

CHAPTER 16

ELECTION EXPENSES AND DONATIONS

PART I : WHAT CONSTITUTES ELECTION EXPENSES

16.1 Provisions relating to election expenses can be found in the ECICO.

16.2 **Election expenses** mean expenses incurred or to be incurred **before, during or after an election**, by a candidate or his election expense agent on his behalf for the purpose of promoting his election, or prejudicing the election of another candidate or other candidates and include the value of election donations consisting of goods and services used for that purpose [s 2 of the ECICO]. The term “candidate” relating to election expenses (and donations) therefore includes a person **who has publicly declared an intention to stand for election** in respect of a constituency at any time before the close of nominations for the election, regardless of whether he has submitted his nomination form or after submission of the nomination form, his nomination is ruled invalid by the RO [s 2 of the ECICO]. A prescribed person who has applied under PCBP (LC & DC) Reg to have his emblem registered should not, by that act alone, be treated as having publicly declared an intention to stand for election. As the list voting system of proportional representation applies to the election of the GCs, where GC lists instead of individual candidates will contest the election, a candidate who is on a GC list should pay attention to the special features applicable to the GC lists as set out in Part VII, although the law and guidelines in this chapter referable to candidates apply generally to the GC lists. *[Amended in October 2007]*

16.3 A candidate may receive **donations** for the purpose of meeting the costs of his election expenses. Donation, in relation to a candidate or candidates at an election, means any of the following donations:

- (a) any money given to or in respect of him for the purpose of meeting or contributing towards meeting his election expenses; or
- (b) any goods given to or in respect of him for the purpose of promoting his election or of prejudicing the election of another candidate or other candidates and includes any goods given incidental to the provision of voluntary service; or
- (c) any service provided to or in respect of him for the purpose of promoting his election or of prejudicing the election of another candidate or other candidates, but does not include voluntary service.

[S 2 of the ECICO.]

A donation to a candidate on a GC list will necessarily be a donation to all the individual candidates on the list jointly [see Part VII of this chapter]. All such donations, whether in cash or in kind, when spent or used, are counted as election expenses. [For details, see Part III of this chapter.]

16.4 There is no defined time as to when expenses are incurred whereby they will or will not be counted as election expenses. It is a question of fact in each case. For as long as an expense is incurred either for the purpose:

- (a) of promoting the election of a candidate; or

- (b) of prejudicing the election of another candidate or other candidates;

it will be an election expense, irrespective of when it is incurred, either before, during or after the election, and regardless of the source of funding.

16.5 A list of common expenditure items which may be counted towards election expenses is at **Appendix M**. The list is only illustrative and should not be considered as having precedence over the legislation. Whether a particular item of expenditure should be regarded as an election expense is a question of fact to be answered in the circumstances of each case. Each case should be determined by reference to the purpose behind the expenses, taking account of the nature, circumstances and context of the expenditure. Personal expenses incurred in the normal course of a candidate's daily life are not election expenses. Use of staff and other resources which are available to a candidate in his official capacity or at work for the purpose of promoting his candidature in the election should be counted as election expenses. Candidates should consult their legal advisers if they have doubt as to whether an expenditure item should count as an election expense. Any legal fees incurred as a result will not themselves be counted as election expenses.

16.6 A candidate should not use any public resources for the purpose of promoting his election or prejudicing the election of another candidate or other candidates at the election. However, any security, transportation, secretarial and living quarters services to which he is entitled to use for his private purposes by virtue of his post or job are not treated as public resources in this context.

PART II : WHO MAY INCUR ELECTION EXPENSES AND THEIR LIMIT

Maximum Amount of Election Expenses

16.7 The maximum amount of election expenses for elections for the different constituencies is prescribed by the Maximum Amount of Election Expenses (Legislative Council Election) Regulation to limit the maximum amount of expenses a candidate/GC list may incur on account of the election. These expense limits control the extent of election campaigns and serve to prevent candidates with ample financial resources from having an unfair advantage. *[Amended in October 2007 and July 2008]*

16.8 The election expense limits are set out in the following table. For ascertaining the number of registered electors referred to in items (c), (d) and (e), inquiry can be made with the RO for the constituency concerned.

Constituencies	Election Expense Limits ⁶
(a) for a GC election:	
(i) for a list in Hong Kong Island GC	\$2,100,000
(ii) for a list in Kowloon East and Kowloon West GCs	\$1,575,000
(iii) for a list in New Territories East and New Territories West GCs	\$2,625,000

⁶ These election expense limits will take effect upon the commencement of operation of the Maximum Amount of Election Expenses (Legislative Council Election) Regulation on 18 July 2008.

Constituencies	Election Expense Limits ⁶
(b) for an election for one of the following 4 SFCs, viz, Heung Yee Kuk, Agriculture and Fisheries, Insurance, and Transport FCs	\$105,000
(c) for an election for an FC other than those in (b) above with not more than 5,000 registered electors	\$168,000
(d) for an election for an FC with between 5,001 and 10,000 registered electors	\$336,000
(e) for an election for an FC with over 10,000 registered electors	\$504,000

[Amended in July 2008]

16.9 A candidate must not incur any election expenses in excess of the maximum amount prescribed [s 24 of the ECICO]. Candidates on a GC list must not jointly or severally incur any election expenses in excess of the maximum allowed for each list for that GC, lest they will commit an illegal conduct.

Persons Authorised to Incur Election Expenses

16.10 Only a candidate or a person (including a fellow candidate on the same list in a GC election) who has been duly authorised by a candidate as the candidate's election expense agent may incur election expenses [s 23 of the ECICO]. The authorisation should follow the procedures specified in Part VI of Chapter 7.

16.11 **Negative campaigning** (ie canvassing against other candidates). Before incurring expenses in carrying out any negative campaigning for or for the benefit of a candidate, a person will need the authorisation of the candidate to be the election expense agent of the candidate. Such expenses will be counted towards election expenses of the candidate. If the negative campaign includes EAs, all the requirements of the ECICO and of the EAC (EP) (LC) Reg made by the EAC must also be complied with. *[Amended in October 2007]*

16.12 Candidates should advise the organisations with which they are associated and which may incur expenses to support them of these guidelines as soon as they have any intention or plan to run for an election, to avoid any offences being committed by these organisations out of ignorance.

16.13 A candidate will be responsible for the overall amount of his election expenses. In the event the total amount incurred by him and/or on his behalf is above the limit prescribed or above the limit he has authorised his election expense agent to expend, he will be liable for contravening the law, unless he can prove that the excess was incurred without his consent, beyond his authorisation, or not due to any negligence on his part. The election expense agent, on the other hand, should not incur an amount of election expenses which exceed the limit authorised by the candidate, lest the agent will contravene s 23 of the ECICO [ss 23 and 24 of the ECICO].

PART III : DONATIONS

General Provisions

16.14 A person who has made known his intention to stand as a candidate in an election may receive donations for the sole purpose of meeting his election expenses.

16.15 Donations can only be used for meeting, or contributing towards meeting, a candidate's election expenses, or in the case of an election donation consisting of goods or services, for the purpose of promoting the election of the candidate or of prejudicing the election of another candidate or other candidates [s 18 of the ECICO].

16.16 Donations can be in cash or in kind, and include any money's worth, any valuable security or other equivalent of money and any valuable consideration. All spent or used donations, whether in cash or in kind, which may be received before, during or after an election, are counted towards the total election expenses which are subject to the maximum amount prescribed.

16.17 Any unspent or unused donations must be given to charitable institution(s) or trust(s) of a public character chosen by the candidate(s). Any amount of donations that exceeds the upper limit of election expenses must also be given to such charitable institution(s) or trust(s) [s 19 of the ECICO].

16.18 Since election donations can only be lawfully spent for meeting or contributing towards meeting election expenses, donations and expenses are often corresponding to each other. For every item of election expense which is avoided or reduced by obtaining the goods supplied or services rendered free of charge or at a discount, there should normally be a corresponding item of

donation. The only exception is voluntary services obtained that are not treated as donations (any goods given incidental to the provision of a voluntary service will however be counted as an election donation). These points are elaborated in the paragraphs under Donations in Kind of this chapter.

16.19 On receiving a donation, of money or in kind, of more than \$1,000 in value, a candidate must issue to the donor a receipt which specifies the name and address of the donor (as supplied by the donor). A standard form of receipt is obtainable from the REO and will be provided to a candidate or GC list at the time of his submitting the nomination form. While it is not uncommon that some donors would like to be anonymous, if a donation, in cash or in kind, is more than \$1,000 in value, then only where the donor's name and address (as supplied by the donor) are shown as required by the standard form of donation receipt can it be used as election donation. Donations exceeding \$1,000 or, in the case of an election donation consisting of goods, of more than \$1,000 in value received from anonymous donors must not be used for election expenses and must be given to a charitable institution or trust of a public character chosen by the candidate(s) [s 19(2) of the ECICO].
[Amended in October 2007]

Donations in Kind

16.20 Donations in kind include goods and services obtained free of charge or at a discount. Unless the discount is generally available to all customers, the difference between the market/regular price and the price charged is a donation and must be declared and included as such and correspondingly as an election expense in the form of return. The same principle applies to loans obtained at no interest or at an interest rate lower than usual. Unless the facility is generally available to others, the interest not charged must be declared and included as a donation and election expense in the form of return. For premises provided free of charge to a candidate for his

election campaign, a reasonable amount should be assessed as the deemed rental for the premises and such be included as a donation and election expense in the form of return.

16.21 For services or goods obtained free of charge, a candidate must include in the return their estimated value as if the expenses had been incurred. Where the services or goods are furnished by a person who deals in similar services or goods with the public, their estimated value should be assessed at the lowest price at which the person offers his services or goods to the public at the time when they are furnished. Where such services or goods are furnished by persons who do not deal in similar services or goods with the public, their estimated value should be assessed at the lowest market retail price at the time when they are furnished.

16.22 **Voluntary service** is the only service rendered free of charge which may be excluded from being counted as election expenses. In addition to being free of charge, the service must be provided by a natural person, voluntarily and personally, in his own time for the purpose of promoting the election of the candidate or candidates, or of prejudicing the election of another candidate or other candidates [s 2 of the ECICO]. Otherwise, the service provided should be treated as a donation and counted towards election expenses at a fair estimated value. *[Amended in October 2007]*

PART IV : RETURN AND DECLARATION OF ELECTION EXPENSES AND DONATIONS

16.23 A candidate must keep an accurate account of all election expenses incurred and donations (whether in cash or in kind) received, and submit to **the CEO a return and declaration of election expenses and**

donations in a standard form (which will be given to a candidate upon his submission of nomination) **not later than 60 days after the publication in the Gazette of the result of the election, or not later than 60 days after the declaration of the termination of the election proceedings under the relevant electoral law, or not later than 60 days after the declaration of the failure of the election under the relevant electoral law** [s 37 of the ECICO].
[Amended in October 2007]

16.24 The return must cover all the election expenses incurred by the candidate or the person(s) so authorised by him, services or goods obtained free of charge or at a discount and any unpaid claims. It must be submitted with supporting invoices and receipts for all payments each of \$100 and above. The copies of receipts issued by the candidate for any donations of more than \$1,000 and those issued by charitable institutions or trusts of a public character for the collection of any unspent or excessive donations should also be attached [s 37 of the ECICO].

16.25 At the time of his submitting his nomination form, a candidate will be given:

- (a) the standard form for making return and declaration of election expenses and donations mentioned in para. 16.23 above, together with a standard form of receipt for donations mentioned in para. 16.19 above;
- (b) the standard form for advance return of donations [see para. 16.28 below];
- (c) a specimen of the standard form with examples showing how the return and declaration can be completed; and

- (d) explanatory notes on how to complete the returns.

A candidate should read the explanatory notes carefully in completing the return, and make reference to the specimen whenever necessary.

Omissions and Mistakes

16.26 If a candidate is unable or fails to send to the CEO the return and declaration of all election expenses and donations before the end of the permitted period or omits an item in it or makes a mistake in it, and such inability, failure, omission or error was due to his own illness or absence from Hong Kong or of the absence from Hong Kong, death, illness or misconduct of any agent or employee of the candidate or by reason of inadvertence or accidental miscalculation or any reasonable cause (but not by reason of want of good faith of the candidate), he has the right to make an application to the Court of First Instance for an order to send in the return and declaration late, or to correct the omission or mistake [s 40 of the ECICO]. When the candidate finds himself in such a situation, it would be wise of him to make the application to the Court and inform the REO as soon as possible. The legal costs so incurred will not be regarded as his election expenses. It is a corrupt conduct if a candidate who, in an election return lodged under s 37 of the ECICO, makes a statement that he knows or ought to know is materially false or misleading [s 20 of the ECICO]. *[Amended in October 2007]*

PART V : ADVANCE RETURN OF DONATIONS

16.27 Any candidate who is an incumbent public servant under the POBO, eg a serving member of the LegCo or a DC, etc, may give advance disclosure to the CEO of any donations received. This may enable such

incumbent member to avoid any inadvertent contravention of the provisions of the POBO relating to the acceptance of “advantages”. The donations so disclosed must also be incorporated in the return and declaration of all election expenses and donations to be submitted to the CEO not later than 60 days after the publication in the Gazette of the result of the election, or not later than 60 days after the declaration of the termination of the relevant proceedings under the relevant electoral law, or not later than 60 days after the declaration of the failure of the election under the relevant electoral law [s 37 of the ECICO]. The general provisions regarding donations in Part III must be observed.
[Amended in October 2007]

16.28 Any **advance return of donations** must be made on the standard form mentioned in para. 16.25 above.

16.29 Depending on the time and the number of donations received, a candidate may submit any number of advance returns of donations to the CEO.

PART VI : FINANCIAL ASSISTANCE

16.30 Under the Financial Assistance Scheme for candidates and lists of candidates standing in LegCo elections in respect of election expenses, candidates or lists of candidates who get elected or who have received 5% of valid votes or more and are not disqualified will be eligible for financial assistance as follows:

- (a) in respect of a candidate or a list of candidates in a contested GC or FC, the amount payable is the lower of the following:
 - (i) the amount obtained by multiplying the total number of valid votes cast for the candidate or list of candidates by the specified rate at \$11 per vote⁷; *[Amended in July 2008]*

⁷ This specified rate will take effect upon the commencement of operation of the Legislative Council Ordinance (Amendment of Schedule 5) Order 2008 on 18 July 2008.

- (ii) 50% of the declared election expenses of the candidate or list of candidates;
- (b) in respect of a candidate or a list of candidates in an uncontested GC or FC, the amount payable is the lower of the following:
 - (i) the amount obtained by multiplying 50% of the number of registered electors for the constituency by the specified rate at \$11 per vote⁷; *[Amended in July 2008]*
 - (i) 50% of the declared election expenses of the candidate or list of candidates.

The amount of election donations received by a candidate or a list of candidates will not be taken into account in calculating the amount of financial assistance payable to the candidate. As election donations will not be netted off in calculating the amount of financial assistance payable to a candidate or a list of candidates, the amount of financial assistance payable to a candidate or a list of candidates in some cases may be greater than the amount of his or their net election expenses⁸. The broad procedural and documentary requirements for making a claim, and general conditions for payment to be made are provided in Part VIA of the LCO. The EAC (FA) (APP) Reg sets out the detailed implementation procedures for the Scheme. *[Amended in October 2007]*

Making Claims and their Submissions

Requirements to be complied with when making claims

16.31 A claim for financial assistance shall be made by a candidate or a

⁸ This may occur if the candidate or list of candidates secures donations which exceed 50% of his or their total election expenses.

list of candidates in a specified form (which will be provided by the REO at the time when candidates submit their nominations). It will be signed by an eligible candidate, or in respect of an eligible list of candidates by all candidates on the list (or if there is only one candidate on the list, by that candidate). The claim form will be accompanied by:

- (a) an election return made under s 37 of the ECICO; and
- (b) an auditor's report which confirms that an auditor has audited the account of the declared election expenses by conducting a reasonable assurance engagement in accordance with the Hong Kong Standards on Assurance Engagements, and states the auditor's opinion as to whether the election return complies with s 37(1)(a) and (2)(b)(i) and (v) of the ECICO in all material respects.

[S 3 of the EAC (FA) (APP) Reg.] *[Amended in October 2007]*

16.32 A set of guidance notes will be prepared by the REO with assistance by the Hong Kong Institute of Certified Public Accountants ("HKICPA") for auditors who are engaged by candidates to perform the auditing task. These notes will be issued by the HKICPA to its members prior to the LegCo election. *[Amended in October 2007]*

16.33 Since the auditing fee is not incurred for the purpose of promoting candidature or prejudicing another candidate, it should not be regarded as an election expense. Accordingly, an elected candidate could accept an advantage to meet the auditing fee incurred and he would not be required to report the acceptance in his election return. S 4 of the POBO does not prohibit the acceptance of such an advantage *per se*, but if an elected candidate decides to accept such an advantage, he should ensure that the acceptance is not in breach of the relevant provisions in s 4 of the POBO.

Submission of claims

16.34 The claim form, together with the accompanying documents, shall be submitted in person at the office of the CEO by the candidate or one of the candidates of a GC list (or if there is only one candidate on the list, by that candidate) who has signed the claim form, or his agent, within 60 days after the publication in the Gazette of the result of the election [s 4 of the EAC (FA) (APP) Reg]. *[Amended in October 2007]*

Verification of Claims

Verification by CEO

16.35 On receiving a claim, the CEO will check the eligibility for financial assistance of the candidate or the list of candidates. He will also verify that the claim conforms to the requirements set out in the EAC (FA) (APP) Reg.

Requirement for further information

16.36 The CEO may require the claimant, through a written request, to provide further information to verify the claim. The claimant must provide the information within 14 days or within the period provided for in ECICO for lodging an election return, whichever is later. If the claimant fails to provide the information within the period, the CEO may stop processing the claim without any prior notice.

[S 5 of EAC (FA) (APP) Reg.]

Part processing of claims

16.37 If an auditor's report states that only part of the election return complies with the requirements set out in the relevant sections of the ECICO, the CEO may process that part of the return that complies with those requirements and may stop processing the part of the return that does not comply with those requirements [s 6 of the EAC (FA) (APP) Reg]. *[Amended in October 2007]*

Withdrawal of Claims

16.38 A claim may be withdrawn before a payment of financial assistance is made by submitting a notice of withdrawal in person at the office of the CEO by the candidate, or by one of the candidates in the case of a claim made by an eligible list of candidates (or if there is only one candidate on the list, by that candidate), or his agent. The notice of withdrawal must be in a specified form and signed by the candidate, or by all the candidates in the case of a claim made by a list of candidates [s 7 of the EAC (FA) (APP) Reg]. *[Amended in October 2007]*

Payment of Claim after Verification

Payment to be made by the Director of Accounting Services ("DAS")

16.39 After verifying the claim, the CEO will certify the amount of financial assistance payable on the claim and notify the DAS of the amount payable and the person to whom it is to be paid. As soon as practicable after receiving the notification, the DAS must make the payment in accordance with the notification. In the case of an eligible list of more than one candidate, the payment is to be made to the candidate who is nominated in the claim form to receive the payment on behalf of the candidates on the list [s 8 of the EAC (FA) (APP) Reg].

Recovery of Payment

16.40 Where a payment of financial assistance is made and the recipient is not entitled to receive the whole or part of the amount paid, the CEO is required to send a written notice under s 60H(1)(a) of the LCO by registered post to the recipient requiring repayment. The recipient may make the repayment, in person, at the office of the CEO or send the repayment by post [s 12 of the EAC (FA) (APP) Reg].

PART VII : SPECIAL FEATURES APPLICABLE TO THE LIST OF CANDIDATES IN A GEOGRAPHICAL CONSTITUENCY ELECTION

16.41 The guidelines in this chapter and the provisions of the ECICO apply generally to each and every candidate who is on a GC list. This Part draws attention of those candidates and their agents to the special features that are applicable to the GC list.

16.42 As stated in item (a) of para. 16.8, a particular ceiling of election expenses applies to each of the GC lists in respect of a particular GC. The election expenses to be incurred by all the candidates on the GC list, or a single candidate on the GC list, cannot exceed the applicable ceiling, or else the candidate(s) on the GC list will be guilty of an illegal conduct under s 24 of the ECICO.

16.43 Any election expenses incurred by or on behalf of a candidate on a GC list for promoting the election of the candidate or list of candidates, or for prejudicing the election of another candidate or list of candidates, or any one of such candidates [see para.16.2 above] will necessarily be election expenses incurred for the whole GC list, because they are not only incurred for a

particular candidate, but for promoting or benefiting the election of the GC list in its entirety, regardless of the candidate's rank of priority on the GC list. An authorisation to an election expense agent, be he one of the candidates on the GC list or otherwise, to incur election expenses for a candidate on the GC list, therefore, must necessarily be an **authorisation** to incur election expenses for all the candidates on the GC list, and thus it needs to be **signed by all the candidates on the list**, and not just by the candidate alone. By the same reason, each candidate on the same GC list must authorise the other fellow candidate(s) to be his election expense agent(s), or otherwise none of the other fellow candidates can lawfully incur election expenses for him, or for the whole list which includes him. The election expenses incurred by any candidate on a GC list individually, whether before or after the formation of the list, form part of the election expenses capped by the applicable ceiling and must be counted towards the maximum amount allowed.

16.44 In order to ensure that each of the candidates on a GC list will cross-authorise one another as his election expense agent(s), such candidates will be required to sign a **return and declaration of election expenses already incurred and cross-authorisation form (which will be given to a candidate upon his submission of nomination)** and submit it to the relevant RO or the CEO, as the case may be, for the following purposes:

- (a) to declare the amount of election expenses each of them has already incurred for himself up to the time when the declaration is made;
- (b) to declare the amount of election expenses each of them and of the election expense agents is authorised to incur for the list for the election campaign which, taking into account the expenses already incurred as referred to in (a) above, should not exceed the

election expense ceiling applicable to the GC; and

- (c) to cross-authorise each other and the election expense agents for the spending of the amounts to be incurred declared in (b) above.

All the candidates on the GC list must sign the declaration on the last page of the return before a Commissioner for Oaths or other authorised persons. It is important to note that the authorisation is not effective until it has been received by the relevant RO or the CEO, as the case may be. So long as the sum total of the amounts in (a) and (b) above does not exceed the applicable ceiling for the GC, the candidates on the GC list can decide the exact amount each is to expend for their campaign. However, candidates are advised that it would be wise to reserve a comfortable cushion below the ceiling when making the initial decision. The reason is that if any one of them wishes to expend above the amount to be incurred as declared in (b), this further expenditure could be covered by the cushioned amount. Moreover, since each candidate on a GC list is an election expense agent, he cannot by himself delegate to any third party to incur election expenses for the GC list. Any election expense agent must receive a written authorisation from **all** the candidates on the GC list **before** he can incur such expenses without contravening s 23 of the ECICO.

16.45 If there is any proposed alteration of the amount of election expenses any one of the candidates on a GC list has been authorised to incur under the cross-authorisation referred to in para. 16.44(b) above, all candidates of the GC list are required to sign another declaration form for the purpose and submit it to the relevant RO or the CEO, as the case may be. If there is any proposed alteration of the amount of election expenses that any election expense agent has been authorised by all the candidates on a GC list to incur, the same procedure applies.

16.46 The reasoning set out in para. 16.43 above applies similarly to election donations. **All candidates** on a GC list are required to **sign a form of return and declaration of election expenses and donations** after the election. In the form, donations must include the amount of contribution each of them has made and donations from other sources for the election campaign for the promotion of the GC list. A particular section is included in the form specially with application to a GC list of candidates, who are required to complete and sign the form together. All the candidates on the GC list must sign the declaration on the last page of the return before a Commissioner for Oaths or other authorised persons. However, each candidate on the GC list is responsible for the amount of election expenses he has incurred and authorised by the other fellow candidates to incur, which must be stated in the return with supporting receipts.

16.47 Candidates from the FCs/SFCs need to complete a different form on return and declaration of election expenses and donations.

PART VIII : ENFORCEMENT AND PENALTY

Enforcement

16.48 The returns will be made available at the REO for public inspection up to the first anniversary of the date on which the result of an election is published. Copies of the returns will be furnished to any person upon request subject to payment of copying fee at a fixed rate [s 41 of the ECICO].

16.49 Any complaint or report of breach of these guidelines may be

made to the relevant RO, the REO or to the EAC or its Complaints Committee direct. The EAC or its Complaint Committee may, after consideration, refer the cases to the relevant authorities for investigation and prosecution.

16.50 The REO will check all returns of election expenses and donations. Irregularities detected will be reported to the relevant authorities for investigation.

Penalties

16.51 It is an illegal conduct for a candidate to incur election expenses in excess of the maximum amount prescribed. It is also an illegal conduct for a person, other than a candidate or a candidate's election expense agent, to incur election expenses. An election expense agent engages in illegal conduct if he incurs election expenses in excess of the amount authorised. Such illegal conduct is punishable by a fine of up to \$200,000 and imprisonment of up to 3 years [ss 22, 23 and 24 of the ECICO].

16.52 A candidate who uses any donation for any purpose other than for meeting his election expenses, or fails to dispose of unspent or excessive donations in accordance with s 19 of the ECICO commits a corrupt conduct punishable by a fine of up to \$500,000 and imprisonment of up to 7 years [ss 6, 18 and 19 of the ECICO].

16.53 A candidate who fails to submit the return and declaration of election expenses and donations by the prescribed date or who fails to provide an accurate account of all expenses incurred and all donations received with the required supporting documents commits an offence, punishable by a fine of up to \$200,000 and imprisonment of up to 3 years [s 38 of the ECICO].

16.54 A candidate who knowingly makes a materially false or

misleading statement in his return and declaration of election expenses and donations or any advance return of donations commits a corrupt conduct punishable by a fine of up to \$500,000 and imprisonment of up to 7 years [ss 6 and 20 of the ECICO].

16.55 A candidate, who having been elected to the LegCo, acts in the office or participates in the affairs of the LegCo without filing the return and declaration of election expenses and donations before the end of the permitted period commits an offence, punishable by a fine of \$5,000 for every day after such expiration on which he so sits or votes in such body [s 39 of the ECICO].

16.56 A person convicted of a **corrupt conduct or illegal conduct** within the meaning of the ECICO will, in addition to the penalties set out in paras. 16.51-16.55 of this chapter, be disqualified:

- (a) for 5 years from being nominated as a candidate for the election of, or elected as, the CE, a member of the LegCo or DC or a VR from the date of conviction [ss 14 and 20 of the CEEQ, s 39 of the LCO, s 21 of the DCO and s 23 of the VREO]; and
- (b) for 3 years from being nominated as a candidate for the election of, or from being nominated or elected as, an Election Committee (“EC”) member from the date of conviction [ss 9 and 18 of the Schedule to the CEEQ].

[Amended in October 2007 and January 2010]