on the interpretation or operation of this set of guidelines, other than those covered by the ICAC. The EAC will, wherever practicable, respond to the candidate concerned within 3 working days after receiving his written enquiry; the question(s) and answer(s) relevant to these guidelines will be published for public information for the better understanding of these guidelines.

PART IV : SANCTION

1.20 Members of the public, in particular, electors, candidates and their agents as well as government officials engaged in election-related duties should read, familiarise themselves with, and strictly observe, the guidelines.

1.21 The EAC is committed to ensuring that all elections are conducted openly, honestly and fairly. If it comes to know that any candidate or person is in breach of the guidelines, apart from notifying the relevant authorities for actions to be taken, it may make a reprimand or censure in a public statement which may include the name of the candidate or person concerned and other relevant parties, if any. The reprimand or censure is separate from and additional to the criminal liability for any offences committed.