

CHAPTER 4

NOMINATION OF CANDIDATES

PART I : QUALIFICATION AND DISQUALIFICATION FOR NOMINATION

4.1 The law governing the qualification and disqualification for the nomination of candidates for the LegCo election is contained in the LCO. The procedure for nomination of candidates for the LegCo election is provided in the EAC (EP) (LC) Reg made by the EAC.

Qualifications

4.2 To qualify for nomination as a candidate at an election for a GC, a person must:

- (a) be 21 years of age or over;
- (b) be both registered and eligible to be registered as an elector for a GC;
- (c) not be disqualified from being elected by virtue of s 39 of the LCO [see para. 4.5 below];
- (d) have ordinarily resided in Hong Kong for the 3 years immediately preceding the date of his nomination; and

- (e) be a Chinese citizen who is a permanent resident of Hong Kong with no right of abode in any country other than the People's Republic of China.

4.3 To qualify to be nominated as a candidate at an election for an FC, a person must:

- (a) satisfy para. 4.2(a) to (e) above, save that for the following 12 FCs, para. 4.2(e) does not apply, namely,
 - (i) Legal FC,
 - (ii) Accountancy FC,
 - (iii) Engineering FC,
 - (iv) Architectural, Surveying and Planning FC,
 - (v) Real Estate and Construction FC,
 - (vi) Tourism FC,
 - (vii) Commercial (first) FC,
 - (viii) Industrial (first) FC,
 - (ix) Finance FC,
 - (x) Financial Services FC,
 - (xi) Import and Export FC, and
 - (xii) Insurance FC; and
- (b) be both registered and eligible to be registered as an elector for the relevant FC or satisfy the RO for the constituency that he has a substantial connection with that FC.

[S 37 of the LCO.]

4.4 A person is considered to have **ordinarily resided in Hong Kong** when he has habitually and normally lived there lawfully for a settled

purpose, apart from temporary and occasional absences such as holidays and absence abroad for studying purposes. Each case has to be examined upon its own facts. Matters like the length of the person's absence, the reason for his absence, the location of the home of him, his spouse, children and parents and his maintenance of connections with Hong Kong are all relevant factors. In case of doubt, a prospective candidate should consult his own legal adviser or seek advice from the NAC [see paras. 4.7 - 4.13 below].

Disqualifications

4.5 A person will be disqualified from being nominated, if he:

- (a) is a judicial officer, or a prescribed public officer¹;
- (b) is an officer of the LegCo or a member of staff of The LegCo Commission;
- (c) has, in Hong Kong, or any other places, been sentenced to death or imprisonment (by whatever name called), and has not either served the sentence or any substitute sentence or received a free pardon;
- (d) has been convicted of treason;

¹ A prescribed public officer means any of the following:

- (a) the Chairman of the Public Service Commission;
- (b) the Commissioner and Deputy Commissioner of the ICAC and the holder of any other office under the ICAC Ordinance (Cap 204);
- (c) the Ombudsman and the holder of any appointment under s 6 of The Ombudsman Ordinance (Cap 397);
- (d) a member of the EAC;
- (e) the chief executive of the Monetary Authority and any member of the senior management of that Authority, including divisional heads, executive directors, managers and counsel employed by that Authority;
- (f) the Privacy Commissioner for Personal Data and any person employed or engaged by him under the Personal Data (Privacy) Ordinance (Cap 486);
- (g) the Chairperson of the Equal Opportunities Commission and any person employed or whose services are engaged by the Commission under the Sex Discrimination Ordinance (Cap 480); or
- (h) any person holding an office, whether permanent or temporary, in a government department or bureau and employed in the department or bureau.

- (e) on the date of nomination, or of the election, is serving a sentence of imprisonment;
- (f) is or has been convicted, within 5 years before the polling day, of any offence in Hong Kong or in any other place, the sentence for which is imprisonment (suspended or not) for not less than 3 months, or convicted of having engaged in corrupt or illegal conduct in contravention of the ECICO, or convicted of any offence against Part II of the POBO or any offence prescribed by the regulations made by the EAC;
- (g) is ineligible because of operation of the LCO or any other law;
- (h) is a representative or a salaried functionary of the government of a place outside Hong Kong;
- (i) is a member of any national, regional or municipal legislature, assembly or council of any place outside Hong Kong, other than a people's congress or people's consultative body of the People's Republic of China, whether established at the national level or local level;
- (j) is an undischarged bankrupt; or
- (k) is found for the time being under the Mental Health Ordinance (Cap 136) to be incapable, because of mental incapacity, of managing and administering his property and affairs.

[S 39(1) and (2) of the LCO.]

4.6 A person is also disqualified from being treated as a member for an FC if, since the close of nominations, the person has ceased to have a substantial connection with the constituency [s 39(4) of the LCO].

PART II : NOMINATIONS ADVISORY COMMITTEES

4.7 The EAC has the power to appoint NACs to provide advice, on request, to prospective candidates and ROs on the candidates' eligibility for nomination. [S 3 of the EAC (NAC) (LC) Reg.] Each of these NACs is in the charge of either a Senior Counsel or a legal practitioner of not less than 10 years standing who, in the opinion of the EAC, is unconnected to any candidate or political organisation in Hong Kong, independent and impartial.

NAC's Service to Candidates

4.8 NAC's service will be provided to candidates only at a LegCo general election. During a period to be announced by the REO – which normally ends one day before the commencement of the nomination – a prospective candidate may apply, by completing a specified application form obtainable from the REO or from any District Office, for the advice of the NAC as to whether he is qualified to be, or is disqualified from being, nominated as a candidate at the LegCo general election. He may make only one application in respect of the GC election and one application in respect of a particular FC election. While a prospective candidate may apply for advice only once in respect of a particular FC, he may apply for advice in respect of more than one FC.

4.9 The application should be:

- (a) sent to the Chief Electoral Officer (“CEO”) so as to be received by him:
 - (i) by post to the REO; or
 - (ii) by facsimile transmission; or
- (b) served on the CEO personally,

on or before the deadline for application to be specified by the EAC.

4.10 An NAC may, before giving its advice, request the applicant to make available to it within a specified period any information, particulars and evidence relating to his intended candidature. The NAC may also request the applicant to present himself before it at a specified time and place to assist it in the consideration of the application. The applicant may, at the specified time and place, make representations to the NAC personally or through any person authorised by him in writing for the purpose.

4.11 Where an applicant does not make available any information, particulars or evidence as requested by the NAC, or fails to present himself before the NAC in response to a request, the NAC may:

- (a) refuse to consider the application or to give any advice on it; or
- (b) give qualified advice on the application having regard to either or both of the following:
 - (i) the fact that any information, particulars or evidence, or where appropriate, all of them, were not available to it;

- (ii) the failure of the applicant to present himself before the NAC.

4.12 The NAC's advice to an applicant, including a decision to refuse to consider an application or to give advice, will be in writing and will be sent to the applicant not later than a date to be specified by the EAC.

4.13 Any advice given by an NAC or a refusal to give any such advice does not preclude a person from seeking nomination as a candidate in an election or proceeding with a nomination, if he so wishes.

[S 5 of the EAC (NAC) (LC) Reg.]

NAC's Service to ROs

4.14 NAC's service will be provided to ROs at both LegCo general elections and by-elections. During the period from the commencement, up to one day after the close of the nomination period, ROs may seek the advice of an NAC, where they consider necessary, on the eligibility for nomination of the candidates who have submitted their nominations. Such application must be in writing and made to the NAC through the CEO. The NAC will, not later than a date specified by the EAC, advise the RO concerned as to whether the candidate concerned is eligible to be nominated.

4.15 An RO is required, in making a decision as to whether a particular candidate is validly nominated in respect of the constituency for which he seeks nomination, to have regard to any advice given by an NAC on that candidate [s 17 of the EAC (EP) (LC) Reg]. The decision on the validity of nomination, however, remains with the RO alone.

[S 6 of the EAC (NAC) (LC) Reg.]

PART III : WHEN AND HOW TO NOMINATE

When to Nominate

4.16 Nomination may be made during the **nomination period** specified in the Notice of Election published in the Gazette [ss 4, 5 and 7 of the EAC (EP) (LC) Reg]. An election timetable will be provided to each candidate by the RO for the relevant constituency. The ordinary business hours on each working day (ie any day other than a general holiday or Saturday) in the nomination period for the ROs to accept nominations are from 9 am to 5 pm, and on a Saturday, from 9 am to 12 noon. **Candidates are encouraged to submit their nominations well before the expiration of the nomination period to allow time for any errors in their nomination forms to be corrected.**

How to Nominate

4.17 Nomination forms specified by the EAC are available from any District Office or from the REO, or can be downloaded from the website of the REO (<http://www.info.gov.hk/reo>).

4.18 The nomination form comprises:

(a) **The Nomination**

- (i) In respect of a **GC** election, the nomination is a list containing either the names of 2 or more proposed candidates contesting the election of the particular GC as a group with their names ranked in the order of priority of the group, or the name of a single proposed candidate.

The nomination must be subscribed by **100 registered electors** (other than the candidates) of that particular GC assenting to the nomination and the number of persons that may subscribe a nomination shall not be more than 200 [s 7(1)(a) and (aa) of the LC Subscribers & Deposit Reg]. An elector may subscribe only one nomination as regards a particular GC election. Under s 38 of the LCO, after a nomination has been submitted to an RO, the order in which the names of proposed candidates appear in the list cannot be altered, no other name of any proposed candidate can be added to the list, and names already on the list cannot be deleted. [See, however, para. 4.36 below in the case of withdrawal.]

- (ii) In respect of a candidate of an **FC**, it must be subscribed by **10 registered electors** (other than the candidate himself) and the number of persons that may subscribe a nomination shall not be more than 20 [s 7(2)(a) and (aa) of the LC Subscribers & Deposit Reg]. An elector may subscribe any number of nomination papers up to the number of seats in any FC [s 7(2)(b) of the LC Subscribers & Deposit Reg]. Thus, an elector of the Labour FC may subscribe up to 3 nominations as there are 3 vacancies to fill in that FC. For other FCs, with one seat each, an elector may only subscribe 1 nomination.

In any of the above cases, **the subscribing elector must be registered for the GC or the FC concerned**, as the case may be. In other words, **an elector** in respect of a GC and an FC is entitled to **subscribe only one nomination regarding his own GC and any number of nomination up to the number of vacancies regarding his FC.**

Where the number of persons subscribing a nomination has exceeded the required number (ie 100 for a GC election and 10 for an FC election), any surplus over the required number of qualified subscribers will be regarded as not having subscribed the nomination concerned [s 7(2C) of the LC Subscribers & Deposit Reg]. In this case, the elector may subscribe another nomination instead. If the nomination subscribed by an elector has been held to be invalid, or the candidate or all the nominees on a nomination list has withdrawn his/their nomination, the elector may subscribe another one instead before the end of the relevant nomination period, and his signature shall not be inoperative on that other nomination form. If he subscribes more than one nomination form in contravention of the regulations, his signature shall be operative only on the first one delivered [s 7(3)(ii) of the LC Subscribers & Deposit Reg].

IMPORTANT :

A candidate who submits a nomination form on the last few days of the nomination period is advised to include more than the required number of subscribers for his nomination, to avoid the risk of invalidation of the nomination should one or more of the subscribers be subsequently found not to be qualified as subscribers. A candidate should use his best endeavour to ensure that the electors subscribing his nomination form are eligible and have not subscribed another nomination previously. Electors subscribing a nomination should sign the nomination form **personally**.

(b) The Candidate's Consent to Nomination and Declarations

This must be completed and signed by the candidate and endorsed by a witness. There are the following **declarations** and promissory oath that a candidate must make and sign:

- (i) a declaration to the effect that the candidate will uphold the Basic Law and pledge allegiance to the Hong Kong Special Administrative Region;
- (ii) a declaration as to the candidate's nationality and as to whether or not he has a right of abode in a country other than the People's Republic of China;
- (iii) a promissory oath given by the candidate to the effect that, if elected, he will not do anything during his term of office that results in his disqualification, including mainly those set out in para. 4.5 above, plus becoming a member of any armed forces;
- (iv) a declaration to the effect that the candidate (in the case of a GC list, each candidate) is eligible to be nominated as a candidate for the constituency concerned; is not disqualified from being so nominated; and consents to being so nominated. In the case of a GC list, each candidate must also declare his consent to the order of priority in which the names of candidates appear on the nomination list; and
- (v) a declaration to the effect that the candidate (in the case of a GC list, each candidate) has ordinarily resided in Hong

Kong for the 3 years immediately preceding the date of his nomination.

[S 40 of the LCO and ss 10 and 11 of the EAC (EP) (LC) Reg.]

IMPORTANT :

No person shall be nominated in an election as a candidate for more than one constituency [s 41 of the LCO]. When a person submits his nomination form, he must have withdrawn all his prior nominations, if any, and make a declaration (contained in the specified form) that either he has not been nominated before for any other constituency in the election, or if he has been so, he has withdrawn all those prior nominations. Where a candidate stands nominated [see para. 4.25 below], any subsequent nominations of his will be rejected as invalid.

In the nomination form, a candidate is required to state his occupation, and he is free to state his political affiliation for publication if he so prefers. Candidates should make sure that their nomination forms are properly completed before submission.

4.19 Each nomination form must be submitted to the RO for the constituency concerned together with the payment of an appropriate election deposit [see Part IV of this chapter for details]. The RO may refuse to accept any nomination form where there is a material alteration of its content.

4.20 The completed nomination form must be lodged with the RO for the constituency concerned by the candidate, and in case of a list of candidates by one of the candidates, **in person** during ordinary business hours, ie the hours between 9 am and 12 noon on a Saturday and the hours between 9 am

and 5 pm on any day other than a general holiday, within the nomination period. In the case of nominations for FC elections, the CEO may, in exceptional circumstances, eg the nominee's temporary absence from Hong Kong or incapacity due to illness, authorise other form of delivery of the nomination form to the RO [s 11(14) of the EAC (EP) (LC) Reg].

False Declarations

4.21 A candidate who knowingly and wilfully makes a statement which is false in a material particular in the declaration in the nomination form shall be guilty of an offence under the Crimes Ordinance (Cap 200) punishable by a fine and imprisonment of up to 2 years.

PART IV : ELECTION DEPOSIT

Payment of Election Deposit

4.22 Each nomination form must be presented with the payment of an election deposit, in cash, cashier order or by cheque, in such amount as prescribed by regulation made by the CE in Council [ss 40(3) and 82(2)(b) of the LCO]. The following election deposits are prescribed by s 2 of the LC Subscribers & Deposit Reg:

for all the candidates on a GC list	\$50,000
for a candidate of an FC	\$25,000

4.23 A nomination form will not be received by the RO unless it is accompanied by the required sum of election deposit.

IMPORTANT :

Candidates are encouraged to pay their election deposit by cash or cashier order although they may pay by crossed cheque. In the event that a cheque is dishonoured, the nomination will be ruled invalid unless the sum of deposit is made good before the expiration of the nomination period. In order to avoid the risk of invalidation of the nomination due to dishonoured cheque, candidates are strongly advised to submit the election deposit in cash or cashier order if they submit nomination in the last 3 working days (excluding Saturday) of the nomination period.

Return of Election Deposit

4.24 The deposit will be returned to the candidate (or in the case of a list of candidates, the person who has lodged the deposit on behalf of the list) if:

- (a) he is not validly nominated (and in the case of a list of candidates, if all the candidates on the list are not validly nominated);
- (b) his nomination is withdrawn (and in the case of a list of candidates, if all the candidates on the list have withdrawn their nomination);
- (c) he has died or is disqualified from being nominated (and in the case of a list of candidates, if all the candidates on the list have died or are disqualified from being nominated);
- (d) in the case of a list of candidates, the list is rejected by the RO after he has struck out from the list all the names of candidates

for any one, or any combination, of the reasons stated in items (a), (b) or (c) above;

- (e) the election is terminated;
- (f) he is elected (and in the case of a list of candidates, if the first ranked candidate on the list is elected);
- (g) in the case of a GC or one of the ordinary FCs, other than the 4 SFCs, he or the list of candidates secures in his or its favour not less than 3% of the total number of ballot papers containing valid votes received in that constituency; or
- (h) in the case of one of the 4 SFCs, he secures in his favour not less than 3% of the total number of ballot papers containing valid first preference votes received in that constituency.

The deposit will be forfeited if none of the above conditions is satisfied. [For details, see ss 3 and 4 of the LC Subscribers & Deposit Reg.]

PART V : VALIDITY OF NOMINATIONS

[Ss 16, 17 and 18 of the EAC (EP) (LC) Reg]

4.25 Where the RO has received a nomination form within the nomination period, the candidate will be deemed to stand nominated unless the RO decides that the nomination is invalid.

4.26 The RO will make a decision as to the validity of a nomination as soon as practicable after receipt of the nomination form and will publish a

notice stating which persons are validly nominated as candidates [s 42A(1) and (2) of the LCO].

4.27 Where an RO has doubts as to whether or not a particular candidate is qualified to be nominated, he may apply to an NAC for advice [see para. 4.14 above].

4.28 Where a nomination appears to the RO to be invalid because of some errors which can be corrected within the nomination period, the RO will, if practicable, give the candidate a reasonable opportunity of correcting the errors before making a decision that the nomination is invalid. For example, if the entitlement of any subscriber is in doubt, a prospective candidate may be allowed to make a substitution as soon after the submission of his nomination form as practicable. However, no substitution for any subscriber or re-submission of a nomination form will be accepted after the close of the nomination period.

4.29 A nomination may be ruled invalid if any errors on the nomination form are not corrected by the close of the nomination period.

4.30 The RO may require such additional information from a candidate as he considers necessary to satisfy himself as to the validity of the nomination.

4.31 A nomination will not be valid unless it contains all the information and signatures required to be shown on the nomination form or by the RO and the candidate has made the declarations and oath referred to in para. 4.18(b) above.

4.32 The RO can decide that a nomination is invalid only where:

- (a) the number or qualifications of the subscribers are not as required by LC Subscribers & Deposit Reg;
- (b) the nomination form, including the nomination and declarations and oath, has not been completed or signed as required by s 40 of the LCO and ss 10 and 11 of the EAC (EP) (LC) Reg;
- (c) he is satisfied that the candidate or all the candidates on the GC list is/are not qualified to be, or is disqualified from being, nominated as a candidate, having regard to any advice given by the NAC to an application made by him or by that candidate [see paras. 4.15 and 4.27 above];
- (d) the candidate or all the candidates on the GC list has/have been nominated for another constituency in the same election and the RO is not satisfied that he has withdrawn that candidature;
- (e) the cheque for the payment of the election deposit of the candidate is dishonoured and has not been made good before the expiration of the nomination period;
- (f) he is satisfied that the candidate has passed away; or
- (g) the nomination form is not duly lodged within the nomination period [see paras. 4.16 and 4.20 above].

4.33 If, having decided that a candidate is validly nominated for election for a GC but before the polling day, proof is given to the satisfaction of the RO that the candidate has died, he must publicly declare that the candidate has died and further declare which candidate is or candidates are validly nominated for that constituency. The RO does not have to make any such

declaration if the candidate who has died is uncontested in the election in his constituency and the RO has publicly declared that the candidate was duly elected [s 42B(1), (2) and (3) of the LCO].

4.34 If, having decided that a candidate is validly nominated for election for a GC but before the polling day, proof is given to the satisfaction of the RO that the candidate is disqualified from being nominated as a candidate, the RO must vary the decision to the effect that the candidate is not validly nominated. He must then publicly declare his varied decision and which candidate is or candidates are validly nominated for that constituency. The RO may not vary his decision if the candidate who has been disqualified is uncontested in his constituency and the RO has publicly declared that the candidate was duly elected [s 42B(4), (5) and (6) of the LCO].

4.35 If, after the close of nominations for an election for an FC but before the polling day, proof is given to the satisfaction of the RO that the candidate has died or is disqualified from being nominated as a candidate for the constituency, he must publicly declare that the proceedings for the election for that FC are terminated [s 42C of the LCO].

PART VI : WITHDRAWAL FROM CANDIDATURE

4.36 A candidate may withdraw his nomination by completing and signing a specified “Withdrawal of Candidature” form and lodging it with the RO concerned by not later than the last day of the nomination period [s 42 of the LCO and s 20 of the EAC (EP) (LC) Reg]. Where a candidate in a nomination list for a GC election has effectively withdrawn his candidature, the RO must strike out his name from the list and adjust the order of priority in which the names of other candidates appear on the list accordingly [s 38(6) of

the LCO]. If, after the RO has determined that a nominee is validly nominated, but before the close of nominations, the RO becomes aware that the nominee has died or is disqualified from being nominated, the RO must strike out his name from the list and adjust the order of priority in which the names of other candidates appear on the list accordingly [s 38(6A) of the LCO]. After striking out a name from a list of candidates, the RO must not add the name of any other person to the list. If no name remains on the list of candidates, the RO must reject the list. [s 38(11), (12) and (13) of the LCO.]

IMPORTANT :

It is an offence under ss 7 and 8 of the ECICO for a person to bribe, or use or threaten to use force or duress, against a candidate to withdraw his candidature; and for a candidate to solicit or accept a bribe to withdraw his candidature.

PART VII : NOTICE OF NOMINATION

4.37 The RO for the constituency concerned will publish a notice in the Gazette within 14 days after the close of the nomination period stating the name and the principal residential address of each of all the validly nominated candidates for the constituency, together with the alphabet or number (which will be shown on the ballot paper) allocated by the drawing of lots to each candidate or list of candidates [s 21 of the EAC (EP) (LC) Reg]. Each validly nominated candidate will also be separately informed.

PART VIII : PARTICULARS RELATING TO CANDIDATES ON BALLOT PAPERS

4.38 Under the PCBP (LC) Reg, candidates may, **during the nomination period**, request the EAC to print specified particulars relating to candidates on ballot papers for use in LegCo elections. These particulars include registered names and emblems of prescribed bodies², registered emblems of prescribed persons³, words indicating that a candidate is an independent candidate or a non-affiliated candidate, and personal photographs of candidates.

Request to Print Particulars Relating to Candidates on Ballot Papers

Request by candidate for FC or a sole candidate on nomination list

4.39 A candidate for an FC or a sole candidate on a nomination list may request the EAC to print on ballot papers a personal photograph of the candidate and a choice of combinations of specified particulars - including not more than 3 registered names of prescribed bodies, not more than 3 registered emblems relating to the consenting prescribed bodies and the candidate concerned, and with or without the words “Independent Candidate” or “Non-affiliated Candidate”.

² A prescribed body means a prescribed political body or a prescribed non-political body.

³ A prescribed person means a person that is registered in a final register of electors for GCs as compiled and published in accordance with the LCO and that is not disqualified from being so registered or from voting at an election.

4.40 A request must be made in the specified form and signed by the requestor. Where the subject of the request relates to one or more prescribed bodies, it must be accompanied by a consent given, during the nomination period, by the body or each of the bodies in relation to the request. Where the subject of the request includes a photograph, it must be accompanied by the photograph with the name of the candidate shown on the back of the photograph.

[S 3 of the PCBP (LC) Reg.]

Request by candidate on nomination list with more than one candidate

4.41 A candidate on a nomination list with more than one candidate may request the EAC to print on ballot papers a personal photograph of any one or more of the candidates on the list, and a choice of combinations of specified particulars - including not more than 3 registered names of prescribed bodies, not more than 3 registered emblems relating to the consenting prescribed bodies and the candidates concerned, and with or without the words “Independent Candidate” or “Non-affiliated Candidate” against the names of the corresponding candidates.

4.42 A request must be made in the specified form and signed by the requestor and all other candidates on the nomination list concerned. Where the subject of the request relates to one or more prescribed bodies, it must be accompanied by a consent given, during the nomination period, by the body or each of the bodies in relation to the request. Where the subject of the request includes one or more photographs, it must be accompanied by the photograph or photographs with the name of the candidate concerned shown on the back of each photograph.

[S 4 of the PCBP (LC) Reg.]

Application for Registration of Name and Emblem

Application by prescribed body for the registration of its name and emblem

4.43 A prescribed body intending to support a candidate in a LegCo election may at any time apply to the EAC for the registration of all or any of the following particulars:

- (a) the Chinese name of the body;
- (b) an abbreviation of the Chinese name of the body;
- (c) the English name of the body;
- (d) an abbreviation of the English name of the body;
- (e) an emblem of the body.

4.44 An application must be made in the specified form and signed by the applicant. It should indicate that the applicant is a prescribed political body or a prescribed non-political body and that the applicant intends to consent to the subject of application being printed on a ballot paper as particulars relating to one or more persons as candidates. The application must also be accompanied by a copy of the certificate or document issued to the body by an authority or regulatory organisation that regulates the body under the laws of Hong Kong and showing the name of the body.

[S 8 of the PCBP (LC) Reg.]

Application by prescribed person for the registration of his emblem

4.45 A prescribed person intending to run in a LegCo election may at any time apply to the EAC for the registration of an emblem of the person.

4.46 An application must be made in the specified form and signed by the applicant.

[S 9 of the PCBP (LC) Reg.]

Timing of Application

4.47 Applications for registration may be submitted at any time. However, applicants should note that:

- (a) for names and emblems to be used in the 2004 LegCo election, the application must be submitted not later than 1 April 2004; and
- (b) for subsequent LegCo elections, application must be submitted not later than 15 April of each year.

Processing of Application

4.48 The EAC will process any application made by a prescribed body or a prescribed person -

- (a) if the application is made on or before 1 April 2004, as soon as practicable after that date, and in any event within 2004; or

- (b) if the application is made after the 15 April in a subsequent year, as soon as practicable after that date, and in any event within that calendar year.

[S 11 of the PCBP (LC) Reg.]

4.49 If the EAC is of the opinion that it may refuse to grant an application made by a prescribed body or a prescribed person, it must give the applicant a notice in writing. The applicant may, within 14 days after the notice is given, vary the application or make representation to the EAC on why it should not refuse to grant the application [ss 12 and 13 of the PCBP (LC) Reg].

4.50 If the EAC, having considered an application made by a prescribed body or a prescribed person, is of the opinion that it may grant the application, it will publish a notice in respect of the application in the Gazette –

- (a) specifying the name of the applicant and the subject of the application;
- (b) stating that the EAC may grant the application; and
- (c) inviting any person who objects to the granting of the application to make objection to the EAC in accordance with s 15 of the PCBP (LC) Reg.

[S 14 of the PCBP (LC) Reg.]

4.51 Under s 15 of the PCBP (LC) Reg, any person may, within 14 days after the publication of a notice in respect of an application in the Gazette, by notice in writing given to the EAC, object to the granting of the application.

4.52 In the event of an objection, the EAC will conduct a hearing. Under normal circumstances, a hearing will be held in public. However, a hearing may be held in private if it is in the interest of justice to do so. The EAC will make a decision on whether the application should be granted after hearing the representations and examining the relevant materials.

4.53 The EAC will, as soon as practicable after a decision is made to grant an application made by a prescribed body or a prescribed person, publish a notice in respect of the application in the Gazette specifying the name of the applicant and the subject of the application. If a decision is made to refuse an application, the EAC will notify the applicant in writing of the EAC's decision with reasons for its refusal. [S 19 of the PCBP (LC) Reg.]

4.54 The time needed to process an application will depend on whether an application is straightforward. If an application does not require variation and is not objected to by the public, the time required to process it will not be more than 7 weeks, if the application is made during the first registration cycle. If the application is made during any subsequent cycle, not more than 6 weeks will be required.

4.55 If an application does not meet the vetting criteria during the "preliminary processing" stage and needs to be varied, or if objection against the application is raised by the public, the total processing time may take not more than 16 weeks in the first registration cycle, and not more than 13 weeks in any subsequent cycle.

Registration and De-registration of Name, Emblem, etc.

4.56 A register of the relevant particulars in respect of the registered names and emblems of prescribed bodies and the registered emblems of prescribed persons will be established and maintained by the CEO who must

make the register available for inspection, free of charge, by members of the public during ordinary business hours at the REO [s 20 of the PCBP (LC) Reg].

4.57 The EAC may de-register the name and emblem that is registered in relation to a prescribed body on the grounds that –

- (a) no request is made to print the subject of registration on ballot papers in 2 consecutive general elections or in any by-election held between such general elections; or
- (b) the body ceases to exist.

4.58 The EAC may also de-register the emblem that is registered in relation to a prescribed person on the grounds that -

- (a) no request is made to print the subject of registration on ballot papers in 2 consecutive general elections or in any by-election held between such general elections; or
- (b) the person has died.

[S 21 of the PCBP (LC) Reg.]

PART IX : PUBLICITY

4.59 After the close of nominations, the RO will inform each validly nominated candidate/list of candidate(s) the time and date on which he will draw lots to allocate a number to each candidate/list of candidate(s) to be shown on the ballot paper and they may attend if they so wish. Thereafter, the

REO will publish a brief introduction of the candidates in the form of a leaflet. The number of each candidate or list of candidate(s) on the ballot paper allocated to him or the list by the drawing of lots will also be shown on this introductory leaflet. The leaflet will be mailed to the electors close to the time of the polling day.

4.60 Candidates are free to make use of this introductory leaflet to promote themselves. Any candidate who so wishes should submit the following to the relevant RO **before the close of the nominations:**

- (a) an introductory message in a specified form provided by the RO;
and
- (b) 5 identical copies of his photograph with his name on the back which must be in specified size, in colour and taken within the last 6 months.

4.61 The contents, nature and presentation of the candidates' messages in the introductory leaflets are exclusively the idea and work of the candidate himself. They will not be subject to alteration or edition by the REO unless they are considered to be indecent, defamatory or in any other way unlawful. Candidates are reminded that some electors are only able to read English.