

CHAPTER 8

ELECTION ADVERTISEMENTS

PART I : WHAT CONSTITUTES AN ELECTION ADVERTISEMENT

8.1 An EA, in relation to the subsector election, means:

- (a) a publicly exhibited notice, leaflet, circular, bill, booklet, placard or poster; or
- (b) a notice, leaflet, circular, bill, booklet, placard or poster delivered by hand or electronic transmission; or
- (c) a public announcement made by radio or television or by video or cinematographic film; or
- (d) any other form of publication,

published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election [s 2 of the ECICO and s 1 of the EAC (EP) (EC) Reg]. *[Amended in September 2016]*

IMPORTANT :

“Candidate” includes a person who has publicly declared an intention to stand for an election at any time before the end of the nomination period for the election, whether or not he/she has submitted a nomination form [s 2 of the ECICO and s 1(2) of the EAC (EP) (EC) Reg]. *[Amended in September 2016]*

“Publish” means print, display, exhibit, distribute, post up, publicly announce or make publicly known by any other means, and includes continue to publish [s 107(1) of the EAC (EP) (EC) Reg]. *[Added in September 2016]*

Any person who authorises the publication of an EA is taken to have published the EA [s 107(2) of the EAC (EP) (EC) Reg]. *[Added in September 2016]*

8.2 **An EA** includes the following if it is published for the purpose of promoting or prejudicing the election of any candidate or candidates in an election: *[Amended in October 2011]*

- (a) any address, notice, bill, placard, poster, board, banner, roll-up banner, flag, standard, colour, sign, message, sound, image or picture and any article, thing or material; *[Amended in October 2011]*
- (b) audio/video cassette tapes, discs, diskettes, electronic messages, websites, facsimile transmissions, balloons, caps, badges, emblems, carrier bags, head-dress and clothing; or *[Amended in September 2006 and October 2011]*

- (c) any thing or material published by any person or any organisation, including political organisation, professional or trade organisation, owners' corporation, mutual aid committee ("MAC"), tenants' association, owners' committee, etc. (irrespective of whether or not the candidate concerned is its office-bearer or member) showing his/her or its support for any candidate or advertising the platform or services of such an organisation with reference to a candidate or candidates by name or photograph or in any other form or manner.

8.3 As stated in para. 8.1 above, EA is defined to include any messages published publicly for the purpose of promoting or prejudicing the election of a candidate or candidates at an election under s 2 of the ECICO. Any materials published by any person or organisation during or before the election period to appeal directly or indirectly to voters to vote or not to vote for certain candidates or candidates belonging to or affiliated with certain organisations, irrespective of the form of publication and whether they contain any names or photographs of candidates, may also be regarded as EAs depending on all the circumstances at the time since when read in their whole context, the materials concerned may be capable of being reasonably understood by a voter as referring to certain identified candidate(s). The expenses incurred for the publication of such materials will be regarded as election expenses incurred by or on behalf of the candidate(s). If expenses are involved in the publication of the EA and the publisher is neither a candidate nor a candidate's election expense agent, the publisher may engage in illegal conduct under the ECICO. If a candidate instructs that person or organisation to publish the EAs, the candidate will also violate the law if such expenses are not accounted for as election expenses.

[Added in September 2016]

8.4 The statutory definition of EA is very wide and encompasses anything published publicly by any means, including a message published through internet platforms (e.g. websites, social media, communication networks,

etc.) for promoting the election of a candidate or prejudicing the election of other candidates. However, if web surfers merely share or forward different candidates' election campaigns through internet platforms for expression of views and do not intend to promote or prejudice the elections of any candidates, such sharing or forwarding will not normally be construed as publishing EAs. However, if the web surfers are instructed by the candidate or his/her election helpers to share or forward the election campaigns through internet platforms with the intention to promote or prejudice the election of a candidate or candidates at the election, such act will be regarded as publication of the candidate's or candidates' EAs and any cost incurred will have to be included in the election expenses of the candidate(s). The candidate(s) should also observe fully the requirements relating to publication of EAs as set out in para. 8.47 below. *[Added in September 2016]*

8.5 In addition, any publicity materials containing the name or photograph of a candidate issued or displayed during the election period (i.e. the period beginning on the first day of the nomination period for the election and ending on the day on which the polling for the election ends, or on the day on which a declaration is made in accordance with s 22 of EAC (EP) (EC) Reg) may also be regarded as EAs. Even though the content of the publicity materials is not, on the face of it, election related, the candidates may still receive the promotional effect depending on circumstances. *[Amended in September 2016]*

8.6 Under s 107 of the EAC (EP) (EC) Reg, the definition of "publish" includes "continue to publish". In this regard, for the sake of prudence, any person who intends to stand as a candidate at the election, including but not limited to an incumbent member of the LegCo or a DC (who should also comply with the terms and conditions under the Lands Department's Management Scheme for the Display of Roadside Non-commercial Publicity Materials, if his/her publicity materials are being displayed under the said Scheme), should ensure that all publicity materials published by him/her prior to the election

period, especially posters or banners bearing his/her name or photograph displayed at a public place or at the common parts of a building, are removed before he/she has been nominated as a candidate or has publicly declared an intention to stand as a candidate at the election. Otherwise, any unremoved publicity material **may** be regarded as an EA in accordance with the foregoing principles. *[Added in September 2016]*

8.7 Under s 107(4) of the EAC (EP) (EC) Reg, a document published by a candidate **during** an election period that gives details of the work done by the candidate in the capacity of:

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

is also regarded as an EA. *[Amended in September 2016]*

8.8 For the avoidance of doubt, if a person who has publicly declared his/her intention to stand as a candidate at an election **before** the election period, publishes a document as mentioned in para. 8.7 above, the document will also be regarded as an EA if it is published for the purpose of promoting or prejudicing

the election of a candidate or candidates at the election. It is important to note that a document referred to in this paragraph and para. 8.7 above must comply with all the requirements for an EA and the expenditure so incurred be accounted for as election expenses. *[Amended in September 2016]*

8.9 If a person publishes a document before he/she submits his/her nomination form or publicly declares his/her intention to stand as a candidate that gives details of his/her work done by him/her in his/her capacity as set out in para. 8.7 above without promoting or prejudicing the election of a candidate or candidates at the election, the document will not be construed as an EA. On such basis, the expenditure incurred in the publication of such a document would not be counted as election expenses. *[Amended in September 2016]*

8.10 A candidate in an election may publish EAs in accordance with all the relevant laws and regulations and these guidelines. *[Amended in September 2016]*

Election Advertisements Prejudicing the Election of a Candidate

8.11 There are occasions that candidates or a third party may publish EAs for the purpose of prejudicing the election of a candidate at the election. The concept of “promoting” and “prejudicing” the election of someone can be relative. To publish a document which is designed to persuade voters not to vote for one candidate would have the effect of improving the chances of success of other candidate(s) and could therefore be said to promote the latter’s election. For example:

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

- (b) If a third party criticises candidate B in an EA and the EA has the effect of indicating support for candidate A, the third party must obtain candidate A's prior written consent for incurring the production expenses before he/she produces that EA, and the expenditure incurred will have to be included in candidate A's election expenses.

- (c) If the third party publishes an EA as described in (b) above without the prior written consent of candidate A, that third party will be breaching s 23 of the ECICO as only a candidate or a person who has been duly authorised by a candidate as his/her election expense agent may incur election expenses. It would only be fair to candidate A that the third party needs to obtain candidate A's written authorisation before incurring such expenses. It would also prevent candidate A from circumventing the law by asking the third party to publish materials prejudicing candidate B without having to account for the expenses of those materials.

[Amended in September 2016]

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

8.13 The **election expenses** allowed by law to be incurred by a candidate include the expenses he/she incurs for the preparation and publication of EAs, and he/she should therefore be careful in planning how much he/she should spend in this area. [For the definition of election expenses, see s 2 of the ECICO.]

8.14 Subject to the maximum amount that can be incurred by a candidate for election expenses [s 24 of the ECICO], there is no restriction as to the quantity of EAs employed by him/her. The maximum amounts allowed for the elections of the subsectors are specified in the Maximum Scale of Election Expenses (Election Committee) Order (Cap 554I). [See para. 16.10.] *[Amended in October 2011]*

8.15 A candidate must ensure the correctness and accuracy of all factual statements in his/her EAs. In particular, a candidate is reminded to comply with the requirements for obtaining prior written consent of support from other persons or organisations which are summarised in Chapter 18. [For criminal sanctions, see ss 25, 26 and 27 of the ECICO.] *[Amended in September 2016]*

PART II : PERIOD AND AREA OF DISPLAY

8.16 Subject to the necessary **written permission or authorisation**, a candidate may display EAs on government or private land and property [s 104A(1) of the Public Health and Municipal Services Ordinance (Cap 132) ('PHMSO') and s 4 of the Land (Miscellaneous Provisions) Ordinance (Cap 28)]. *[Amended in October 2011]*

8.17 Display spots are classified into two types:

- (a) **designated spots** which are spots on government land/property and sometimes even at the premises owned or occupied privately that have been made available to the Government for allocation to candidates of the subsectors; and
- (b) **private spots** which are spots on private land/property in respect of which written permission or authorisation for display has been

obtained from the owner or occupier concerned by the candidate himself/herself.

Government or Private Land/Property - Designated Spots

8.18 Allocation of designated spots for the use of contested candidates to display their EAs will be made by the RO for the relevant subsectors. Some of the government land/property have been allocated to some public authorities, such as the Housing Authority, and are under their respective control. The RO for the relevant subsectors may designate spots on such allocated land/property in coordination with the said authorities. **Each candidate competing in the same subsector** will be allocated **the same number of designated spots**. *[Amended in October 2011 and September 2016]*

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

NOTE :

Suggestions under para. 8.19 should reach the CEO not later than **8 weeks before the polling day**. *[Amended in October 2011]*

Other Land/Property : Private Spots

8.20 Candidates who wish to display their EAs on land/property other than government land/property and other than the designated spots must obtain the **prior written permission or authorisation** of the owner or occupier [s 104A(1) of the PHMSO]. The obtaining of written permission or authorisation

from the private owner or occupier is a matter for private arrangement between the candidate and the owner or occupier, and they are therefore called “**private spots**”. A copy of all the permissions or authorisations obtained by a candidate himself/herself must be provided by him/her for public inspection in the manner as set out in para. 8.47 below. [Please also see para. 8.25 below.] Any consideration, fee or money incurred or agreed to be paid by or on behalf of the candidate to the owner or occupier for display of his/her EAs forms part of his/her election expenses. If the private spot secured for displaying the EA is normally used for commercial purpose, the actual rent charged or the usual rent or market rent that would normally be charged should be counted as the election expenses of the candidate concerned, irrespective of whether it is owned by the candidate or whether the owner of it allows the candidate to use it free of charge (in which case it would be a donation of the rent). Where a space provided by a particular private owner or occupier for a candidate to display EAs is not used for commercial advertising, but similar space belonging to other owners or occupiers is available for commercial advertising, the market value of the space should also be accounted for. The provision of this kind of rent-free space should be regarded as election donation and counted as election expenses. Such a provision is to ensure that the candidate concerned will not have unfair advantage over the others who do not have access to such facilities. For details on how the estimated value should be assessed, please refer to para. 16.24. If a space is not the type normally used by any private owners or occupiers for commercial advertising, there is no need for the candidate to account for its value. *[Amended in October 2011 and September 2016]*

8.21 For the display of EAs at the common parts of private premises (those parts to which exclusive rights of use of occupation do not belong to a particular owner or tenant), the EAC appeals to owners and occupiers of private premises concerned to give all candidates competing in the same subsector **fair and equal treatment**. [For details, please see Chapter 9] *[Amended in September 2016]*

8.22 Candidates should note that public corporations (e.g. the MTR Corporation Limited) may have their own rules for display of EAs in properties under their management. *[Amended in September 2016]*

Allocation of Designated Spots

8.23 The RO for each subsector will allocate the designated spots to candidates either in accordance with the mutual consent of the candidates or by the drawing of lots after the end of the nomination period, when the number of candidates contesting will have been ascertained. No designated spot will be provided to a candidate who is returned uncontested. **No display of EAs will be allowed on any designated spots before the allocation.** [Also see the requirements in para. 8.29 and Part VI below.] EAs displayed by the candidates on government land/property other than designated spots are unauthorised and will be removed, save those EAs displayed in connection with electioneering activities conducted on government land/property with approval by the authorities concerned. A candidate will be provided with a list of the designated spots allocated to him/her, together with a set of standardised map or maps to help identify the locations. *[Amended in October 2011 and September 2016]*

8.24 Candidates using the designated spots are required to read and comply with all the requirements and conditions stipulated in the “Conditions for Display of EAs at Designated Spots”, which will be provided to each candidate in the candidate’s folder and uploaded onto the EAC’s website. To safeguard the safety of road users, candidate should ensure that EAs on display must not distract motorists or interfere with the sight lines of motorists and pedestrians, or obscure any traffic sign or traffic light signal. *[Added in September 2016]*

Written Permission or Authorisation

8.25 The RO will obtain prior approval from the relevant authorities under s 104A(1) of the PHMSO and s 4 of the Land (Miscellaneous Provisions) Ordinance for candidates to display their EAs at designated spots. Immediately after the allocation of designated spots is made, a copy of the necessary written permission or authorisation under the relevant legislation will be provided to the candidates by the RO of the subsector concerned [see Part III below]. For any display on private premises, written permission or authorisation of the private owner or occupier will have to be obtained by the candidates themselves [s 104A(1) of the PHMSO]. A person displaying an EA without the necessary written permission or authorisation commits an offence and will be liable to a fine of \$10,000 and, where the offence is a continuing offence, by an additional daily penalty of \$300 for each day during which it is proved to the satisfaction of the court that the offence has continued [s 104A(2) of the PHMSO]. A copy of all the permissions or authorisations obtained by a candidate himself/herself, as opposed to those provided to him/her by the RO, must be provided by him/her for public inspection in the manner as set out in para. 8.47 below. All the candidates are also reminded that if carrying out of building works (including erection of signboards) at private premises is involved for display of the EA, the relevant provisions of the Buildings Ordinance (Cap 123) (“BO”) and the subsidiary regulations should be complied with. In this regard, the candidates are strongly advised to consult building professionals, registered contractors and, where necessary, authorised persons on the compliance with the BO, and to make submission in accordance with the simplified requirements under the Minor Works Control System or formal application for approval and consent from the Buildings Department as appropriate before the carrying out of such works.

[Amended in October 2011 and September 2016]

No Canvassing Zone

8.26 No EA may be displayed within the boundaries of a polling station (including the outer walls of the premises) or within any **NCZ** on the polling day [see Chapter 14], except for static display of EAs mounted at designated spots approved by the RO. Where there are private premises situated within the NCZ, the ROs should issue a notice in advance to all the candidates asking them to remove all of their EAs, if any, posted up at the private premises within the NCZ which can be seen by voters on their way to the polling stations on the polling day. If the candidates fail to remove the EAs as requested by the ROs, the ROs may issue a warning to them to remove the offending EAs immediately. If the candidate fails to do so, the EAC may issue a censure or reprimand. The RO for the subsector for which a candidate stands will provide each candidate with 1 set of sketch maps or plans showing the boundaries of all polling stations and all NCZs outside those polling stations. *[Amended in October 2011 and September 2016]*

PART III : ALLOCATION OF DESIGNATED SPOTS

8.27 A candidate can obtain the following information from the RO for that subsector at the time of submitting the nomination form:

- (a) the general locations of the designated spots, which may include unleased government land and premises managed by the Housing Department and the Hong Kong Housing Society, and occasionally private premises (if any) available for allocation to the candidates for a particular subsector. The size and number of spots for allocation will be finalised by the RO, taking into account the number of candidates in the subsectors, **after** the end of the nomination period. In order to allow all contested candidates to

display their EAs at all locations, particularly popular ones, the size of each spot may vary from location to location; and

- (b) the date and time for conducting the allocation of designated spots, which would normally be held within 3 working days after the end of the nomination period. The RO will invite representatives from the relevant authorities relating to government land/property, save those who have already given a blanket approval, to be present to give the necessary written authorisation for the spots allocated.

[Amended in September 2016]

8.28 The RO for the subsector will need to know the exact number of candidates who wish to display EAs at designated spots, so that he/she can finalise the number of designated spots and their size for allocation. Therefore, candidates who wish to display EAs at designated spots **must register their interest in writing by filing a completed form to the relevant RO within the nomination period. Only candidates of contested subsectors will be allocated with designated spots.** *[Amended in September 2016]*

8.29 The principle of allocation of designated spots is that candidates contesting in the same subsector should each be allocated the same number of designated spots and an equal area of space for mounting EAs. Designated spots are allocated by agreement of the representatives of all the contested candidates or by the drawing of lots. After allocation of the spots and the necessary authorisations have been obtained from the relevant authorities [s 104A(1) of the PHMSO and s 4 of the Land (Miscellaneous Provisions) Ordinance] and after complying with the requirements set out under Part VI, the candidate may display EAs at such spots allocated to him/her. *[Amended in October 2011 and September 2016]*

8.30 A copy of all the permissions or authorisations obtained by a candidate himself/herself, as opposed to those provided to him/her by the RO, must be provided by him/her in the manner as set out in para. 8.47 below [s 108(2) and (3) of the EAC (EP) (EC) Reg]. *[Amended in October 2011 and September 2016]*

8.31 Subject to para. 8.32, designated spots allocated are not transferable. Nor are they exchangeable with other spots. Where a candidate of a particular subsector no longer wishes to use one or more designated spots allocated to him/her, he/she should inform the RO of that subsector in writing within 1 week after the allocation of those spots. At a contested election, upon request by any other candidate of the same subsector, the RO, if he/she considers appropriate, will re-allocate by agreement or by the drawing of lots the designated spots amongst all other candidates who are eligible to be allocated with designated spots of the same subsector. In such a case, paras. 8.28 and 8.29 above apply. *[Amended in October 2011 and September 2016]*

NOTE :

In some cases, designated spots allocated in the first round of allocation are left unused for various reasons. The RO may re-allocate such spots to the relevant candidates by mutual consent or the drawing of lots. Candidates may wish to plan accordingly their resources in respect of EAs.

8.32 An EA advertising 2 or more candidates of the same or different subsectors jointly is allowed to be displayed on the designated spots allocated to the candidates. Nevertheless, it is important to ensure that, for each one of the joint candidates, the total area of all the spaces actually occupied for advertising the candidate on his/her EAs, including the joint EAs, mounted at the designated spots (as measured by the dimension of EAs) does not exceed the total area of the

designated spots allocated to each of the candidates. A joint EA is also subject to the size restrictions specified in para. 8.36 below. Through joint advertisement, the candidates concerned promote themselves at the election, and so each of the candidates would benefit from the joint advertisement. The expenses incurred for the joint EAs will therefore have to be borne by the candidates concerned in equal or proportional shares as their respective election expenses, to be calculated by the proportion of the size of the portion advertising each. In this connection, it is important to note that only a candidate himself/herself or his/her election expense agent may incur election expenses on his/her behalf [s 23 of the ECICO]. In order to comply with the requirement stipulated in s 27 of the ECICO, the candidates concerned also have to seek prior written consent of support from each other before publishing the joint EA [see also paras. 7.17 to 7.19 and para. 18.7]. *[Amended in September 2006, October 2011 and September 2016]*

PART IV : CONDITIONS AND LIMITATIONS ON DISPLAY

Name of the Subsector

8.33 To avoid possible confusion to voters, EAs of all candidates of the subsector must bear the name of the subsector for which the candidate concerned is standing. Similarly, in respect of joint EAs, the name of the subsector should be stated clearly in relation to each of the candidates advertised. Either the full name of the subsector or its abbreviated name (to be advised by the RO for the subsector) may be used, dependent on the choice of the candidate for the subsector. In the case of a breach for EAs displayed at designated spots, the approval for the use of the designated spots in question will be revoked. *[Amended in September 2016]*

8.34 Likewise, all candidates should make known to the public the name of their respective subsectors when they conduct joint canvassing activities.

Re-use of Old Publicity Boards

8.35 A candidate may re-use old publicity boards used at a previous election. However, any information in relation to the previous election, e.g. the candidate number, name of subsector, party affiliation and names of persons who supported the candidate at that election, should be fully obliterated before any old publicity board is re-used. This would not only avoid confusion to voters but would also help the candidate to avoid laying himself/herself open to allegations of false claim of support of persons who might not have consented to support him/her at the current election. The cost incurred in refurbishing as well as the estimated value of the old publicity boards will be counted towards the candidate's election expenses. *[Amended in October 2011]*

Size

8.36 As a general rule, EAs displayed at designated spots should not exceed 1 metre high and 2.5 metres long. In the case of designated spots at roadside railings, the EAs must be **printed on one side only** and be displayed at the **designated side of the railings** with the side of the EAs carrying the promotional messages **facing the designated direction of the spots**. Before displaying EAs, candidates are reminded to ensure that the EAs must not distract motorists or interfere with the sight lines of motorists and pedestrians, obscure any traffic sign or traffic light signal, or obstruct the circulation of pedestrians. [See also para. 8.24 above] For the rules on display of joint advertisements, see para. 8.32 above. *[Amended in October 2011 and September 2016]*

Mounting and Installation

8.37 The EAs must be firmly and separately fastened. The mounting and display of EAs must not cause any risk to injuries or property. *[Amended in September 2016]*

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

8.39 Use “tie-on” posters (rather than “stick-on” posters or metallic wires) to facilitate subsequent removal. *[Amended in September 2016]*

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

8.41 Do not excavate or erect any structure on public pavements, e.g. nailing boards to the ground. *[Amended in September 2016]*

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

Dismounting

8.43 All candidates should remove all their EAs displayed on government land/property **within 10 days** following an election. Failure to do so may result in prosecution being brought against the offending candidate and such advertisements removed and seized by the relevant authority. Relevant authorities will issue demand notes for the removal costs to the candidates concerned within 21 days after the election results have been published in the

Gazette (normally the Friday after the polling day). The **cost of removal** will be construed as **election expenses** and the candidates must include all these costs as election expenses in their election returns. *[Amended in September 2006, October 2011 and September 2016]*

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

8.44 For temporary occupation of government land including public street, pavement, footbridge, public escalator systems and pedestrian tunnel for holding electioneering activities (such as setting up of a manned street counter and displaying of EAs which may include banners, roll up banners and vertical flying poster or bunting), candidates are required to submit applications with scheduled date, time, location/spot and brief description of the proposed set-up, to the relevant District Lands Office (“DLO”) of Lands Department for consideration. DLOs will only consider applications from validly nominated candidates and applications from uncontested candidates will not be considered. Approved occupation should not exceed 2 m² in area and 2 m in height. The respective DLO will consult the government departments concerned in considering the applications. *[Added in September 2016]*

8.45 The Lands Department will issue detailed guidelines for candidates to apply for temporary occupation of government land at public place for holding electioneering activities during election period. The deadlines for submission of applications will be specified in the guidelines. Applications should be submitted to the relevant DLO according to the designated deadlines. Applications for occupying government land on the polling day should be submitted to the relevant DLO by the subject deadline as specified in the guidelines. The DLO will arrange drawing of lots to determine the allocation if

necessary. On the polling day, the approval will be deemed to have been revoked if and when the spot falls under the NCZ. *[Added in September 2016]*

8.46 The DLOs will not consider applications for holding electioneering activities on government land outside the designated periods. No fee is required for the application above. Display of EAs is not permitted if and when the street counter is not manned. *[Added in September 2016]*

PART VI : REQUIREMENTS RELATING TO PUBLICATION OF ELECTION ADVERTISEMENTS

Copies for Public Inspection

8.47 A candidate must make available a copy of each of his/her EAs, and the relevant information/documents (see **Appendix G**) including publication information, permission or consent in relation to the EAs for public inspection **within 1 working day (i.e. any day other than a general holiday or Saturday) after publication of the EAs** by the following means:

- (a) posting an electronic copy each of all his/her EAs and the relevant information/documents onto an open platform¹⁰ maintained by the CEO or a person authorised by the CEO (“Central Platform”) in accordance with the procedures set out in **Appendix G**;
- (b) posting an electronic copy each of all his/her EAs and the relevant information/documents onto an open platform maintained by the candidate or a person authorised by the candidate (“Candidate’s Platform”) and provide the **electronic address** of the platform to

¹⁰ Open platform means a platform operated through the Internet to which the public has access without having to go through an access control process put in place for that platform.

the CEO at least 3 working days before publication of the first EA (For details, please see Appendix G);

- (c) if it is technically impracticable to comply with (a) or (b) above for EAs published through an open platform on the internet (such as when messages are sent through social networking or communication websites on the Internet like Twitter, Facebook, blogs, etc. and the exchanges are of an interactive and spontaneous nature), posting a hyperlink of such open platform and the information/documents relevant to the EAs onto the Candidate's Platform or the Central Platform in accordance with the procedures set out in **Appendix G**;
- (d) providing 2 hard copies each of the EAs (or 2 identical full colour photographs/printouts/photocopies of each EA which cannot be practically or conveniently produced in specie) and 1 hardcopy each of the relevant information/documents to the RO; or
- (e) providing 2 identical copies of a CD-ROM or DVD-ROM each containing the EAs and 1 hardcopy each of the relevant information/documents to the RO.

As an interim arrangement, in case the RO has yet to be appointed and the Central Platform has yet to be established, the candidates should deposit his/her EAs and the relevant information/documents with the CEO in the same manner as stated in (d) or (e) above.

[S 108(2) and (3) of the EAC (EP) (EC) Reg] *[Added in September 2016]*

Publication Details

8.48 A candidate should provide information related to the printing/publication of his/her EAs (i.e. the name and address of the printer, date of printing/publication and number of copies printed) when posting the EAs onto the Candidate's Platform or Central Platform or submit the information in a specified form to the RO **within 1 working day after publication of the EAs** (see **Appendix G**) [s 108(4) and (6) of the EAC (EP) (EC) Reg]. A candidate must ensure the accuracy of all the information provided. *[Added in September 2016]*

8.49 Where the information uploaded onto the Candidate's Platform or Central Platform or provided to the RO as set out in para. 8.48 above contains a mistake, the candidate should post such corrective information onto the Candidate's Platform or Central Platform or submit the corrective information in a specified form to the RO for public inspection. All such corrective information must be posted onto the Candidate's Platform or Central Platform or deposited with the relevant RO **within 2 working days after the polling day, the latest**. The information will be used as one of the basis for checking the candidate's election return and for the removal of unauthorised or offending EAs. For the avoidance of doubt, any amendment to the content of an EA will be regarded as publication of a new EA for which the requirements stated in paras. 8.47 and 8.48 above should be complied with, except the addition of the number of each candidate allocated at the Candidates' Briefing onto a published EA, in which case a copy of the EA bearing such addition and the corrective information must be made available for public inspection in accordance with this paragraph. *[Added in September 2016]*

8.50 All EAs published must be posted onto the Candidate's Platform or the Central Platform or deposited with the RO by the candidate for public inspection in the manner specified in this Part VI. *[Added in September 2016]*

8.51 A candidate must not display his/her EAs other than at the places permitted or authorised. *[Added in September 2016]*

8.52 Speeches orally delivered by a candidate during election meetings or ad hoc visits will not be treated as EAs, but the copies of the speech provided to the audience or media will be regarded as printed EAs. Therefore, the candidates concerned are required to comply with all the requirements in this Chapter as applicable to EAs in the distribution of the copies and for public inspection. *[Added in September 2006 and amended in October 2011 and September 2016]*

8.53 In the circumstances where candidates contesting different subsectors use identical copies of an EA, each candidate concerned should each post an electronic copy of the EA and the relevant information/documents onto his/her Candidate's Platform or the Central Platform or deposit 2 copies of the EA and 1 copy of the relevant information/documents with the RO(s) concerned. *[S 108(2) and (3) of the EAC (EP) (EC) Reg] [Amended in September 2016]*

8.54 Copies of the EAs and the relevant information/documents must be made available for public inspection till the end of the period for which copies of election returns are available for inspection under s 41 of the ECICO, i.e. the period ending with the 30th day before the first anniversary of the date of the deadline for lodging the relevant election return [s 41 of the ECICO and s 108(7) of the EAC (EP) (EC) Reg]. A candidate electing to comply with para. 8.47(b) above must ensure that the Candidate's Platform is maintained till the end of the aforesaid inspection period to facilitate public inspection of the EAs [s 108(2)(b) of the EAC (EP) (EC) Reg]. The CEO will also publicise the Central Platform and the electronic address of the Candidate's Platform to facilitate public inspection of the EAs. For a candidate electing to comply with para. 8.47(d) or (e) above, the RO concerned will make available a copy of the EAs and the relevant information/documents for public inspection at the RO's

office as soon as practicable after copies of such EAs and information/documents have been furnished till the end of the aforesaid inspection period [s 108(7) of the EAC (EP) (EC) Reg]. *[Added in September 2016]*

PART VII : REQUIREMENTS RELATING TO PRINTED ELECTION MATERIALS

Printing Details

8.55 All printed EAs, with the exception of those printed in a registered local newspaper, should bear printing details in Chinese or English, which should state the name and address of the printer together with the date of printing and the number of copies printed. It applies to all materials reproduced by any method of multiplying copies (e.g. printing machines, duplicators or photocopiers). The following are some suggested formats:

- (a) Printed by ABC Printing Works,
XX XZY Street, HK
On (date) in (number) copies

or

- (b) Printed by own office machine
XX XZY Street, HK
On (date) in (number) copies

[S 108(4), (5) and (6) of the EAC (EP) (EC) Reg]

[Amended in October 2011 and September 2016]

Election Advertisements Placed in Print Media

8.56 Where an EA is placed in the print media and takes the form of a news report or any other form which does not clearly show that it is an EA, the words “**Election Advertisement**” or “**選舉廣告**” must be stated in the advertisement, to avoid misunderstanding by readers that it is not an EA.

Inadvertent Omission of Printing Details

8.57 A candidate who has inadvertently omitted the printing details from his/her printed EAs can make a statutory declaration giving the omitted details, and deposit such declaration with the RO of his subsector **not later than 7 days after** the publication of the offending EA [s 108(6) of the EAC (EP) (EC) Reg]. Having taken this remedial step, he/she will not be prosecuted for contravention of s 108(4) of the EAC (EP) (EC) Reg. The statutory declaration will be made available for public inspection by the relevant RO till the period for which copies of election returns are available for inspection under s 41 of the ECICO [s 108(7) of the EAC (EP) (EC) Reg]. *[Amended in October 2011 and September 2016]*

PART VIII : NON-COMPLIANCE AND CONSEQUENCES

Enforcement and Penalties

8.58 A candidate who fails to comply with the requirements set out in Parts VI and VII above commits an offence and is liable to a fine at level 2 (i.e. \$5,000) and to imprisonment for 6 months [s 108(9) of the EAC (EP) (EC) Reg]. *[Amended in October 2011 and September 2016]*

8.59 Each candidate must observe and comply with the conditions imposed by the permissions or authorisations for the display of EAs. Any EAs

displayed in contravention of these guidelines will be removed and seized. Candidates and their supporters should report any non-compliance to the RO and should not take removal action themselves against any unauthorised or offending EAs. *[Amended in September 2016]*

8.60 Any unauthorised or offending EAs displayed may be seized, disposed of, destroyed, obliterated or covered by the RO or any person authorised by him/her as he/she thinks fit [s 110 of the EAC (EP) (EC) Reg]. The candidate or his/her election agent responsible may also be prosecuted and if convicted, may be liable to a fine or imprisonment [s 108(9) of the EAC (EP) (EC) Reg]. The cost of removal, being a civil debt, will be counted as election expenses. Such civil debt must be reported in the candidate's election return. The seized articles may be kept as evidence and will be disposed of or returned upon application in accordance with the PHMSO or the Housing Ordinance (Cap 283), as the case may be, and the procedures of the relevant authority [s 104C of the PHMSO and s 24 of the Housing Ordinance]. *[Amended in September 2006, October 2011 and September 2016]*

8.61 Each candidate must observe and comply with the conditions agreed between him/her and the owner or occupier of private land or property for the display of EAs, and any additional charges or damages that a candidate is liable to pay to the owner or occupier may be construed as election expenses.

8.62 Complaints should be made to the relevant RO. Upon complaints being received, the EAC may also issue public statements in such manner as it deems fit to reprimand or censure any non-compliance with these guidelines. Although a censure may be a further detriment to the candidate in addition to his/her liability for removal expenses and criminal liability, the EAC will not hesitate to publish one in an appropriate case. *[Amended in September 2016]*

Relief for Election Advertisements

8.63 A person, who publishes an EA without complying with the requirements as set out in paras. 8.47 (except that related to the submission of permission/authorisation document under s 104A(1) of the PHMSO), 8.48, 8.49, and 8.55 above may apply to the CFI for an order allowing the publication of the above EAs to be excepted from the relevant requirements and relieving him/her from the penalties. The CFI may make such an order provided that the CFI is satisfied that the non-compliance was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith. [S 109 of the EAC (EP) (EC) Reg] *[Added in September 2016]*

PART IX : ADVERTISEMENTS OF POLITICAL, PROFESSIONAL/TRADE BODIES OR OTHER ORGANISATIONS

8.64 Any thing or material published by any organisation, including political organisation, professional or trade organisation, owners' corporation, MAC, tenants' association, owners' committee, etc. which advertises its platform or services **with reference to candidate** (irrespective of whether or not the candidate concerned is its office-bearer or member) **during or even before the election period** by name or photograph or otherwise may be treated as EA put up by, or on behalf of, or on account of, the candidate. The expenses for doing so may be construed as election expenses incurred by or on behalf of the candidate. It is therefore a prudent step for the relevant organisations to suspend their advertising activities. However, if the material published by the organisation concerned, as opposed to the candidate himself/herself, advertises only a particular activity, which:

- (a) is organised from time to time either as part of the organisation's normal functions, and/or according to the local tradition;
- (b) is not related to the election; and
- (c) does not explicitly or implicitly promote or prejudice the election of a candidate in the election,

then the appearance in the published material of the name and/or photograph of a candidate who is involved in organising the activity will not be regarded as an EA. *[Amended in October 2011]*

8.65 It is an offence for anyone to incur election expenses unless he/she is a candidate or an election expense agent of a candidate [s 23(1) of the ECICO].

8.66 Candidates should protect their own interest by advising their political bodies or their organisations of these guidelines as soon as they have any intention or plan to run for an election.

8.67 To sum up the important points, where any organisation, including a political organisation, publishes an EA promoting a candidate:

- (a) the expenses incurred will be treated as the candidate's own election expenses;
- (b) the officer-in-charge of the organisation needs to be authorised by the candidate to be the candidate's election expense agent, or else it or the responsible person commits an offence under s 23 of the ECICO;

- (c) such advertisement must comply with the requirements of s 108 of the EAC (EP) (EC) Reg; and
- (d) such advertisement can only be displayed at the spots with the relevant written permission or authorisation.

[Amended in September 2016]

PART X : FREE POSTAGE FOR ELECTION ADVERTISEMENTS

Conditions for Free Postage

8.68 A candidate of a subsector who is declared to have been validly nominated in the notice of valid nominations published in the Gazette in accordance with regulations made under the EACO is permitted to post free of postage 1 letter to each voter of the subsector for which a candidate is validly nominated [s 38 of the Schedule to the CEEO]. However, before the publication of the notice of valid nominations in the Gazette, a candidate wishing to exercise his/her right to free postage must furnish the Postmaster General with a security (full postage of the items posted) for the payment of postage in the event that his/her name is not subsequently shown in the notice of valid nominations. In the case of joint election mail, a candidate whose letters contain information on any other candidates is liable for payment of postage for all letters if the name of any of the other candidates is not subsequently shown in the notice of valid nominations. In this situation, the security payment made by the candidate will not be refunded and the relevant joint election mail will not be regarded as the candidate's letter sent free of postage. The remaining candidate(s) who is/are validly nominated is/are still entitled to exercise his/her right to free postage. [Reg 6(2)(a) of the Post Office Regulations (Cap 98A)]. *[Amended in October 2011 and September 2016]*

8.69 The purpose of the free postage is to enable the candidate to mail EAs to promote or advertise himself/herself in relation to that election to voters in the subsector. The free postage arrangement, which is the privilege of validly nominated candidate(s), should not be abused in any way. In particular, it cannot and should not be used for any other purpose or any other election or for promoting or advertising any other person. **As a general requirement, a candidate should publish EAs in accordance with all applicable laws and these guidelines and, in this regard, EAs sent by a candidate through free postage should not contain any unlawful content.** *[Amended in October 2011 and September 2016]*

8.70 For a joint election mail sent by a candidate which contains information on any other candidates(s), it will not be regarded as the letter sent by that other candidate(s) under the free postage arrangement. This means that the other candidate(s) are still entitled to each send free of postage 1 letter addressed to each voter of the subsector concerned. [S 38(2A) of the Schedule to the CEEQ] *[Added in September 2016]*

8.71 Specifically, the letter must:

- (a) be posted and delivered in Hong Kong;
- (b) contain materials relating only to the candidature of the candidate or candidates of the same subsector in the case of joint election mail mentioned in para. 8.68 at the election concerned;
- (c) not exceed 50 grams in weight; and
- (d) be not larger than 175 mm x 245 mm and not smaller than 90 mm x 140 mm in size.

[S 99(1) of the EAC (EP) (EC) Reg]

IMPORTANT:

Under s 99(3)(a) of the EAC (EP) (EC) Reg, the candidate sending postage-free mail items to voters in bulk is liable for payment of postage for all items in that bulk if any item in the bulk does not meet requirement (a), (b), (c) or (d) above.

In the case of joint election mails, candidates concerned should comply with the following requirements regarding (i) prior written authorisation to act as election expense agent; (ii) the sharing of expenditure in respect of the joint election mails among the candidates concerned for the purpose of submission of election return; and (iii) the obtaining of written consent of support from each other before sending the joint election mails [see para. 18.7].

[Amended in October 2011 and September 2016]

Postal Requirements Stipulated by Hongkong Post**Make-up**

8.72 The letter may take the form of envelope, lettergramme, card or folder. Items in roll form or enclosed in plastic wrappers are **not** acceptable.

8.73 Cards and folders must be made of ordinary cardboard or paper not less than 0.25 mm thick, and must be rectangular in shape.

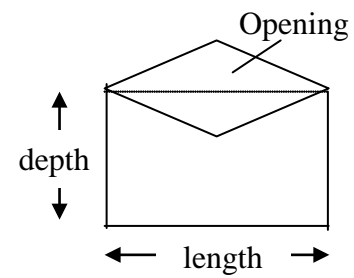
8.74 When a wrapper is used, it must extend over the full length of the item which it encloses. Envelopes must not be fastened with staples or with paper fasteners with sharp edges or points, but they may be closed by means of an adhesive flap or tape.

8.75 Envelopes, folders and lettergrammes having an opening large enough to entrap smaller letters are prohibited. **Unsealed mail item** contained in envelopes with ordinary tuck-in flaps may be used up to the following size limits [s 6.3 of the Post Office Guide] :

Not over 90 mm in depth - opening not over 150 mm in length

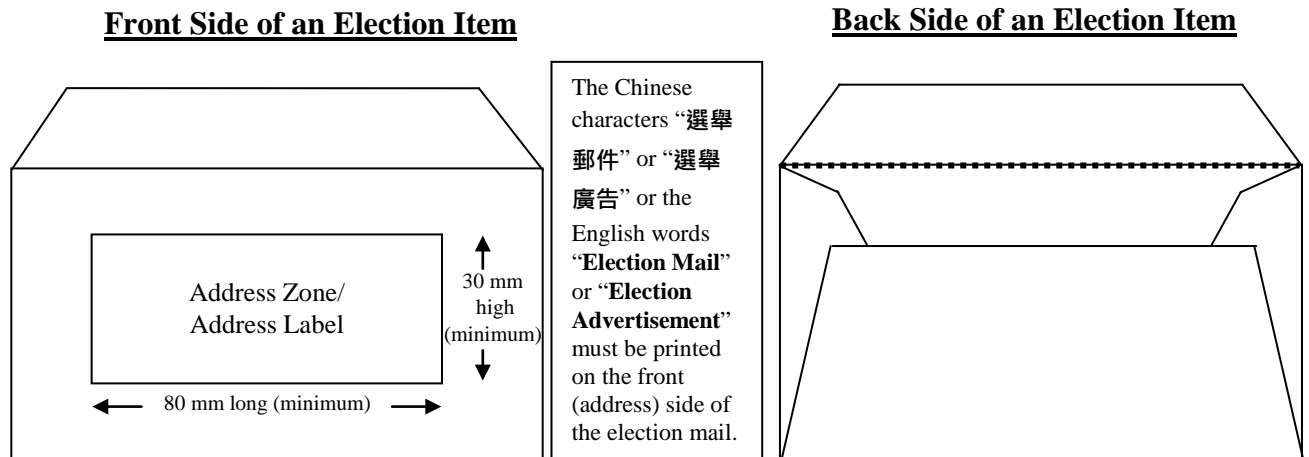
Not over 100 mm in depth - opening not over 140 mm in length

Over 100 mm in depth - opening not over 115 mm in length



8.76 Folders (e.g. A4 size) with openings should be closed by means of adhesive flap or tape to avoid entrapping smaller letters. All open edges must not be longer than 90 mm in width. Otherwise, adhesive tapes should be applied to the midpoints of the open edges to reduce the width. For details, please refer to the illustration in **Appendix H**. [*Amended in October 2011*]

8.77 The Chinese characters “選舉郵件” or “選舉廣告” or English words “Election Mail” or “Election Advertisement” must be printed on the front (address) side of the election item, or the address side of the folder (unenvveloped mail). The layout of the election items is as follows:



[Amended in October 2011 and September 2016]

Addressing

8.78 To avoid delay or misdelivery, the full postal address should be typed or legibly written on the front of the envelope in 4 rows as follows:

- Name of addressee
- Floor and flat number and name of building
- Street number, name of street
- Name of district

8.79 Addressing slips may be used for the mailing of EAs provided that they are legible and **securely pasted** onto the election items.

IMPORTANT :

For the purpose of posting of election mails, candidates may request the REO to provide one set of mailing labels in respect of the voters and/or a “Candidate Mailing Label System” (CMLS) DVD-ROM. No mailing labels will be provided for voters who have provided their e-mail addresses to receive EAs. *[Added in September 2016]*

8.80 The name(s) of the candidate(s) and other propaganda slogans, including photographs, should appear on the back or the front (address) side of the item. An address zone of at least 80 mm long and 30 mm high, preferably at the right-hand half or at the centre of the front (address) side for the address of a voter, should be reserved exclusively for the address. If an adhesive address label is used, it should not be less than 80 mm long and 30 mm high. The address label should only contain the name and address of voter(s) and be affixed to the address zone. The whole address zone and address label should be free of advertisement and should appear on the front side of the item. The address zone and address label should be in white background colour while the characters of the postal address should be in black. *[Please refer to para. 8.77 for better illustration.] [Amended in October 2011]*

8.81 No postage-free EA bearing an address outside Hong Kong will be accepted. Specifically, **only 1 address of voter(s) should be shown on the postage-free election mail.** *[Amended in October 2011]*

Posting Arrangements

8.82 In order to allow adequate time for Hongkong Post to process the election mail during the election period, candidates are advised to make their postage-free EA postings **before the posting deadline as designated by**

Hongkong Post. Candidates and their agents are therefore **reminded** that **postings made after the posting deadline will likely fail to reach to the addressees before the polling day.** *[Amended in October 2011 and September 2016]*

8.83 Candidates should apply to Hongkong Post for written approval of their EA specimens for free postage. They should carefully study the requirements governing free postage for EAs before deciding on the contents of their EAs and seek advice from Hongkong Post relating to postal requirements and the REO on other aspects as appropriate if in doubt. Candidates should make every effort to submit their EA specimens to Hongkong Post for written approval as early as possible before mass production of their EAs so as to allow sufficient time for revising the contents of their EA specimens, if necessary. *[Added in October 2011 and amended in September 2016]*

8.84 Candidates should present 3 unsealed specimens of their EAs, together with a Notice of Posting of Election Mail in duplicate (the notice will be provided by the REO to the candidates upon their submission of nominations) to the manager(s) at the designated offices of Hongkong Post for written approval of their EA specimens. At least **2 clear working days** (excluding Saturday, Sunday and public holiday) must be allowed for the respective manager(s) at the designated office of Hongkong Post to process each set of specimens and postings should only be made after receipt of official approval. As a large number of EA specimens may have to be processed at the same time, there is no guarantee that the EA specimens will necessarily be approved in 2 working days immediately after their submission. Candidates who wish to post joint election mails should indicate their intention in the Notice of Posting of Election Mail which should be signed jointly by all the candidates/election agents concerned. The specimens of joint election mails should be submitted to the designated

manager(s) for approval as well. *[Amended in October 2011 and September 2016]*

8.85 Candidates should post their postage-free mail at the respective post offices/delivery offices designated by Hongkong Post for the election concerned. When making postings, the candidates should furnish a copy of the election mail for the attention of the designated manager(s) for record purpose. *[Amended in October 2011 and September 2016]*

8.86 The postings should be made up in bundles of 50 or 100 each for easy counting. All election mails must be stacked on the same side and arranged in accordance with the same order as the address labels/address lists (e.g. by building name or block number) provided by the REO. *[Amended in September 2016]*

8.87 With each posting, the candidate or his/her election agent must present a signed declaration (the declaration form will be given to a candidate by the REO upon his/her submission of nomination) **in duplicate** (the original to be kept by Hongkong Post and the duplicate copy duly signed by Hongkong Post and kept by the candidate or his/her election agent as acknowledgement of the posting):

- (a) stating the quantity of mail items in the posting and the name of the candidate;
- (b) declaring that the posting is his/her postage-free mail;
- (c) declaring that each packet contains materials relating only to the candidature of the candidate or candidates of the same subsector in the case of joint election mails at the election concerned; is

identical to the unsealed specimen submitted by the candidate or his/her election agent for inspection and approval ; and

- (d) declaring that not more than 1 postage-free mail will be sent to any of the voters.

It is important to note that under s 99(3)(b) of the EAC (EP) (EC) Reg, a candidate sending postage-free mail items to voters in bulk is liable for payment of postage for all the items in that bulk if the declaration made by him/her or his/her election agent is false in any particular. *[Amended in October 2011 and September 2016]*

8.88 If a candidate makes posting in more than 1 batch, the same declaration form must be presented at the same designated post office/delivery office on each occasion. *[Amended in October 2011 and September 2016]*

8.89 If the name, logo or pictorial representation of a person or an organisation, as the case may be, is included in the election mail, and the publication is in such a way as to imply or to be likely to cause voters to believe that the candidate(s) has/have the support of the person or organisation concerned, the candidate(s) should ensure that **prior written consent** has been obtained from the person or organisation concerned. [Please refer to Chapter 18 for the detailed requirements.] *[Added in September 2016]*

8.90 Government reserves the right to charge a candidate postage where any of the requirements under s 99 of the EAC (EP) (EC) Reg is not met or the free postage arrangements are abused in any way [s 99(3) of the EAC (EP) (EC) Reg]. The charge counts towards the candidate's election expenses and must be included in his/her election return to be sent to the CEO. The EAC may also issue public statements in such manner as it deems fit to censure any abuse of the free postage arrangements. *[Amended in October 2011]*

8.91 **The postal requirements stated in the above guidelines (paras. 8.72 to 8.90) are quoted for general reference only. Candidates should comply with the latest requirements issued by Hongkong Post at the time of the election concerned.** *[Added in October 2011 and amended in September 2016]*

Enquiries

8.92 For general enquiries concerning the posting of EAs, please contact:

Assistant Manager (Retail Business Support)
Room 1M05
General Post Office
2 Connaught Place
Central
Hong Kong

Telephone: 2921 2190 / 2921 2307
Fax: 2501 5930

[Amended in October 2011 and September 2016]

**PART XI : ELECTION ADVERTISEMENTS FOR REGISTERED
VOTERS AND AUTHORISED REPRESENTATIVES
IN THE CUSTODY OF CSD AND OTHER LAW
ENFORCEMENT AGENCIES**

8.93 Candidates may send EAs to registered voters/ARs in the custody of the CSD where the voters/ARs have provided the addresses of the penal institutions concerned as their correspondence addresses for the receipt of EAs. For security reasons, candidates should adhere to the guidelines laid down by

CSD at **Appendix U** when sending EAs to these voters/ARs. *[Added in January 2010 and amended in September 2016]*

8.94 Candidates may note that persons who are in prison or held in custody by the law enforcement agencies who are registered voters/ARs may access election-related information through the mass media in accordance with the existing policies of the law enforcement agencies on access to the mass media. *[Added in January 2010]*