

CHAPTER 8

ELECTION ADVERTISEMENTS

PART I : GENERAL

8.1 Election advertisement, in relation to the subsector election, means:

- (a) a publicly exhibited notice; or
- (b) a notice 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.

IMPORTANT :

“Candidate” includes a person who has publicly declared an intention to stand for election at any time before the close of nominations for the election, whether or not he has submitted a nomination form [s 2 of the ECICO].

8.2 Election advertisement includes the following if they are published for the purpose of promoting or prejudicing the election of any candidate in the election:

- (a) any address, notice, bill, placard, poster, board, banner, flag, standard, colour, sign, message, sound, image or picture and any article, thing or material;
- (b) audio/video cassette tapes, discs, diskettes, electronic messages, website (except those discussion forums on websites), facsimile transmissions, balloons, caps, badges, emblems, carrier bags, head-dress and clothing; or *[Amended in September 2006]*
- (c) any things or materials published by any person or any organisation, including political organisation, professional or trade organisation, owners' corporation, mutual aid committee, tenants association, owners' committee, etc (irrespective of whether or not the candidate concerned is an office bearer or member) showing his or its support for any candidate or advertising the platform or services of such an organisation with reference to a candidate by name or photograph or in any other form or manner.

8.3 Election advertisement also includes:

- (a) publicity materials containing the name or photograph of a candidate issued or displayed during the election period (ie the period beginning with the nomination day for the election and ending with the polling day for the election) even though the content of the publicity material is not, on the face of it, election related. Examples include surveys, questionnaires, posters

publicising functions like vegetarian meal, tours, courses, offer of free legal or medical or other professional service, etc; and

- (b) any printed performance report published or distributed **during** the election period by-
 - (i) a serving member of the LegCo; or
 - (ii) a serving member of a DC; or
 - (iii) a serving member of the HYK; or
 - (iv) a serving chairman or vice-chairman or member of the Executive Committee of a Rural Committee; or
 - (v) a serving village representative (“VR”),

who is running as a candidate for the election. These persons are termed “incumbent candidates” under the ECICO. A performance report means a document giving details of activities organised, services rendered or work done by such an incumbent candidate. [Ss 33 and 34(9) of the ECICO.]

8.4 A performance report whether in the format of a website or a printed document published or distributed by an incumbent candidate **during** or **before** the election period will also be regarded as an election advertisement **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 performance report which is treated as an election advertisement must comply with all the requirements for an election advertisement.

8.5 If the incumbent members distribute performance reports before they submit their nomination form or publicly declare their intention to stand as candidates, they are not candidates at the time when their performance reports are being distributed. On such basis, the expenditure incurred in the distribution of such reports before the submission of nomination or public declaration of their intention to stand as candidates would not be counted as his election expenses.

8.6 A candidate in an election may put up and display election advertisements in accordance with these guidelines which summarise the relevant law and regulations.

Election Advertisements Prejudicing the Election of a Candidate

8.7 There are occasions that candidates or a third party may publish election advertisements 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.

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

- (b) If a third party criticises candidate B in an election advertisement and that the election advertisement has the effect of indicating support for candidate A, that person must obtain candidate A’s

prior consent for incurring the production expenses before he produces that election advertisement. The expenditure incurred will have to be included in candidate A's election expenses.

- (c) If the third party publishes an election advertisement as described in (b) above without the prior consent of candidate A, he 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 election expense agent may incur election expenses. The election advertisement should be regarded as the election advertisement for candidate A. It would only be fair to candidate A that the third party needs to obtain candidate A's consent before publishing such election advertisement since candidate A is ultimately responsible for his own election 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.

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

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

8.10 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 election advertisements employed by him. The maximum amounts allowed for the election of the subsectors are specified in the Maximum Scale of Election Expenses (Legislative Council) (Election Committee) Order. [See para. 16.8 of Chapter 16.]

8.11 A candidate must ensure the correctness and accuracy of all factual statements in his election advertisements. [For criminal sanctions, see ss 25, 26 and 27 of the ECICO.]

PART II : PERIOD AND AREA OF DISPLAY

8.12 With the necessary **written permission or authorisation**, a candidate may display election advertisements on government or private land and property [s 104A of the Public Health and Municipal Services Ordinance (Cap 132) and s 4 of the Land (Miscellaneous Provisions) Ordinance (Cap 28)].

8.13 Display spots are classified into two types:

- (a) **designated spots** which are spots on government land/property and sometimes even on premises owned or occupied privately that have been made available to the Government for allocation to candidates; 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.

Government or Private Land/Property - Designated Spots

8.14 Designated spots on public land for the use of contested candidates to display their election advertisements will be designated by the RO. Some of the government land and property have been allocated to some public authorities, such as the Housing Authority, and are under their respective control. The RO will designate public spots in coordination with the said authorities. **Each candidate** will be as far as practicable allocated **the same number of designated spots**.

8.15 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**”, with absolute discretion to decide whether to adopt the suggestions.

NOTE :

Suggestions should reach the CEO not later than **6 weeks before the polling day**.

Other Land/Property : Private Spots

8.16 Candidates who wish to display their election advertisements 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 of Cap 132]. 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 the written permission or authorisation must be deposited with the RO relevant to the subsector before display. [Please also see para. 8.20 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 election advertisements forms part of his election expenses. If a commercial advertising space for rent is allowed by the private owner or occupier to be used free of charge by a candidate for display of his election advertisements, a reasonable market value for the use of that space will have to be accounted for by the candidate as an 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. If the private spot for displaying the election advertisement 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 election advertisements 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 donation. For details on how the estimated value should be assessed, please refer to para. 16.21 of Chapter 16. If a space is not normally used by any private owners or occupiers for commercial advertising, there is no need for the candidate to account for its value.

8.17 The EAC appeals to owners and occupiers of private premises to give all candidates competing in the same subsector **fair and equal treatment** in

the display of election advertisements. [For details, please see Chapter 9 : Electioneering at the Living or Working Places of Voters/ARs, Premises of Organisations to which Voters/ARs belong and Buildings which Voters/ARs frequent.]

8.18 Candidates should note that public corporations may have their own rules for display of election advertisements, eg the Mass Transit Railway Corporation Limited has its own set of rules for such display in residential estates under its management.

General Principle in Allocating Designated Spots

8.19 The RO will allocate the designated spots, as the case may be, to candidates either in accordance with the mutual consent of the candidates or by the drawing of lots after the close of nomination, when the number of candidates contesting will have been ascertained. **No display of election advertisements will be allowed on any designated spots before the allocation.** [Also see the requirements in para. 8.25 and Part V below.] A candidate will be provided with a list of the designated spots allocated to him, together with a set of maps to help identify the locations.

Written Permission or Authorisation

8.20 The RO will have already obtained prior approval from the relevant authorities under s 104A of Cap 132 and s 4 of Cap 28 for candidates to display their election advertisements 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 [see Part III below]. For any display at private premises, written permission or authorisation of the private owner or occupier will have to

be obtained by the candidates themselves. A person displaying an election advertisement without the necessary written permission or authorisation commits an offence punishable by a fine of up to \$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 of Cap 132]. The fines so incurred will also be treated as election expenses. **A copy of the written permission or authorisation must be deposited by the candidate with the RO before display or distribution** [s 100(9)(a) of the EAC (EP) (EC) Reg].

No-Display Areas

8.21 No election advertisement may be displayed within the boundaries of a polling station (including the outer walls of the premises) or within any NCZ [see Chapter 14 : Prohibition Against Canvassing Activities Outside Polling Stations], except for static displays that are authorised by the RO or the PRO of the relevant polling station. Where there are premises situated within the NCZ, the ROs should issue a notice in advance to all the candidates asking them to remove all of their election advertisements, if any, posted up at the 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 election advertisements as requested by the ROs, the ROs may issue a warning to them to remove the offending election advertisements immediately. If the candidate fails to do so, the EAC may issue a censure or reprimand. The RO will provide the candidate with one set of sketch maps or plans showing the boundaries of all polling stations and all NCZs outside those polling stations.

8.22 Election advertisements on display 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. Thus, there

will be no public spots or designated spots on or over flyovers, bridges including footbridges, lamp posts, road signs and railings at corners of road junctions or at or near pedestrian crossings, bus stops and bus termini.

PART III : ALLOCATION OF DESIGNATED SPOTS

8.23 The RO will make known to each contested candidate at the time of receipt of the nomination form the following information:

- (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 private premises 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 close of nominations. In order to allow all contested candidates to display their election advertisements 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 three days following the close of nominations. 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.

8.24 The RO(s) for the subsector(s) will need to know the exact number of candidates who wish to display election advertisements at designated spots, so that he can finalise the number of designated spots and their size for allocation. Therefore, candidates concerned must contact the relevant RO to register their interest in writing when they submit their nomination forms or before the close of nominations.

8.25 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 of Cap 132 and s 4 of Cap 28] and after complying with the requirements set out under Part V, the candidate may display election advertisements at such spots allocated to him.

8.26 A copy of all the permissions or authorisations obtained by a candidate himself, as opposed to those provided to him by the RO, must be provided by him to the relevant RO **before the display or distribution** [s 100(9)(a) of the EAC (EP) (EC) Reg].

8.27 Designated spots allocated are not transferable. Nor are they exchangeable with other spots. Where a candidate of a particular subsector informs the RO of that subsector in writing that he no longer wishes to use one or more of such designated spots allocated to him, upon request by any other candidate of the same subsector, the RO, if he considers appropriate, will re-allocate by agreement or by the drawing of lots the designated spots amongst all candidates of the same subsector except the one first mentioned. In such a case, paras. 8.25 and 8.26 above apply.

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 election advertisements.

8.28 An election advertisement advertising two or more subsector candidates is allowed to be displayed on the designated spots allocated to the candidates concerned. Nevertheless, it is important to ensure that the total number of spots as well as the total area of all the spaces actually occupied for joint advertisements and for advertising each one of the joined candidates (ie measured by the dimension of election advertisements) do not exceed the total number of spots as well as the total area of the designated spots allocated to each of the candidates. 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 election advertisements will therefore have to be borne by the candidates concerned in equal or unequal shares as their respective election expenses, to be calculated by the proportion of the size of the portion advertising each [see para. 18.9 of Chapter 18 : Namedropping]. In this connection, it is important to note that only a candidate himself or his election expense agent may incur election expenses on his behalf [s 23 of the ECICO]. *[Amended in September 2006]*

PART IV : CONDITIONS AND LIMITATIONS ON DISPLAY

Name of the Subsector

8.29 To avoid possible confusion to voters, election advertisements 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 election advertisements, 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.

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

Re-use of Old Publicity Boards

8.31 A candidate may re-use old publicity boards used at a previous election. However, any information in relation to the previous election, eg 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 avoid laying himself open to allegations of false claim of support of persons who might not have consented to support him at the current election. The cost incurred in refurbishing the old publicity boards will be counted towards the candidate's election expenses.

Size

8.32 Election advertisements displayed at railings and fences must not exceed the height and length of these structures, and in no circumstances be more than 1 metre high and 2.5 metres long.

Mounting and Installation

8.33 The mounting and display of election advertisements must not cause any risk to life or property.

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

8.35 Use “tie-on” posters (rather than “stick-on” posters) to facilitate subsequent removal.

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

8.37 Do not erect any structure on pavements, eg nailing boards to the ground.

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

Dismounting

8.39 All candidates should remove all their election advertisements 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. The **cost of removal** will be recovered from the candidate concerned and will be construed as **election expenses**. 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 immediate Friday after the polling day). This is to allow sufficient time for the candidates to

include all these costs in their election returns which must be submitted not later than 30 days after the publication in the Gazette of the election results, or not later than 30 days after the declaration of the termination of the election proceedings under the relevant electoral law, or not later than 30 days after the declaration of the failure of the election under the relevant electoral law [s 37 of the ECICO]. *[Amended in September 2006]*

PART V : SERIAL NUMBERING, DECLARATIONS AND COPIES

Serial Numbering

8.40 Save where the exemption applies, all copies of each type of all election advertisements intended to be displayed by a candidate must be marked distinctly and legibly on the face with **consecutive serial numbers** starting from “1” [s 100(1) and (2) of the EAC (EP) (EC) Reg]. Printed materials are exempted from the requirement of serial numbering if each of them:

- (a) is of or smaller than A4 size, ie 30 cm x 21 cm;
- (b) is contained in a single sheet of paper; and
- (c) bears upon it the printer’s name and address, number of copies printed and date of printing.

Examples of the above may include handbills, leaflets and simulated ballot papers. Election advertisements printed in a registered local newspaper/magazine or sent to voters through the free postage service [see Part IX] or transmitted by electronic means (eg facsimile, electronic mail, computer

network, electronic display boards) and balloons, badges, carrier bags, head-dress and clothing, or of such other class or types as the EAC may specify by notice published in the Gazette are exempted from the requirement of serial numbering [s 100(15) and (16) of the EAC (EP) (EC) Reg]. *[Amended in September 2006]*

8.41 The size of the number marked on each type of election advertisements which are not larger than 60 cm x 42 cm (A2 size) must not be smaller than 2 cm in diameter, and the size of the number marked on those which are larger must not be smaller than 4 cm in diameter.

Declarations

8.42 **Before display, distribution or otherwise use of any election advertisement**, a candidate must make a **declaration in a specified form** to the RO for the subsector (or to the CEO, if the RO has not yet been appointed) declaring the **quantity**, with the **serial numbers** (save those covered by the exemption referred to in para. 8.40 above), of each type of all election advertisements intended to be displayed and **the date of printing/publication**. Such declaration should also show all the **intended places** of display (designated spots or private spots) which may be identified by reference to the permissions or authorisations obtained by the candidate. [S 100(3), (4) and (5) of the EAC (EP) (EC) Reg.] A candidate can submit as many declarations as circumstances may from time to time require. A candidate must ensure the correctness and accuracy of all the details contained in his declarations.

8.43 Where an election advertisement is to be distributed by facsimile transmission and where the exemption referred to in para. 8.40 applies (which includes election advertisements sent to voters through the free postage service detailed in Part IX below or transmitted by electronic means), it will not be

necessary to state the serial numbers in the declaration. Only the quantity of that election advertisement is to be stated in the declaration.

8.44 A candidate must ensure that every time the contents of his website are changed or updated, he must make a new declaration to the RO and deposit 2 copies of the modified pages with the RO accordingly [see also para. 8.45(a)(iii) below].

Copies

8.45 **Before display, distribution or otherwise use of any election advertisement**, any person, including a candidate, must deposit with the RO for his subsector (or with the CEO if the RO has not yet been appointed):

- (a) in respect of election advertisements
 - (i) 2 copies of all printed advertisements bearing in Chinese or English, the name and address of the printer together with the date of printing and the number of copies printed (“printing details”);
 - (ii) 2 identical copies of any video/audio tapes or discs or diskettes containing election advertisements;
 - (iii) 2 copies of any electioneering message sent by electronic means (including 2 copies of any modified webpages if the contents of the website are changed or updated); and

- (iv) 2 identical postcard sized colour photographs of each type of election advertisements which cannot be practically or conveniently photocopied;

[s 100(6), (7) and (8) of the EAC (EP) (EC) Reg]

For the avoidance of doubt, for printed election advertisements, by depositing 2 copies with the relevant RO prior to the display, distribution or otherwise use of such election advertisements as stated above, the candidate would have complied with **both** the requirement in s 100(6), (7) and (8) of the EAC (EP) (EC) Reg (which requires prior deposit) and that in s 34(4) of the ECICO (which requires deposit not later than 7 days after publication). Details of the relevant section in the ECICO and the reasons for the two different requirements under the two legislation are provided in paras. 17.13 - 17.14 of Chapter 17. *[Amended in September 2006]*

- (b) in respect of permissions or authorisations for display

a copy each of all permissions or authorisations for display given or obtained for the purposes of s 104A of Cap 132 [s 100(9)(a) of the EAC (EP) (EC) Reg]; and

- (c) in respect of consent of support

a copy each of all consent of support referred to in s 27(1) or (2) of the ECICO, as the case may be [s 100(9)(b) of the EAC (EP) (EC) Reg].

8.46 If a candidate has difficulty in depositing with the RO for his subsector an original copy of a declaration and 2 copies of an election advertisement before its display, distribution or otherwise use, he may first send to the relevant RO by fax the declaration together with a copy of each election advertisement or by e-mail with an image or digital photo of each election advertisement. The candidate should ensure any submissions sent by fax or e-mail should reach the relevant RO properly. The candidate must, within 24 hours during weekdays (ie Monday to Friday) or within 48 hours during weekends (ie Saturday to Sunday) after sending the fax or e-mail, submit to the relevant RO the original copy of the declaration form and 2 copies of each such election advertisement. *[Added in September 2006]*

8.47 Speeches orally delivered by a candidate during election meetings or ad hoc visits will not be treated as election advertisements unless copies of the speech are provided to the audience or media. If the candidate would like to create certain impact by talking first before providing copies of the speech to the audience or media, he could, after delivering the speech, send a copy of the speech, together with the declaration, to the RO by fax or e-mail prior to distributing them to the audience or media. The candidate should ensure proper submissions by fax or e-mail to the relevant RO. The candidate must submit to the relevant RO the original copy of the declaration form and 2 copies of each speech within 24 hours during weekdays (ie Monday to Friday) or within 48 hours during weekends (ie Saturday to Sunday) after sending the fax or e-mail. Since copies of speeches distributed to the audience are regarded as printed election advertisements, candidates concerned are also required to comply with s 34 of the ECICO. *[Added in September 2006]*

8.48 In the rare circumstances where candidates contesting different subsectors use identical copies of an election advertisement, the RO of the relevant subsector may exercise his discretion to accept a joint declaration by all

the candidates concerned and a joint submission of 2 copies of the election advertisement.

8.49 Where a declaration of election advertisements under s 100 of the EAC (EP) (EC) Reg made by a candidate and deposited with the relevant RO contains a mistake or where the candidate's declared intention as to the number of any type of election advertisements to be displayed or the location of display, etc has changed, the candidate should make a corrective declaration to correct the mistake or record the change. All such corrective declarations must be deposited with the relevant RO at the **latest by 12 noon on the day preceding the polling day**. If no corrective declaration has been so deposited, then the declaration of election advertisements will be used as one of the bases for examining and checking the candidate's return and declaration of election expenses and donations, and as the basis for removal of unauthorised or offending displays.

8.50 No election advertisements shall be displayed apart from those referred to in the declarations made by the candidate and as shown by the copies or on the photographs.

8.51 A candidate must not display his election advertisements other than at the places set out in his declaration.

8.52 The RO for the relevant subsector will make available a copy of the declarations, election advertisements, photographs, permissions or authorisations and consent at a specified address for inspection by the public as soon as practicable after such documents and photographs have been furnished until the expiration of the same period as declarations of election returns lodged by candidates are available for inspection under s 41 of the ECICO, ie until the

first anniversary of the date on which the result of the relevant election is published [s 100(10) of the EAC (EP) (EC) Reg].

PART VI : REQUIREMENTS RELATING TO PRINTED ELECTION MATERIALS

Printing Details

8.53 S 34 of the ECICO requires all printed election advertisements, with the exception of those printed in a registered local newspaper/magazine, to bear printing details, ie they must bear, in Chinese or English, 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 (eg 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

Election Advertisements Placed in Print Media

8.54 Where an election advertisement 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 election advertisement, 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 election advertisement.

PART VII : NON-COMPLIANCE AND CONSEQUENCES

Inadvertent Omission of Printing Details

8.55 A candidate who has inadvertently omitted the printing details from his printed election advertisements can make a statutory declaration giving the omitted details, and deposit such declaration with the relevant RO **not later than 7 days after** the publication of the offending election advertisement [s 34(3) of the ECICO]. Having taken this remedial step, he will not be prosecuted for contravention of s 34(1) of the ECICO. The statutory declaration will be retained by the relevant RO for 6 months after the result of the election is published [s 34(7) of the ECICO].

Enforcement and Penalties

8.56 A candidate who fails to provide the printing details or deposit copies of printed election advertisements with the relevant RO commits an offence punishable by a fine of up to \$200,000 and imprisonment for up to 3 years [s 34(6) of the ECICO]. However, he may apply to the court for an order allowing the publication of the above election advertisements be excepted from the relevant requirements and relieving him from the penalties, provided that the court 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 35 of the ECICO]. Non-compliance with the requirements of s 100 of the EAC (EP) (EC) Reg is punishable with a fine at level 2 (up to \$5,000) and imprisonment for up to 6 months.

8.57 Each candidate must observe and comply with the conditions imposed by the permissions or authorisations for the display of election advertisements. Any election advertisements displayed in contravention of these guidelines will be removed and seized. Other candidates and their supporters should report any non-compliance to the RO and should not take removal action themselves.

8.58 Any unauthorised or offending election advertisements displayed may be seized and disposed of, or destroyed, obliterated or covered by the RO or any person authorised by him as he thinks fit [s 100(14) of the EAC (EP) (EC) Reg]. The candidate or his election agent responsible may also be prosecuted and if convicted may be liable to a fine or imprisonment. The cost of removal, being a civil debt, will be counted as election expenses. Such civil debt must be reported to the relevant RO in the candidate's return and declaration of election expenses. The seized articles may be kept as evidence and will be disposed of or returned upon application, in accordance with Cap 132 or the Housing Ordinance (Cap 283), as the case may be, and the procedures of the relevant authority. [S 104C of Cap 132 and s 6 of Cap 283.] *[Amended in September 2006]*

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

8.60 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 censure or denounce any non-compliance with these guidelines. Although a censure may be a further detriment to the candidate in addition to his

liability for removal expenses and criminal liability, the EAC will not hesitate to publish one in an appropriate case.

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

8.61 Any thing or material published by any organisation, including political organisation, professional or trade organisation, owners' corporation, mutual aid committee, tenants association, owners' committee, etc (irrespective of whether or not the candidate concerned is its officer or member) which advertises its platform or services during or **even before the election period with reference to the candidate** by name or photograph or otherwise may be treated as election advertisement 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, 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 should not be regarded as an election advertisement.

8.62 It is an offence for anyone to incur election expenses unless he is a candidate or an election expense agent of a candidate [s 23 of the ECICO].

8.63 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.

8.64 To sum up the important points, where any organisation, including a political organisation, publishes an election advertisement 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 34 of the ECICO and s 100 of the EAC (EP) (EC) Reg; and
- (d) such advertisement can only be displayed at the spots authorised to the candidate.

PART IX : FREE POSTAGE FOR ELECTION ADVERTISEMENTS

Conditions for Free Postage

8.65 A candidate of a subsector who is validly nominated in the notice of nomination 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 the candidate is nominated [s 38 of the Schedule to the CEEO]. However, before the publication of the notice of nomination, a candidate wishing to exercise his right to free postage may be required to furnish the Postmaster General with a security for the payment of postage in the event that his name is not subsequently shown in the notice [s 6(2)(a) of the Post Office Regulations (Cap 98A)].

8.66 The purpose of the free postage is to enable the candidate to mail election advertisements to promote or advertise himself and in relation to that election to voters. The free postage, which is the candidate's own privilege, cannot and should not be used for any other purpose or any other election or for promoting or advertising any other person.

8.67 Specifically, the letter must:

- (a) be posted in Hong Kong;
- (b) contain materials relating only to the candidature of the candidate, 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.

It is important to note that under s 99(3)(a) of the EAC (EP) (EC) Reg, a candidate sending letters to voters in bulk is liable for payment of postage for all letters in that bulk if any letter in the bulk does not meet requirement (a), (b), (c) or (d) above.

Make-up

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

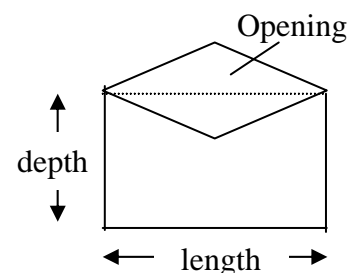
8.69 Cards and folders must be made of ordinary cardboard or paper not less than 0.25 mm thick, and must be rectangular in shape.

8.70 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.

8.71 Envelopes, folders and lettergrammes having an opening large enough to entrap smaller letters are prohibited. **Unsealed mail items** contained in envelopes with ordinary tuck-in flaps may be used up to the following size limits (s 6 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

8.72 Folders of A4 size with openings should be closed by means of adhesive flap or tape so as to avoid entrapping smaller letters. For details, please refer to the illustration in **Appendix G**.

8.73 **The characters “選舉廣告” or words “Election Advertisement” must be printed on the address (front) side of the envelope, or the address side of the folder (unenvveloped advertisement).**

Addressing

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

Name of addressee

Floor and flat number and name of building

Street number, name of street

Name of district

8.75 Addressing slips may be used for the mailing of election advertisements provided that they are legible and **securely pasted** onto the envelopes.

8.76 The name of the candidate and other propaganda slogans, including photographs, should appear on the back of the item or on the left-hand half of the address side reserving the right-hand half of the front exclusively for the address.

8.77 No postage-free election advertisement bearing an address outside Hong Kong will be accepted.

Posting Arrangements

8.78 In order to allow adequate time for the Post Office to process the extremely large volume of election mail during the election period, candidates are advised to make their postage-free election advertisement postings **within a period to be specified by the Post Office**. Candidates and their agents are therefore **warned that postings made after the deadline may fail to reach the addresses before the polling day**.

8.79 At least **2 clear working days' notice** must be given to the relevant Manager of the posting office before the postings are made. Candidates should present two unsealed specimens of their election advertisements, together with a notice of posting of election mail (which will be provided by the REO at the time of candidates submitting their nominations), for inspection 2 clear working days before the postings are made.

8.80 When handing in the specimens, the candidates may indicate any one of the posting offices to be designated by the Post Office where they intend to make their postings. In this connection, the Manager concerned will arrange and confirm the request after approving the specimens.

8.81 The postings should be made up, preferably in bundles of 50 or 100 for easy counting. All letters should face the same direction.

8.82 With each posting, the candidate or his representative must present a signed declaration **in duplicate** (the original to be kept by the Post Office and

the duplicate copy duly signed by the Post Office official and kept by the candidate or his representative as acknowledgement of the posting):

- (a) stating the quantity of packets in the posting and the name of the candidate;
- (b) declaring that the posting is his postage-free communication;
- (c) declaring that each packet contains material relating to the election only; is identical to the unsealed specimen submitted by the candidate or his representative for inspection and retention by the Post Office; and is addressed by name to a duly registered voter in respect of the subsector for which the candidate has been nominated; and
- (d) declaring that not more than one postage-free communication has been or will be sent to any of the voters.

The declaration form will be provided to the candidates by the REO at the time of their submission of nominations. It is important to note that under s 99(3)(b) of the EAC (EP) (EC) Reg, a candidate sending letters to voters in bulk is liable for payment of postage for all the letters in that bulk if the declaration made by him or his representative is false in any particular.

8.83 If a candidate makes posting in more than one batch, the same declaration form should be presented at the same posting office on each occasion.

8.84 Government reserves the right to charge a candidate postage where any of the above requirements 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 return and declaration of election expenses and donations to be sent to the relevant RO. The EAC may also issue public statements in such manner as it deems fit to denounce any abuse of the free postage arrangements.

Enquiries

8.85 For general enquiries concerning the posting of election advertisements, please contact:

Senior Manager (Retail Business)
M/F, Middle Road Carpark Building,
15 Middle Road,
Tsim Sha Tsui,
Kowloon.

Telephone: 2926 1484

Fax: 2312 1455

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

8.86 Candidates may send election advertisements to registered voters and ARs in the custody of the CSD and other law enforcement agencies according to their registered address or correspondence address (if any). For security reasons, the CSD has laid down a set of guidelines for sending election advertisements to registered voters and ARs in its custody at **Appendix R**. Candidates should adhere to these guidelines. *[Added in January 2010]*

8.87 Candidates may note that persons imprisoned or held in custody by the law enforcement agencies who are registered voters or 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]