

## CHAPTER 1

### INTRODUCTION

#### **PART I : THE DISTRICT COUNCIL ELECTION**

1.1 The District Councils (“DCs”) are constituted under the District Councils Ordinance (Cap 547) (“DCO”) for the purpose of advising the Government on district affairs and promoting recreational and cultural activities, and environmental improvements within the districts [s 61 of the DCO].

1.2 According to Schedule 1 to the DCO, there are 18 districts, and the area of each district is delineated in a map deposited in the office of the Director of Home Affairs. Schedule 2 provides that a DC should be established in each of the 18 districts. Schedule 3 sets out the composition of the 18 DCs.

1.3 Each DC comprises elected members, appointed members and, in the case of DCs in rural areas, the chairmen of Rural Committees as ex officio members. The term of office of an elected member 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 will be held in each subsequent fourth year after the first ordinary election, which was held in 1999, and on a date specified by the Chief Executive (“CE”) [s 27 of the DCO]. A by-election will be held to fill any vacancy in the office of an elected member. However, no by-election is to be held within the 4 months preceding the end of the current term of office of the elected member [s 33 of the DCO].

*[Amended in September 2007]*

## **Governing Legislation**

1.4 The conduct of elections for returning elected members to the DCs are governed by the statutory requirements provided in 4 different ordinances, namely the DCO, the Electoral Affairs Commission Ordinance (Cap 541) (“EACO”), the Legislative Council Ordinance (Cap 542) (“LCO”) and the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”). *[Amended in September 2007]*

1.5 The DCO provides for the declaration of districts, the establishment, composition and functions of DCs, the declaration of constituencies, the procedures for election of persons to be members of DCs, and other related matters. The number of elected members to be returned to the 18 DCs is set out in s 5(1) of, and Part I of Schedule 3, to the DCO. There are to be 405 DC constituencies for the 2007 DC ordinary election and each constituency is to return 1 elected member. Under s 6(1) of the DCO, the CE in Council may declare any area within a district to be a constituency for the purpose of an election to elect the members of the DC established for that district. *[Amended in September 2007]*

1.6 The EACO tasks the Electoral Affairs Commission (“EAC”) with making recommendations regarding the delineation of DC constituencies for the DC election and demarcation of their boundaries. The EAC is also responsible for the conduct and supervision of elections, and matters incidental thereto.

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

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

1.9 The ordinances are complemented by a number of pieces of subsidiary legislation, including the 7 set out in paras 1.10 – 1.16 below, which provides the detailed procedures for the conduct of the DC elections. *[Added in September 2007]*

1.10 The electoral procedures for conducting the DC election are provided in the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap 541F) (“EAC (EP) (DC) Reg”). The Regulation has been amended by the EAC, as appropriate, taking into account representations on the EAC’s proposed guidelines in respect of the DC election after the conduct of a public consultation exercise.

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

1.12 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 candidates’ eligibility for nomination for the DC elections. *[Added in September 2007]*

1.13 The District Councils (Subscribers and Election Deposit for Nomination) Regulation (Cap 547A) (“DC Subscribers & Deposit Reg”) sets

out the requirements for subscription and the payment and return of election deposit for the DC elections. *[Added in September 2007]*

1.14 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 DC elections. *[Added in September 2007]*

1.15 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]*

1.16 The Maximum Amount of Election Expenses (District Council Election) Regulation sets out the maximum amount of election expense that may be incurred by or on behalf of a candidate for election to the District Council. *[Added in September 2007]*

## **PART II : THE GUIDELINES**

1.17 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.

1.18 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.

1.19 This set of Guidelines applies to both the DC ordinary election and by-election. It explains what electoral arrangements are made for the DC election, what legislative provisions and regulations as well as guidelines should be observed by parties concerned before, during and after an election and how an election-related complaint could be lodged. An action checklist for candidates can be found in **Appendix A**.

1.20 In the context of this set of Guidelines, the term "election" means ordinary election and by-election, as appropriate.

### **PART III : SANCTION**

1.21 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, these Guidelines.

1.22 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 will include the name of the candidate or person concerned and, where appropriate, other relevant parties (if any). The reprimand or censure is separate from and additional to the criminal liability for any offences committed. *[Amended in August 2008]*