

## CHAPTER 1

### INTRODUCTION

#### **PART I : THE ELECTION COMMITTEE AND THE SUBSECTOR ELECTIONS**

1.1 The Election Committee (“EC”), which consists of 800 members, is constituted under the Chief Executive Election Ordinance (Cap 569) (“CEEEO”) for the purpose of electing the Chief Executive (“CE”) of the Hong Kong Special Administrative Region. The CE is elected by the EC as prescribed in Annex I to the Basic Law and appointed by the Central People’s Government [s 7 of the CEEEO]. *[Amended in September 2006]*

1.2 The members of the EC must be Hong Kong permanent residents. The EC has 4 sectors, each composed of a number of subsectors (with a total of 38 subsectors). Amongst the 38 EC subsectors, members of 35 subsectors are returned by elections. The Hong Kong deputies to the National People’s Congress (“NPC”) and members of the Legislative Council (“LegCo”) are all ex-officio members of the EC, while members of the religious subsector are all nominated to the EC by 6 designated bodies of that subsector. Details of the composition of the EC are found in Chapter 2. *[Amended in September 2006]*

1.3 The term of office of the EC is 5 years and will commence on 1 February in the year during which the term of office of the CE is to expire [s 9 of the CEEEO]. The term of the EC therefore ties in with the 5-year term of the CE and with the electoral cycle. For a new term EC, a subsector ordinary election will be held to elect members assigned to each of the 35 subsectors by voters of the relevant subsector. A subsector ordinary election

is to be held on a date specified by the CE [s 16 of the Schedule to the CEEO].  
*[Amended in September 2006]*

1.4 The CE for a new (5-year) term will be elected by the new term EC. If a vacancy arises during the term of office of the CE, the current term EC will be responsible for electing a new CE. If an election for a new (5-year) term CE will be held within 6 months after a vacancy in office of the CE has arisen, it will not be necessary to hold a by-election [ss 6 and 9 of the CEEO]. Before a by-election is held to elect a CE, a subsector by-election and/or supplementary nomination will be held to update the membership of the EC if there are vacancies among the EC members [s 5(1)(b) of the Schedule to the CEEO]. However, no subsector by-election and/or supplementary nomination will be held if the membership of the EC has been updated within one year before a by-election is held to elect a CE. *[Amended in September 2006]*

### **Governing Legislation**

1.5 The EC subsector elections and nominations of the religious subsector are governed by the statutory requirements provided in 3 different ordinances, namely the CEEO, the Electoral Affairs Commission Ordinance (Cap 541) (“EACO”) and the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”). *[Amended in September 2006]*

1.6 The CEEO provides, among other things, for the constitution, membership and term of office of EC, registration of voters, conduct of subsector elections, election appeals and other related matters.

1.7 The EACO tasks the Electoral Affairs Commission (“EAC”) with the conduct and supervision of 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 a number of pieces of subsidiary legislation, including the eight set out in paras. 1.10 - 1.17 below, which provides the detailed procedures for the conduct of the EC subsector elections. *[Amended in September 2006]*

1.10 The electoral procedures for conducting EC subsector elections are provided in the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap 541I) (“EAC (EP) (EC) Reg”). *[Amended in September 2006]*

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 registration of voters for the EC subsectors. *[Amended in September 2006]*

1.12 The Election Committee (Registration) (Voters for Subsectors) (Members of Election Committee) (Appeals) Regulation (Cap 569B) sets out the procedures for hearing and ruling by Revising Officers concerning the registration of voters for the EC subsectors<sup>1</sup>. *[Amended in September 2006]*

1.13 The Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) Regulation (Cap 541H) (“EAC (NAC) (EC) Reg”) stipulates the appointment and functions of the Nominations Advisory Committees (“NACs”) and the procedures for seeking the NAC’s advice on the candidates’ eligibility for nomination for the EC subsector elections. *[Amended in September 2006]*

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<sup>1</sup> The Revising Officer is a magistrate or any legal officer within the meaning of the Legal Officers Ordinance (Cap 87), appointed by the Chief Justice.

1.14 The Election Committee (Subscribers and Election Deposit for Nomination) Regulation (Cap 569C) (“EC Subscribers & Deposit Reg”) sets out the requirements for subscription and the payment and return of election deposit for the EC subsector elections. *[Amended in September 2006]*

1.15 The Election Committee (Appeals) Regulation (Cap 569A) (“EC (Appeals) Reg”) sets out the procedures for appeal against result of subsector election to the Revising Officer and in relation to registration of nominees declared by the Returning Officer (“RO”) as members of the EC. *[Amended in September 2006]*

1.16 The distribution of the number of members of the EC among 6 religious bodies is provided in the Distribution of Number of Members Among Designated Bodies (Election Committee) Order 2001 (Cap 569D). *[Added in September 2006]*

1.17 The Maximum Scale of Election Expenses (Legislative Council) (Election Committee) Order (Cap 288I) sets out the maximum scales of election expenses that may be incurred by or on behalf of a candidate for election to the Election Committee. *[Added in September 2006]*

## **PART II : THE GUIDELINES**

1.18 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) election-related activities of a candidate, an agent of a candidate

or any other person assisting a candidate, or any other person;

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

1.19 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.

1.20 This set of Guidelines applies to both the EC subsector ordinary election and by-election. It explains the various electoral arrangements made for EC subsector 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**.

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

### **PART III : SANCTION**

1.22 Members of the public, particularly voters of the subsectors, candidates and their agents as well as government officials engaged in election-related duties should read, familiarise themselves with, and strictly comply with these guidelines.

1.23 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.