ICAC

守法規
重廉潔

Abide by the Rules
Support Clean Elections

廉潔選舉資料冊
CLEAN ELECTIONS INFORMATION BOOKLET

行政長官選舉
Chief Executive Election

選舉委員會
界別分組選舉
Election Committee
Subsector Elections

目錄 CONTENTS

前 言		4
第一部分	問題剖析	5
第二部分	選舉案例撮要	33
第三部分	選舉備忘	41
第四部分	舉報及查詢途徑	51
附錄	《選舉（舞弊及非法行為）條例》摘錄	55

FOREWORD		86
PART 1	Questions and Answers	87
PART 2	Gist of Past Election Cases	125
PART 3	Dos and Don'ts Checklist	137
PART 4	Channels for Reports and Enquiries	147
Appendix	Extracts from the Elections (Corrupt and Illegal Conduct) Ordinance	151

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Disclaimer

This Information Booklet provides general guidance only and does not cover all possible scenarios. Explanations of the legal requirements offered in this Information Booklet are broad and often in summary form. Candidates and their election helpers are advised to refer to the text of the legislation and seek independent legal advice in case of doubt. They should also study in detail the relevant legislations and the guidelines issued by the Electoral Affairs Commission to avoid contravention of the related laws and regulations. The Independent Commission Against Corruption will accept no liability or responsibility for any loss caused to any person acting or refraining from acting in any way as a result of any material contained in this Information Booklet.

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前 言

選舉委員會界別分組選舉及行政長官選舉均受《選舉（舞弊及非法行為）條例》（第 554 章）監管。該條例由廉政公署負責執行，旨在確保本港的公共選舉廉潔公正，並防止舞弊及非法行為的出現。

為幫助參與上述選舉的候選人及助選成員認識有關法例的條文及精神，廉政公署特別編製了這份資料冊，供他們參考。

本資料冊分為四部分。第一部分的問題剖析，乃歸納過往參選人士的提問和他們所關注的事項，透過問答形式帶出法例之精神及其條文的適用情況，當中包括不同的問題，分別適用於選舉委員會界別分組選舉及行政長官選舉。第二部分收錄以往選舉中有關案例的撮要。第三部分的選舉備忘列出候選人及助選成員在競選活動中應留意的重點。第四部分提供向廉政公署舉報及查詢的途徑。《選舉（舞弊及非法行為）條例》的主要條文則載於本資料冊的附錄。

廉政公署為選舉委員會界別分組選舉及行政長官選舉設立專題網站（www.icac.org.hk/elections），供市民瀏覽本資料冊的內容及廉政公署為相關選舉所提供的教育及宣傳服務詳情。市民亦可致電廉潔選舉查詢熱線（電話：2920 7878）查詢有關法例條文或邀請廉政公署派員講解《選舉（舞弊及非法行為）條例》。

第一部分

問題剖析

此「問題剖析」部分包括三節，第一節的問題為選舉中一般常見的問題，同時適用於**選舉委員會界別分組選舉（下稱「界別分組選舉」）**和**行政長官選舉**。第二節的問題與**界別分組選舉**有關，而第三節的問題則與**行政長官選舉**有關。

第一節（下述選舉指界別分組選舉或行政長官選舉）

問 1

某位人士在選舉提名期前設立個人網頁介紹自己，亦提及有意參加即將舉行的選舉，並呼籲選民支持他。他雖尚未被提名，但會否因上述舉動而被視為「候選人」？若他在提名期結束前最終沒有遞交提名表格，是否也要提交選舉申報書？

答 1

- 《選舉（舞弊及非法行為）條例》（第 554 章）第 2 條清楚訂明，「候選人」除了指已在選舉中接受提名為候選人的人士外，亦包括那些在選舉提名期結束前的任何時間曾公開宣布有意參選的人士。由於上述人士在其個人網頁中已公開表示自己有意參選，雖然尚未被提名為候選人，但根據上述條例的定義，他已被視為該次選舉的「候選人」。

- 由於上述人士已被視為上述條例定義下的「候選人」，所以必須遵守《選舉（舞弊及非法行為）條例》對「候選人」的規定。例如，「候選人」須把為促使自己當選或阻礙其他候選人當選而於選舉期間之前、在選舉期間內或在選舉期間後招致或將招致的開支納入選舉開支，並須在選舉申報書中如實申報。因此，上述候選人用以製作及發布宣傳自己參選的網頁所涉及的費用須計算為他的選舉開支。

- 即使這名曾公開宣布有意參選的人士最終沒有遞交提名表格，但作為上述條例定義下的「候選人」，他仍須按法例的要求行事，包括於法定限期屆滿前向總選舉事務主任提交選舉申報書。

問 2

某人向一名有意參選的人士提供利益，要求對方不要參選，這樣做會否觸犯《選舉（舞弊及非法行為）條例》？如果該準候選人其後受到威嚇阻止其參選，他應如何處理？

答 2

- 根據《選舉（舞弊及非法行為）條例》第 7 條，任何人舞弊地向他人提供利益，以誘使或酬謝該人士在選舉中參選或不參選、或不盡最大努力促使自己當選、或在獲提名為候選人後撤回接受提名，均屬違法。因此，上述人士藉提供利益，誘使他人在選舉中不參選，便會觸犯法例。任何人舞弊地索取或接受利益作為在選舉中參選或不參選的誘因或報酬，亦會犯法。

- 此外，同一條例的第 8 及 9 條亦訂明，任何人不得施用或威脅施用武力或脅迫手段、或以欺騙手段誘使另一人在選舉中參選、不參選或撤回接受提名，否則，該人士亦會觸犯法例。

- 候選人或準候選人如遇上述情況，應向廉政公署舉報。如遇人身威脅，更應立即報警。暴力只會破壞選舉的公信力，所有人均應摒棄暴力。

問 3

一名曾任鄉郊代表的候選人，於選舉期間印製及派發宣傳單張，介紹他自己，以及過去以鄉郊代表身分所做的工作及服務，他有甚麼需要注意？

答 3

- 根據《選舉（舞弊及非法行為）條例》第 2(3) 條，如候選人在選舉期間（即有關選舉的提名期首日起至投票結束當日的期間）發布文件，列明他以行政長官、選舉委員會委員、立法會議員、區議會議員、鄉議局議員、鄉事委員會主席、副主席或執行委員會委員、或鄉郊代表的身分所做工作的詳細資料，則該文件屬

選舉廣告。因此，上述候選人在選舉期間派發有關他過去作為鄉郊代表所做工作的宣傳單張，符合選舉廣告的定義。有關印製及分發該單張所招致的費用必須納入該候選人的選舉開支內，並在其選舉申報書中清楚列明。

- 須注意的是即使該宣傳單張在提名期開始前發布，若候選人已公開宣布有意參選，且發布宣傳單張的目的是為促使有關候選人當選或阻礙其他候選人當選，則根據《選舉（舞弊及非法行為）條例》第 2(1) 條，該宣傳單張亦屬選舉廣告，有關開支必須計算為候選人的選舉開支。

- 就界別分組選舉而言，候選人必須遵守《選舉管理委員會（選舉程序）（選舉委員會）規例》（第 541I 章）第 108 條及由選舉管理委員會發出的「選舉委員會界別分組選舉活動指引」就選舉廣告的規定，包括在發布任何選舉廣告後的三個工作天內，把每份選舉廣告的電子文本及相關資料上載到由總選舉事務主任或獲其授權人士所維持的公開平台（「中央平台」）、或候選人或獲其授權人士所維持的公開平台（「候選人平台」），或以選舉管理委員會指明的形式向有關的選舉主任提供該選舉廣告及相關資料的文本；候選人並須在所有印刷選舉廣告上以中文或英文列明印刷人的姓名或名稱、地址、印刷日期和印刷數量（刊登在註冊本地報刊上的選舉廣告則不受此限）。就行政長官選舉而言，相關規定列於《選舉程序（行政長官選舉）規例》（第 541J 章）第 87 條及由選舉管理委員會發出的「行政長官選舉活動指引」內。

問 4

一名候選人獲得某團體主席的口頭同意後，把主席的姓名連同該團體的名稱和標識，納入他的選舉廣告內，以示該主席及團體對他的支持，他這樣做是否合法？若候選人只在其選舉廣告中顯示該團體主席的姓名及職銜，情況又是否不同？

答 4

- 《選舉（舞弊及非法行為）條例》第 27(1) 條規定，候選人若在其選舉廣告中收納了某人或某組織的姓名、名稱、標識或圖像，以意味着或相當可能導致選民相信他已獲得有關人士或組織的支持，他必須在有關選舉廣告發布前，先取得有關人士或組織的書面同意。由於上述候選人只取得該團體主席的口頭同意，並未符合法例要求，故此他已觸犯了上述法例。

- 候選人須留意，支持者的同意須載於一份單一文件上，清晰表達支持者同意候選人把他的姓名、名稱、標識或圖像納入其選舉廣告。書面同意不能由多份文件組成或從一連串的通訊或信息中推斷。選舉管理委員會準備了樣本表格以方便候選人以書面形式取得某人或某組織的支持同意。該樣本表格可於選舉事務處及有關選舉主任的辦事處索取，亦可從選舉事務處的網站下載。該樣本亦會在候選人遞交選舉提名表格時派發給候選人。

- 該團體主席必須留意，如他未經有關團體的管理層批准，或未經團體成員在全體大會通過的決議批准，而看來給予候選人書面同意將該團體的名稱和標識或跟該團體有關聯的名稱或標識納入候選人的選舉廣告中，則該主席亦可能會觸犯同一條例的第 27(5) 條。

- 即使候選人已經取得有關主席個人的事先書面同意在其選舉廣告中載有主席的姓名及職銜（有提及有關團體的名稱，例如：甲乙丙團體主席），候選人亦應小心處理，避免該選舉廣告發布的方式意味着或相當可能導致選民相信候選人獲得整個團體的支持，否則，候選人亦須事先得到有關團體的書面同意。

- 選舉管理委員會發出的「選舉委員會界別分組選舉活動指引」/「行政長官選舉活動指引」亦就有提及支持者職銜及有關組織名稱的情況，要求候選人應確保支持者已根據其所屬組織的內部守則及程序或任何既定常規，獲得組織的事先書面批准，才可在候選人的選舉廣告中一併使用支持者的職銜及組織名稱。

問 5

若候選人利用網上平台，例如網站、社交網絡、通訊網絡等作競選宣傳，是否屬選舉廣告？候選人應如何計算有關選舉開支？若有網民就上述宣傳作出回應或在候選人網上平台表示「讚好」，候選人會否因沒有取得這些網民的事先書面同意發布這些內容而觸犯法例？若有網民在網上平台分享或轉載不同候選人的競選宣傳，有關候選人又有甚麼需留意？

答 5

- 根據《選舉（舞弊及非法行為）條例》第 2 條，選舉廣告是指為促使某候選人在選舉中當選或阻礙一名或多於一名候選人當選的任何發布；而選舉開支是指候選人或代表候選人的人士，於選舉期間之前、在選舉期間內或在選舉期間後，為促使該候選人當選或阻礙其他候選人當選而招致或將招致的開支。因此，上述候選人透過網上平台如網站、社交網絡、通訊網絡等發放競選宣傳屬選舉廣告，所牽涉的製作及營運費用，包括上網費、製作網上廣告的設計費用等，必須計入他的選舉開支，並在其選舉申報書內清楚列明。

- 如候選人利用網上平台發布的選舉廣告內容，顯示了某人或某組織對他的支持，候選人必須事前取得該人士或該組織的書面同意，以符合《選舉（舞弊及非法行為）條例》第 27(1) 及 (1A) 條的要求。但若某人出於主動在候選人於上述平台發布的選舉廣告內，作出回應或表示「讚好」，或在候選人所發布的網上直播競選活動中自發地出現，以表達對候選人的支持，而該候選人既沒有如此要求或指示，亦沒有授權任何人如此要求或指示有關人士作出上述舉動，則有關候選人

無須事先取得他的書面同意。然而，候選人不得就有關上述人士的姓名、名稱、標識或圖像或任何由他提供的內容作出修改，除非事先取得他的書面同意，否則該候選人便違反《選舉（舞弊及非法行為）條例》第 27(1B) 條。

- 倘若候選人邀請某人就其網上的選舉廣告作出回應，或參與網上直播的競選活動，以顯示該人士對該候選人的支持，該候選人必須事先取得該人士的書面同意。

- 就界別分組選舉而言，候選人必須遵守《選舉管理委員會（選舉程序）（選舉委員會）規例》第 108 條及由選舉管理委員會發出的「選舉委員會界別分組選舉活動指引」就選舉廣告的規定，包括候選人須在發布選舉廣告後的三個工作天內，把透過公開平台發布的選舉廣告的超連結及相關資料上載到「中央平台」或「候選人平台」，或以選舉管理委員會指明的形式向有關的選舉主任提供該選舉廣告及相關資料。就行政長官選舉而言，相關規定列於《選舉程序（行政長官選舉）規例》第 87 條及由選舉管理委員會發出的「行政長官選舉活動指引」內。

- 就網民在網上平台分享或轉載候選人的競選宣傳，根據《選舉（舞弊及非法行為）條例》第 23(1A) 條，倘若某人（非候選人亦非候選人的選舉開支代理人）在互聯網發布選舉廣告而招致的選舉開支只屬電費及／或連接互聯網所需的費用，該人將獲豁免《選舉（舞弊及非法行為）條例》第 23(1) 條的刑事責任。但是，假如候選人、其選舉開支代理人或獲他們授權的人士在互聯網發布該候選人的選舉廣告，而招致的選舉開支即使只屬電費及／或連接互聯網所需的費用，亦須計入該候選人的選舉開支內。如果候選人知情和同意第三者進行選舉廣告發布以促使或阻礙一名或多於一名候選人的當選，不論該候選人有沒有授權該第三者為其選舉開支代理人，該候選人須將該選舉廣告視作自己的名義發布，並將有關選舉開支在選舉申報書中清楚列明。

問 6

某商會的執行委員會一致通過支持某候選人參選。商會其後自費在會刊撰文推介該候選人，並透過商會網站呼籲會員支持他，商會這樣做會否觸犯《選舉（舞弊及非法行為）條例》？

答 6

- 法例並無限制候選人的支持者以甚麼方式宣傳候選人的選舉。不過，由於上述商會在會刊撰文及透過網站推介個別候選人，目的是促使有關候選人當選，該文章及網站上的相關內容會被視作有關候選人的選舉廣告，發布該些選舉廣告的費用（例如：按比例分攤印刷及郵寄會刊和設計網站的開支等）屬候選人的選舉開支。由於《選舉（舞弊及非法行為）條例》第 23(1) 條規定，任何人如非候選人亦非候選人的選舉開支代理人招致選舉開支，即屬違法。因此，上述商會的負責人必須事先取得候選人的書面授權，才可替候選人招致上述選舉開支。

- 若發布該些選舉廣告的費用由商會贊助，費用應視為其給予該候選人的選舉捐贈，候選人必須在其選舉申報書中列明。若有關選舉捐贈的價值超過 $1,000，候選人須根據上述條例第 19 及 37(2)(b)(ii) 條的要求，向捐贈者（即該商會）發出收據，並在收據上列明捐贈者的名稱、地址及有關捐贈的詳情，有關收據的副本亦須與選舉申報書一併遞交。

- 支持者及支持團體在為候選人作競選宣傳前，宜先與候選人溝通清楚，以確保雙方都符合相關的法例要求。

問 7

假若某次選舉僅有兩名候選人，分別是候選人甲和候選人乙。如有一群人士自費於報章刊登文章及派發單張，呼籲選民不要投票給乙。這樣做會否觸犯法例？再者，如某人於網上呼籲選民杯葛選舉，包括不去投票或投白票，這樣做又會否觸犯法例？

答 7

- 上述人士刊登文章呼籲選民不要投票給候選人乙，由於其目的是為阻礙乙當選，因此該文章符合《選舉（舞弊及非法行為）條例》中選舉廣告的定義，而刊登有關文章所涉及的開支，包括報社收取的費用、印製及派發單張的費用等，亦屬選舉開支。

- 由於刊登上述文章一方面阻礙了乙當選，另一方面亦可能同時促使了有關選舉的另一候選人甲當選，因此，上述開支屬甲的選舉開支。上述人士必須事先獲得甲的書面授權成為其選舉開支代理人才可為甲招致選舉開支，否則，上述人士便會觸犯《選舉（舞弊及非法行為）條例》第 23(1) 條，因為有關法例規定，只有候選人和獲候選人書面授權的選舉開支代理人，方可招致選舉開支。

- 任何人士或組織為表示對某候選人的支持或不支持時，不論採用任何形式表達，若招致了選舉開支，就必須留意上述法例的要求，以免墮入法網。

- 根據《選舉（舞弊及非法行為）條例》第 27A 條，任何人在選舉期間內藉任何公開活動煽惑另一人在選舉中不投票或投無效票，即屬非法行為。公開活動包括向公眾作出任何形式的通訊。若某人於網上呼籲選民不要在選舉中投票或投白票，可能會觸犯上述條例。破壞選舉屬違法行為，任何人都不應以身試法。

問 8

候選人丙為了爭取選票，自行印製單張以抹黑其對手候選人丁。除了把單張寄給選民外，丙並透過網上社交媒體發布單張，這樣做會否觸犯法例？

答 8

- 《選舉（舞弊及非法行為）條例》並沒有禁止為阻礙對手當選而發布的負面宣傳。惟所有涉及候選人的宣傳內容必須屬實，否則發布人士便可能觸犯上述條例第 26 條。根據該條款，任何人不可為促使或阻礙某候選人當選，而發布關於該候選人且屬虛假達關鍵程度或具誤導性達關鍵程度的事實陳述。

- 此外，由於候選人丙所發布的單張，目的是為阻礙候選人丁當選，因此印製及發布這些單張所涉及的任何費用（例如：印刷費、郵費和上網費等）應計入丙的選舉開支內。

- 就界別分組選舉而言，丙並須遵守《選舉管理委員會（選舉程序）（選舉委員會）規例》第 108 條及由選舉管理委員會發出的「選舉委員會界別分組選舉活動指引」就選舉廣告的規定（詳情請參閱第一節的答 3 及 5）。就行政長官選舉而言，相關規定列於《選舉程序（行政長官選舉）規例》第 87 條及由選舉管理委員會發出的「行政長官選舉活動指引」內。

問 9

某民間智庫計劃舉行選舉論壇，邀請同一選舉中所有候選人出席，以增加選民對所有候選人的認識，籌辦上述選舉論壇的有關支出應否計算為選舉開支？

答 9

- 根據《選舉（舞弊及非法行為）條例》第 2 條，任何為促使該候選人當選或阻礙另一候選人當選而招致或將招致的開支，均屬選舉開支。若上述民間智庫舉行的選舉論壇，目的是讓同一選舉中所有候選人均有公平及平等的機會向選民介紹

自己，而非為促使或阻礙某（些）候選人當選而籌辦的，有關支出便無須計算作任何候選人的選舉開支。

- 任何組織如欲舉辦選舉論壇，應遵守由選舉管理委員會所發出有關該項選舉的選舉活動指引。

問10

一名已宣布參選的人士，為其選民安排香港境外考察團，並資助所有相關費用。當考察團到達香港境外，如候選人向參加者介紹自己的參選理念，並呼籲參加者屆時投票支持他，此舉是否違反《選舉（舞弊及非法行為）條例》？該條例有沒有地域或時間上的限制？

答10

- 《選舉（舞弊及非法行為）條例》第 11 條規定，任何人無合理辯解向他人提供利益，誘使他人在選舉中投票或不投票予某候選人，即屬違法。因此，上述候選人藉資助香港境外考察團費用作為利益，以誘使選民投自己一票，便會觸犯上述法例。選民若無合理辯解接受有關利益作為投票予該候選人的誘因，亦屬違法。

- 《選舉（舞弊及非法行為）條例》第 5 條清楚訂明，該法例適用於一切與選舉有關的行為，不論該行為在香港境內或在其他地方作出，均受上述條例監管。因此，候選人於香港境外賄選買票的舞弊行為，亦受上述條例的監管。

- 根據《選舉（舞弊及非法行為）條例》第 6 及 22 條，任何人無論是在選舉期間之前、在選舉期間內或在選舉期間後作出舞弊或非法行為，均可被裁定違反該法例。

問11

假若某公司要求一名承辦商投票予該公司所支持的候選人，否則將停止聘用該承辦商，這樣會否違反《選舉（舞弊及非法行為）條例》？候選人又會否觸犯法例？假如一些人以武力及恐嚇手段阻止選民投票，甚至發放一些具誤導性的訊息或藉任何行為故意妨礙選民投票，他們會否觸犯法例？

答11

- 《選舉（舞弊及非法行為）條例》第 13 條訂明，任何人向他人施用武力或脅迫手段，或威脅對他人施用武力或脅迫手段，以誘使他人在選舉中投票或不投票，或在選舉中投票或不投票予某候選人，即屬違法。脅迫手段包括以此手段使任何人蒙受經濟損失。

- 任何具影響力的人士或公司在為候選人拉票時必須謹慎，以免被他人視為以脅迫的手段為某候選人爭取選票。

- 若該候選人曾以明示或默示方式，請該公司以脅迫手段誘使其承辦商在選舉中投票或不投票予某候選人，亦同樣抵觸了上述法例。

- 此外，根據《選舉（舞弊及非法行為）條例》第 14 條，任何人以欺騙手段誘使另一人在選舉中投票或不投票予某候選人，或在選舉中不投票，均屬違法。同一條例第 14(1A) 條亦指明，任何人故意妨礙或阻止另一人在選舉中投票，或令另一人作出上述行為，即屬違法。故此，如果有人以欺騙手段，例如發放虛假及誤導訊息，或教唆他人以欺騙手段阻止選民投票，又或者以任何方法，故意妨礙或阻止選民投票，均可能觸犯上述條例第 14 條。

- 武力、脅迫、欺騙手段及妨礙行為均嚴重破壞選舉的公信力。所有候選人都應呼籲其支持者摒棄上述違法行為。

問12

一名候選人出席某團體的周年晚宴，團體主席突然於晚宴中宣布該候選人已參選。主席一方面鼓勵出席者屆時投票支持該候選人，另一方面又邀請該候選人即場發表選舉演講。主席這樣做可會觸犯法例？候選人又該如何應付這種場面？

答12

- 雖然上述周年晚宴本來並非為促使該候選人當選而安排，但團體主席在晚宴期間呼籲出席者支持該候選人，假若該候選人遇到上述的情況而不立即制止任何人在晚宴上作出涉及他選舉的任何宣傳，該次晚宴可被視為促使他當選的選舉聚會，一切有關的費用須計入候選人的選舉開支內，並須於他的選舉申報書內清楚列明。

- 如晚宴是團體主席為促使該候選人當選而安排，但他卻未獲候選人授權為其選舉開支代理人而招致了選舉開支，該名主席便會抵觸《選舉（舞弊及非法行為）條例》第 23(1) 條。因為根據上述條文，除候選人或已獲候選人授權的選舉開支代理人外，其他人不得招致任何選舉開支，否則便會觸犯法例。

- 該名主席及候選人應該留意，倘若是次晚宴是由主席刻意安排，藉提供飲食或娛樂，誘使出席者投票予該候選人，該主席已觸犯了《選舉（舞弊及非法行為）條例》第 12 條。假若候選人是知道及同意該名主席以這目的舉辦晚宴，他亦同樣觸犯了該條例。（註：任何人不會僅因他在選舉聚會中供應任何種類的不含酒精飲料，而屬作出舞弊行為。選舉聚會指任何為促使或阻礙某候選人或某些候選人當選而舉行的聚會。）

- 當候選人在考慮或計劃參選時，他應盡快通知與他有聯繫的組織，他有可能會宣布參選，並提醒有關組織要留意《選舉（舞弊及非法行為）條例》的規定。候選人在競選期間應謹慎行事，盡量避免出席容易招致賄選嫌疑之場合。任何組織在選舉期間，舉辦與選舉無關的活動時，應避免在活動中提及與選舉有關的事宜。若有參加者在活動中公開宣傳某候選人的選舉，主辦組織應立即制止，以免不慎為該候選人招致選舉開支。

問13

假如候選人要求其公司的秘書於上班時間協助他處理競選事宜，候選人需否把有關服務的費用納入其選舉開支內？若他的秘書在放假期間，自願協助候選人處理上述事宜，情況又會否不同？候選人還在選舉期間聘請了十多名人士為他助選，他應如何計算選舉開支？

答13

- 上述候選人若安排秘書於上班時間處理他的競選事宜，目的是為促使其當選，當中所涉及的開支均屬選舉開支。候選人須估計秘書用於為其處理競選事宜的工作時間，按比例計算秘書作為競選助理的薪金為選舉開支，並在選舉申報書中清楚列明。

- 若秘書協助候選人處理競選事宜的有關薪金為 $500 或以上，候選人必須確保其選舉申報書附有列明開支詳情的發票及收據（例如：秘書的姓名、薪金及由其簽署核實已收到有關款項）。

- 倘若該秘書在他的私人時間，自願、親自和免費為候選人處理競選事宜，他所提供的服務便屬《選舉（舞弊及非法行為）條例》第 2 條中所指的「義務服務」，不屬於選舉開支及選舉捐贈。因此，候選人無需將該項服務的費用計入其選舉開支內，或在其選舉申報書上列明。

- 候選人在安排上述秘書為其處理競選事宜期間招致的其他相關開支，例如購買宣傳物品、郵寄競選宣傳資料的費用等，均不包括在「義務服務」的範圍內，候選人必須把這些費用納入他的選舉開支內，並在他的選舉申報書中清楚列明。《選舉（舞弊及非法行為）條例》第 37(2)(b)(i) 條列明，候選人必須確保選舉申報書附有每項 $500 或以上的選舉開支的發票及收據。發票及收據須由貨品或服務提供者（例如：宣傳物品供應商、郵寄服務供應商等）發出，文件上亦須載有開支項目詳情（例如：購買日期、貨品或服務提供者的姓名或名稱、貨品或服務的資料和金額；公司印章 / 貨品或服務提供者簽署及收款日期，以證明貨品或服務提供者已全數收取有關款項）。

- 候選人聘請其他人士為他助選所涉及的開支，均須於候選人的選舉申報書中清楚列明；若每名助選人士之酬金為 $500 或以上，候選人須附上列明有關人士的姓名、工作日期和時間、酬金金額等的發票及收據，並由每名助選人士簽署確認有關款項已全數收妥。

問14

假如候選人接受其律師朋友在放假期間協助他解決有關選舉的法律問題，他需否把有關服務的費用納入其選舉開支內？假如候選人使用由朋友或團體提供的物資作選舉宣傳，又需否計算作選舉開支？

答14

- 倘若該律師朋友在私人時間，自願、親自和免費為候選人提供法律意見以協助其競選，他所提供的服務便屬《選舉（舞弊及非法行為）條例》第 2 條中所指的「義務服務」。因此，候選人無需將該項法律諮詢服務的費用計入其選舉開支內。

- 由候選人的朋友或其他團體提供的物資如果是為促使該候選人當選或阻礙其他候選人當選而提供，則這些物資屬選舉捐贈，候選人須在選舉申報書中清楚列明。如選舉捐贈價值 $1,000 以上，根據《選舉（舞弊及非法行為）條例》第 19 及 37(2)(b)(ii) 條的規定，候選人須向捐贈者發出收據，該收據須載明捐贈者的姓名或名稱及地址，以及該項捐贈的詳情；並在選舉申報書附上有關收據的副本。由於上述候選人使用該些物資作其競選之用，他亦須把有關物資的價值計算為他的選舉開支，並在選舉申報書內清楚列明。

- 《選舉（舞弊及非法行為）條例》第 18 條亦規定，候選人或其他人如將選舉捐贈用於償付或分擔償付該候選人的選舉開支以外，或用於促使該候選人當選或阻礙其他候選人當選以外之用途，即屬在選舉中作出舞弊行為。因此，若上述選

舉捐贈沒有用作選舉用途，候選人須按照《選舉（舞弊及非法行為）條例》第 19 及 37(2)(b)(iii) 條的規定，於提交選舉申報書前，將有關選舉捐贈轉贈予候選人所選擇屬公共性質的慈善機構或慈善信託，並將接受機構所發出的收據副本隨選舉申報書一併提交。

問15 候選人透過網上平台籌募選舉經費，有甚麼要注意？

答15

- 候選人透過網上平台籌募選舉經費，由於目的是為促使其在選舉中當選，因此，所牽涉的製作及營運費用（例如：上網費、網站設計費等），便須計算作有關候選人的選舉開支，並須在其選舉申報書內清楚列明。
- 由於透過網上平台籌募的經費屬選舉捐贈，根據《選舉（舞弊及非法行為）條例》第 18 條的規定，候選人或其他人必須將選舉捐贈用於償付或分擔償付選舉開支的用途，否則屬作出舞弊行為。
- 《選舉（舞弊及非法行為）條例》第 19 及 37(2)(b)(iii) 條亦訂明，候選人須就每項價值 $1,000 以上的選舉捐贈（包括金錢、貨品或服務）向捐贈者發出收據，收據須載明由捐贈者提供的姓名或名稱、地址和該項捐贈詳情，而有關收據的副本亦須連同候選人的選舉申報書一併提交。故此，候選人宜在網上平台清楚說明有關法例的要求。
- 任何價值 $1,000 以上的匿名選舉捐贈、未有使用的選舉捐贈及超出選舉開支最高限額的選舉捐贈，必須於提交選舉申報書前，給予候選人所選擇屬公共性質的慈善機構或慈善信託，並將接受機構所發出的收據副本隨選舉申報書一併提交，以符合上述條例第 19 及 37(2)(b)(iii) 條的要求。

- 若其他人或組織代候選人索取、接受或收取選舉捐贈，該人士或組織亦須遵守以上各項的規定，及應參考由選舉管理委員會就相關選舉發出的選舉活動指引中建議的要點及良好做法，包括事先取得候選人同意／授權收取選舉捐贈、向捐贈者清楚說明捐贈目的／用途、為收取及處理選舉捐贈設立專項帳目等。

問16

某候選人成功當選後，設慶功宴招待助選成員，此舉有否違法？設宴的開支是否需要計算為他的選舉開支？此外，在選舉結果公布後才於網上發布的「謝票」廣告，所涉及的有關費用又應否計算為選舉開支？

答16

- 如果該候選人在當選後設慶功宴，目的純粹是慶祝他成功當選，而與促使他當選完全無關，有關的開支便不需要計入其選舉開支內。
- 然而，如果設宴的目的是為了履行候選人對他的助選成員曾許下的承諾，例如他曾答應於選舉後設宴酬謝曾為他的競選而奔波的助選人士，該宴會便與促使他當選有關，所涉及的費用屬於他的選舉開支，並須按法例在選舉申報書中清楚列明。
- 若候選人設宴的目的是為了酬謝選民曾投他一票，該候選人便會觸犯《選舉（舞弊及非法行為）條例》第 12 條。若選民接受款待是作為投票予該候選人的報酬，他們亦會違反上述條例。
- 至於用作「謝票」的廣告是在選舉結果公布後才於網上發布，並非用作促使上述候選人當選或阻礙其他候選人當選，有關支出並不需要被計算為候選人的選舉開支。

問17

候選人於提交選舉申報書時應留意甚麼？如某人在選舉中已獲提名為候選人，但最終撤回提名、或其提名被裁定為無效；或候選人屬自動當選、不成功當選、或並沒有招致任何選舉開支，他是否仍需提交選舉申報書？候選人若未能於法定限期內提交選舉申報書，他可怎樣補救？

答17

- 候選人必須在《選舉（舞弊及非法行為）條例》第 37 條規定的限期屆滿之前，向總選舉事務主任提交選舉申報書。選舉申報書中必須列出他在選舉中的選舉開支及收取的所有選舉捐贈。根據上述法例第 37(2)(b) 條，選舉申報書必須附有：

  （1）每項 $500 或以上的選舉開支且由貨品或服務提供者發出的發票及收據；
  （2）每項價值 $1,000 以上發給捐贈者的選舉捐贈的收據副本，該收據須載明捐贈者的姓名或名稱及地址，以及該項捐贈的詳情；
  （3）由候選人把選舉捐贈（包括價值 $1,000 以上的匿名選舉捐贈、未有使用的選舉捐贈及超出選舉開支最高限額的選舉捐贈）給予候選人所選擇屬公共性質的慈善機構或慈善信託後，由該等機構或信託所發出的收據的副本；
  （4）（如適用）書面解釋，列明沒有按照上述（3）處理選舉捐贈的理由；及
  （5）聲明書，以證明選舉申報書的內容屬實。

- 候選人應小心填寫選舉申報書，避免當中出現任何錯誤。候選人可根據其公開予公眾查閱的選舉廣告文本記錄，核對在選舉申報書中是否已包含所有相關的開支項目；同時應確保每張發票及收據的金額，是否與選舉申報書中填寫的相符。

- 根據《選舉（舞弊及非法行為）條例》第 20 條，若候選人在按該條例第 37 條提交的選舉申報書內，作出該候選人明知或理應知道屬虛假或具誤導性達關鍵程度的陳述，即屬在選舉中作出舞弊行為。

- 上述條例第 2 條清楚訂明，「候選人」除了指已接受提名為候選人的人士外，亦包括那些在選舉提名期結束前的任何時間曾公開宣布有意參選的人士。即使某位獲提名為候選人的人士最終撤回提名、或其提名被裁定為無效；或候選人屬自動當選、不成功當選、或並沒有招致任何選舉開支，亦必須於法例所規定的限期內向總選舉事務主任提交其選舉申報書。

- 候選人若不能夠或沒有在法例准許的限期屆滿前提交選舉申報書，他可根據《選舉（舞弊及非法行為）條例》第 40(1) 條向原訟法庭申請作出命令容許他在原訟法庭指明的較長限期內，向總選舉事務主任提交選舉申報書，但他必須令原訟法庭信納不能夠或沒有按照規定提交選舉申報書一事是由於候選人患病或不在香港；或他的代理人或僱員去世、患病、不在香港或行為不當；或候選人或其他人的粗心大意、意外地計算錯誤；或任何合理因由，而非因候選人不真誠所致。必須注意，根據法庭過往有關選舉刑責寬免申請的裁決，法庭會嚴格審視申請人提出的理據，特別考慮申請人是否對遵守有關規定已經展現了足夠的重視。

問 18 如果候選人提交的選舉申報書內出現輕微錯誤或虛假陳述，他可採取什麼措施作出補救？

答 18

- 《選舉（舞弊及非法行為）條例》第 37A 條訂明，若候選人提交的選舉申報書內出現任何錯誤或虛假陳述（包括附於該選舉申報書的任何文件內的錯誤或虛假陳述；或沒有付交上述法例第 37(2)(b) 條規定須就該申報書付交的任何文件），而該等錯誤或虛假陳述的累計總價值不超過有關選舉訂明的限額（界別分組選舉為 $5,000；行政長官選舉為 $50,000）；及在計算該等錯誤或虛假陳述的累計價值後，候選人的選舉開支總額亦不超過有關選舉訂明的最高限額（請參閱

第 47 頁），候選人可在接獲總選舉事務主任發出的通知當日後的 30 天內，向總選舉事務主任提交選舉申報書的一份副本，並標示更正該項錯誤或虛假陳述所需作出的修正。如該項錯誤或虛假陳述的性質是該選舉申報書沒有列出某項選舉開支或選舉捐贈，該份經修訂的選舉申報書副本必須按上述條例第 37(2)(b) 條附有有關文件，例如選舉開支的發票及收據、選舉捐贈的收據副本及書面解釋（如適用）。經修訂選舉申報書的副本亦必須附有一份採用指明表格由候選人所作的聲明書，證明該修訂選舉申報書副本的內容屬實及正確。

- 根據《選舉（舞弊及非法行為）條例》第 20 條，若候選人在按上述條例第 37A 條提交的經修訂選舉申報書的副本內，作出該候選人明知或理應知道屬虛假或具誤導性達關鍵程度的陳述，即屬在選舉中作出舞弊行為。

- 候選人亦可根據《選舉（舞弊及非法行為）條例》第 40(3) 條向原訟法庭申請作出命令使候選人可更正選舉申報書或附於該選舉申報書的任何文件內的錯誤或虛假陳述。惟他必須令原訟法庭信納作出該錯誤或虛假陳述是由於他的代理人或僱員行為不當；或候選人或其他人粗心大意或意外地計算錯誤；或任何合理因由，而並非因候選人不真誠所致。

- 若候選人未能按規定提交所需的發票、收據或收據副本等，他可根據《選舉（舞弊及非法行為）條例》第 40(5) 條向原訟法庭申請，由其作出命令豁免候選人提交該些附件。惟他必須令法庭信納沒有遵從有關規定是由於他的代理人或僱員行為不當；或候選人或其他人粗心大意、意外地遺失或銷毀該些附件；或任何合理因由，而並非因候選人不真誠所致。必須注意，根據法庭過往有關選舉刑責寬免申請的裁決，法庭會嚴格審視申請人提出的理據，特別考慮申請人是否對遵守有關規定已經展現了足夠的重視。

第二節（與界別分組選舉有關）

問 1

某團體的一些會員均有意參加選舉委員會同一界別分組選舉，如果他們最後達成共識，由其中數名會員參選，這個安排會否觸犯《選舉（舞弊及非法行為）條例》？如果他們其中一位其後受到威嚇阻止其參選，他應如何處理？

答 1

- 如果該些有意參選界別分組選舉的人士透過協商達成共識，由其中數位參選，而過程中不牽涉任何威逼利誘或欺騙行為，這樣是不會觸犯《選舉（舞弊及非法行為）條例》的。
- 但如果有人舞弊地提供利益予他人，或以欺騙手段誘使他人在選舉中參選或不參選，則屬違法。任何人舞弊地索取或接受利益作為在選舉中參選或不參選的誘因或報酬，亦屬違法。詳細條文請參閱上述條例第 7 及 9 條。
- 此外，如果有人以武力或脅迫手段，或威脅施用武力或脅迫手段，以阻止準候選人或候選人在選舉中參選，亦會違反上述條例第 8 條。
- 候選人或準候選人如遇上述情況，應向廉政公署舉報。如遇人身威脅，更應立即報警。暴力只會破壞選舉的公信力，所有人均應摒棄暴力。

問 2

同一界別分組的五名候選人決定組成聯盟，一起作競選宣傳。其中一名候選人（候選人甲）打算派發載有該五位候選人姓名和照片的傳單，介紹聯盟各候選人及他們的政綱，並呼籲投票人投票給他們。為免觸犯《選舉（舞弊及非法行為）條例》，甲應留意哪些事項？

答 2

- 由於候選人甲派發的傳單是為促使聯盟中的所有候選人當選而發布，該傳單屬該些候選人的聯合選舉廣告，他們須按比例將製作和派發該傳單所涉及的費用納入他們的選舉開支內，並在各人的選舉申報書中清楚列明。甲亦必須按照《選舉（舞弊及非法行為）條例》第 23(1) 條，先獲得聯盟中其他四位候選人授權為選舉開支代理人，方可招致有關選舉開支。

- 若製作和發布有關聯盟的聯合選舉廣告的每項開支分攤後為 $500 或以上，每名候選人必須於各自提交選舉申報書時附有由貨品或服務提供者就該項開支發出的發票及收據。若甲在提交選舉申報書時已附上有關發票及收據的正本，其餘四位候選人在提交其選舉申報書時，亦應附有上述發票及收據的副本，並在聲明書中確認其為真確無誤的副本，且列明正本已由甲遞交，以便有關部門核實。

- 此外，由於上述聯合選舉廣告同時收納了聯盟中五位候選人的姓名和照片，他們各人都必須在發布該選舉廣告前先取得其餘四位的書面同意，表示互相給予支持，才可發布有關選舉廣告，以符合《選舉（舞弊及非法行為）條例》第 27(1) 條的規定。

- 上述候選人亦必須遵守《選舉管理委員會（選舉程序）（選舉委員會）規例》第 108 條及由選舉管理委員會發出的「選舉委員會界別分組選舉活動指引」就選舉廣告的規定（詳情請參閱第一節的答 3）。

問 3

候選人與其界別分組的投票人一同出席會議，會後更邀請這些投票人出席他安排的免費聚餐，希望投票人投選自己。這樣做是否觸犯《選舉（舞弊及非法行為）條例》？若聚餐的費用由出席各人自付，情況又是否不同？

答 3

- 《選舉（舞弊及非法行為）條例》第 12 條訂明，任何人不得為他人提供食物、飲料或娛樂，或償付全部或部分用於提供該等食物、飲料或娛樂的費用，藉以影響投票人的投票決定。故此，上述候選人已違反有關條例。若上述投票人接受飲食作為投票予該候選人的誘因或報酬，亦同屬犯法。

- 若聚餐的費用由出席各人自付，由於聚餐的目的是為促使上述候選人當選，有關聚餐便屬法例所指的「選舉聚會」，所招致的開支（包括候選人自己的聚餐費用）亦屬該候選人的選舉開支，而由各人支付的費用須當作給予該候選人的選舉捐贈，並須在候選人的選舉申報書中清楚列明。

問 4

如投票人喪失在某個界別分組選舉中投票的資格而又去投票，該人士會有甚麼後果？任何人如明知某投票人喪失在某個界別分組選舉中投票的資格，仍然促請或誘使他去投票，該人士又會有甚麼後果？

答 4

- 任何人如已不再有資格登記為投票人，便會喪失在某個界別分組選舉中投票的資格。任何人如明知本身無權或無資格在選舉中投票，卻在選舉中投票，便會觸犯《選舉（舞弊及非法行為）條例》第 16(1) 條。舉例來說，任何人根據法例以某委員會成員的身份登記為該界別分組的投票人，如該人士由於任何原因不再是某委員會成員，他會喪失在選舉中投票的資格。

- 任何人如明知某投票人無權或無資格在某個界別分組選舉中投票，仍然促請或誘使他去投票，亦會觸犯《選舉（舞弊及非法行為）條例》第 16(2) 條。

- 任何人若對其是否符合投票人資格有疑問，可向選舉事務處查詢。

問 5

數名界別分組選舉候選人共同租用一間辦公室作為競選之用，他們應如何計算選舉開支？若候選人在遞交選舉申報書的法定限期屆滿前，仍未收到電力公司發出的電費單，他們又可如何處理？

答 5

- 上述候選人應按比例分攤辦公室租金及其他相關的開支，包括租用影印機費用、電費、上網費等，並於個別候選人提交的選舉申報書中清楚列明。若分攤後的每項選舉開支為 $500 或以上，選舉申報書亦須附有由貨品或服務提供者（例如：業主、供應商等）發出的相關發票及收據，列明各候選人如何分攤該項開支。文件上亦須載有開支項目詳情（例如：租用日期、貨品或服務提供者的姓名或名稱、貨品或服務的資料和金額；公司印章／貨品或服務提供者簽署及收款日期，以證明貨品或服務提供者已全數收取有關款項）。由於發票及收據的正本會由其中一位候選人提交，其餘候選人須遞交有關發票及收據的副本，並在聲明書中確認其為真確無誤的副本，及註明提交正本文件的候選人的姓名，以便有關部門核實。遞交副本的候選人，應盡力確保負責遞交正本的候選人準時提交其選舉申報書及附有相關文件的正本。

- 若有關候選人於提交選舉申報書的法定限期屆滿前仍未收到電費單，亦未支付有關款項，候選人應在選舉申報書內列出預計的電費開支及擬定支付索款的時間表，承諾將依時間表支付有關款項，並在付款後 30 天內，向選舉事務處提交每項價值 $500 或以上的選舉開支的發票及收據。由於發票及收據的正本會由其中一位候選人提交，其餘候選人須遞交有關發票及收據的副本。

第三節（與行政長官選舉有關）

問 1 選舉委員可否為其界別分組的成員安排聚會，藉此諮詢後者對他應支持哪位行政長官選舉候選人的意見？

答 1

- 《選舉（舞弊及非法行為）條例》並沒有阻止任何選舉委員就其所屬的界別分組成員對行政長官候選人的支持作出諮詢。不過，選舉委員必須留意，若他所安排的聚會涉及促使或阻礙某行政長官候選人當選，該聚會將屬選舉聚會。若有關聚會涉及任何開支，選舉委員必須事先得到有關候選人的書面授權才可為該候選人招致選舉開支，否則會觸犯《選舉（舞弊及非法行為）條例》第 23(1) 條。

問 2 某候選人的助選成員安排晚宴，免費招待多名選舉委員，藉此聽取他們對該候選人政綱的意見，並爭取他們的提名，這樣的安排會否觸犯《選舉（舞弊及非法行為）條例》？

答 2

- 《選舉（舞弊及非法行為）條例》第 12 條禁止任何人向選民提供食物、飲料或娛樂，或償付用於提供該等食物、飲料或娛樂的全部或部分費用，以影響選民的投票決定。倘若晚宴是該名助選成員刻意安排，藉提供飲食或娛樂，誘使選舉委員投票給該候選人，該名助選成員已觸犯了上述條例。選舉委員接受有關飲食作為投票予該候選人的誘因，亦屬違法。如候選人知道及同意該名助選成員以上述目的安排晚宴，他亦可能會觸犯該條例。

- 此外，藉賄賂以爭取提名亦可能會觸犯其他刑事罪行。
- 候選人及其競選團隊應謹慎計劃其選舉工程，避免安排一些容易引起賄選嫌疑的活動，並須遵守《選舉（舞弊及非法行為）條例》和相關法例的規定。

問 3 某行政長官選舉候選人租用商業大廈一單位作為其競選辦公室，並添置了數部電腦和打印機，他應如何計算選舉開支？若他在遞交選舉申報書的法定限期屆滿前，仍未收到某些選舉開支的賬單，又可如何處理？

答 3

- 上述候選人應把單位租金及相關開支、購買電腦和打印機的開支等計算為其選舉開支，並在其選舉申報書內清楚列明。若每項開支為 $500 或以上，選舉申報書亦須附有由貨品或服務提供者（例如：業主、供應商等）發出的相關發票及收據。文件上亦須載有開支項目詳情（例如：租用／購買日期、貨品或服務提供者的姓名或名稱、貨品或服務的資料和金額；公司印章／貨品或服務提供者簽署及收款日期，以證明貨品或服務提供者已全數收取有關款項）。
- 若有關候選人於提交選舉申報書的法定限期屆滿前仍未收到某些選舉開支的賬單，亦未支付有關款項，候選人應在選舉申報書內列出預計的相關開支及擬定支付索款的時間表，承諾將依時間表支付有關款項，並在付款後 30 天內，向選舉事務處提交價值 $500 或以上的選舉開支的有關發票及收據。

第二部分

選舉案例撮要

案例 1 賄賂他人參選

在一次區議會選舉中，一名人士、某組織的創立人及一名成員串謀收受 20 萬元賄款，致使該成員在區議會選舉中參選，並向另外五名人士提供至少共 85 萬元賄款，誘使他們本人或安排其他人士參選。

該名人士與該組織創立人及該成員會面兩次，他們串謀使該組織創立人從該名人士收受一筆 15 萬元至 20 萬元的款項，而令該組織成員在該區議會選舉某個指明的選區中參選。其後，該名人士表示該組織的競選建議書做得不夠好，最終他只向該創立人支付 3 萬 6 千元現金。

該名人士又分別向另外五名人士提供至少共 85 萬元賄款，誘使他們本人或安排其他人士在該區議會選舉某些指明的選區中參選，但其建議均遭對方拒絕。

經審訊後，三人被裁定違反《選舉（舞弊及非法行為）條例》（第 554 章）第 7 條，即提供利益予另一人，以誘使該另一人或令第三者在選舉中參選，及串謀接受利益作為令另一人在選舉中參選的誘因。三人最後分別被判入獄 2 年至 3 年零 3 個月。

法官指出，賄選是嚴重罪行，損害市民對選舉制度的信心。法庭必須向市民發出明確信息，賄選者必須受到嚴懲以示阻嚇。其後該名人士上訴至終審法院，終審法院駁回其上訴，並裁定該名人士故意和「舞弊地」誘使其他共同被告人參與選舉以獲取私人利益，而此等行為傾向於削弱公平、公開及誠實的選舉。

案例 2 賄選舞弊

在一次區議會選舉中，某候選人及他的四名支持者在投票日前一個多月，成立某居民協會，並以協會名義向選民提供多項利益及飲食，藉此誘使選民投票給該候選人。

協會先後斥資逾 $1,000,000，舉辦十多場晚宴招待其 1,500 名會員，當中大部分為有關選區的選民。每名參加者只需每次支付 $20 入場費；晚宴的飲食娛樂消費，則由候選人及該四名支持者支付。在晚宴期間，協會人員更不斷重覆地舉起暗示候選人編號的手勢及提及與候選人的參選編號相關的語句。

在選舉期間，協會差不多每天也舉辦本地一日遊旅行團（包括早午兩餐），免費招待會員參加。他們共安排了 38 次的免費旅行，涉及開支超過 39 萬元。候選人及該四名支持者不但有出現在現場與參加者打招呼，更在選舉日迎接回程的旅遊巴士。此外，他們亦在其他場合向選民提供免費流感疫苗注射，並派發某私家診所的 $100 現金券；也印製了大量保健書籍及環保袋於區內派發，而有關印刷品上清楚見到非常搶眼的候選人參選編號。整項選舉工程中，候選人及該四名支持者共招致的選舉開支總額逾 $2,000,000，遠超過該次區議會選舉的法定最高限額。

經審訊後，法庭裁定五人串謀觸犯《選舉（舞弊及非法行為）條例》的多項罪名，包括第 11 條向選民提供利益罪、第 12 條向選民提供茶點或娛樂罪及其他有關選舉開支的條文等，最終分別被判入獄 27 至 33 個月。

法官指出，這是一宗極大規模的選舉舞弊案件。有關人士經過精心計劃及部署，長時間及利用多種不同的賄選行為，意圖影響選民的投票意向。上訴庭更清楚強調，任何參與賄選行為的人士，不論其背景及社會地位，均不會獲得輕判。

案例 3 提供服務換取選票

某區議會選舉候選人，在選舉期間兩次聘請多名護士學生，在其選區內設立攤檔，向長者提供免費身體檢查，包括量度血壓、體重和身高。候選人除了在攤檔附近擺放他的競選宣傳海報，更指示護士學生協助派發刻有候選人名字的贈品，並提醒居民投票予該名候選人。上述活動進行時，候選人更佩戴著選舉肩帶向在場接受服務的人士拉票。

經法庭審訊後，候選人被判違反《選舉（舞弊及非法行為）條例》第 11 條，向選民提供利益以換取選票，罪名成立，被判入獄 9 個星期。裁判官判刑時強調，由於案情嚴重，必須判處監禁刑罰。

候選人其後上訴，辯稱他作為當時的在任區議員，早於案發前一年已開始定期在區內提供有關身體檢查服務。惟原訟法庭暫委法官指出，候選人該兩次所提供的服務，明顯是為誘使選民投票予他，故此維持原判，裁定他作出了舞弊行為。

案例 4 茶聚宴請作拉票

某區議會選舉候選人在遞交參選提名表格後 3 日，隨即以其擔任主席的社區服務處的名義，在酒樓舉辦午間茶聚招待其選民。他向酒樓預訂點心茶聚，酒樓收費每位 $30，他則向參加者出售每位 $20 入場券，餘數由其贊助，並附有抽獎。最終茶聚筵開 11 席，有關開支合共 $3,300。

候選人被裁定違反《選舉（舞弊及非法行為）條例》罪名，包括第 12 條，即向茶聚參加者提供食物、飲料或娛樂的全部或部分費用，以誘使他們在選舉中投票予他。候選人罪名成立，被判處須履行 100 小時社會服務。

裁判官指出，雖然候選人在茶聚中並無提及選舉事宜，但席間候選人曾公開發表演說表示他參選；裁判官認為拉票行為並不一定是明顯的，而是可以用其他暗示或隱晦方式進行。

案例 5 以利益賄選

某鄉事委員會選舉候選人，先後兩次親自到訪向某選民拉票。於第二次會面時，他更放下 $130,000 現鈔作為提供予該選民的賄款，要求對方在選舉中支持他。

候選人被裁定違反《選舉（舞弊及非法行為）條例》第 11 條，即向選民提供利益罪成立，被判入獄 14 個星期。

裁判官強調，選舉是本港社會發展的基石，法庭有責任確保選舉公正及廉潔。上訴庭其後批准律政司就判刑提出的覆核，並形容被告的賄選行為公然漠視選舉制度的神聖和廉潔，法庭必須判處具阻嚇性的刑罰，以杜絕在選舉中出現舞弊及非法行為。上訴庭更認為原有的判刑明顯不足，將被告的刑期增加至 12 個月。

案例 6 接受利益投票予某候選人

一名選民於投票日前一天，應親戚邀約到餐廳晚膳。席上該親戚將 $4,000 現金交給她，並說有關款項是給她及其母親每人 $2,000，要求她們在選舉中投票給指定某位候選人。

晚膳後該選民致電其母親告知有關事情，並在家中將 $2,000 給予其母親。她們母女二人其後在選舉中投了票。

該選民於庭上承認收受利益，作為投票予某候選人及令其母親投票予同一候選人，違反《選舉（舞弊及非法行為）條例》第 11 條，被判入獄 2 個月，並須向法庭繳付 $4,000。

裁判官判刑時指出，沒有任何東西比維護廉潔社會更重要。任何人士在選舉中作出舞弊行為必須被嚴懲，否則選舉制度將崩潰。

案例 7 「種票」舞弊

在某次區議會選舉中，幾十名市民被揭發使用虛假住址（包括使用其他人的住址或非住宅物業），登記為某同一選區的選民，並於投票日前往投票；更有些人將自己的地址借給他人登記成為當區的選民。事後共 40 多人分別被控違反《選舉（舞弊及非法行為）條例》第 16 條或串謀詐騙。部分人士於法庭認罪；其餘被判處罪名成立。刑罰由執行社會服務令至監禁 1 年。

在不同的審訊中，多名裁判官均指「種票」為嚴重罪行，必須判處具阻嚇性刑罰。法庭要向公眾發出信息，保障廉潔及公平的選舉制度。

案例 8 欠缺書面支持同意

一名區議會選舉候選人在一則選舉廣告內，收納了一批支持者的姓名／組織的名稱，但在發布該選舉廣告前，未有取得其中 50 多個支持者／組織的書面支持同意。雖然該名候選人在選舉中勝出，但其中一名落敗候選人其後提出選舉呈請，以該勝出的候選人違反了《選舉（舞弊及非法行為）條例》第 27 條作其中一項理據。原訟法庭在聆訊後裁定選舉結果無效，須進行補選。

該候選人其後向原訟法庭申請命令以寬免其刑罰，並提出所有支持者／組織均已口頭同意支持他，但法官不接納有關行為是因為粗心大意或其他合理因由所致，故駁回他的寬免申請。

候選人其後被起訴，他於庭上承認一項在選舉中作出非法行為罪名，違反《選舉（舞弊及非法行為）條例》第 27 條，被判罰款 $15,000。

裁判官在判刑時指出，候選人如只是取得支持者的口頭答應，但欠缺法例要求的書面同意，便需負上法律責任。候選人有責任確保選舉工程符合法例要求。

案例 9 欠交選舉申報書

某名於公共選舉中落敗的候選人，沒有按法例規定於選舉結果公布後的指定日期內提交其選舉申報書。選舉事務處於收到該候選人的提名表格後，向他送達一批文件，通知及提醒他在相關選舉法例下，作為候選人的責任，包括按照《選舉（舞弊及非法行為）條例》第 37 條的規定，向選舉事務處提交選舉申報書。

該候選人曾出席一個簡介會，會上各與會人士被提醒必須於刊登選舉結果後 30 天內提交選舉申報書。其後選舉事務處向該選舉的所有候選人發出一張標準信件，提醒他們須按照法例提交選舉申報書。選舉結果刊登後，一位選舉助理曾致電該候選人，提醒他有關提交其選舉申報書的屆滿日期，但選舉事務處並沒有在屆滿日期前收到該候選人提交的選舉申報書。

候選人其後被控違反《選舉（舞弊及非法行為）條例》第 38 條，即沒有提交選舉申報書罪。候選人在庭上認罪，承認儘管他清楚知道有關規定，卻沒有在限期前向選舉事務處提交選舉申報書，被判罰款 $5,000。

刑罰

任何人被裁定在選舉中作出舞弊行為，根據《選舉（舞弊及非法行為）條例》可被判監禁 7 年及罰款 50 萬元。任何人如在選舉中作出非法行為或沒有按照《選舉（舞弊及非法行為）條例》第 37 條的規定，一經定罪，可被判監禁 3 年及罰款 20 萬元。

任何人被裁定作出《選舉（舞弊及非法行為）條例》中的舞弊或非法行為，將會由被裁定有罪之日起計 5 年內喪失資格，而不得獲提名為行政長官、選舉委員會界別分組、立法會、區議會或鄉郊代表選舉的候選人；或當選為行政長官、選舉委員會委員、立法會議員、區議會議員或鄉郊代表；或獲委任為區議會議員；或登記為區議會當然議員；或獲提名為選舉委員會委員；或登記為選舉委員會當然委員。

第三部分

選舉備忘

選舉委員會界別分組選舉（下稱「界別分組選舉」）及**行政長官選舉**的候選人及助選成員應留意下列事項：

1 參選

賄賂

- 不得作出下列行為，也不得以明示或默示方式授權另一人作出下列行為：
  （1） 提供利益以誘使或酬謝任何人在選舉中參選或不參選；
  （2） 提供利益以誘使或酬謝任何已在選舉中獲提名的候選人撤回提名，或不盡最大努力促使其本人當選。

- 不得索取或接受利益，以作為任何人在選舉中參選或不參選的誘因或報酬。

- 不得索取或接受利益，以作為任何人在選舉中獲提名為候選人後撤回提名，或不盡最大努力促使其本人當選的誘因或報酬。

施用或威脅施用武力或脅迫手段

- 不得施用或威脅施用武力或脅迫手段以誘使任何人在選舉中參選或不參選，或誘使已在選舉中獲提名為候選人的人士撤回提名。

- 不得以明示或默示方式授權另一人作出上述行為。

欺騙行為

- 不得以欺騙手段誘使任何人在選舉中參選或不參選，或誘使已在選舉中獲提名為候選人的人士撤回提名。
- 不得以明示或默示方式授權另一人作出上述行為。

提名書

- 不得污損或銷毀已填妥或已局部填妥的提名書，以阻止或妨礙他人在選舉中參選。

2 競選活動

有關候選人的陳述

- 不得發布虛假陳述指某人是或不是候選人。
- 不得為促使或阻礙某（些）候選人當選，而發布包括（但不限於）關於該（些）候選人的品格、資歷或以往的行為且屬虛假達關鍵程度或具誤導性達關鍵程度的事實陳述。

選舉廣告

- 不得發布載有某人士或某組織的姓名、名稱或標識，或某人的圖像的選舉廣告，而發布的方式意味着有關候選人獲得該人士或該組織的支持，除非：
  （1） 事先取得該支持人士或組織的書面同意；或
  （2） 發布有關選舉廣告的候選人或人士既沒有要求或指示將該姓名、名稱、標識或圖像納入該廣告中，亦沒有授權任何其他人如此要求或指示（例如有關選舉廣告內容是由有關支持者主動提供）。

註：任何人必須經組織的管理階層批准，或經其組織成員在全體大會通過的決議批准，才可給予該組織的書面支持同意。

- 不得修改及授權任何人修改由支持人士或組織提供，收納了他們的姓名、名稱、標識或圖像及任何由他們提供的選舉廣告內容，除非事先取得他們的書面同意。

註：如在選舉期間（即有關選舉的提名期首日起至投票結束當日的期間）發布文件，列明候選人以行政長官、選舉委員會委員、立法會議員、區議會議員、鄉議局議員、鄉事委員會主席、副主席或執行委員會委員、或鄉郊代表的身分所做工作的詳細資料，則該文件亦屬選舉廣告。

3 投票

賄賂

- 不得無合理辯解而作出下列行為，也不得以明示或默示方式授權另一人作出下列行為：
  （1） 提供利益以誘使或酬謝任何人在選舉中投票或不投票予某（些）候選人；
  （2） 提供利益以誘使或酬謝任何人在選舉中不投票。

提供茶點或娛樂

- 不得作出下列行為，也不得以明示或默示方式授權另一人作出下列行為：
  （1） 提供食物、飲料或娛樂，或償付用於提供該等食物、飲料或娛樂的全部或部分費用，以誘使或酬謝任何人在選舉中投票或不投票予某（些）候選人；
  （2） 提供食物、飲料或娛樂，或償付用於提供該等食物、飲料或娛樂的全部或部分費用，以誘使或酬謝任何人在選舉中不投票。

施用或威脅施用武力或脅迫手段

- 不得作出下列行為，也不得以明示或默示方式授權另一人作出下列行為：
  （1） 向任何人施用或威脅施用武力或脅迫手段，以誘使任何人在選舉中投票，或在選舉中投票予某（些）候選人；
  （2） 向任何人施用或威脅施用武力或脅迫手段，以誘使任何人在選舉中不投票，或在選舉中不投票予某（些）候選人；
  （3） 因為任何人在選舉中投票，或在選舉中投票予某（些）候選人，所以對該人施用或威脅施用武力或脅迫手段；
  （4） 因為任何人在選舉中不投票，或在選舉中不投票予某（些）候選人，所以對該人施用或威脅施用武力或脅迫手段；
  （5） 以擄拐方式阻止選民在選舉中投票。

欺騙行為

- 不得作出下列行為，也不得以明示或默示方式授權另一人作出下列行為：
  （1） 以欺騙手段誘使任何人在選舉中投票或不投票予某（些）候選人；
  （2） 以欺騙手段誘使任何人在選舉中不投票。

有關投票的其他違法行為

- 不得明知他人無權在選舉中投票卻促請或誘使該人在選舉中投票。

- 不得明知他人已向選舉事務主任提供屬虛假達關鍵程度或具誤導性達關鍵程度的資料，卻促請或誘使該人在選舉中投票。

- 不得無合法權限而銷毀、污損、取去或以其他方式干擾正在或曾在選舉中使用的選票。

- 不得無合法權限而銷毀、移走、開啟或以其他方式干擾正在選舉中使用的投票箱。

4 選舉開支及選舉捐贈

選舉開支

- **就界別分組選舉而言**，不得招致超過下列就有關界別分組訂明的選舉開支最高限額：

界別分組	最高限額
（a）已登記投票人不超過 500 人的界別分組	$100,000
（b）已登記投票人超過 500 人但不超過 5,000 人的界別分組	$160,000
（c）已登記投票人超過 5,000 人但不超過 10,000 人的界別分組	$320,000
（d）已登記投票人超過 10,000 人的界別分組	$480,000

- **就行政長官選舉而言**，不得招致超過其訂明的選舉開支最高限額（即 $17,600,000）。

- 選舉開支代理人不得招致超過其授權書所指明之限額的選舉開支。

- 除了為自己招致選舉開支的候選人或是已獲授權的選舉開支代理人外，任何人不得在選舉中或在與選舉有關連的情況下招致任何選舉開支（除非該名人士僅在互聯網發布選舉廣告且所招致的選舉開支僅為電費及 / 或連接互聯網所需的費用）。

- 必須將所有由候選人及其已獲授權的選舉開支代理人招致的選舉開支，清楚列明於選舉申報書內，並就每項價值 $500 或以上的選舉開支提交由貨品或服務提供者發出且載有該項支出詳情的發票及收據。

選舉捐贈

- ✗ 不得將選舉捐贈用於：
  （1） 償付候選人的選舉開支以外的用途；或
  （2） 促使候選人當選或阻礙其他候選人當選以外的用途。

- ✓ 必須就任何價值 $1,000 以上的選舉捐贈向捐贈者發出收據，載明捐贈者的姓名或名稱及地址，及該項選舉捐贈的詳情。

- ✓ 必須將任何價值 $1,000 以上而候選人不知道捐贈者的姓名或名稱及地址的選舉捐贈、剩餘的選舉捐贈及因超出選舉開支最高限額而未有使用的選舉捐贈，於提交選舉申報書之前，給予候選人所選擇的屬公共性質的慈善機構或慈善信託。

選舉申報書

- ✓ 必須在《選舉（舞弊及非法行為）條例》第 37 條規定的限期屆滿之前，向總選舉事務主任提交選舉申報書。

- ✓ 必須在選舉申報書中附有：
  （1） 載有每項支出的詳情的發票及收據（價值 $500 以下的支出除外）；
  （2） 發給每位選舉捐贈者並列明捐贈者的姓名或名稱及地址，及該項捐贈詳情的收據的副本（價值 $1,000 或以下的捐贈除外）；
  （3） 把價值 $1,000 以上而候選人不知道捐贈者的姓名或名稱及地址的選舉捐贈、剩餘的選舉捐贈及因超出選舉開支最高限額而未有使用的選舉捐贈給予候選人所選擇屬公共性質的慈善機構或慈善信託後，由該等機構或信託所發出的收據的副本；
  （4） （如適用）書面解釋，列明沒有按照上述 (3) 處理選舉捐贈的理由；及
  （5） 聲明書，以證明選舉申報書的內容屬實。

- 任何人在選舉提名期結束前曾公開宣布有意在選舉中參選；即使該人在選舉中已獲提名為候選人後撤回提名、或其提名被裁定為無效；或候選人屬自動當選、成功或不成功當選、或沒有招致任何選舉開支，該人亦必須按條例所規定的限期內，向總選舉事務主任提交選舉申報書。

> 註：「候選人」除了指獲提名為候選人的人外，亦包括在選舉提名期結束前的任何時間曾公開宣布有意參選的人。

- 不得在選舉申報書或經修訂選舉申報書的副本上作出屬虛假或具誤導性達關鍵程度的陳述。

5 選舉呈請 / 選舉上訴

- 不得撤回選舉呈請 / 選舉上訴以換取利益。
- 不得提供利益，以誘使或酬謝任何人撤回選舉呈請 / 選舉上訴。
- 不得索取或接受利益，作為令任何人撤回選舉呈請 / 選舉上訴的誘因或報酬。

第四部分

舉報及查詢途徑

舉　報

任何人如發現或懷疑任何違反《選舉（舞弊及非法行為）條例》（第 554 章）的行為，應立即向廉政公署作出舉報。廉政公署必定會就每一宗涉及違反該條例的可追查投訴展開調查，以釐清事實的真相。

市民可親身到廉政公署的 7 間分區辦事處或 24 小時舉報中心（地址：香港北角渣華道 303 號地下），亦可致電廉政公署的 24 小時**舉報貪污熱線 25 266 366**，或寫信至香港郵箱 1000 號作出舉報。

廉政公署歡迎市民就懷疑貪污的個案作出舉報。然而，若有人明知而向廉政公署人員作出有人犯罪的虛假報告；或藉提供虛假資料或作出虛假陳述或指控以誤導廉政公署人員，則可能會觸犯《廉政公署條例》（第 204 章）第 13B 條，可被判處罰款 $25,000 及監禁 1 年。

查　詢

任何人如對《選舉（舞弊及非法行為）條例》有任何疑問，可致電**廉潔選舉查詢熱線 2920 7878** 或親臨廉政公署各分區辦事處查詢【辦公時間：星期一至星期五上午九時至下午七時（星期六、日及公眾假期休息）】。

任何人如欲查詢各項廉潔選舉教育及宣傳活動詳情，可瀏覽**廉潔選舉網站 (www.icac.org.hk/elections)**。

廉政公署分區辦事處地址及電話

香港

東港島辦事處
灣仔分域街 16 號東城大廈地下 3 號　電話：2519 6555

西港島及離島辦事處
上環干諾道中 124 號海港商業大廈地下　電話：2543 0000

九龍

東九龍及西貢辦事處
九龍灣宏開道 8 號其士商業中心地下 9 號　電話：2756 3300

西九龍辦事處
油麻地彌敦道 434-436 號彌敦商務大廈地下　電話：2780 8080

新界

新界東辦事處
沙田上禾輋路 1 號沙田政府合署地下 G06-G13 室　電話：2606 1144

新界西北辦事處
元朗青山公路元朗段 230 號富興大廈地下　電話：2459 0459

新界西南辦事處
荃灣青山公路 300-350 號荃錦中心地下 B1 號　電話：2493 7733

附錄

《選舉(舞弊及非法行為)條例》摘錄

本附錄只提供在本資料冊內提及的《選舉（舞弊及非法行為）條例》（第 554 章）的部分內容。

第 2 條　釋義

利益 指

（a）任何有值代價、饋贈或借貸；或

（b）任何職位、受僱工作或合約；或

（c）支付、免卻、解除或了結全部或部分義務；或

（d）行使或不行使權利或權力；或

（e）履行或不履行職責；或

（f）任何優待，包括

（i）予以維護使免受已招致或預期招致的法律責任；及

（ii）予以維護使免遭已採取或可能採取的紀律、民事或刑事法律程序起訴；或

（g）任何其他服務（義務服務及提供娛樂除外），

但如某項選舉捐贈的詳情已在提交有關主管當局的選舉申報書內提供，則利益一詞並不包括該項選舉捐贈。

武力

（a）包括任何形式的暴力或約束；及

（b）尤其包括

（i）使任何人受到傷害（不論是身體上或精神上）；及

（ii）損害或銷毀任何人的財產。

候選人

（a） 指在某項選舉中接受提名為候選人的人；

（b） 亦指在某項選舉的提名期結束前的任何時間曾公開宣布有意在該項選舉中參選的人。

脅迫手段 包括以脅迫手段使任何人蒙受經濟損失。

義務服務 指任何自然人為以下目的在其私人時間自願親自免費向某項選舉的一名或多於一名候選人提供或就某項選舉的一名或多於一名候選人而提供的任何服務

（a） 促使該候選人或該等候選人當選；或

（b） 阻礙另一名候選人或另一些候選人當選。

選舉捐贈 就某項選舉的一名或多於一名候選人而言，指以下任何捐贈

（a） 為償付或分擔償付該候選人或該等候選人的選舉開支，而給予該候選人或該等候選人或就該候選人或該等候選人而給予的任何金錢；或

（b） 為促使該候選人或該等候選人當選或阻礙另一名候選人或另一些候選人當選，而給予該候選人或該等候選人或就該候選人或該等候選人而給予的任何貨品，包括由於提供義務服務而附帶給予的貨品；

（c） 為促使該候選人或該等候選人當選或阻礙另一名候選人或另一些候選人當選，而向該候選人或該等候選人提供或就該候選人或該等候選人而提供的任何服務，但不包括義務服務。

選舉期間 就某項選舉而言，指由該項選舉提名日起，至該項選舉投票日止的期間，如該項選舉有多於 1 個投票日，則指由該項選舉提名日起，至該項選舉最後 1 個投票日止的期間。

選舉開支 就某項選舉的候選人而言，指在選舉期間前、在選舉期間內或在選舉期間後，由該候選人或由他人代該候選人

（a） 為促使該候選人當選；或

（b） 為阻礙另一候選人當選，

而招致或將招致的開支，並包括包含貨品及服務而用於上述用途的選舉捐贈的價值。

選舉開支代理人 就某候選人而言，指該候選人按照第 23 條授權的人。

選舉廣告 就選舉而言，指為促使或阻礙一名或多於一名候選人在選舉中當選而發布的

（a） 公開展示的通知；或

（b） 由專人交付或用電子傳送的通知；或

（c） 以無線電或電視廣播，或以錄像片或電影片作出的公告；或

（d） 任何其他形式的發布。

如候選人在選舉期間發布文件，而該文件列明該候選人以下述身分所做工作的詳細資料，則該文件就本條例而言屬選舉廣告

（ a ）行政長官；

（ab）選舉委員會委員；

（ b ）立法會議員；

（ c ）區議會議員；

（ d ）鄉議局議員；

（ e ）鄉事委員會主席、副主席或執行委員會委員；或

（ f ）鄉郊代表。

第 5 條　本條例適用的行為

本條例適用於一切與選舉有關的行為，不論該行為是在香港境內或在其他地方作出的。

第 6 條　可就選舉中的舞弊行為施加的刑罰

（1）　任何人在選舉中作出舞弊行為，即屬犯罪

（a）如循簡易程序審訊，一經定罪，可處罰款 $200,000 及監禁 3 年；或

（b）如循公訴程序審訊，一經定罪，可處罰款 $500,000 及監禁 7 年。

（2）　如任何人被裁斷在選舉期間前、在選舉期間內或在選舉期間後作出舞弊行為，則該人可被裁定犯了在選舉中作出舞弊行為的罪行。

（3）　法庭如裁定任何人作出舞弊行為，必須命令該人向法庭繳付

（a）該人或該人的代理人在與該等行為有關連的情況下所收取的任何有值代價的款額或價值；或

（b）法庭在命令中指明的該有值代價的部分款額或價值。

第 7 條　賄賂候選人或準候選人的舞弊行為

（1）任何人舞弊地作出以下作為，即屬在選舉中作出舞弊行為

（a）提供利益予另一人

（i）　作為該另一人在選舉中參選或不參選的誘因；或

（ii）（如該另一人已在選舉中獲提名為候選人）作為該另一人撤回接受提名的誘因；或

（iii）（如該另一人已在選舉中獲提名為候選人）作為該另一人不盡最大努力促使該另一人當選的誘因；或

（b）提供利益予另一人

（i）　作為該另一人已在選舉中參選或不參選的報酬；或

（ii）（如該另一人過去在選舉中獲提名為候選人）作為該另一人已撤回接受提名的報酬；或

（ⅲ）（如該另一人已在或過去在選舉中獲提名為候選人）作為該另一人沒有盡最大努力促使該另一人當選的報酬；或

（c）提供利益予另一人

（i） 作為該另一人令第三者或試圖令第三者在選舉中參選或不參選的誘因；或

（ⅱ）（如該第三者已在選舉中獲提名為候選人）作為該另一人令該第三者或試圖令該第三者撤回接受提名的誘因；或

（ⅲ）（如該第三者已在選舉中獲提名為候選人）作為該另一人令該第三者或試圖令該第三者不盡最大努力促使該第三者當選的誘因；或

（d）提供利益予另一人

（i） 作為該另一人已令第三者或已試圖令第三者在選舉中參選或不參選的報酬；或

（ⅱ）（如該第三者過去在選舉中獲提名為候選人）作為該另一人已令該第三者或已試圖令該第三者撤回接受提名的報酬；或

（ⅲ）（如該第三者已在或過去在選舉中獲提名為候選人）作為該另一人已令該第三者或已試圖令該第三者不盡最大努力促使該第三者當選的報酬；或

（e）索取或接受利益

（i） 作為在選舉中參選或不參選的誘因；或

（ⅱ）（如該人已在選舉中獲提名為候選人）作為撤回接受提名的誘因；或

（ⅲ）（如該人已在選舉中獲提名為候選人）作為不盡最大努力促使該人當選的誘因；或

（f）索取或接受利益

（i） 作為已在選舉中參選或不參選的報酬；或

（ⅱ）（如該人過去在選舉中獲提名為候選人）作為已撤回接受提名的報酬；或

（ⅲ）（如該人已在或過去在選舉中獲提名為候選人）作為沒有盡最大努力促使該人當選的報酬；或

（g）索取或接受利益

（i） 作為令另一人或試圖令另一人在選舉中參選或不參選的誘因；或

（ii）（如該另一人已在選舉中獲提名為候選人）作為令該另一人或試圖令該另一人撤回接受提名的誘因；或

（iii）（如該另一人已在選舉中獲提名為候選人）作為令該另一人或試圖令該另一人不盡最大努力促使該另一人當選的誘因；或

（h）索取或接受利益

（i） 作為已令另一人或已試圖令另一人在選舉中參選或不參選的報酬；或

（ii）（如該另一人過去在選舉中獲提名為候選人）作為已令該另一人或已試圖令該另一人撤回接受提名的報酬；或

（iii）（如該另一人已在或過去在選舉中獲提名為候選人）作為已令該另一人或已試圖令該另一人不盡最大努力促使該另一人當選的報酬。

（2） 就本條而言

（a）任何人授予、承諾授予或顯示願意授予另一人利益，即屬提供利益；及

（b）任何人為令自己受惠或為令另一人受惠而問取利益，或顯示願意為令自己受惠或為令另一人受惠而收取利益，即屬索取利益；及

（c）任何人為令自己受惠或為令另一人受惠而收取或獲得利益，或同意為令自己受惠或為令另一人受惠而收取或獲得利益，即屬接受利益。

（3） 就本條而言，即使利益是由另一人提供，但如該另一人是獲授權而行事的，則授權的人仍視為曾提供利益。授權的方式可以是明示或默示的。

第 8 條　對候選人或準候選人施用武力或脅迫手段，或威脅對候選人或準候選人施用武力或脅迫手段的舞弊行為

（1） 任何人作出以下作為，即屬在選舉中作出舞弊行為

（a）對另一人施用武力或脅迫手段，或威脅對另一人施用武力或脅迫手段，以誘使該另一人

（i） 在選舉中參選或不參選；或

（ii）（如該另一人已在選舉中獲提名為候選人）撤回接受提名；或

（b）對另一人施用武力或脅迫手段，或威脅對另一人施用武力或脅迫手段，以誘使該另一人令第三者

（i） 在選舉中參選或不參選；或

（ii）（如該第三者已在選舉中獲提名為候選人）撤回接受提名；或

（c）對另一人施用武力或脅迫手段，或威脅對另一人施用武力或脅迫手段，因為該另一人或第三者

（i） 在選舉中參選或不參選；或

（ii）（如該另一人或該第三者已在選舉中獲提名為候選人）撤回接受提名。

（2） 第 (1) 款所提述的任何一類舞弊行為，即使是由另一人作出，但如該另一人是獲授權而行事的，則授權的人仍視為曾作出該舞弊行為。授權的方式可以是明示或默示的。

第 9 條　作出某些關乎候選人或準候選人的欺騙性行為的舞弊行為

（1） 任何人作出以下作為，即屬在選舉中作出舞弊行為

（a）以欺騙手段誘使另一人

（i） 在選舉中參選或不參選；或

（ii）（如該另一人已在選舉中獲提名為候選人）撤回接受提名；或

（b）以欺騙手段誘使另一人令第三者

（i） 在選舉中參選或不參選；或

（ii）（如該第三者已在選舉中獲提名為候選人）撤回接受提名。

（2） 第（1）款所提述的任何一類舞弊行為，即使是由另一人作出，但如該另一人是獲授權而行事的，則授權的人仍視為曾作出該舞弊行為。授權的方式可以是明示或默示的。

第10條 污損或銷毀提名書的舞弊行為

任何人意圖阻止或妨礙另一人在選舉中參選而污損或銷毀已填妥或已局部填妥的提名書，即屬在選舉中作出舞弊行為。

第11條 在選舉中賄賂選民或其他人的舞弊行為

（1） 任何人無合理辯解而作出以下作為，即屬在選舉中作出舞弊行為

（a）提供利益予另一人，作為在選舉中投票予某候選人或某些候選人的誘因；或

（b）提供利益予另一人，作為已在選舉中投票予某候選人或某些候選人的報酬；或

（c）提供利益予另一人，作為該另一人令第三者或試圖令第三者在選舉中投票予某候選人或某些候選人的誘因；或

（d）提供利益予另一人，作為已令第三者或已試圖令第三者在選舉中投票予某候選人或某些候選人的報酬；或

（e）索取或接受利益，作為在選舉中投票予某候選人或某些候選人的誘因；或

（f）索取或接受利益，作為已在選舉中投票予某候選人或某些候選人的報酬；或

（g）索取或接受利益，作為令另一人或試圖令另一人在選舉中投票予某候選人或某些候選人的誘因；或

（h）索取或接受利益，作為已令另一人或已試圖令另一人在選舉中投票予某候選人或某些候選人的報酬。

（2） 任何人無合理辯解而作出以下作為，亦屬在選舉中作出舞弊行為

（a）提供利益予另一人，作為在選舉中不投票，或在選舉中不投票予某候選人或某些候選人的誘因；或

（b）提供利益予另一人，作為已在選舉中不投票，或已在選舉中不投票予某候選人或某些候選人的報酬；或

（c）提供利益予另一人，作為該另一人令第三者或試圖令第三者在選舉中不投票，或在選舉中不投票予某候選人或某些候選人的誘因；或

（d）提供利益予另一人，作為已令第三者或試圖令第三者在選舉中不投票，或在選舉中不投票予某候選人或某些候選人的報酬；或

（e）索取或接受利益，作為在選舉中不投票，或在選舉中不投票予某候選人或某些候選人的誘因；或

（f）索取或接受利益，作為已在選舉中不投票，或已在選舉中不投票予某候選人或某些候選人的報酬；或

（g）索取或接受利益，作為令另一人或試圖令另一人在選舉中不投票，或在選舉中不投票予某候選人或某些候選人的誘因；或

（h）索取或接受利益，作為已令另一人或已試圖令另一人在選舉中不投票，或在選舉中不投票予某候選人或某些候選人的報酬。

（3） 就本條而言

（a）任何人授予、承諾授予或顯示願意授予另一人利益，即屬提供利益；及

（b）任何人為令自己受惠或為令另一人受惠而問取利益，或顯示願意為令自己受惠或為令另一人受惠而收取利益，即屬索取利益；及

（c）任何人為令自己受惠或為令另一人受惠而收取或獲得利益，或同意為令自己受惠或為令另一人受惠而收取或獲得利益，即屬接受利益。

（4） 就本條而言，即使利益是由另一人提供，但如該另一人是獲授權而行事的，則授權的人仍視為曾提供利益。授權的方式可以是明示或默示的。

（5） 任何候選人或其他人不會僅因提出或唆使他人提出訂立投票協議，而屬在違反本條的情況下作出舞弊行為。

（6） 就第(5)款而言，如根據某項協議，某些人同意投票予某候選人或某些候選人或同意令他人投票予某候選人或某些候選人，以換取另一些人同意投票予另一候選人或另一些候選人或同意令他人投票予另一候選人或另一些候選人，則該項協議即屬投票協議。

（7） 即使所提出之事涉及不同選舉，第(5)款仍然適用。

（8） 在就本條所訂罪行而提起的檢控中，證明具有合理辯解的舉證責任，由被告人承擔。

第12條 在選舉中向他人提供茶點或娛樂的舞弊行為

（1） 任何人為另一人提供食物、飲料或娛樂，或償付用於提供該等食物、飲料或娛樂的全部或部分費用，以誘使該另一人或第三者

（a）在選舉中投票予某候選人或某些候選人；或

（b）在選舉中不投票，或在選舉中不投票予某候選人或某些候選人，

即屬在選舉中作出舞弊行為。

（2） 任何人因另一人或第三者

（a）已在選舉中投票予某候選人或某些候選人；或

（b）已在選舉中不投票，或已在選舉中不投票予某候選人或某些候選人，

而為該另一人提供食物、飲料或娛樂，或償付用於提供該等食物、飲料或娛樂的全部或部分費用，即屬在選舉中作出舞弊行為。

（3） 任何人索取、接受或享用食物、飲料或娛樂

（a）作為在選舉中投票予某候選人或某些候選人的誘因；或

（b）作為在選舉中不投票，或在選舉中不投票予某候選人或某些候選人的誘因，即屬在選舉中作出舞弊行為。

（4） 任何人索取、接受或享用食物、飲料或娛樂

（a）作為已在選舉中投票予某候選人或某些候選人的報酬；或

（b）作為已在選舉中不投票，或已在選舉中不投票予某候選人或某些候選人的報酬，即屬在選舉中作出舞弊行為。

（5） 任何人不會僅因他在選舉聚會中供應任何種類的不含酒精飲料，而屬作出第 (1) 款所提述的任何一類舞弊行為。選舉聚會指任何為促使或阻礙某候選人或某些候選人當選而舉行的聚會。

（6） 第 (1) 至 (4) 款所提述的任何一類舞弊行為，即使是由另一人作出，但如該另一人是獲授權而行事的，則授權的人仍視為曾作出該舞弊行為。授權的方式可以是明示或默示的。

第13條 對選民施用武力或脅迫手段，或威脅對選民施用武力或脅迫手段的舞弊行為

（1） 任何人作出以下作為，即屬在選舉中作出舞弊行為

（a）對另一人施用武力或脅迫手段，或威脅對另一人施用武力或脅迫手段，以誘使該另一人在選舉中投票，或在選舉中投票予某候選人或某些候選人；或

（b）因為另一人在選舉中投票，或在選舉中投票予某候選人或某些候選人，所以對該另一人施用武力或脅迫手段，或威脅對該另一人施用武力或脅迫手段；或

（c）對另一人施用武力或脅迫手段，或威脅對另一人施用武力或脅迫手段，以誘使該另一人令第三者在選舉中投票，或在選舉中投票予某候選人或某些候選人。

（2） 任何人作出以下作為，亦屬在選舉中作出舞弊行為

（a）對另一人施用武力或脅迫手段，或威脅對另一人施用武力或脅迫手段，以誘使該另一人在選舉中不投票，或在選舉中不投票予某候選人或某些候選人；或

（b）因為另一人在選舉中不投票，或在選舉中不投票予某候選人或某些候選人，所以對該另一人施用武力或脅迫手段，或威脅對該另一人施用武力或脅迫手段；或

（c）對另一人施用武力或脅迫手段，或威脅對另一人施用武力或脅迫手段，以令該另一人誘使第三者在選舉中不投票，或在選舉中不投票予某候選人或某些候選人；或

（d）以擄拐方式阻止選民在選舉中投票。

（3） 第 (1) 或 (2) 款所提述的任何一類舞弊行為，即使是由另一人作出，但如該另一人是獲授權而行事的，則授權的人仍視為曾作出該舞弊行為。授權的方式可以是明示或默示的。

（4） 團體選民不會僅因曾指示其獲授權代表在選舉中投票予某候選人或某些候選人或不投票予某候選人或某些候選人而違反本條。

第 14 條 作出某些關乎選民的欺騙或妨礙行為的舞弊行為

（1） 任何人以欺騙手段作出以下作為，即屬在選舉中作出舞弊行為

（a）誘使另一人在選舉中投票予某候選人或某些候選人；或

（b）誘使另一人在選舉中不投票，或在選舉中不投票予某候選人或某些候選人；或

（c）令另一人誘使第三者在選舉中投票予某候選人或某些候選人；或

（d）令另一人誘使第三者在選舉中不投票，或在選舉中不投票予某候選人或某些候選人。

（1A）任何人故意作出以下作為，即屬在選舉中作出舞弊行為

（a）妨礙或阻止另一人在選舉中投票；或

（b）令另一人妨礙或阻止第三者在選舉中投票。

（1B）凡某人因作出第 (1A) 款所指的舞弊行為，而被控犯第 6(1) 條所訂罪行，則如該人證明在指稱的罪行發生時，該人在有合法權限或合理辯解的情況下作出該控罪所關乎的作為，即為免責辯護。

（2） 第 (1) 或 (1A) 款所提述的任何一類舞弊行為，即使是由另一人作出，但如該另一人是獲授權而行事的，則授權的人仍視為曾作出該舞弊行為。授權的方式可以是明示或默示的。

第16條　關於在選舉中投票的舞弊行為

（1）任何人作出以下作為，即屬在選舉中作出舞弊行為

（a）明知他無權在選舉中投票卻在選舉中投票；或

（b）已

（i）向選舉事務主任提供他明知屬虛假達關鍵程度或具誤導性達關鍵程度的資料；或

（ii）明知而不向選舉事務主任提供關鍵資料；或

（iii）罔顧後果地向選舉事務主任提供屬虛假達關鍵程度或具誤導性達關鍵程度的資料，

而其後在選舉中投票；或

（c）在選舉中

（i）就第 4(1)(a) 條所提述的選舉而言，在該選舉中的同一輪投票中投票多於一次；

（ia）就第 4(1)(i) 或 (j) 條所提述的選舉而言，在該選舉中投票多於一次；

（ii）就第 4(1) 條任何其他段所提述的選舉而言，在該選舉中

（A）在同一個選區或選舉界別投票多於一次；或

（B）在多於一個選區或選舉界別投票，

但如選舉法明文准許者，則屬例外。

（2）任何人作出以下作為，即屬在選舉中作出舞弊行為

（a）明知另一人無權在選舉中投票卻促請或誘使該另一人在選舉中投票；或

（b）明知另一人已

（i）向選舉事務主任提供屬虛假達關鍵程度或具誤導性達關鍵程度的資料；或

（ii）不向選舉事務主任提供關鍵資料，

卻促請或誘使該另一人在選舉中投票；或

（c）促請或誘使另一人在選舉法並無明文准許的情況下

（i） 第 4(1)(i) 或 (j) 條所提述的選舉而言，在該選舉中投票多於一次；

（ii） 就第 4(1) 條任何其他段所提述的選舉而言，在該選舉中

（A）在同一個選區或選舉界別投票多於一次；或

（B）在多於一個選區或選舉界別投票。

（3） 就本條而言，任何人如申領選票以在選舉中投票，即視為已在選舉中投票。但申領並獲發給選票的人，不會僅因他

（a）損壞了選票；並且

（b）在遵從任何有關的選舉法關於損壞的選票的規定後使用另一張選票投票，

而被視為在選舉中投票多於一次。

第 17 條 銷毀或污損選票的舞弊行為

（1） 任何人

（a）無合法權限而向另一人提供選票；或

（b）意圖欺騙而將他獲合法授權放進投票箱的選票以外的任何紙張放進投票箱；或

（c）意圖欺騙而將任何選票帶離投票站；或

（d）無合法權限而銷毀、污損、取去或以其他方式干擾正在或曾在選舉中使用的選票；或

（e）無合法權限而銷毀、移走、開啟或以其他方式干擾正在選舉中使用的投票箱，

即屬在選舉中作出舞弊行為。

（2） 在就本條所訂罪行而提起的檢控中，證明具有合法權限的舉證責任，由被告人承擔。

第18條 不當運用選舉捐贈的舞弊行為

任何候選人或其他人

（a）將選舉捐贈用於償付或分擔償付該候選人的選舉開支以外的用途；或

（b）（如某項選舉捐贈包含貨品或服務）將該項捐贈用於促使該候選人當選或阻礙另一名候選人或另一些候選人當選以外的用途，

即屬在選舉中作出舞弊行為。

第19條 候選人須如何處置某些選舉捐贈

（1） 如某候選人收取或某些候選人共同收取的某項選舉捐贈為 $1,000 以上或（如該項選舉捐贈包含貨品或服務）價值 $1,000 以上，則該候選人或該等候選人必須就該項捐贈向捐贈者發出收據。該收據必須載明捐贈者提供的捐贈者的姓名或名稱及地址。

（2） 如給予某候選人或某些候選人或就某候選人或某些候選人而給予的某項選舉捐贈為 $1,000 以上或（如該項選舉捐贈包含貨品）價值 $1,000 以上，而該候選人或該等候選人不知道捐贈者的姓名或名稱及地址，則該候選人或該等候選人必須確保

（a）該項捐贈不會用於

（i） 償付或分擔償付該候選人或任何該等候選人的選舉開支；或

（ii）（如該項捐贈包含貨品）促使該候選人或任何該等候選人當選或阻礙另一名候選人或另一些候選人當選；及

（b）將該項捐贈給予該候選人或該等候選人所選擇的屬公共性質的慈善機構或慈善信託。

（3） 如給予某候選人或某些候選人或就某候選人或某些候選人而給予的某項選舉捐贈屬金錢或貨品，而該項捐贈

（a）沒有用於

（i） 償付或分擔償付該候選人或該等候選人的選舉開支；或

（ii）（如該項捐贈包含貨品）促使該候選人或該等候選人當選或阻礙另一名候選人或另一些候選人當選；或

（b）在第 (2) 款所提述的情況下不會用於該款 (a)(i) 或 (ii) 段所述用途，

則該候選人或該等候選人必須確保將該項捐贈給予該候選人或該等候選人所選擇的屬公共性質的慈善機構或慈善信託。

（4） 如給予某候選人或就某候選人而給予的所有選舉捐贈的總額超過根據第 45 條訂明的最高限額，則該候選人必須確保將超額部分（不包括屬服務性質的選舉捐贈）給予該候選人所選擇的屬公共性質的慈善機構或慈善信託。

（5） 凡某候選人收取或某些候選人共同收取選舉捐贈，如

（a）該候選人或該等候選人沒有遵從第 (1) 或 (2) 款；或

（b）該候選人在按照第 37 條提交選舉申報書之前，或該等候選人在每名該等候選人按照第 37 條提交選舉申報書之前，沒有遵從本條的其他規定，

則該候選人或每名該等候選人即屬在選舉中作出舞弊行為。

（6） 在本條中，屬公共性質的慈善機構或慈善信託指根據《稅務條例》（第 112 章）第 88 條獲豁免繳稅的屬公共性質的慈善機構或慈善信託。

第 20 條 提交虛假或具誤導性的選舉申報書的舞弊行為

如任何候選人在根據第 37 條提交的選舉申報書內，或在根據第 37A 條提交的選舉申報書的副本內，作出該候選人明知或理應知道屬虛假或具誤導性達關鍵程度的陳述，即屬在選舉中作出舞弊行為，該陳述屬一項根據第 37A 條達成的更正的標的亦然。

第21條　受賄撤回選舉呈請或選舉上訴的舞弊行為

（1） 任何人在提出選舉呈請或選舉上訴後

（a）撤回該項呈請或上訴，以換取該人所索取的利益或另一人所提供的利益；或

（b）索取或接受利益，作為撤回該項呈請或上訴的誘因，

即屬在選舉中作出舞弊行為。

（2） 任何人

（a）提供利益予已提出選舉呈請或選舉上訴的人，作為撤回該項呈請或上訴的誘因；或

（b）提供利益予另一人，以令該另一人誘使已提出選舉呈請或選舉上訴的人或試圖誘使已提出選舉呈請或選舉上訴的人撤回該項呈請或上訴，

即屬在選舉中作出舞弊行為。

（3） 任何人因

（a）已撤回選舉呈請或選舉上訴；或

（b）已誘使另一人撤回選舉呈請或選舉上訴，

而索取或接受利益作為報酬，即屬在選舉中作出舞弊行為。

（4） 任何人因另一人

（a）已撤回或已同意撤回選舉呈請或選舉上訴；或

（b）已令已提出選舉呈請或選舉上訴的人撤回該項呈請或上訴，

而向該另一人提供利益作為報酬，即屬在選舉中作出舞弊行為。

（5） 就本條而言

（a）任何人為令自己受惠或為令另一人受惠而問取利益，或顯示願意為令自己受惠或為令另一人受惠而收取利益，即屬索取利益；及

（b）任何人為令自己受惠或為令另一人受惠而收取或獲得利益，或同意為令自己受惠或為令另一人受惠而收取或獲得利益，即屬接受利益；及

（c）任何人授予、承諾授予或顯示願意授予另一人利益，即屬提供利益。

第22條　可就選舉中的非法行為施加的刑罰

（1）　任何人在選舉中作出非法行為，即屬犯罪

（a）如循簡易程序審訊，一經定罪，可處第 5 級罰款及監禁 1 年；或

（b）如循公訴程序審訊，一經定罪，可處罰款 $200,000 及監禁 3 年。

（2）　如任何人被裁斷在選舉期間前、在選舉期間內或在選舉期間後作出非法行為，則該人可被裁定犯了在選舉中作出非法行為的罪行。

第23條　並非候選人亦非選舉開支代理人的人招致選舉開支的非法行為

（1）　任何人如非候選人亦非候選人的選舉開支代理人而在選舉中或在與選舉有關連的情況下招致選舉開支，即屬在選舉中作出非法行為。

（1A）　然而，在以下情況下，第 (1) 款不適用

（a）有關的人在互聯網發布選舉廣告；及

（b）該人就發布該廣告而招致的選舉開支，只屬下述兩項或其中一項費用

（i）　電費；

（ii）　連接互聯網所需的費用。

（3）　如任何候選人或其選舉開支代理人所招致的選舉開支沒有載入該候選人的選舉申報書中，則該候選人即屬在選舉中作出非法行為。

（4）　如任何選舉開支代理人所招致的選舉開支超過其授權書所指明的限額，則該選舉開支代理人即屬在選舉中作出非法行為。

（5） 就本條例而言，如

（a）有任何人獲某候選人書面授權在選舉中或在與選舉有關連的情況下代該候選人招致選舉開支；及

（b）該授權書指明該人獲授權招致的選舉開支的最高限額；及

（c）該授權書文本已送達有關的選舉主任，

則該人即為該候選人的選舉開支代理人。

（7） 第 (5) 款所提述的授權書，除非在有關的選舉期間結束前被撤銷，否則該等授權書持續有效，直至有關的選舉期間結束為止。

第24條 候選人招致超過訂明限額的選舉開支的非法行為

（1） 候選人或他人代候選人在選舉中或在與選舉有關連的情況下所招致的選舉開支總額，如超過根據第 45 條訂立並正有效的規例就候選人所訂明的選舉開支最高限額，該候選人即屬在選舉中作出非法行為。

（3） 在指稱某候選人從事本條所指的非法行為的檢控中，該候選人如證明該等選舉開支是在下述情況下招致的，即可以此作為免責辯護

（a）該候選人並無疏忽；及

（b）該候選人並未同意，或該等開支超過在第 23 條所指的授權書中指明的限額。

（4） 就本條而言，如某項選舉捐贈包含貨品或服務，而該等貨品或服務是用於促使某候選人或某些候選人當選的用途的，或是用於阻礙另一名候選人或另一些候選人當選的用途的，則該項選舉捐贈的價值即視為該候選人或該等候選人或他人代該候選人或該等候選人所招致的選舉開支。

第25條　發布虛假陳述指某人是或不是候選人的非法行為

（1）任何人發布他明知屬虛假的陳述，指他或另一人是某項選舉的候選人，即屬在選舉中作出非法行為。

（2）任何候選人發布他明知屬虛假的陳述，指他不再是某項選舉的候選人，即屬在選舉中作出非法行為。

（3）任何人發布他明知屬虛假的陳述，指某個已在某項選舉中獲提名為候選人的人不再是該項選舉的候選人，即屬在選舉中作出非法行為。

第26條　發布關於候選人的虛假或具誤導性的陳述的非法行為

（1）任何人為促使或阻礙某候選人或某些候選人當選，而發布關於該候選人或該等候選人且屬虛假達關鍵程度或具誤導性達關鍵程度的事實陳述，即屬在選舉中作出非法行為。

（2）任何候選人

（a）為促使他或跟他有關聯的候選人當選；或

（b）為阻礙另一名候選人或另一些候選人當選，

而發布關於他或跟他有關聯的候選人或關於該另一名候選人或該等其他候選人且屬虛假達關鍵程度或具誤導性達關鍵程度的事實陳述，即屬在選舉中作出非法行為。

（3）　就本條而言，關於候選人的陳述，包括（但不限於）關於候選人的品格、資歷或以往的行為的陳述。

（4）　在就有人作出第 (1) 或 (2) 款所指非法行為的罪行而提起的檢控中，被告人如證明在作出有關陳述時有合理理由相信該項陳述是真確的，即可以此作為免責辯護。

第27條 發布選舉廣告假稱獲支持的非法行為

（1）任何候選人發布或授權發布收納了以下項目的選舉廣告

（a）某人或某組織的姓名、名稱或標識或跟某人或某組織有關聯的姓名、名稱或標識；或

（b）與某人或某組織的姓名、名稱或標識或與跟某人或某組織有關聯的姓名、名稱或標識甚為相似的姓名、名稱或標識；或

（c）某人的圖像，

而發布的方式意味着該候選人或跟該候選人有關聯的候選人獲得該人或該組織的支持，或相當可能導致選民相信該候選人或跟該候選人有關聯的候選人獲得該人或該組織的支持，該候選人即屬在選舉中作出非法行為，但如第(1A)(a)或(b)款指明的條件獲符合，而第(1B)款指明的規定獲遵守，則屬例外。

（1A）有關條件是

（a）有關人士或組織在有關選舉廣告發布前，已書面同意讓有關姓名、名稱、標識或圖像納入該廣告中；

（b）有關候選人既沒有要求或指示將該姓名、名稱、標識或圖像納入該廣告中，亦沒有授權任何人如此要求或指示。

（1B）如

（a）有關選舉廣告是符合第(1A)(a)或(b)款指明的條件的；及

（b）該廣告的任何內容是由該人或組織提供的，

則該候選人不得修改該姓名、名稱、標識或圖像或該等內容，亦不得授權任何人修改該姓名、名稱、標識或圖像或該等內容，但如在該項修改作出前，該人或組織已書面同意經修改的姓名、名稱、標識或圖像或內容，則屬例外。

（2） 任何人發布或授權發布收納了以下項目的選舉廣告

（a）另一人或某組織的姓名、名稱或標識或跟另一人或某組織有關聯的姓名、名稱或標識；或

（b）與另一人或某組織的姓名、名稱或標識或與跟另一人或某組織有關聯的姓名、名稱或標識甚為相似的姓名、名稱或標識；或

（c）另一人的圖像，

而發布的方式意味着某候選人或某些候選人獲得該另一人或該組織的支持，或相當可能導致選民相信某候選人或某些候選人獲得該另一人或該組織的支持，則首述的人即屬在選舉中作出非法行為，但如第 (2A)(a) 或 (b) 款指明的條件獲符合，而第 (2B) 款指明的規定獲遵守，則屬例外。

（2A）有關條件是

（a）有關另一人或組織在有關選舉廣告發布前，已書面同意讓有關姓名、名稱、標識或圖像納入該廣告中；

（b）該人既沒有要求或指示將該姓名、名稱、標識或圖像納入該廣告中，亦沒有授權任何其他人如此要求或指示。

（2B）如

（a）有關選舉廣告是符合第 (2A)(a) 或 (b) 款指明的條件的；及

（b）該廣告的任何內容是由該另一人或組織提供的，

則該人不得修改該姓名、名稱、標識或圖像或該等內容，亦不得授權任何其他人修改該姓名、名稱、標識或圖像或該等內容，但如在該項修改作出前，該另一人或組織已書面同意經修改的姓名、名稱、標識或圖像或內容，則屬例外。

（3） 就第 (1A)、(1B)、(2A) 及 (2B) 款而言，如

（a）有關組織的高級人員給予同意；及

（b）發布或授權發布選舉廣告的人或候選人有合理理由相信該高級人員有權給予該項同意，

則須視為已取得該組織的同意。

（4） 任何候選人或其他人如發布或授權發布第 (1) 或 (2) 款所提述的任何一類選舉廣告，則即使該選舉廣告載有一項陳述，表示將某人或某組織的姓名、名稱或標識或將跟某人或某組織有關聯的姓名、名稱或標識或將某人的圖像納入該選舉廣告中，並非意味着該人或該組織支持任何候選人，該候選人或該人仍屬作出發布或授權發布第 (1) 或 (2) 款所提述的一類選舉廣告的非法行為。

（5） 如任何人未經某組織的管理階層批准，或未經某組織的成員在全體大會所通過的決議批准，而看來給予書面同意將該組織的名稱或標識或跟該組織有關聯的名稱或標識納入選舉廣告中，則該人即屬在選舉中作出非法行為。

（6） 如任何人為促使或阻礙某候選人或某些候選人當選，向該候選人或該等候選人提供他明知或理應知道屬虛假達關鍵程度或具誤導性達關鍵程度的資料，則該人即屬在選舉中作出非法行為。

（7） 在本條中，支持就某候選人而言，包括對該候選人的政策或活動的支持。

第 27A 條 在選舉期間內藉公開活動煽惑另一人不投票或投無效票的非法行為

（1） 任何人進行符合以下任何一項描述的公開活動，即屬在選舉中作出非法行為

（a）該活動煽惑另一人在選舉中不投票；或

（b）該活動煽惑在選舉中投票的另一人以下述方式處置發給該另一人的選票：任何致使該選票在選舉中根據任何選舉法被視為無效的方式。

（2） 第 (1) 款只適用於在有關選舉的選舉期間內進行的公開活動。

（3） 在決定任何公開活動是否如第 (1) 款所描述般煽惑另一人時，可顧及有關個案的所有情況，包括

（a）該活動的內容；

（b）該活動的目標對象；及

（c）在何種情況下進行該活動。

（4） 凡某人因作出第 (1) 款所指的非法行為，而被控犯第 22(1) 條所訂罪行，則如該人證明在指稱的罪行發生時，該人在有合法權限或合理辯解的情況下作出該控罪所關乎的作為，即為免責辯護。

（5） 在本條中

公開活動包括以下任何活動，不論進行該活動的人在進行該活動時是否在公眾地方

（a）向公眾作出的任何形式的通訊，包括講話、書寫、印刷、展示通告、廣播、於屏幕放映及播放紀錄帶或其他經記錄的材料；

（b）可由公眾觀察到的而不屬 (a) 段提述的通訊形式的任何行徑，包括動作、姿勢及手勢及穿戴或展示衣服、標誌、旗幟、標記及徽章；

（c）向公眾分發或傳布任何材料。

第31條 原訟法庭可作出命令寬免候選人承受某些非法行為的後果

（1） 任何候選人、候選人的代理人或任何其他人如已作出若非因本條即屬選舉中的非法行為的作為，或沒有作出某作為而此事若非因本條即屬選舉中的非法行為，則該等候選人、代理人或其他人可向原訟法庭申請第 (2) 款所指的命令。

（2） 原訟法庭在聆訊第 (1) 款所指的申請後，可作出命令，寬免申請人承受選舉法就該申請人的作為或不作為（若非因本條即屬選舉中的非法行為者）而施加的刑罰及喪失資格懲罰，或寬免申請人承受根據選舉法可就該等作為或不作為而施加的刑罰及喪失資格懲罰，但原訟法庭須

（a）信納

（i） 該作為或不作為是因粗心大意或意外地計算錯誤或任何合理因由，而非因不真誠所致；及

（ii）（如原訟法庭規定在香港發出申請通知）規定發出的通知已發出；及

（b）相信為符合公正原則，申請人不應承受一項或多於一項該等刑罰或喪失資格懲罰，方可作出上述命令。

（3） 如任何人根據第 (1) 款提出申請，則在原訟法庭處置該項申請之前，不得就該申請人的作為或不作為（若非因本條即屬選舉中的非法行為者）而對他提出或繼續進行檢控。

（4） 如申請人的作為或不作為（若非因本條即屬選舉中的非法行為者）屬根據第 (2) 款作出的命令的標的，則不可就該作為或不作為而裁定該申請人在選舉中作出非法行為。

第37條 候選人向有關主管當局提交選舉申報書 *

（1） 在選舉中的每名候選人必須向有關主管當局提交選舉申報書，列出

（a）該候選人在該項選舉中的選舉開支；及

（b）曾由該候選人或由他人代該候選人在與該項選舉有關連的情況下收取的所有選舉捐贈。

（1A）就為選出行政長官而舉行的選舉而言，候選人須確保申報書在以下日期後的 60 日期間屆滿前提交

（a）選舉結果於憲報刊登的日期；或

（b）宣布選舉程序終止的日期。

（1D）就為選出選舉委員會委員而舉行的選舉而言，候選人須確保申報書在以下情況出現當日後的 30 日期間屆滿前提交

（a）如按根據《選舉管理委員會（選舉程序）(選舉委員會）規例》（第 541 章，附屬法例 I）第 4 條刊登的公告，該選舉是某些同日舉行的界別分組選舉的其中之一 — 該等界別分組選舉均已告結束（如該等界別分組選舉在不同日期結束，則以該等日期中的最後者為準）；或

（b）如屬其他情況 — 該選舉已告結束。

（1E）為施行第 (1D) 款，選舉在任何以下事件就該選舉發生當日，即告結束

（a）選舉結果於憲報公布；

（b）宣布沒有候選人獲有效提名。

（1N）儘管有第 (1A)、(1B)、(1D)、(1F)、(1H)、(1J) 及 (1L) 款的規定，申報書可於原訟法庭根據第 40 條容許的延長限期內提交。

（2） 候選人必須確保申報書

（b）附有

（i）（就每項 $500 或以上的選舉開支而言）載有該項支出的詳情的發票及收據；及

（ii）（就每項 $1,000 以上或每項包含貨品或服務而價值 $1,000 以上的選舉捐贈而言）發給捐贈者的載有關於該捐贈者及該項捐贈的詳情的收據的副本；及

（iii）（如由候選人或由他人代候選人在與選舉有關連的情況下收取的某項選舉捐贈或某項選舉捐贈的一部分沒有用於該用途而已按照第 19 條處置）收取該等如此處置的捐贈或部分捐贈的人所發出的收據的副本；及

（iv）（如由候選人或由他人代候選人在與選舉有關連的情況下收取的某項選舉捐贈或某項選舉捐贈的一部分沒有用於該用途，亦沒有按照第 19(3) 條處置）書面解釋，列出沒有按照該條處置該項捐贈或該部分捐贈的理由；及

（v） 採用有關主管當局提供或指明的表格或格式所作的聲明書，證明申報書內容屬實。

（3） 就第 (2) 款而言，選舉開支的發票及收據可包括在同一份文件內。

（4） 在本條中

界別分組選舉具有《行政長官選舉條例》（第 569 章）的附表第 1(1) 條所給予的涵義。

** 第 (1B)、(1C) 、(1F) 至 (1M) 款與選舉委員會界別分組選舉及行政長官選舉無關。*

第37A條 對選舉申報書中的輕微錯誤等的寬免

（1） 在第(2)款的規限下，本條適用於

（a）由某候選人提交的選舉申報書中的符合以下說明的任何錯誤或虛假陳述：該項錯誤或虛假陳述的性質，是沒有在該申報書中列出該候選人在有關選舉中的任何選舉開支或曾由該候選人或由他人代該候選人在與該項選舉有關連的情況下收取的任何選舉捐贈，而該項選舉開支或選舉捐贈

（i） 按第 37 條規定須列於該申報書中；及

（ii） 款額不超過附表中為該項選舉訂明的限額；及

（b）由某候選人提交的選舉申報書中的符合以下說明的任何錯誤或虛假陳述

（i） 該項錯誤或虛假陳述的性質，是該候選人在有關選舉中的任何選舉開支或曾由該候選人或由他人代該候選人在與該項選舉有關連的情況下收取的任何選舉捐贈的款額的不正確之處；及

（ii） 更正該項錯誤或虛假陳述所需作出的調整的幅度，不超過附表中為該項選舉訂明的限額。

（2） 如

（a）在選舉申報書中，有 2 項或多於 2 項錯誤或虛假陳述；而

（b）該等錯誤或虛假陳述的累計總價值，超過附表中為有關選舉訂明的限額，

則本條不適用於該等錯誤或虛假陳述。

（3） 就第（2）款而言

（a）如錯誤或虛假陳述的性質，是沒有列出某項選舉開支或選舉捐贈，該項錯誤或虛假陳述的價值，是該項選舉開支或選舉捐贈的款額；

（b）如錯誤或虛假陳述的性質，是某項選舉開支或選舉捐贈的款額的不正確之處，該項錯誤或虛假陳述的價值，是以金額衡量的更正該項錯誤或虛假陳述所需作出的調整的幅度。

（4） 儘管有第 37 條的規定，如由某候選人提交的選舉申報書中，有本條適用的錯誤或虛假陳述，則在第 (5) 及 (6) 款的規限下，該候選人可向有關主管當局提交該申報書的一份副本，而該副本標示更正該項錯誤或虛假陳述所需作出的修正。

（5） 如某候選人或他人代該候選人在選舉中或在與選舉有關連的情況下招致的選舉開支總額，超過根據第 45 條訂立並正有效的規例就候選人訂明的選舉開支最高限額，該候選人不得根據第 (4) 款，就該項選舉提交選舉申報書的副本。

（6） 由某候選人根據第 (4) 款提交的選舉申報書的副本除非符合以下規定，否則屬無效

（a）有關主管當局向該候選人發出關於有關選舉申報書中的有關錯誤或虛假陳述的通知，而該候選人在接獲該通知當日後的 30 天內，提交該副本；

（b）（如該項錯誤或虛假陳述的性質，是該申報書沒有列出某項選舉開支或選舉捐贈）該副本附有假使該申報書有列出該項選舉開支或選舉捐贈，便會按第 37(2)(b) 條規定須有的

（i）（就選舉開支而言）發票及收據；或

（ii）（就選舉捐贈而言）收據副本及（如適用的話）書面解釋；及

（c）該申報書副本附有一份採用有關主管當局提供或指明的表格或格式的由該候選人所作的聲明書，證明該申報書副本的內容屬實。

（7） 為施行第 (6) 款，選舉開支的發票及收據可包括在同一份文件內。

（8） 凡選舉申報書的副本標示第 (4) 款所描述的任何修正，有關主管當局一旦根據該款接獲該副本

（a）該項修正除就第 20 條而言外，即當作在有關的選舉申報書提交之前，已在該申報書內中作出；而

（b）附於該副本的發票、收據、收據副本或書面解釋（如有的話）除就第 20 條而言外，即當作在該申報書提交之時，附於該申報書。

（9） 每名候選人只可以就一項選舉根據第 (4) 款提交一份選舉申報書的副本。

（10）選舉申報書的副本一經根據第 (4) 款提交後，即不得撤回或修訂。

（11）行政長官會同行政會議可藉命令修訂附表。

（12）在本條中，提述選舉申報書內的錯誤或虛假陳述，包括
（a）附於該申報書的任何文件內的錯誤或虛假陳述；或
（b）沒有付交第 37(2)(b) 條規定須就該申報書付交的任何文件。

第38條　沒有提交選舉申報書的罪行

（1）　候選人如沒有按照第 37 條的規定提交選舉申報書，即屬犯罪
（a）如循簡易程序審訊，一經定罪，可處第 5 級罰款及監禁 1 年；或
（b）如循公訴程序審訊，一經定罪，可處罰款 $200,000 及監禁 3 年。

（2）　如候選人根據第 40 條提出申請，則在原訟法庭處置該項申請之前，不得就該候選人沒有按照第 37 條的規定提交選舉申報書而對他提出或繼續進行檢控。

（3）　候選人如沒有按照第 37 條的規定提交選舉申報書，而
（a）沒有提交選舉申報書一事屬根據第 40 條作出的任何命令的標的；及
（b）該命令所指明的較長限期仍未屆滿，
則候選人不得被裁定犯第 (1) 款所訂罪行。

（4）　被裁定犯第 (1) 款所訂罪行的候選人所須承受的喪失資格懲罰，與被裁定作出非法行為的人所須承受的一樣。

第40條　原訟法庭可在某些情況下給予候選人寬免

（1）　候選人如不能夠或沒有在准許的限期屆滿之前按照第 37 條的規定提交選舉申報書，可向原訟法庭申請作出命令，容許該候選人在原訟法庭指明的較長限期內，向有關主管當局提交選舉申報書。

（2） 原訟法庭在聆訊根據第 (1) 款提出的申請後，必須信納不能夠或沒有按照第 37 條的規定提交選舉申報書一事是可歸因於下述情況而非因申請人不真誠所致，方可作出所尋求的命令

（a）申請人患病或不在香港；或

（b）申請人的代理人或僱員去世、患病、不在香港或行為不當；或

（c）申請人或其他人粗心大意或意外地計算錯誤；或

（d）任何合理因由。

（3） 候選人亦可向原訟法庭申請作出命令，使該候選人可更正在選舉申報書或附於該申報書的任何文件內的錯誤或虛假陳述。

（4） 原訟法庭在聆訊根據第 (3) 款提出的申請後，必須信納該等錯誤或虛假陳述是因下述情況而非因申請人不真誠所致，方可作出所尋求的命令

（a）申請人的代理人或僱員的行為不當；或

（b）申請人或其他人粗心大意或意外地計算錯誤；或

（c）任何合理因由。

（5） 候選人如沒有遵從第 37(2)(b)(i)、(ii) 或 (iii) 條，亦可向原訟法庭申請作出命令，豁免該候選人按照該條的規定付交發票、收據或收據副本。

（6） 原訟法庭在聆訊根據第 (5) 款提出的申請後，必須信納該項沒有遵從條文事件是因下述情況而非因申請人不真誠所致，方可作出所尋求的命令

（a）申請人的代理人或僱員的行為不當；或

（b）申請人或其他人粗心大意或意外地遺失或銷毀該發票、收據或收據副本；或

（c）任何合理因由。

（7） 原訟法庭在根據本條作出命令時，可施加其認為為達致本條例的目的而屬適當的條件。

（8） 任何人沒有遵從根據本條作出的命令所施加的條件，即屬犯罪

（a）如循簡易程序審訊，可處第 5 級罰款及監禁 1 年；或

（b）如循公訴程序審訊，可處罰款 $200,000 及監禁 3 年。

（9） 被裁定犯第 (8) 款所訂罪行的候選人所須承受的喪失資格懲罰，與被裁定作出非法行為的人所須承受的一樣。

FOREWORD

The Election Committee (EC) Subsector Elections and Chief Executive (CE) Election are regulated by the Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) (Cap. 554). This ordinance, enforced by the Independent Commission Against Corruption (ICAC), aims to uphold fair and clean public elections in Hong Kong and prevent corrupt and illegal conduct at elections.

To help candidates and election helpers participating in the above elections understand the legislation and its spirit, the ICAC has specially produced this Information Booklet for their reference.

The Information Booklet consists of four parts. The first part contains questions and answers summarized from the enquiries and concerns raised by candidates of previous elections. It serves to spell out the spirit of the law and its application to election situations. It includes different questions that are applicable to the EC Subsector Elections and CE Election respectively. The second part features the gist of some ECICO cases in past elections. The third part is a checklist stating what candidates and election helpers should take note of in the process of running in an election. The fourth part provides the channels for making reports and enquiries to the ICAC. The major provisions of the ECICO can be found in the Appendix of this Information Booklet.

The ICAC has launched the dedicated websites (www.icac.org.hk/elections) for the EC Subsector Elections and CE Election. Members of the public can browse the contents of this Information Booklet as well as details of the education and publicity services provided by the ICAC for respective elections. They may also call the Clean Election Enquiry Hotline (Tel: 2920 7878) to learn more about the ECICO or invite an ICAC representative to explain the law.

PART 1

Questions and Answers

This part of "Questions and Answers" includes three sections. Section A consists of questions that are commonly raised at public elections. They are applicable to both the **Election Committee (EC) Subsector Elections** and **Chief Executive (CE) Election**. Questions in Section B are related to the **EC Subsector Elections** whereas those in Section C concern the **CE Election**.

Section A (the election mentioned below refers to the EC Subsector Elections or CE Election)

Q1

A person set up a webpage to introduce himself before the nomination period of an upcoming election. He also mentioned in the webpage that he would be running in the election and appealed for support from the electors. Though he has not yet been nominated, would he still be regarded as a "candidate" because of the above act? If he eventually did not submit the nomination form before the close of the nomination period, would he still be required to lodge an election return?

A1

- According to section 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) (Cap. 554), a "candidate" is clearly defined not only as a person who stands nominated as a candidate at an election, but also a person who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate at the election. Although the above person has not yet been nominated as a candidate, he is regarded as a "candidate" of the said election according to the above definition when his intention to run in that election is made known to the public through his webpage.

- Since the above person is regarded as a "candidate" as stipulated in the ECICO, he has to abide by the relevant provisions of the ECICO governing "candidate". For example, a "candidate" must count the expenses incurred or to be incurred, before, during or after the election period for the purpose of promoting his election or prejudicing the election of other candidates as election expenses and must truly reflect them in the election return. Therefore, the costs of production and publication of the webpage for promoting his own candidature should be counted as his election expenses.

- Being a "candidate" as defined in the ECICO, the person who has announced his candidature but does not submit the nomination form in the end should still fulfill the statutory requirements, including lodging the election return with the Chief Electoral Officer (CEO) before the expiry of the statutory period.

Q2

A person offers an advantage to another person who intends to run in an election and asks the latter not to stand as a candidate at the election. Is it an offence under the ECICO? What should the prospective candidate do if he is subsequently threatened to refrain from standing for the election?

A2

- According to section 7 of the ECICO, it is an offence for any person who corruptly offers an advantage to another person as an inducement to or a reward for that person to stand or not to stand as a candidate at an election, or not to use his best endeavours to promote his election, or to withdraw his nomination after having been nominated as a candidate. Hence, the above-mentioned person will contravene the ECICO for offering an advantage as an inducement for the other person not to stand as a candidate at the election. Any person who corruptly solicits or accepts an advantage as an inducement to or a reward for standing or not standing as a candidate at the election will also commit an offence.

- Besides, sections 8 and 9 of the ECICO also make it an offence for any person to use or threaten to use force or duress against another person, or engage in deceptive behaviour, with a view to inducing the other person to stand or not to stand as a candidate, or to withdraw his nomination at the election.

- Candidates or prospective candidates should report to the ICAC if they encounter the above situation. In case of personal threats, assistance from the police should be sought immediately. Violence will undermine the credibility of elections and all should desist from it.

Q3

A candidate, who is a former Rural Representative, produces and distributes a leaflet during the election period to introduce himself as well as his work and services carried out in his capacity of a Rural Representative in the past. What does he need to take heed of?

A3

- Section 2(3) of the ECICO states that a document published by a candidate during an election period (i.e. the period begins on the first day of the nomination period and ends on the polling day for the election) that gives details of the work done by the candidate in the capacity of the Chief Executive, a member of the Election Committee, a member of the Legislative Council, a member of a District Council, a member of the Heung Yee Kuk, the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee, or a Rural Representative, is an election advertisement. As such, the leaflet giving details of the work done by the above candidate in his capacity of a former Rural Representative distributed during the election period would satisfy the definition of an election advertisement. The relevant costs incurred in producing and distributing that leaflet should be counted as that candidate's election expenses and be clearly set out in his election return.

- It is important to note that even if the above leaflet is published before the beginning of the nomination period, according to section 2(1) of the ECICO, it will also be regarded as an election advertisement as long as the candidate has publicly declared his intention to stand as a candidate and the leaflet is published for the purpose of promoting the election of the candidate or prejudicing the election of other candidates. The relevant expenses should be counted as the candidate's election expenses.

- For EC Subsector Elections, the candidate should also comply with the requirements governing election advertisements under section 108 of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541I) and the "Guidelines on Election-related Activities in respect of the EC Subsector Elections" issued by the Electoral Affairs Commission (EAC), including posting an electronic copy of each election advertisement and relevant information onto an open platform maintained by the CEO or a person authorized by the CEO ("Central Platform") or an open platform maintained by the candidate or a person authorized by the candidate ("Candidate's Platform"), or providing copies of the election advertisement and relevant information in the manner specified by the EAC to the relevant Returning Officer within 3 working days after publication of any election advertisement. A candidate must also include in all printed election advertisements, except those printed in a registered local newspaper, the name and address of the printer, the date of printing and the number of copies printed in either Chinese or English language. For CE Election, the requirements governing election advertisements are specified in section 87 of the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541J) and the "Guidelines on Election-related Activities in respect of the CE Election" issued by the EAC.

Q4

Is it legal for a candidate, after obtaining a verbal consent from the chairman of an organization, to include the name of the chairman as well as the name and logo of the organization in his election advertisement as a way to show the support of the chairman and the organization to him? Would it be different if the candidate has only included the name and office title of the chairman of the organization in his election advertisement?

A4

- According to section 27(1) of the ECICO, if a candidate includes in his election advertisement the name, logo or pictorial representation of a person or an organization in such a way that implies or is likely to cause electors to believe that he has the support of the person or organization concerned, he should have obtained written consent from the relevant person or organization before the publication of the election advertisement. The above candidate has committed an offence under the ECICO because he has only obtained the verbal consent of the chairman which does not meet the legal requirements.

- A candidate should note that a supporter's consent has to be a single document expressing the supporter's consent to include his name, logo or pictorial representation in the election advertisement of the candidate. The written consent cannot be a composite document with more than one document read together, nor can it be inferred from a chain of correspondence or messages. A sample form prepared by the EAC for seeking consent of support in writing from a person or an organization is available at the offices of the Registration and Electoral Office (REO) and the relevant Returning Officer, and can be downloaded from the REO website. It will also be provided to candidate upon his submission of a nomination form for the election.

- The chairman of that organization should note that he may also commit an offence under section 27(5) of the ECICO if he purports to give a written consent to the inclusion of the name and logo of the organization, or name and logo that are associated with the organization in the candidate's election advertisement without having been approved by the governing body or by a resolution of the members of the organization passed at a general meeting.

- Even if the candidate has obtained the prior written consent of the chairman concerned to include the name and office title of the chairman (with reference to the name of the organization concerned, e.g. "Chairman of XYZ Organization") in his election advertisement, the candidate must also be prudent in avoiding publishing the election advertisement in such a way that may imply or is likely to cause electors to believe the candidate has the support of the entire organization. Otherwise, the candidate should also obtain prior written consent from the relevant organization.

- Regarding situations in which the supporter's office title and the name of the organization concerned are mentioned, the "Guidelines on Election-related Activities in respect of the EC Subsector Elections"/"Guidelines on Election-related Activities in respect of the CE Election" issued by the EAC also require a candidate to ensure that his supporter has obtained the prior written approval of the supporter's organization, in accordance with the organization's internal rules and procedures or any established convention, for using the supporter's office title together with the name of the organization in the candidate's election advertisement.

Q5

Is an election campaign published by a candidate through online platforms such as websites, social networking or communication websites regarded as an election advertisement? How should the candidate calculate the relevant election expenses incurred? If some web surfers give responses to the above campaign or indicate "like" on the candidate's online platforms, will the candidate breach the law for publishing such contents without prior written consent from the said web surfers? If web surfers share or forward different candidates' election campaigns through online platforms, what should the candidates concerned take heed of?

A5

- According to section 2 of the ECICO, election advertisement means any form of publication published for the purpose of promoting or prejudicing the election of a candidate or candidates at an election; and election expenses mean expenses incurred or to be incurred, before, during or after the election period, by or on behalf of a candidate for the purpose of promoting the election of the candidate or prejudicing the election of other candidates. As such, the election campaign published by the above candidate through online platforms such as websites, social networking or communication websites is regarded as an election advertisement and the relevant production and operating costs including Internet service fees, fees for design of online advertisement, etc. should be counted towards the candidate's election expenses and be clearly set out in his election return.

- If the content of the election advertisement published by the candidate through the online platforms shows the support of a person or an organization, the candidate must obtain prior written consent from the person or organization concerned in order to comply with section 27(1) and (1A) of the ECICO. If, however, any person shows support to the candidate out of his own volition by giving responses or indicating "like" in the election advertisement published by the candidate through the said online platforms, or by appearing in the live broadcast of his own accord of an electioneering activity published by the candidate, the candidate will then not be required to seek his prior written consent if the candidate has

neither requested or directed nor authorized that person to do the above acts. However, the candidate must not modify the name, logo or pictorial representation of, or any content given by the above person concerned, unless prior written consent on the modification has been obtained from that person. Otherwise, the candidate will commit an offence under section 27(1B) of the ECICO.

- If a person is invited by the candidate to show his support by giving response to the online election advertisement or by participating in the electioneering activity which is covered by the live broadcast, the candidate must obtain prior written consent from that person.

- For the EC Subsector Elections, the candidate should comply with the requirements governing election advertisements under section 108 of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation and the "Guidelines on Election-related Activities in respect of the EC Subsector Elections" issued by the EAC, including that a candidate must post a hyperlink of the election advertisement that is published through an online platform and the relevant information onto the "Central Platform" or the "Candidate's Platform", or provide the election advertisement and relevant information in the manner specified by the EAC to the relevant Returning Officer within 3 working days after publication of the election advertisement. For CE Election, the requirements governing election advertisements are specified in section 87 of the Electoral Procedure (Chief Executive Election) Regulation and the "Guidelines on Election-related Activities in respect of the CE Election" issued by the EAC.

- In regard to the sharing or forwarding of the candidates' election campaigns through online platforms by web surfers, according to section 23(1A) of the ECICO, if a person (other than a candidate or a candidate's election expense agent) incurs election expenses including only the electricity charges and/or charges necessary for accessing the Internet, for the purpose of publishing an election advertisement on the Internet, that person will be exempted from the criminal liability under section 23(1) of the ECICO. However, if a candidate, his election expense agent or any other person authorized by the candidate or

his election expense agent, publishes an election advertisement of the candidate on the Internet, incurs election expenses being electricity charges and/or charges necessary for accessing the Internet only, the costs incurred still have to be included in the candidate's election expenses. If a third party publishes an election advertisement to promote or prejudice the election of a candidate or candidates with the knowledge and consent of the candidate, no matter whether the candidate has authorized the third party as his election expense agent or not, the candidate should treat the election advertisement as if the same was published by him and should clearly set out the relevant election expenses in the election return.

Q6 **The executive committee of a trade association has passed a resolution to support a candidate running in the upcoming election. The trade association subsequently, at its own expenses, publishes an article in its newsletter to promote that candidate and uses its website to appeal to its members to support that candidate. Will the act of the trade association contravene the ECICO?**

A6

- The law does not restrict the means engaged by the supporters of a candidate to promote the election of the candidate. However, as the article and the relevant contents of the website published by the above trade association will serve the purpose of promoting the election of the said candidate, these will be regarded as the candidate's election advertisements. The cost incurred for publishing the election advertisements (e.g. the apportioned printing and mailing costs of the newsletter, and design fee of the website, etc.) should be counted as the candidate's election expenses. It is stipulated in section 23(1) of the ECICO that it would be an offence for a person, other than a candidate or a candidate's election expense agent, to incur election expenses. Therefore, the person-in-charge of the trade association should obtain the candidate's prior written authorization before incurring the aforesaid election expenses for the candidate.

- If the trade association has sponsored the relevant cost of publishing the election advertisements, the cost should be regarded as an election donation to the said candidate who should set this out in his election return. If the value of the election donation concerned is more than $1,000, the candidate must, pursuant to the requirements of sections 19 and 37(2)(b)(ii) of the ECICO, issue a receipt to the donor (i.e. the trade association concerned) specifying the name and address of the donor, and particulars of the donation. Copy of the relevant receipt must also be submitted together with the election return.

- Supporters and supporting organizations are advised to communicate well with the candidate in advance before conducting electioneering activities for the candidate so as to ensure compliance with the relevant legal requirements by both parties.

Q7

Assuming there are only two candidates, namely Candidate A and Candidate B, contesting an election. If a group of people publish an article in the newspaper and distribute leaflets at its own expenses appealing to electors not to vote for Candidate B, will it contravene the ECICO? Moreover, if a person appeals to electors through the online platform, to boycott the election, including not to vote or to cast an invalid vote at the election, will he contravene the ECICO?

A7

- Since the purpose of publishing an article by the above people appealing to electors not to vote for Candidate B is to prejudice the election of Candidate B, the article concerned fulfils the definition of election advertisement under the ECICO. Relevant costs of publishing the article, including fees charged by the newspaper publisher, cost of printing and distributing the leaflets, etc. should also be regarded as election expenses.

- As the above article not only prejudices the election of Candidate B but may also at the same time promote the election of the other candidate of the election concerned, i.e. Candidate A, the aforesaid expenses are regarded as Candidate A's election expenses. That group of people must obtain Candidate A's prior written authorization to be his election expense agents in order to incur election expenses for him. Otherwise, the persons above will contravene section 23(1) of the ECICO which stipulates that only a candidate or his authorized election expense agent can incur election expenses.

- Any person or association who wishes to indicate support or not support any candidate, regardless of the way of expression, must take note of the above legal requirements if election expenses have been incurred.

- According to section 27A of the ECICO, a person engages in illegal conduct if he incites another person not to vote or to cast an invalid vote at the election by carrying out any activity in public during the election period. An activity in public includes any form of communication to the public. If the aforesaid person appeals to electors through the online platform, not to vote or to cast an invalid vote at the election, he may breach the ECICO. It is illegal to undermine elections, and no one should act against the law.

Q8

In order to get more votes for himself, Candidate X has printed some leaflets by himself to smear his rival Candidate Y. He mailed the leaflets to electors and uploaded the leaflets onto social media platforms. Will such acts contravene the ECICO?

A8

- The ECICO does not prohibit the publication of negative campaigns which would prejudice the election of rival candidates. However, all statements published about a candidate must be true. Otherwise, the person who publishes such statements may violate section 26 of the ECICO, which states that it is an offence for any person to publish a materially false or misleading statement of fact about a candidate for the purpose of promoting or prejudicing the election of the candidate.

- Besides, given that the leaflets published by Candidate X are to prejudice the election of Candidate Y, the expenses for producing and publishing such leaflets (e.g. printing and mailing costs, Internet service fees, etc.) should be counted towards Candidate X's election expenses.

- For EC Subsector Elections, Candidate X should also comply with the requirements governing election advertisements under section 108 of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation and the "Guidelines on Election-related Activities in respect of the EC Subsector Elections" issued by the EAC (please refer to A3 and A5 of Section A for details). For CE Election, the requirements governing election advertisements are specified in section 87 of the Electoral Procedure (Chief Executive Election) Regulation and the "Guidelines on Election-related Activities in respect of the CE Election" issued by the EAC.

Q9

A think tank plans to organize an election forum and invites all candidates of the same election to take part to familiarize the electors with all the candidates. Should the cost of organizing the said election forum be regarded as election expenses?

A9

- According to section 2 of the ECICO, any expenses incurred or to be incurred for promoting the election of the candidate or prejudicing the election of another candidate are regarded as election expenses. If the election forum is organized by the said think tank for the purpose of providing a fair and equal opportunity for all candidates of the same election to present themselves to the electors instead of promoting or prejudicing the election of a particular candidate or particular candidates, it is not necessary for any candidate to count the expenses incurred as his election expenses.

- Any organization which would like to organize an election forum should comply with the guidelines on election-related activities in respect of the election concerned issued by the EAC.

Q10 A person, who has announced his candidature in an election, organizes an outbound study tour for his electors and fully sponsors all relevant expenses. Will this candidate contravene the ECICO if he introduces his election aspirations and appeals to the participants to vote for him during the study tour when they are out of Hong Kong? Is there any boundary or time constraint for the ECICO?

A10

- Section 11 of the ECICO makes it an offence for any person, without reasonable excuse, to offer an advantage to other persons for inducing the latter to vote or not to vote at the election for a particular candidate. The aforesaid candidate has therefore committed an offence under the provision mentioned as he has offered advantages to electors by sponsoring their outbound study tour with a view to inducing the electors to vote for him. The electors who, without reasonable excuse, accept the sponsored tour as an inducement to vote for the candidate have also committed an offence under the ECICO.

- It is stipulated clearly in section 5 of the ECICO that all conduct concerning an election, whether it is engaged in within Hong Kong or elsewhere, is regulated by the ECICO. Therefore, the candidate's corrupt conduct to bribe electors outside Hong Kong also falls within the purview of the ECICO.

- Under sections 6 and 22 of the ECICO, a person can be convicted of an offence under the ECICO if he is found to have engaged in corrupt or illegal conduct before, during or after the election period.

Q11

Is it against the ECICO if a business organization requests a contractor to vote for the candidate whom the organization supports, otherwise the organization will terminate the contract with the contractor? Is the candidate concerned liable for any offence? If some people use force and duress, or even spread misleading messages, or behave in any ways to wilfully obstruct the electors from voting at the election, are they liable for any offence?

A11

- Section 13 of the ECICO makes it an offence for a person to use force or duress, or threaten to use force or duress against another person with a view to inducing the latter to vote or not to vote, or to vote or not to vote for a particular candidate at an election. Duress includes causing financial loss to a person by duress.

- Persons who or organizations which are in positions of influence should be prudent of their conduct when canvassing votes for a candidate to avoid giving an impression of effecting duress against others to vote for a particular candidate.

- The candidate has also contravened the law if he has, expressly or by implication, requested the organization to use duress against the latter's contractor for inducing the contractor to vote or not to vote for a particular candidate at the election.

- In addition, under section 14 of the ECICO, it is an offence for a person to induce another person by deception to vote or not to vote for a particular candidate, or not to vote at the election. Section 14(1A) of the ECICO also states that it is an offence for a person to wilfully obstruct or prevent another person from voting at the election, or get another person to perform the aforesaid act. Therefore, if someone uses deceptive means, such as spreading false and misleading messages, or abets others to prevent electors from voting at the election by deception, or using any ways to wilfully obstruct or prevent electors from voting, he may be in breach of section 14 of the ECICO.

- Force, duress, deceptive and obstructive behaviour will seriously undermine the credibility of the elections. All candidates should call on their supporters to desist from the aforesaid violations.

Q12 **A candidate attends an annual dinner organized by an organization during which the chairman of the organization suddenly announces that the candidate is contesting the upcoming election. Other than encouraging the participants there to vote for the candidate, the chairman also invites the candidate to deliver his election speech on the spot. Will the chairman commit an offence? How should the candidate handle this situation?**

A12

- Although the above annual dinner is not organized for promoting the election of that candidate concerned in the first place, the chairman of the organization has appealed for support from participants to that candidate during the dinner. If that candidate who finds himself caught in the above situation does not immediately stop any promotion of his election at the dinner, that occasion may be regarded as an election meeting held to promote his candidature and all the expenses incurred for the said dinner will have to be counted towards the candidate's election expenses and be clearly set out in his election return.

- If the dinner is arranged by the chairman of the organization for promoting the election of that candidate and the chairman incurs election expenses without being authorized by the candidate as his election expense agent, the chairman will contravene section 23(1) of the ECICO, which stipulates that it is an offence for any person other than the candidate or his authorized election expense agent to incur election expenses.

- Both the chairman and the candidate should note that if the said dinner is deliberately organized by the chairman to provide food, drink or entertainment with a view to inducing votes for the candidate, the chairman has committed an offence under section 12 of the ECICO. The candidate is also liable for the same offence if he has the knowledge of and has consented to the organization of the dinner by the chairman for the above purpose. (Remark: A person does not engage in corrupt conduct only because he has served non-alcoholic drinks of any kind at an election meeting. An election meeting is any meeting held to promote or prejudice the election of a particular candidate or particular candidates.)

- When a candidate considers running or plans to run in an election, he should, as soon as possible, inform organizations to which he is connected that he may declare to stand for the election and remind these organizations to observe the ECICO. Candidates should act prudently while conducting their electioneering. They should avoid attending any functions which might easily cause suspicion of bribery. Any organizations, which organize non-election-related activities during the election period, should avoid mentioning election-related matters on the occasions. In case any participant of an activity has openly promoted a particular candidate, the organizer of the activity should promptly stop him in order to avoid incurring election expenses for the candidate inadvertently.

Q13 **If a candidate asks the secretary of his company to assist in his electioneering matters during office hours, is it necessary for the candidate to include the relevant costs in connection with such service in his election expenses? What if the candidate's secretary provides the above assistance voluntarily during his day off? The candidate also hires more than 10 helpers to canvass votes for him during the election period. How should he calculate the election expenses?**

A13

- If the service rendered by the candidate's secretary during office hours is for the purpose of promoting the election of the candidate, any costs so incurred should be counted towards his election expenses. The candidate should estimate the working time spent by his secretary in assisting the candidate's electioneering matters and calculate the salary of his secretary, being an election assistant, on a pro rata basis as an election expense, and clearly set it out in his election return.

- If the apportioned salary of his secretary in assisting the candidate's electioneering matters is $500 or above, the candidate has to make sure that his election return is accompanied by an invoice and a receipt giving particulars of the expenditure (e.g. name and salary of the secretary, and signature of the secretary to certify receipt of the relevant payment).

- If the secretary handles the electioneering matters for the candidate in his own time, voluntarily, personally and free of charge, the service he rendered is regarded as "voluntary service" according to section 2 of the ECICO, which is not regarded as an election expense and an election donation. Therefore, the candidate is not required to include such service cost as his election expense or to set it out in his election return.

- The candidate has to include other relevant costs incurred incidental to the electioneering service so arranged by the secretary mentioned above, such as costs of buying publicity materials, postage of mailing election advertisements, etc. in his election expenses and clearly set out such costs, which do not fall within the definition of "voluntary service", in his election return. Section 37(2)(b)(i) of the ECICO states that a candidate must ensure that the election return is accompanied by an invoice and a receipt of each election expense of $500 or more. They should be issued by the goods or service provider (e.g. supplier of publicity materials, supplier of postage service, etc.) giving particulars of the expense (e.g. date of purchase, name of goods or service provider, details of goods or services, payment amount as well as the company chop/signature of the goods or service provider and the date of payment so as to certify that the said payment has been received in full by the goods or service provider).

- The expenses involved in hiring the helpers to canvass votes should be clearly set out in the election return of the candidate concerned. If the salary given to each helper is $500 or above, the candidate must provide invoices and receipts showing the names of the helpers, dates and time of the services, amounts of salaries, etc. with the signature of each helper to confirm the receipt of the relevant payment in full.

Q14 **If a candidate accepts the assistance from his friend, who is a lawyer, in solving some legal issues relating to his election during the latter's day off, should the candidate include any costs in connection to his friend's service in his election expenses? If the candidate uses materials provided by friends or other organizations for use in his electioneering activities, should the values of these materials be counted as election expenses?**

A14

- If the said lawyer renders his legal consultation service to the candidate in his own time, voluntarily, personally and free of charge, the service is regarded as "voluntary service" according to section 2 of the ECICO. Therefore, the candidate is not required to include such service costs in his election expenses.

- If the materials provided by the candidate's friends or other organizations are given for the purpose of promoting the election of that candidate or prejudicing the election of other candidates, they are regarded as election donations. The same should be clearly set out by the candidate in the election return. If the value of an election donation is more than $1,000, according to sections 19 and 37(2)(b)(ii) of the ECICO, a candidate is required to issue a receipt to the donor specifying the name and address of the donor, and particulars of the donation. Copies of the relevant receipts must also be submitted with the election return. As the aforesaid candidate has used the said materials for his electioneering, he is also required to include the values of the materials in his election expenses and set out clearly such expenses in his election return.

- Section 18 of the ECICO provides that if a candidate or other person uses election donations for a purpose other than meeting, or contributing towards meeting, the candidate's election expenses; or a purpose other than promoting the election of the candidate or prejudicing the election of another candidate, engages in corrupt conduct

at an election. Hence, if the above election donations have not been used for election purpose, the candidate must, pursuant to the requirements of sections 19 and 37(2)(b)(iii) of the ECICO, ensure that the relevant election donations are given to a charitable institution or trust of a public character chosen by the candidate before the submission of his election return. He is also required to submit a copy of the receipt issued by the recipient organization together with his election return.

Q15 What does a candidate need to take heed of if he raises funds for his election campaign through online platforms?

A15

- Since the fund-raising activity conducted by the candidate through online platforms is for promoting his election, the production and operating costs involved such as Internet service fees, online advertisement design fees, etc. should be counted towards his election expenses and be clearly set out in his election return.
- Since the funds raised through online platforms are regarded as election donations, according to section 18 of the ECICO, a candidate or other person must use the election donations for a purpose of meeting, or contributing towards meeting, the candidate's election expenses. Otherwise, the person concerned will engage in corrupt conduct.
- According to sections 19 and 37(2)(b)(ii) of the ECICO, a candidate is required to issue a receipt to the donor of each election donation (including money, goods or services) of more than $1,000 in value specifying the name and address as provided by the donor as well as particulars of the donation. The copy of the relevant receipt must also be submitted with the candidate's election return. Hence, the candidate is advised to clearly state the relevant legal requirements on the online platforms.

- Any anonymous election donations of more than $1,000 in value, unused election donations and election donations that exceed the prescribed maximum amount of election expenses must be given to a charitable institution or trust of a public character chosen by the candidate before the submission of his election return. Copies of the receipts issued by the recipient organizations should be submitted with the election return so as to comply with sections 19 and 37(2)(b)(iii) of the ECICO.

- Any person or organization that solicits, receives or collects election donations for a candidate should also comply with the above requirements and make reference to the points and good practice suggested in the guidelines on election-related activities in respect of the election concerned issued by the EAC, including obtaining prior consent/authorization of the candidate for collecting election donations, providing clear information to donors on the purpose/use of the donations, setting up a dedicated ledger account for receiving and handling the election donations, etc.

Q16 **Will an elected candidate commit an offence for hosting a celebration dinner to treat his election helpers? Should the expenses incurred for the dinner be counted towards his election expenses? On the other hand, should the relevant costs for publishing advertisements containing "thank you messages" on the Internet after the announcement of the election result be counted as election expenses?**

A16

- If the dinner is hosted solely for the purpose of celebrating the election of a candidate after he is elected and is in no way related to the promotion of his election, the relevant expenses incurred need not be counted towards his election expenses.

- However, if the dinner is hosted to honour the candidate's promise made previously to his election helpers, for instance, they would be rewarded with a dinner for their electioneering assistance after the election, the hosting of that dinner is related to the purpose of promoting his election and the expenses of the dinner should be counted towards his election expenses and be clearly set out in his election return in accordance with the law.

- If the dinner is hosted as a reward for the electors' having voted for the candidate, the candidate will contravene section 12 of the ECICO. If the electors accept the dinner as a reward for having voted for that candidate, they will also violate the ECICO.

- Since the advertisements containing "thank you messages" are published on the Internet after the announcement of the election result and do not serve the purpose of promoting the election of the above candidate or prejudicing the election of other candidates, the relevant costs are not required to be counted towards the candidate's election expenses.

Q17 **What are the points a candidate should take heed of while submitting his election return? Is a person required to submit an election return if he has withdrawn his candidature after being nominated as a candidate at the election or his nomination has been ruled invalid? What about if he is returned uncontested, not elected or has not incurred any election expenses? What remedial actions can a candidate take if he fails to lodge the election return within the period as required by the law?**

A17

- Each candidate has to lodge with the CEO an election return setting out his election expenses and all election donations received at the election before the expiry of the statutory period as required under section 37 of the ECICO. According to section 37(2)(b) of the same legislation, the election return must be accompanied by:

  (1) an invoice and a receipt issued by the goods or service provider of each election expense of $500 or above;

  (2) a copy of the receipt issued to the donor of each election donation of more than $1,000 in value specifying the name and address of the donor and the particulars of the donation;

  (3) a copy of the receipt given by a charitable institution or trust of a public character of the candidate's choice to which the candidate has given his election donations (including anonymous election donations of more than $1,000 in value, unused election donations and donations that exceed the prescribed maximum amount of election expenses);

  (4) (if applicable) a written explanation setting out the reason why an election donation was not disposed of in accordance with (3) above; and

  (5) a declaration verifying the contents of the election return.

- A candidate shall complete the election return carefully so as to avoid making any errors. He is advised to cross check the election expense items provided in the election return with the record of his election advertisements made available for public inspection and ensure the expenses shown on the invoices and receipts are the same as those filled in the election return.

- A candidate who makes a statement that he knows or ought to know is materially false or misleading in the election return lodged under section 37 of the ECICO engages in corrupt conduct at an election under section 20 of the ECICO.

- According to section 2 of the ECICO, a "candidate" is defined not only as a person who stands nominated as a candidate at an election, but also a person who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate at the election. A person has to submit his election return to the CEO within the period as required by the ECICO even if he has withdrawn his nomination after being nominated as a candidate at the election or his nomination has been ruled invalid, or he is returned uncontested, or not elected, or has not incurred any election expenses.

- A candidate who is unable or has failed to lodge an election return before the end of the permitted period as required by the ECICO can, according to section 40(1) of the ECICO, apply to the Court of First Instance ("the Court") for an order allowing him to lodge the election return with the CEO within such further period as the Court specifies. The candidate, however, has to satisfy the Court that the inability or failure to comply with the requirement to lodge an election return was attributable to the candidate's illness or absence from Hong Kong; or the death, illness, absence from Hong Kong or misconduct of his agent or employee; or due to inadvertence or an accidental miscalculation by the candidate or any other person; or any reasonable cause, and was not due to the candidate's bad faith. It should be noted that, according to previous Court judgments regarding applications for relieving election-related penalties and liabilities, the Court will critically review the justifications put forward by the applicant, with emphasis on whether the applicant has placed enough significance on complying with the relevant obligation.

Q18 What measures can a candidate take to remedy the situation, if he has submitted an election return that contains minor errors or false statements?

A18

- It is stipulated in section 37A of the ECICO that if there is any error or false statement in a candidate's election return (including an error or false statement in any document accompanying the election return; or a failure to submit any document required by section 37(2)(b) of the ECICO in relation to the election return), the candidate may lodge with the CEO a copy of the election return which is marked with the necessary revision to have the error or false statement corrected within 30 days after the date on which the candidate receives a notice from the CEO, provided that the aggregate value of those errors or false statements does not exceed the prescribed limit ($5,000 for EC Subsector Elections; $50,000 for CE Election) and after including such value of errors or false statements, the aggregate amount of the candidate's election expenses does not exceed the prescribed maximum amount of election expenses for that particular election (please refer to P.143). If the nature of the error or false statement is a failure to set out an election expense or election donation in that election return, the copy of the revised election return must be accompanied by the relevant documents as required under section 37(2)(b) of the ECICO, e.g. invoice and receipt of an election expense, copy of receipt of an election donation, and an explanation (if applicable). In addition, the copy of the revised election return must be accompanied with a declaration by the candidate in a specified form verifying the contents of the copy of the revised election return to be true and accurate.

- According to section 20 of the ECICO, if a candidate, in a copy of the revised election return lodged under section 37A of the ECICO, makes a statement that the candidate knows or ought to know is materially false or misleading, he engages in corrupt conduct at an election.

- A candidate can, according to section 40(3) of the ECICO, apply to the Court for an order enabling the candidate to correct any error or false statement in an election return or in any document accompanying the return. The candidate, however, has to satisfy the Court that the error or false statement was due to the misconduct of his agent or employee; inadvertence or an accidental miscalculation by the candidate or any other person; or any reasonable cause, and was not due to the candidate's bad faith.

- A candidate who fails to submit the required invoices, receipts or copies of receipts can, according to section 40(5) of the ECICO, apply to the Court for an order excepting the candidate from submitting the said documents. The candidate, however, has to satisfy the Court that the non-compliance was due to the misconduct of his agent or employee; inadvertence or an accidental loss or destruction of the documents concerned by the candidate or any other person; or any reasonable cause, and was not due to the candidate's bad faith. It should be noted that, according to previous Court judgments regarding applications for relieving election-related penalties and liabilities, the Court will critically review the justifications put forward by the applicant, with emphasis on whether the applicant has placed enough significance on complying with the relevant obligation.

Section B (related to the EC Subsector Elections)

Q1

Will it contravene the ECICO if some members of an organization who intend to run in the same EC Subsector Election reach a consensus to nominate amongst themselves several members to contest the election? If one of them is subsequently threatened to refrain from standing for the election, what should he do?

A1

- It is not an offence under the ECICO if no bribery, force, duress or deceptive behaviour is involved if those members who intend to run in the forthcoming EC Subsector Election reach a consensus to nominate amongst themselves a list containing several members to contest the election.
- It is, however, an offence if a person corruptly offers an advantage to another person, or engages in deceptive behaviour with a view to inducing the other person to stand or not to stand as a candidate at the election. Any person who corruptly solicits or accepts an advantage as an inducement to or a reward for standing or not standing as a candidate at the election will also commit an offence. For detailed provisions, please refer to sections 7 and 9 of the ECICO.
- Moreover, if a person uses force or duress, or threatens to use force or duress to prevent a prospective candidate or a candidate from standing as a candidate at an election, he will violate section 8 of the ECICO.
- Candidates or prospective candidates should report to the ICAC in the above situation. In case of personal threats, assistance from the police should be sought immediately. Violence will undermine the credibility of elections and all should desist from it.

Q2

Five candidates who belong to the same EC Subsector decide to form an alliance to conduct electioneering. One of the candidates (Candidate A) plans to distribute leaflets which contain the names and photos of the five candidates to introduce themselves and the alliance's election platform, and appeal to voters to vote for them. What should Candidate A take heed of in order not to breach the ECICO?

A2

- Since the leaflets distributed by Candidate A are published for the purpose of promoting all candidates of the alliance, they are regarded as the joint election advertisement of the candidates concerned. The candidates have to count the costs involved in the production and distribution of the leaflets on a pro rata basis as their election expenses and clearly set out such expenses in their respective election returns. In accordance with section 23(1) of the ECICO, Candidate A must obtain written authorizations from the other four candidates to act as their election expense agent before incurring the relevant election expenses.

- If each of the election expense items in producing and publishing the relevant joint election advertisement of the alliance after apportionment is $500 or above, each candidate must submit his election return accompanied by the relevant invoices and receipts of that election expense issued by the goods or service providers. If the original invoices and receipts have been submitted and attached by Candidate A in his election return, the other candidates should provide copies of the said invoices and receipts when submitting their election returns, and confirm in the form of declaration that those copies are true and correct, and also state that Candidate A has submitted the original documents so as to facilitate checking by relevant departments.

- In addition, since the above joint election advertisement includes the names and photos of the five candidates in the alliance, each of them is required to seek written consent from the other four as an indication of mutual support before publishing that election advertisement so as to fulfil the requirements of section 27(1) of the ECICO.

- The above candidates should also comply with the requirements governing election advertisements under section 108 of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation and the "Guidelines on Election-related Activities in respect of the EC Subsector Elections" issued by the EAC (please refer to A3 of Section A for details).

Q3

A candidate attends a meeting with other voters of his EC Subsector. After the meeting, he invited these voters to a dinner gathering arranged by him in hope of influencing these voters to vote for him. Is it an offence under the ECICO for the candidate to do so? Does it make any difference if the expenses of the dinner gathering are borne equally by each of the participants?

A3

- Section 12 of the ECICO prohibits any person from providing, or meeting all or part of the cost of providing, food, drink or entertainment with a view to influencing voters' voting decisions. Therefore, the above candidate has committed the relevant offence. If the above voters accept the free dinner as an inducement to or a reward for voting for that candidate, they will also violate the law.

- If the expenses of the dinner gathering are borne by the participants, the dinner gathering will be considered an "election meeting" under the law as it serves the purpose of promoting the election of the above candidate. The expenses involved will be regarded as the candidate's election expenses (including the candidate's own expenses in the dinner gathering) and the expenses borne by the participants should be treated as election donations given to the said candidate and must be clearly set out in his election return.

Q4 **What will happen to a voter if he is disqualified from voting at an EC Subsector Election but votes at the election? What if a person invites a voter to vote knowing that the latter has lost his voting eligibility in an EC Subsector Election?**

A4

- A person who is no longer eligible to be registered as a voter is disqualified from voting at an EC Subsector Election. Any person who votes at the election knowing that he is not entitled or eligible to do so will commit an offence under section 16(1) of the ECICO. For example, where a person has been registered as a voter for a subsector by virtue of his membership with a committee for the subsector as stipulated under the law, if the person has for whatever reason lost his membership with the committee, he will be disqualified from voting and is no longer eligible to vote at an election of the subsector.
- It is also an offence under section 16(2) of the ECICO if a person invites or induces a voter to vote at the election knowing that the latter is not entitled or eligible to do so.
- Anyone who has doubt about his eligibility to vote can make an enquiry with the REO.

Q5 **Several EC Subsector Elections candidates rent an office for shared use of electioneering. How should they calculate the election expenses? What should the candidates do if they have not received the electricity bill before the statutory deadline for lodging the election returns?**

A5

- The above candidates should apportion the office rental and other related expenses including the cost for renting photocopier, electricity expense, Internet service fees, etc. on a pro rata basis and clearly set out the expenses in the election return of individual candidate. If the election expense of each item after apportionment is $500 or above, the election return must be accompanied by relevant invoice and receipt issued by the goods or service provider (e.g. property owner, suppliers, etc.), stating clearly how the election expense of each item is apportioned. The invoices and receipts should also show the particulars of the expenditure (e.g. date of rental, name of the goods or service provider, details of goods or services, payment amount as well as the company chop/signature of the goods or service provider and the date of payment so as to certify that the said payment has been received in full by the goods or service provider). Since the original invoices and receipts would have been submitted by one of the candidates, the other candidates should provide the copies of the relevant invoices and receipts, and confirm in the form of declaration that those copies are true and correct, and state the name of the candidate who has submitted the original documents so as to facilitate checking by relevant departments. The candidates who submit the copies should use their best endeavours to ensure that the candidate submitting the original documents will submit his election return and the relevant documents on time.

- If the candidates have neither received nor paid the electricity bill before the deadline of lodging election returns as specified by the law, they should state the expected amount of electricity expense, scheduled date of payment of the outstanding claim in the election returns and undertake to settle the relevant claim according to the scheduled date. They should also submit the relevant invoice and receipt for an election expense of $500 or above to the REO within 30 days from the payment date. Since the original invoice and receipt will be submitted by one of the candidates, the other candidates should provide copies of the relevant invoice and receipt.

Section C (related to the CE Election)

Q1 **Can an EC member arrange a meeting to gauge the views of constituents of his subsector on which candidate he should support in the forthcoming CE Election?**

A1

- The ECICO does not restrict any EC member from gathering views from members of his subsector for a decision on whom he should support at the CE Election. The EC member, however, has to be aware that if the meeting he would call for serves to promote or prejudice the election of a particular candidate, it will become an election meeting. If any expense will be incurred at the meeting, the EC member should obtain prior written authorization from the candidate concerned for incurring election expenses in order not to contravene section 23(1) of the ECICO.

Q2

An election helper of a candidate has arranged a dinner to treat EC members of different subsectors so as to seek their views on the candidate's election platform and enlist their subscriptions for nomination. Will such an arrangement contravene the ECICO?

A2

- Section 12 of the ECICO prohibits any person from providing, or meeting all or part of the cost of providing, food, drink or entertainment to another person with a view to influencing the other person's voting decision. If the dinner is deliberately arranged by the aforesaid election helper to provide food, drink or entertainment as an inducement for EC members to vote for the candidate, that election helper has committed the above offence. The EC members who accept the relevant dinner as an inducement to vote for the said candidate will also commit an offence. If the candidate has knowledge of and agreed with the arrangement of the dinner by his election helper for the aforesaid purpose, he may also violate the ECICO.

- Besides, offering bribe for the purpose of enlisting nominations may be liable for other criminal offences.

- A candidate and his election helpers should act prudently while planning his electioneering and avoid arranging activities that may easily induce suspicion of bribery. They should also comply with the ECICO as well as other relevant legal requirements.

Q3

A candidate of the CE Election rents a unit in a commercial building as his election campaign office and acquires some computers and printers. How should he calculate the election expenses? What should the candidate do if he has not received the bills of some election expense items before the statutory deadline for lodging the election return?

A3

- The above candidate should include the rental and related expenses of the unit, the costs of acquiring the computers and printers, etc. in his election expenses and clearly set out the expenses in his election return. If the election expense of each item is $500 or above, the election return must be accompanied by relevant invoice and receipt issued by the goods and service provider (e.g. property owner, suppliers, etc.) giving particulars of the expenditure (e.g. date of rental/acquisition, name of the goods and service provider, details of goods or services, payment amount as well as the company chop/signature of the goods and service provider and the date of payment so as to certify that the said payment has been received in full by the goods and service provider).

- If the candidate has neither received nor paid the bills of some election expense items before the deadline of lodging the election return as specified by the law, he should state the expected amount of relevant expenses, scheduled date of payment of the outstanding claims in the election return and undertake to settle the relevant claims according to the scheduled dates. He should also submit the relevant invoice and receipt for an election expense of $500 or above to the REO within 30 days from the payment date.

PART 2

Gist of Past Election Cases

Case 1 Bribing persons to stand as candidates at an election

A person, a founder and a member of an organization conspired to accept a bribe of $200,000 for getting the member to stand as a candidate at a District Council (DC) Election, and offered at least $850,000 as bribes to five other persons for themselves or getting other persons to stand at the election.

The person, the founder and the member of the organization met twice. During the meetings, they conspired together for the founder to accept from the person a sum of money between $150,000 and $200,000 to get the member to stand as a candidate at a specified constituency of the election. Later the person claimed that as the election proposal prepared by the organization was not good enough, he eventually only paid $36,000 in cash to the founder.

On the other hand, the person offered at least $850,000 as bribes to five other persons for themselves or getting other persons to stand at various specified constituencies of the election, but the requests were turned down.

The trio were eventually jailed for 2 years to 3 years and 3 months after being found guilty of breaching section 7 of the Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) (Cap. 554), for offering an advantage to another person as an inducement for the other person or a third person to stand as a candidate at the election, and conspiracy to accept an advantage as an inducement to get another person to stand as a candidate at the election.

The judge said bribery at an election was a serious offence and undermined public confidence in the electoral system. The court had to send out a clear message to members of the public that any offenders would be severely punished so as to serve as a deterrent.

The person lodged an appeal to the Court of Final Appeal, which was later dismissed. The court held that the person had intentionally and corruptly offered an advantage to other defendants as an inducement for them to stand at the election for their own personal gain. The act had a tendency to undermine a fair, open and honest election.

Case 2 Organized election bribery

A candidate in a DC Election and his four supporters formed a residents' association one month ahead of the election. They provided various kinds of advantages and refreshments to electors through the association for inducing them to vote for the candidate.

The association organized more than 10 dinner banquets costing over $1,000,000 for its 1,500 members, most of them being registered electors of the constituency concerned. While the association only charged each member with $20 admission fee, the costs of entertainment, food and drinks consumed at the banquets were borne by the candidate and his four supporters. At the banquets, officers of the association repeatedly showed certain gestures and mentioned some slogans implying the candidate's number.

During the election period, the association also offered free one-day local tours (including breakfast and lunch) to members almost every day. A total of 38 tours were arranged and more than $390,000 were incurred. The candidate and his four supporters showed up to greet the participants and, on the polling day, also welcomed the coaches on the return trip. On some other occasions, they provided flu vaccination free of charge for electors and distributed $100 cash coupons for medical expenses at a private clinic. Furthermore, they also printed books on health tips and produced reusable bags for distribution in the district, with the candidate's number clearly shown on these publications and bags. In total, the

candidate and his four supporters incurred over $2,000,000 election expenses, which vastly exceeded the statutory limit for the election concerned.

The five were jailed for 27 to 33 months after being found guilty of various charges of conspiracy to commit offences under the ECICO, namely section 11 (offering advantages to electors), section 12 (providing electors with refreshments and entertainment) and other sections relating to election expenses, etc.

The court said that it was an organized corrupt election case as a substantial amount of money was spent to bribe electors and the scam lasted for a long period of time. The Court of Appeal even emphasized that any persons taking part in election bribery, irrespective of their background and social status, would not be given lenient sentences.

Case 3 Health-checking services for bribing electors

A candidate in a DC Election employed some nursing students to set up counters in the district twice during the election period to perform free medical examinations, including blood pressure tests, weight and height measurements, to senior residents of his constituency. The candidate displayed his election posters near the counters and instructed the nursing students to assist in distributing souvenirs bearing the candidate's name and urging the residents to vote for the candidate, who was at the scene wearing his election sash canvassing votes from the recipients of the services.

The candidate was later sentenced to 9 weeks' imprisonment after being found guilty of offering advantages to electors in return for their votes, in breach of section 11 of the ECICO. In passing the sentence, the magistrate stated that a custodial sentence had to be meted out in view of the seriousness of the offences.

The candidate later lodged an appeal against his conviction claiming that he, as a then District Councillor, had been providing such health checking services in the district for more than a year. However, the Deputy Judge of the Court of First Instance remarked that the appeal was quashed because the services provided by the candidate were apparently for inducing the electors to vote for him.

Case 4 Providing "dim-sum" to canvass votes

Three days after a DC Election candidate submitted his nomination form, he organized a tea gathering for electors of his constituency at a restaurant through a community service centre, of which he was the chairman. He made a reservation with the restaurant for afternoon tea to be served with various kinds of "dim-sum" at $30 per head. He sponsored the remaining amount of the expenses after selling admission tickets to the participants at $20 each. Lucky draws were held as well. Subsequently, 11 tables were filled and $3,300 were incurred in total.

The candidate was later found guilty of breaching the ECICO, including section 12 (providing food, drink and entertainment for the participants of the tea gathering for inducing them to vote for him at the election). He was ordered by the court to perform 100 hours of community service.

The magistrate pointed out that although the candidate did not mention any election matters in the tea gathering, he did publicly make some remarks indicating that he was a candidate. The magistrate opined that canvassing votes might not necessarily be done in an explicit way, but could be subtly done or implied.

Case 5 Piles of cash for vote

A Rural Committee Election candidate paid two separate visits to an elector in person in order to ask the latter to support him at the election. During the second meeting, the candidate left $130,000 cash for the elector as a bribe for supporting him at the election.

The candidate was sentenced to 14 weeks' imprisonment after being found guilty of offering an advantage to elector, contrary to section 11 of the ECICO.

In sentencing, the magistrate remarked that as elections were the cornerstone of social development in Hong Kong, the court had the responsibility to ensure that they were conducted in a clean and fair manner. The Court of Appeal later granted the Department of Justice's application for a review of the sentence and opined that the defendant had acted in flagrant disregard of the sanctity and integrity of the electoral system, adding that the court was duty bound to impose deterrent sentences to stop any corrupt and illegal practices in elections. The Court of Appeal agreed that the original jail term imposed was manifestly inadequate and increased it to 12 months.

Case 6 Accepting advantage for voting

A registered elector, on the day before a public election, attended a dinner at a restaurant upon a relative's invitation. During the dinner, she was given $4,000 in cash for her and her mother to vote for a particular candidate at the election. After the dinner, she called to tell her mother about the matter and passed $2,000 to her mother at home subsequently. Both the elector and her mother later voted at the election.

The elector pleaded guilty to accepting an advantage as an inducement to vote at the election for a particular candidate and get her mother to vote at the election for that particular candidate, contrary to section 11 of the ECICO. She was given a 2-month jail term and ordered to make a payment of $4,000 to the court.

In passing the sentence, the magistrate stressed that nothing was more important than upholding a clean society. Any offender who engaged in corrupt conduct at an election must be severely punished, otherwise the electoral system would collapse.

Case 7 Vote-rigging

In a DC Election, a large number of persons were found to have used false residential addresses (including addresses of other persons or non-residential buildings) for registration as electors of the same constituency and voted on the polling day. Some persons provided their addresses for others to register as electors of that constituency. More than 40 persons faced charges under section 16 of the ECICO or conspiracy to defraud. Some pleaded guilty to the charges while the others were convicted by the court. They were given sentences ranging from community service orders to 1 year in jail.

In separate trials, different magistrates remarked that "vote-rigging" was a serious offence, thus warranting a deterrent jail sentence for the grafter. The sentencing conveyed a message to members of the public that the court had to safeguard a clean and fair electoral system.

Candidates and election helpers of the **Election Committee (EC) Subsector Elections** and **Chief Executive (CE) Election** should note the following:

1 STANDING AS CANDIDATES

Bribery

- ☒ Do not engage in, or authorize another person either expressly or by implication to engage in, any of the following conduct:
  (1) offer an advantage as an inducement to or a reward for any person's standing or not standing as a candidate at the election;
  (2) offer an advantage as an inducement to or a reward for any person having been nominated as a candidate at the election to withdraw his nomination or not to use his best endeavours to promote his election.

- ☒ Do not solicit or accept an advantage as an inducement to or a reward for any person's standing or not standing as a candidate at the election.

- ☒ Do not solicit or accept an advantage as an inducement to or a reward for any person having been nominated as a candidate at the election to withdraw his nomination or not to use his best endeavours to promote his election.

Using or Threatening to Use Force or Duress

- ☒ Do not use or threaten to use force or duress to induce any person to stand or not to stand as a candidate at the election, or to induce any person having been nominated as a candidate at the election to withdraw his nomination.

- ☒ Do not authorize another person, either expressly or by implication, to engage in the above conduct.

Engaging in Deceptive Behaviour

- ☒ Do not induce any person by deception to stand or not to stand as a candidate at the election, or to induce any person having been nominated as a candidate at the election to withdraw his nomination.

- ☒ Do not authorize another person, either expressly or by implication, to engage in the above conduct.

Nomination Paper

- ☒ Do not deface or destroy a completed or partly completed nomination paper to prevent or obstruct another person from standing for an election.

2 ELECTIONEERING

Statements about a Candidate

- ☒ Do not publish any false statement that a person is or is not a candidate.

- ☒ Do not publish any materially false or misleading statement of fact, including (but not limited to) a statement concerning the character, qualifications or previous conduct of a candidate or candidates for the purpose of promoting or prejudicing the election of the candidate(s).

Election Advertisements

- Do not publish election advertisement that includes the name or logo of a person or an organization; or the pictorial representation of any person in such a way as to imply that the candidate concerned has the support of the person or organization, unless:
  (1) prior written consent from the supporting person or organization has been obtained; or
  (2) the candidate or the person who publishes the election advertisement has neither requested or directed nor authorized any other person to request or direct the inclusion of such name, logo or pictorial representation in the advertisement (e.g. the contents of the election advertisement have been provided by the supporters themselves out of their own volition).

Remarks: A person must obtain approval from the governing body of the organization or by a resolution of the members of the organization passed at a general meeting before giving the written consent of support of the organization.

- Do not modify, or authorize another person to modify, the name, logo or pictorial representation and any other content of an election advertisement provided by a supporting person or organization unless prior written consent has been obtained from the supporter.

Remarks: A document published during an election period (i.e. the period begins on the first day of the nomination period and ends on the polling day for the election) that gives details of the work done by a candidate in the capacity of the Chief Executive, a member of the Election Committee, a member of the Legislative Council, a member of a District Council, a member of the Heung Yee Kuk, the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee, or a Rural Representative, is also an election advertisement.

3 VOTING

Bribery

- ☒ Do not without reasonable excuse engage in, or authorize another person either expressly or by implication to engage in, any of the following conduct:
  (1) offer an advantage as an inducement to or a reward for any person's voting or not voting for a particular candidate or particular candidates at an election;
  (2) offer an advantage as an inducement to or a reward for any person's not voting at an election.

Providing Refreshments or Entertainment

- ☒ Do not engage in, or authorize another person either expressly or by implication to engage in, any of the following conduct:
  (1) provide or meet all or part of the cost of providing any food, drink or entertainment as an inducement to or a reward for any person's voting or not voting for a particular candidate or particular candidates at an election;
  (2) provide or meet all or part of the cost of providing any food, drink or entertainment as an inducement to or a reward for any person's not voting at an election.

Using or Threatening to Use Force or Duress

- ☒ Do not engage in, or authorize another person either expressly or by implication to engage in, any of the following conduct:
  (1) use or threaten to use force or duress against any person to induce the person to vote at an election, or to vote for a particular candidate or particular candidates at an election;
  (2) use or threaten to use force or duress against any person to induce the person not to vote at an election, or not to vote for a particular candidate or particular candidates at an election;

(3) use or threaten to use force or duress against any person because the person voted at an election, or voted for a particular candidate or particular candidates at an election;
(4) use or threaten to use force or duress against any person because the person refrained from voting at an election, or refrained from voting for a particular candidate or particular candidates at an election;
(5) prevent an elector from voting at an election by abduction.

Engaging in Deceptive Behaviour

- ☒ Do not engage in, or authorize another person either expressly or by implication to engage in, any of the following conduct:
  (1) induce any person by deception to vote or not to vote for a particular candidate or particular candidates at an election;
  (2) induce any person by deception not to vote at an election.

Other Offences in relation to Voting

- ☒ Do not invite or induce any person to vote at an election knowing that the person is not entitled to do so.

- ☒ Do not invite or induce any person to vote knowing that the person has given materially false or misleading information to an electoral officer.

- ☒ Do not destroy, deface, take or otherwise interfere with a ballot paper in use or that has been used at an election, without lawful authority.

- ☒ Do not destroy, remove, open or otherwise interfere with a ballot box in use at an election, without lawful authority.

4 ELECTION EXPENSES AND ELECTION DONATIONS

Election Expenses

- ☒ Do not incur election expenses more than the prescribed maximum amount for the subsector concerned for the **EC Subsector Elections**.

Subsectors	Prescribed Limits
(a) For an EC subsector with not more than 500 registered voters	$100,000
(b) For an EC subsector with more than 500 but not more than 5,000 registered voters	$160,000
(c) For an EC subsector with more than 5,000 but not more than 10,000 registered voters	$320,000
(d) For an EC subsector with more than 10,000 registered voters	$480,000

- ☒ Do not incur election expenses more than the maximum amount prescribed for the **CE Election** (i.e. $17,600,000).

- ☒ Do not incur election expenses in excess of the amount specified in the authorization if you are an election expense agent.

- ☒ Do not incur election expenses at or in connection with the election unless you are a candidate incurring election expenses solely for yourself or you are a candidate's authorized election expense agent (except that person publishes an election advertisement on

the Internet; and the only election expenses incurred by that person for the purpose of publishing the advertisement are either or both of the electricity charges and/or charges necessary for accessing the Internet).

☑ Do include all election expenses incurred by the candidate and his authorized election expense agent(s) in the election return, and submit invoices and receipts giving particulars of the expenditure issued by the goods or service providers for each expense of $500 or more.

Election Donations

☒ Do not use election donations for a purpose:

(1) other than that of meeting a candidate's election expenses; or

(2) other than that of promoting the candidate's election or prejudicing the election of another candidate or other candidates.

☑ Do issue to the donor a receipt for any election donation of more than $1,000 in value, specifying the name and address of the donor and particulars of the election donation.

☑ Do give election donations, if the candidate does not know the name and address of the donor, of more than $1,000 in value, the unused election donations and donations that exceed the prescribed maximum amount of election expenses to a charitable institution or trust of a public character chosen by the candidate before the time of lodging the election return.

Election Returns

☑ Do lodge an election return with the Chief Electoral Officer (CEO) by the statutory deadline as required under section 37 of the ECICO.

- ☑ Do lodge the election return with:
  (1) an invoice and a receipt giving particulars of the expenditure of each election expense (except for expenses under $500);
  (2) a copy of the receipt issued to every donor, specifying the name and address of the donor, and particulars of the election donation concerned (except for donations of $1,000 in value or below);
  (3) a copy of the receipt issued by a charitable institution or trust of a public character of the candidate's choice in respect of the following items given by the candidate: (i) election donations of more than $1,000 in value and the candidate does not know the name and address of the donor, (ii) the unused election donations and (iii) donations that exceed the prescribed maximum amount of election expenses;
  (4) (if applicable) a written explanation setting out the reason why an election donation was not disposed of in accordance with (3) above; and
  (5) a declaration verifying the contents of the election return.

- ☑ Do lodge the election return with the CEO within the period as required by the law if a person, at any time before the close of nominations for the election, has publicly declared an intention to stand as a candidate at the election; even if he has withdrawn his nomination after having been nominated as a candidate at the election or his nomination has been ruled invalid; or the candidate is returned uncontested, is elected or not elected or has not incurred any election expense.

Remarks: A "candidate" is defined not only as a person who stands nominated as a candidate, but also a person who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate.

- ☒ Do not make any materially false or misleading statement in the election return or the revised copy of election return.

5 ELECTION PETITION / ELECTION APPEAL

- ☒ Do not withdraw an election petition/election appeal for an advantage.
- ☒ Do not offer an advantage as an inducement to or a reward for any person's withdrawal of an election petition/election appeal.
- ☒ Do not solicit or accept an advantage as an inducement to or a reward for any person's withdrawal of an election petition/election appeal.

PART 4

Channels for Reports and Enquiries

REPORTS

Any person who discovers or suspects any conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) (Cap. 554) is encouraged to make a report to the Independent Commission Against Corruption (ICAC) immediately. The ICAC will investigate each pursuable complaint to ascertain whether any offence exists.

Members of the public may contact one of the 7 ICAC Regional Offices or its 24-hour Report Centre (Address: G/F, 303 Java Road, North Point, Hong Kong), call the 24-hour ICAC **Report Corruption Hotline 25 266 366** or write to Hong Kong GPO Box 1000 to make reports to the ICAC.

The ICAC welcomes reports on suspected corruption from the public. However, if a person knowingly makes a false report of any offence to an ICAC officer, or misleads an ICAC officer by giving false information or making false statements or accusations, he will commit an offence under section 13B of the ICAC Ordinance (Cap. 204) and will be liable to a fine of $25,000 and to imprisonment for 1 year.

ENQUIRIES

Any person who wishes to make enquiries on the ECICO may call the **Clean Election Enquiry Hotline 2920 7878**, or approach any ICAC Regional Office from 9:00am to 7:00pm on Monday to Friday (closed on Saturdays, Sundays and public holidays).

Any person who wishes to obtain details of the clean election education and publicity programmes may browse the **Clean Elections Website (www.icac.org.hk/elections)**.

ADDRESSES AND TELEPHONE NUMBERS OF ICAC REGIONAL OFFICES

HONG KONG ISLAND	**Hong Kong East** Unit 3, G/F, East Town Building 16 Fenwick Street, Wan Chai	Tel: 2519 6555
	Hong Kong West/Islands G/F, Harbour Commercial Building 124 Connaught Road Central, Sheung Wan	Tel: 2543 0000
KOWLOON	**Kowloon East/Sai Kung** Shop No.9, G/F, Chevalier Commercial Centre 8 Wang Hoi Road, Kowloon Bay	Tel: 2756 3300
	Kowloon West G/F, Nathan Commercial Building 434-436 Nathan Road, Yau Ma Tei	Tel: 2780 8080
NEW TERRITORIES	**New Territories East** G06-G13, G/F, Sha Tin Government Offices 1 Sheung Wo Che Road, Sha Tin	Tel: 2606 1144
	New Territories North West G/F, Fu Hing Building 230 Castle Peak Road, Yuen Long	Tel: 2459 0459
	New Territories South West Shop B1, G/F, Tsuen Kam Centre 300-350 Castle Peak Road, Tsuen Wan	Tel: 2493 7733

Appendix

Extracts from the Elections (Corrupt and Illegal Conduct) Ordinance

This Appendix only includes parts of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) which are mentioned in this Information Booklet.

Section 2 Interpretation

Advantage means

(a) any valuable consideration, gift or loan; or

(b) any office, employment or contract; or

(c) the full or partial payment, release, discharge or liquidation of an obligation; or

(d) the exercise of or forbearance from exercising a right or power; or

(e) the performance of or forbearance from performing a duty; or

(f) any favour, including

  (i) giving protection from a liability incurred or anticipated; and

  (ii) giving protection from proceedings or possible proceedings of a disciplinary, civil or criminal nature; or

(g) any other service (other than voluntary service or the provision of entertainment),

but does not include an election donation if particulars of the donation are given in an election return that has been lodged with the appropriate authority.

Candidate

(a) means a person who stands nominated as a candidate at an election; and

(b) also means a person who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate at the election.

Duress includes causing financial loss to a person by duress.

Election advertisement, in relation to an 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.

For the purposes of this Ordinance, a document published by a candidate during an election period that gives details of the work done by the candidate in the capacity of

(a) the Chief Executive;

(ab) a member of the Election Committee;

(b) a member of the Legislative Council;

(c) a member of a District Council;

(d) a member of the Heung Yee Kuk;

(e) the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee; or

(f) a Rural Representative,

is an election advertisement.

Election 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 the candidate or candidates for the purpose of meeting, or contributing towards meeting, the election expenses of the candidate or candidates;

(b) any goods given to or in respect of the candidate or candidates for the purpose of promoting the election of the candidate or candidates or of prejudicing the election of another candidate or other candidates, and includes any goods given incidental to the provision of voluntary service;

(c) any service provided to or in respect of the candidate or candidates for the purpose of promoting the election of the candidate or candidates or of prejudicing the election of another candidate or other candidates, but does not include voluntary service.

Election expense agent, in relation to a candidate, means a person authorized by the candidate in accordance with section 23.

Election expenses, in relation to a candidate at an election, means expenses incurred or to be incurred, before, during or after the election period, by or on behalf of the candidate for the purpose of

(a) promoting the election of the candidate; or

(b) prejudicing the election of another candidate,

and includes the value of election donations consisting of goods and services used for that purpose.

Election period, in relation to an election, means the period beginning with the nomination day for the election and ending with the polling day for the election (or the last polling day if there is more than one polling day).

Force

(a) includes any form of violence or restraint; and

(b) in particular, includes

(i) inflicting harm on a person (whether physical or mental); and

(ii) causing damage to, or destruction of, a person's property.

Voluntary service means any service provided free of charge to or in respect of a candidate or candidates at an election by a natural person, voluntarily and personally, in the person's own time for the purpose of

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

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

Section 5 What conduct does this Ordinance apply to

This Ordinance applies to all conduct concerning an election, whether the conduct is engaged in within Hong Kong or elsewhere.

Section 6 What penalties can be imposed for corrupt conduct at elections

(1) A person who engages in corrupt conduct at an election commits an offence and is
   (a) if tried summarily, liable on conviction to a fine of $200,000 and to imprisonment for 3 years; or
   (b) if tried on indictment, liable on conviction to a fine of $500,000 and to imprisonment for 7 years.

(2) A person may be convicted of an offence of having engaged in corrupt conduct at an election if the person is found to have engaged in the conduct before, during or after the election period.

(3) A court that convicts a person of having engaged in corrupt conduct must order the person to pay to the court
   (a) the amount or value of any valuable consideration received by the person or the person's agents in connection with the conduct; or
   (b) such part of the amount or value as that court specifies in the order.

Section 7 Corrupt conduct to bribe candidates or prospective candidates

(1) A person engages in corrupt conduct at an election if the person corruptly

(a) offers an advantage to another person as an inducement for the other person

(i) to stand, or not to stand, as a candidate at the election; or

(ii) if the other person has been nominated as a candidate at the election, to withdraw the nomination; or

(iii) if the other person has been nominated as a candidate at the election, not to use the other person's best endeavours to promote the election of the other person; or

(b) offers an advantage to another person as a reward

(i) for having stood, or not stood, as a candidate at the election; or

(ii) if the other person was nominated as a candidate at the election, for having withdrawn the nomination; or

(iii) if the other person was or has been nominated as a candidate at the election, for not having used the other person's best endeavours to promote the election of the other person; or

(c) offers an advantage to another person as an inducement for the other person to get, or try to get, a third person

(i) to stand, or not to stand, as a candidate at the election; or

(ii) if the third person has been nominated as a candidate at the election, to withdraw the nomination; or

(iii) if the third person has been nominated as a candidate at the election, not to use the third person's best endeavours to promote the election of the third person; or

(d) offers an advantage to another person as a reward for having got, or having tried to get, a third person

(i) to stand, or not to stand, as a candidate at the election; or

(ii) if the third person was nominated as a candidate at the election, to withdraw the nomination; or

(iii) if the third person was or has been nominated as a candidate at the election, not to use the third person's best endeavours to promote the election of the third person; or

(e) solicits or accepts an advantage as an inducement

(i) to stand, or not to stand, as a candidate at the election; or

(ii) if the person has been nominated as a candidate at the election, to withdraw the nomination; or

(iii) if the person has been nominated as a candidate at the election, not to use the person's best endeavours to promote the election of the person; or

(f) solicits or accepts an advantage as a reward

(i) for having stood, or not stood, as a candidate at the election; or

(ii) if the person was nominated as a candidate at the election, for having withdrawn the nomination; or

(iii) if the person was or has been nominated as a candidate at the election, for not having used the person's best endeavours to promote the election of the person; or

(g) solicits or accepts an advantage as an inducement to get, or try to get, another person

(i) to stand, or not to stand, as a candidate at the election; or

(ii) if the other person has been nominated as a candidate at the election, to withdraw the nomination; or

(iii) if the other person has been nominated as a candidate at the election, not to use the other person's best endeavours to promote the election of the other person; or

(h) solicits or accepts an advantage as a reward for having got, or having tried to get, another person

(i) to stand, or not to stand, as a candidate at the election; or

(ii) if the other person was nominated as a candidate at the election, to withdraw the nomination; or

(iii) if the other person was or has been nominated as a candidate at the election, not to use the other person's best endeavours to promote the election of the other person.

(2) For the purposes of this section

(a) a person offers an advantage if the person confers, undertakes to confer or shows a willingness to confer, an advantage on another person; and

(b) a person solicits an advantage if the person asks for, or shows a willingness to receive, an advantage, either for the person's own benefit or for the benefit of another person; and

(c) a person accepts an advantage if the person receives or obtains an advantage, or agrees to receive or obtain an advantage, either for the person's own benefit or for the benefit of another person.

(3) For the purposes of this section, a person is taken to have offered an advantage even though the offer was made by another person, but only if the other person was acting with the person's authority. That authority may be conferred expressly or by implication.

Section 8 Corrupt conduct to use or threaten to use force or duress against candidates or prospective candidates

(1) A person engages in corrupt conduct at an election if the person

(a) uses force or duress, or threatens to use force or duress, against another person to induce the other person

(i) to stand, or not to stand, as a candidate at the election; or

(ii) if the other person has been nominated as a candidate at the election, to withdraw the nomination; or

(b) uses force or duress, or threatens to use force or duress, against another person to induce the other person to get a third person
   (i) to stand, or not to stand, as a candidate at the election; or
   (ii) if the third person has been nominated as a candidate at the election, to withdraw the nomination; or
(c) uses force or duress, or threatens to use force or duress, against another person because the other person or a third person
   (i) stood, or did not stand, as a candidate at the election; or
   (ii) if the other person or the third person has been nominated as a candidate at the election, withdrew the nomination.

(2) A person is taken to have engaged in corrupt conduct of a kind referred to in subsection (1) even though the conduct was engaged in by another person, but only if the other person was acting with the person's authority. That authority may be conferred expressly or by implication.

Section 9 Corrupt conduct to engage in certain deceptive behaviour in relation to candidates and prospective candidates

(1) A person engages in corrupt conduct at an election if the person
(a) by a deception, induces another person
   (i) to stand, or not to stand, as a candidate at the election; or
   (ii) if the other person has been nominated as a candidate at the election, to withdraw the nomination; or

(b) by a deception, induces another person to get a third person
   (i) to stand, or not to stand, as a candidate at the election; or
   (ii) if the third person has been nominated as a candidate at the election, to withdraw the nomination.

(2) A person is taken to have engaged in corrupt conduct of a kind referred to in subsection (1) even though the conduct was engaged in by another person, but only if the other person was acting with the person's authority. That authority may be conferred expressly or by implication.

Section 10 Corrupt conduct to deface or destroy nomination papers

A person engages in corrupt conduct at an election if the person, with intent to prevent or obstruct another person from standing for election, defaces or destroys a completed or partly completed nomination paper.

Section 11 Corrupt conduct to bribe electors and others at elections

(1) A person engages in corrupt conduct at an election if the person, without reasonable excuse
   (a) offers an advantage to another person as an inducement to vote at the election for a particular candidate or particular candidates; or
   (b) offers an advantage to another person as a reward for having voted at the election for a particular candidate or particular candidates; or

(c) offers an advantage to another person as an inducement to get, or try to get, a third person to vote at the election for a particular candidate or particular candidates; or

(d) offers an advantage to another person as a reward for having got, or having tried to get, a third person to vote at the election for a particular candidate or particular candidates; or

(e) solicits or accepts an advantage as an inducement to vote at the election for a particular candidate or particular candidates; or

(f) solicits or accepts an advantage as a reward for having voted at the election for a particular candidate or particular candidates; or

(g) solicits or accepts an advantage as an inducement to get, or try to get, another person to vote at the election for a particular candidate or particular candidates; or

(h) solicits or accepts an advantage as a reward for having got, or having tried to get, another person to vote at the election for a particular candidate or particular candidates.

(2) A person also engages in corrupt conduct at an election if the person, without reasonable excuse

(a) offers an advantage to another person as an inducement not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or

(b) offers an advantage to another person as a reward for not voting at the election, or for not voting at the election for a particular candidate or particular candidates; or

(c) offers an advantage to another person as an inducement to get, or try to get, a third person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or

(d) offers an advantage to another person as a reward for having got, or having tried to get, a third person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or

(e) solicits or accepts an advantage as an inducement not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or

(f) solicits or accepts an advantage as a reward for not voting at the election, or for not voting at the election for a particular candidate or particular candidates; or

(g) solicits or accepts an advantage as an inducement to get, or try to get, another person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or

(h) solicits or accepts an advantage as a reward for having got, or having tried to get, another person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates.

(3) For the purposes of this section

(a) a person offers an advantage if the person confers, undertakes to confer or shows a willingness to confer, an advantage on another person; and

(b) a person solicits an advantage if the person asks for, or shows a willingness to receive, an advantage, either for the person's own benefit or for the benefit of another person; and

(c) a person accepts an advantage if the person receives or obtains an advantage, or agrees to receive or obtain an advantage, either for the person's own benefit or for the benefit of another person.

(4) For the purposes of this section, a person is taken to have offered an advantage even though the offer was made by another person, but only if the other person was acting with the person's authority. That authority may be conferred expressly or by implication.

(5) A candidate or other person does not engage in corrupt conduct in contravention of this section only because the candidate or person has offered or solicited an offer to enter into a voting arrangement.

(6) For the purposes of subsection (5), a voting arrangement is an arrangement under which persons agree to vote for, or get others to vote for, a candidate or candidates in return for other persons agreeing to vote for, or get others to vote for, another candidate or other candidates.

(7) Subsection (5) applies even when the offers relate to different elections.

(8) In a prosecution for an offence against this section, the onus of proving a reasonable excuse lies on the defendant.

Section 12 Corrupt conduct to provide others with refreshments and entertainment at election

(1) A person engages in corrupt conduct at an election if the person provides, or meets all or part of the cost of providing, food, drink or entertainment for another person for the purpose of inducing the other person or a third person
   (a) to vote at the election for a particular candidate or particular candidates; or
   (b) not to vote at the election, or not to vote at the election for a particular candidate or particular candidates.

(2) A person engages in corrupt conduct at an election if the person provides, or meets all or part of the cost of providing, food, drink or entertainment for another person because the other person or a third person
   (a) has voted at the election for a particular candidate or particular candidates; or
   (b) has not voted at the election, or has not voted at the election for a particular candidate or particular candidates.

(3) A person engages in corrupt conduct at an election if the person solicits, accepts or takes food, drink or entertainment
   (a) as an inducement to vote at the election for a particular candidate or particular candidates; or

(b) as an inducement not to vote at the election, or not to vote at the election for a particular candidate or particular candidates.

(4) A person engages in corrupt conduct at an election if the person solicits, accepts or takes food, drink or entertainment

(a) as a reward for having voted at the election for a particular candidate or particular candidates; or

(b) as a reward for not having voted at the election, or not having voted at the election for a particular candidate or particular candidates.

(5) A person does not engage in corrupt conduct of a kind referred to in subsection (1) only because the person has, at an election meeting, served non-alcoholic drinks of any kind. An election meeting is any meeting held to promote or prejudice the election of a particular candidate or particular candidates.

(6) A person is taken to have engaged in corrupt conduct of a kind referred to in subsections (1) to (4) even though the conduct was engaged in by another person, but only if the other person was acting with the person's authority. That authority may be conferred expressly or by implication.

Section 13 Corrupt conduct to use or threaten to use force or duress against electors

(1) A person engages in corrupt conduct at an election if the person

(a) uses force or duress, or threatens to use force or duress, against another person to induce the other person to vote at the election, or to vote at the election for a particular candidate or particular candidates; or

(b) uses force or duress, or threatens to use force or duress, against another person because the other person voted at the election, or voted at the election for a particular candidate or particular candidates; or

(c) uses force or duress, or threatens to use force or duress, against another person to induce the other person to get a third person to vote at the election, or to vote at the election for a particular candidate or particular candidates.

(2) A person also engages in corrupt conduct at an election if the person

(a) uses force or duress, or threatens to use force or duress, against another person to induce the other person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or

(b) uses force or duress, or threatens to use force or duress, against another person because the other person refrained from voting at the election, or refrained from voting at the election for a particular candidate or particular candidates; or

(c) uses force or duress, or threatens to use force or duress, against another person to get the other person to induce a third person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or

(d) by abduction, prevents an elector from voting at the election.

(3) A person is taken to have engaged in corrupt conduct of a kind referred to in subsection (1) or (2) even though the conduct was engaged in by another person, but only if the other person was acting with the person's authority. That authority may be conferred expressly or by implication.

(4) A corporate elector does not contravene this section only because it has instructed its authorized representative to cast its vote, or not to cast its vote, at an election for a particular candidate or particular candidates.

Section 14 Corrupt conduct to engage in certain deceptive or obstructive behaviour in relation to electors

(1) A person engages in corrupt conduct at an election if the person, by a deception

(a) induces another person to vote at the election for a particular candidate or particular candidates; or

(b) induces another person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or

(c) gets another person to induce a third person to vote at the election for a particular candidate or particular candidates; or

(d) gets another person to induce a third person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates.

(1A) A person engages in corrupt conduct at an election if the person wilfully

(a) obstructs or prevents another person from voting at the election; or

(b) gets another person to obstruct or prevent a third person from voting at the election.

(1B) It is a defence for a person charged with an offence under section 6(1) for having engaged in the corrupt conduct under subsection (1A) to prove that, at the time of the alleged offence, the person had lawful authority or reasonable excuse for doing the act to which the charge relates.

(2) A person is taken to have engaged in corrupt conduct of a kind referred to in subsection (1) or (1A) even though the conduct was engaged in by another person, but only if the other person was acting with the person's authority. That authority may be conferred expressly or by implication.

Section 16 Corrupt conduct with respect to voting at elections

(1) A person engages in corrupt conduct at an election if the person
- (a) votes at the election knowing that the person is not entitled to do so; or
- (b) votes at the election after having
  - (i) given to an electoral officer information that the person knew to be materially false or misleading; or
  - (ii) knowingly omitted to give material information to an electoral officer; or
  - (iii) recklessly given to an electoral officer information that was materially false or misleading; or
- (c) except as expressly permitted by an electoral law
  - (i) in the case of an election referred to in section 4(1)(a), votes at the election more than once in the same round of voting;
  - (ia) in the case of an election referred to in section 4(1)(i) or (j), votes at the election more than once;
  - (ii) in the case of an election referred to in any other paragraph of section 4(1)
    - (A) votes at the election more than once in the same constituency; or
    - (B) votes at the election in more than one constituency.

(2) A person engages in corrupt conduct at an election if the person invites or induces another person
- (a) to vote at the election knowing that the other person is not entitled to do so; or
- (b) to vote at the election knowing that the other person has
  - (i) given to an electoral officer information that was materially false or misleading; or
  - (ii) omitted to give material information to an electoral officer; or

(c) except as expressly permitted by an electoral law
  (i) in the case of an election referred to in section 4(1)(i) or (j), to vote at the election more than once;
  (ii) in the case of an election referred to in any other paragraph of section 4(1)
    (A) to vote at the election more than once in the same constituency; or
    (B) to vote at the election in more than one constituency.

(3) For the purposes of this section, a person who has applied for a ballot paper for the purpose of voting at an election is taken to have voted at the election. However, a person who has applied for, and been given, a ballot paper is not to be regarded as having voted more than once at an election only because the person
  (a) has spoilt the ballot paper; and
  (b) after complying with the requirements of any relevant electoral law with respect to spoilt ballot papers, has voted, using another ballot paper.

Section 17 Corrupt conduct to destroy or deface ballot papers

(1) A person engages in corrupt conduct at an election if the person
  (a) without lawful authority, supplies a ballot paper to another person; or
  (b) with intent to deceive, puts into a ballot box a paper other than a ballot paper that the person is lawfully authorized to put into the box; or
  (c) with intent to deceive, removes a ballot paper from a polling station; or
  (d) without lawful authority, destroys, defaces, takes or otherwise interferes with a ballot paper in use, or that has been used, at the election; or
  (e) without lawful authority, destroys, removes, opens or otherwise interferes with a ballot box in use at the election.

(2) In a prosecution for an offence against this section, the onus of proving lawful authority lies on the defendant.

Section 18 Corrupt conduct to make improper use of election donations

A candidate or other person who uses election donations for a purpose

(a) other than that of meeting, or contributing towards meeting, the election expenses of the candidate; or

(b) in the case of an election donation consisting of goods or a service, other than that of promoting the election of the candidate or that of prejudicing the election of another candidate or other candidates,

engages in corrupt conduct at an election.

Section 19 How candidate must dispose of certain election donations

(1) A candidate or candidates must, on receiving an election donation of more than $1,000 or, in the case of an election donation consisting of goods or a service, of more than $1,000 in value, issue to the donor a receipt for the donation. The receipt must specify the name and address of the donor as supplied by the donor.

(2) If an election donation of more than $1,000 or, in the case of an election donation consisting of goods, of more than $1,000 in value, is given to or for a candidate or candidates and the candidate or candidates do not know the name and address of the donor, the candidate or candidates must ensure that the donation

(a) is not used

(i) for the purpose of meeting, or contributing towards meeting, the election expenses of the candidate or any of the candidates; or

(ii) in the case of an election donation consisting of goods, for the purpose of promoting the election of the candidate or any of the candidates or of prejudicing the election of another candidate or other candidates; and

(b) is given to a charitable institution or trust of a public character chosen by the candidate or candidates.

(3) If an election donation of money or goods has been given to or for a candidate or candidates and the donation

(a) has not been used

(i) for the purpose of meeting, or contributing towards meeting, the election expenses of the candidate or candidates; or

(ii) in the case of an election donation consisting of goods, for the purpose of promoting the election of the candidate or candidates or of prejudicing the election of another candidate or other candidates; or

(b) is not used in the case referred to in subsection (2),

the candidate or candidates must ensure that the donation is given to a charitable institution or trust of a public character chosen by the candidate or candidates.

(4) If the aggregate of all election donations given to or for a particular candidate exceeds the maximum amount prescribed under section 45, the candidate must ensure that the excess (not including election donations of services) is given to a charitable institution or trust of a public character chosen by the candidate.

(5) If an election donation is received by a candidate or candidates, the candidate or each of the candidates engages in corrupt conduct at an election if

(a) the candidate or candidates fail to comply with subsection (1) or (2); or

(b) the candidate or candidates fail to comply with any other requirement of this section before the time when the candidate's or each candidate's election return for the election is lodged in accordance with section 37.

(6) In this section, charitable institution or trust of a public character means a charitable institution or trust of a public character that is exempt from tax under section 88 of the Inland Revenue Ordinance (Cap. 112).

Section 20 Corrupt conduct to lodge false or misleading election return

A candidate engages in corrupt conduct at an election if the candidate, in an election return lodged under section 37 or a copy of an election return lodged under section 37A, makes a statement that the candidate knows or ought to know is materially false or misleading whether or not the statement is the subject of a correction effected under section 37A.

Section 21 Corrupt conduct to withdraw election petition or election appeal for a bribe

(1) A person engages in corrupt conduct at an election if the person, having lodged an election petition or an election appeal

(a) withdraws the petition or appeal in return for an advantage solicited by the person or offered by another person; or

(b) solicits or accepts an advantage as an inducement to withdraw the petition or appeal.

(2) A person engages in corrupt conduct at an election if the person

(a) offers an advantage to a person who has lodged an election petition or an election appeal as an inducement to withdraw the petition or appeal; or

(b) offers an advantage to another person to get the other person to induce or try to induce a person who has lodged an election petition or an election appeal to withdraw the petition or appeal.

(3) A person engages in corrupt conduct at an election if the person solicits or accepts an advantage as a reward for

(a) having withdrawn an election petition or an election appeal; or

(b) having induced another person to withdraw such a petition or appeal.

(4) A person engages in corrupt conduct at an election if the person

(a) offers an advantage to another person as a reward for having withdrawn or agreed to withdraw an election petition or an election appeal; or

(b) offers an advantage to another person as a reward for having got a person who has lodged an election petition or an election appeal to withdraw the petition or appeal.

(5) For the purposes of this section

(a) a person solicits an advantage if the person asks for, or shows a willingness to receive, an advantage, either for the person's own benefit or for the benefit of another person; and

(b) a person accepts an advantage if the person receives or obtains an advantage, or agrees to receive or obtain an advantage, either for the person's own benefit or for the benefit of another person; and

(c) a person offers an advantage if the person confers, undertakes to confer or shows a willingness to confer, an advantage on another person.

Section 22 What penalties can be imposed for illegal conduct at elections

(1) Any person who engages in illegal conduct at an election commits an offence and is
(a) if tried summarily, liable on conviction to a fine at level 5 and to imprisonment for 1 year; or
(b) if tried on indictment, liable on conviction to a fine of $200,000 and to imprisonment for 3 years.

(2) A person may be convicted of an offence of having engaged in illegal conduct at an election if the person is found to have engaged in the conduct before, during or after the election period.

Section 23 Illegal conduct for persons other than candidates and election expense agents to incur election expenses

(1) A person, other than a candidate or a candidate's election expense agent, engages in illegal conduct at an election if the person incurs election expenses at or in connection with the election.

(1A) However, subsection (1) does not apply if
(a) the person publishes an election advertisement on the Internet; and
(b) the only election expenses incurred by the person for the purpose of publishing the advertisement are either or both of the following charges
(i) electricity charges;
(ii) charges necessary for accessing the Internet.

(3) A candidate engages in illegal conduct at an election if election expenses incurred by the candidate or by the candidate's election expense agent are not included in the candidate's election return.

(4) An election expense agent engages in illegal conduct at an election if the agent incurs election expenses that exceed the amount specified in the agent's authorization.

(5) For the purposes of this Ordinance, a person is an election expense agent of a candidate if
(a) the person is authorized in writing by the candidate to incur election expenses at or in connection with the election on behalf of the candidate; and
(b) the maximum amount of election expenses that the person is authorized to incur is specified in the authorization; and
(c) a copy of the authorization has been served on the appropriate returning officer.

(7) An authorization referred to in subsection (5) remains in force until the end of the relevant election period unless it is revoked earlier.

Section 24 Illegal conduct for candidate to incur election expenses exceeding prescribed amount

(1) A candidate engages in illegal conduct at an election if the aggregate amount of election expenses incurred at or in connection with the election by or on behalf of the candidate exceeds the maximum amount of election expenses prescribed for a candidate by regulations in force under section 45.

(3) In a prosecution alleging illegal conduct under this section by a candidate, it is a defence for the candidate to prove that the election expenses were incurred
(a) without negligence by the candidate; and
(b) either without the candidate's consent or in excess of an amount specified in an authorization under section 23.

(4) For the purposes of this section, the value of an election donation consisting of goods or services is taken to be an amount of election expense incurred by or on behalf of a particular candidate or particular candidates if the goods or services are used for the purpose of promoting the election of the candidate or candidates or of prejudicing the election of another candidate or other candidates.

Section 25 Illegal conduct to publish false statement that a person is or is not a candidate

(1) A person engages in illegal conduct at an election if the person publishes a statement, knowing it to be false, that the person or another person is a candidate at the election.

(2) A candidate engages in illegal conduct at an election if the candidate publishes a statement, knowing it to be false, that the candidate is no longer a candidate at the election.

(3) A person engages in illegal conduct at an election if the person publishes a statement, knowing it to be false, that another person who has been nominated as a candidate is no longer a candidate at the election.

Section 26 Illegal conduct to publish false or misleading statements about a candidate

(1) A person engages in illegal conduct at an election if the person publishes a materially false or misleading statement of fact about a particular candidate or particular candidates for the purpose of promoting or prejudicing the election of the candidate or candidates.

(2) A candidate engages in illegal conduct at an election if the candidate publishes a materially false or misleading statement of fact about the candidate or candidates with whom the candidate is associated, or about another candidate or other candidates, for the purpose of

(a) promoting the election of the candidate or candidates with whom the candidate is associated; or

(b) prejudicing the election of the other candidate or candidates.

(3) For the purposes of this section, statements about a candidate or candidates include (but are not limited to) statements concerning the character, qualifications or previous conduct of the candidate or candidates.

(4) In a prosecution for an offence of having engaged in illegal conduct under subsection (1) or (2), it is a defence to prove that the defendant believed on reasonable grounds that the statement was true at the time when it was made.

Section 27 Illegal conduct to publish election advertisement that includes false claim of support

(1) A candidate engages in illegal conduct at an election if the candidate publishes, or authorizes the publication of, an election advertisement that includes

(a) the name or logo of or associated with a person or an organization; or

(b) a name or logo that is substantially similar to the name or logo of or associated with a person or an organization; or

(c) a pictorial representation of a person,

in such a way as to imply, or to be likely to cause electors to believe, that the candidate or candidates with whom the candidate is associated have the support of the person or organization unless the condition specified in subsection (1A)(a) or (b) is met and the requirement specified in subsection (1B) is complied with.

(1A) The conditions are

(a) before the publication of the election advertisement, the person or organization consented in writing to the inclusion of the name, logo or pictorial representation in the advertisement;

(b) the candidate has neither requested or directed nor authorized any person to request or direct the inclusion of the name, logo or pictorial representation in the advertisement.

(1B) If

(a) the election advertisement meets the condition specified in subsection (1A)(a) or (b); and

(b) any content of the advertisement is provided by the person or organization,

the candidate must not modify, or authorize any person to modify, the name, logo or pictorial representation or the content unless before the modification, the person or organization consented in writing to the name, logo, pictorial representation or content as modified.

(2) A person engages in illegal conduct at an election if the person publishes, or authorizes the publication of, an election advertisement that includes

(a) the name or logo of or associated with another person or an organization; or

(b) a name or logo that is substantially similar to the name or logo of or associated with another person or an organization; or

(c) a pictorial representation of another person,

in such a way as to imply, or to be likely to cause electors to believe, that a particular candidate or particular candidates have the support of the other person or organization unless the condition specified in subsection (2A)(a) or (b) is met and the requirement specified in subsection (2B) is complied with.

(2A) The conditions are

(a) before the publication of the election advertisement, the other person or organization consented in writing to the inclusion of the name, logo or pictorial representation in the advertisement;

(b) the person has neither requested or directed nor authorized any other person to request or direct the inclusion of the name, logo or pictorial representation in the advertisement.

(2B) If

(a) the election advertisement meets the condition specified in subsection (2A)(a) or (b); and

(b) any content of the advertisement is provided by the other person or organization,

the person must not modify, or authorize any person to modify, the name, logo or pictorial representation or the content unless before the modification, the other person or organization consented in writing to the name, logo, pictorial representation or content as modified.

(3) For the purposes of subsections (1A), (1B), (2A) and (2B), the consent of an organization is taken to have been obtained if

(a) the consent was given by an officer of the organization; and

(b) the candidate or person who publishes, or authorizes the publication of, the election advertisement believed on reasonable grounds that the officer had authority to give the consent.

(4) A candidate or other person engages in illegal conduct for having published or authorized the publication of an election advertisement of a kind referred to in subsection (1) or (2) despite the fact that the advertisement contains a statement to the effect that the inclusion in the advertisement of a name or logo of or associated with a person or an organization, or a pictorial representation of a person, does not imply support by the person or organization for a candidate or candidates.

(5) A person engages in illegal conduct at an election if the person purports to give consent in writing to the inclusion in an election advertisement of the name or logo of or associated with an organization without having been approved by the governing body of the organization or by a resolution of the members of the organization passed at a general meeting.

(6) A person engages in illegal conduct at an election if the person, for the purpose of promoting or prejudicing the election of a candidate or candidates, gives information to the candidate or candidates that the person knows or ought to know is materially false or misleading.

(7) In this section, **support**, in relation to a candidate, includes support for the policies or activities of the candidate.

Section 27A Illegal conduct to incite another person not to vote, or to cast invalid vote, by activity in public during election period

(1) A person engages in illegal conduct at an election if the person carries out any activity in public that
   (a) incites another person not to vote at the election; or
   (b) incites another person voting at the election to deal with a ballot paper issued to the person in any way that would render the ballot paper invalid at the election under any electoral law.

(2) Subsection (1) applies only to an activity in public carried out during the election period of the election concerned.

(3) In determining whether any activity in public incites another person as described in subsection (1), regard may be had to all circumstances of the case, including
   (a) the contents of the activity;
   (b) the intended audience of the activity; and
   (c) the circumstances in which the activity is carried out.

(4) It is a defence for a person charged with an offence under section 22(1) for having engaged in the illegal conduct under subsection (1) to prove that, at the time of the alleged offence, the person had lawful authority or reasonable excuse for doing the act to which the charge relates.

(5) In this section

activity in public includes any of the following activities, whether or not the person carrying out the activity is in a public place while carrying out the activity

(a) any form of communication to the public, including speaking, writing, printing, displaying notices, broadcasting, screening and playing of tapes or other recorded material;

(b) any conduct (not being a form of communication referred to in paragraph (a)) observable by the public, including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia;

(c) the distribution or dissemination of any matter to the public.

Section 31 Court may make orders relieving candidates from consequences of certain illegal conduct

(1) A candidate, candidate's agent or any other person who has done or omitted to do an act that, but for this section, would be illegal conduct at an election may apply to the Court for an order under subsection (2).

(2) On the hearing of an application under subsection (1), the Court may make an order relieving the applicant from penalties and disqualifications that are imposed by, or could be imposed under, an electoral law for any act or omission of the applicant that, but for this section, would be illegal conduct at an election, but only if the Court

(a) is satisfied that

(i) the act or omission was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith; and

(ii) where the Court requires notice of the application to be given in Hong Kong, the notice has been given; and

(b) believes it to be just that the applicant should not be subjected to one or more of those penalties and disqualifications.

(3) If an application is made under subsection (1), no prosecution against the applicant for having done or omitted to do an act that, but for this section, would be illegal conduct at an election may be instituted or carried on until the application is disposed of by the Court.

(4) An applicant is not liable to be convicted of an offence of having engaged in illegal conduct at an election if the act or omission of the applicant that, but for this section, would be illegal conduct at the election is the subject of an order made under subsection (2).

Section 37 Candidate to lodge election return with appropriate authority*

(1) Each candidate at an election must lodge with the appropriate authority an election return setting out
(a) the candidate's election expenses at the election; and
(b) all election donations received by or on behalf of the candidate in connection with the election.

(1A) For an election to elect the Chief Executive, the candidate must ensure that the return is lodged before the expiry of the period of 60 days after the date on which
(a) the result of the election is published in the Gazette; or
(b) the proceedings for the election are declared to have been terminated.

(1D) For an election to membership of the Election Committee, the candidate must ensure that the return is lodged before the expiry of the period of 30 days after

(a) if, according to a notice published under section 4 of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I), the election is one of the subsector elections that are to be held on the same date—the date on which the subsector elections become settled or, if the subsector elections become settled on different dates, the last of those dates; or

(b) in any other case—the date on which the election becomes settled.

(1E) For the purposes of subsection (1D), an election is settled on the date on which any of the following events occurs in relation to the election

(a) the result of the election is notified in the Gazette;

(b) a declaration that no candidate was validly nominated is made.

(1N) Despite subsections (1A), (1B), (1D), (1F), (1H), (1J) and (1L), the return may be lodged within any extended period allowed by the Court under section 40.

(2) The candidate must ensure that the return

(b) is accompanied

(i) in the case of each election expense of $500 or more, by an invoice and a receipt giving particulars of the expenditure; and

(ii) in the case of each election donation of more than $1,000 or, in the case of an election donation consisting of goods or a service, of more than $1,000 in value, by a copy of the receipt issued to the donor giving particulars of the donor and the donation; and

(iii) where an election donation or part of an election donation that was received by or on behalf of the candidate in connection with the election was not used for that purpose was disposed of in accordance with section 19, by a copy of the receipt given by the recipient of the donation or part; and

(iv) where an election donation or part of an election donation that was received by or on behalf of the candidate in connection with the election was not used for that purpose was not disposed of in accordance with section 19(3), by an explanation setting out the reason why it was not disposed of in accordance with that section; and

(v) by a declaration in a form provided or specified by the appropriate authority verifying the contents of the return.

(3) For the purposes of subsection (2), an invoice and a receipt for an election expense may be included in the same document.

(4) In this section

subsector election has the meaning given by section 1(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569).

* Subsections (1B), (1C), (1F) to (1M) are irrelevant to the EC Subsector Elections and CE Election.

Section 37A Relief for minor errors etc. in election return

(1) Subject to subsection (2), this section applies to

(a) any error or false statement in an election return lodged by a candidate the nature of which is a failure to set out in the election return any election expense of the candidate at the election concerned or any election donation received by or on behalf of the candidate in connection with the election

(i) that is required under section 37 to be set out in the election return; and

(ii) that does not exceed the limit prescribed in the Schedule for the election; and

(b) any error or false statement in an election return lodged by a candidate

(i) the nature of which is incorrectness in the amount of any election expense of the candidate at the election concerned or any election donation received by or on behalf of the candidate in connection with the election; and

(ii) the correction of which requires an adjustment not exceeding the limit prescribed in the Schedule for the election in that amount.

(2) If

(a) there are 2 or more errors or false statements in an election return; and

(b) the aggregate value of those errors or false statements exceeds the limit prescribed in the Schedule for the election concerned,

this section does not apply to the errors or false statements.

(3) For the purposes of subsection (2), the value of an error or false statement is

(a) if the nature of the error or false statement is a failure to set out an election expense or election donation, the amount of the election expense or election donation;

(b) if the nature of the error or false statement is incorrectness in the amount of an election expense or election donation, the extent, in monetary terms, of the adjustment required to correct the error or false statement.

(4) Despite section 37, if this section applies to any error or false statement in an election return lodged by a candidate, the candidate may lodge, subject to subsections (5) and (6), with the appropriate authority a copy of the election return which is marked with the necessary revision to have the error or false statement corrected.

(5) A candidate may not lodge a copy of an election return in relation to an election under subsection (4) if the aggregate amount of election expenses incurred at or in connection with the election by or on behalf of the candidate exceeds the maximum amount of election expenses prescribed for a candidate by regulations in force under section 45.

(6) A copy of an election return lodged under subsection (4) by a candidate is of no effect unless

(a) it is lodged within 30 days after the date on which the candidate receives a notice from the appropriate authority relating to the error or false statement in the election return;

(b) if the nature of the error or false statement is a failure to set out an election expense or election donation in the election return, it is accompanied by

(i) (in the case of an election expense) an invoice and a receipt; or

(ii) (in the case of an election donation) a copy of a receipt and, if applicable, an explanation, required under section 37(2)(b) had the election expense or election donation been set out in the election return; and

(c) it is accompanied by a declaration by the candidate in a form provided or specified by the appropriate authority verifying the contents of the copy of the election return.

(7) For the purposes of subsection (6), an invoice and a receipt for an election expense may be included in the same document.

(8) On the receipt under subsection (4) by an appropriate authority of a copy of an election return which is marked with any revision described in that subsection

(a) the revision is deemed, except for the purposes of section 20, to have been made in the election return before the election return was lodged; and

(b) an invoice, a receipt, a copy of a receipt or an explanation (if any) accompanying the copy is deemed, except for the purposes of section 20, to have accompanied the election return when the election return was lodged.

(9) A candidate may only lodge one copy of an election return under subsection (4) in respect of an election.

(10) A copy of an election return may not be withdrawn or amended after it has been lodged under subsection (4).

(11) The Chief Executive in Council may by order amend the Schedule.

(12) In this section, a reference to an error or false statement in an election return includes
(a) an error or false statement in any document accompanying the election return; or
(b) a failure to send any document required by section 37(2)(b) in relation to the election return.

Section 38 Offence to fail to lodge election return

(1) A candidate who fails to lodge an election return as required by section 37 commits an offence and is
(a) if tried summarily, liable on conviction to a fine at level 5 and to imprisonment for 1 year; or
(b) if tried on indictment, liable on conviction to a fine of $200,000 and to imprisonment for 3 years.

(2) If a candidate has made an application under section 40, no prosecution against the candidate for failing to have lodged an election return as required by section 37 may be instituted or carried on until the application is disposed of by the Court.

(3) A candidate is not liable to be convicted of an offence under subsection (1) for failing to have lodged an election return as required by section 37 if
(a) the failure is the subject of an order made under section 40; and
(b) the further period specified in the order has not yet expired.

(4) A candidate who is convicted of an offence under subsection (1) is subject to the same disqualifications as a person convicted of having engaged in illegal conduct.

Section 40 Court may grant relief to candidate in certain circumstances

(1) A candidate who is unable or has failed to lodge an election return as required by section 37 before the end of the permitted period can apply to the Court for an order allowing the candidate to lodge with the appropriate authority an election return within such further period as the Court specifies.

(2) On the hearing of an application made under subsection (1), the Court may make the order sought, but only if it is satisfied that the inability or failure to lodge an election return as required by section 37 was attributable to
(a) the applicant's illness or absence from Hong Kong; or
(b) the death, illness, absence from Hong Kong or misconduct of an agent or employee of the applicant; or
(c) inadvertence or an accidental miscalculation by the applicant or any other person; or
(d) any reasonable cause,
and was not due to the applicant's bad faith.

(3) A candidate can also apply to the Court for an order enabling the candidate to correct any error or false statement in an election return or in any document accompanying the return.

(4) On the hearing of an application made under subsection (3), the Court may make the order sought, but only if it is satisfied that the error or false statement was due to
(a) misconduct of an agent or employee of the applicant; or
(b) inadvertence or an accidental miscalculation by the applicant or any other person; or
(c) any reasonable cause,
and was not due to the applicant's bad faith.

(5) A candidate who has not complied with section 37(2)(b)(i), (ii) or (iii) can also apply to the Court for an order excepting the candidate from the requirement to send an invoice or a receipt, or a copy of a receipt, as required by that section.

(6) On the hearing of an application made under subsection (5), the Court may make the order sought, but only if it is satisfied that the non-compliance was due to
(a) misconduct of an agent or employee of the applicant; or
(b) inadvertence, or an accidental loss or destruction of the invoice or receipt or copy of the receipt, by the applicant or any other person; or
(c) any reasonable cause,
and was not due to the applicant's bad faith.

(7) In making an order under this section, the Court may impose such conditions as it considers to be appropriate for carrying into effect the objects of this Ordinance.

(8) A person who fails to comply with a condition imposed in an order made under this section commits an offence and is
(a) if tried summarily, liable to a fine at level 5 and to imprisonment for 1 year; or
(b) if tried on indictment, liable on conviction to a fine of $200,000 and to imprisonment for 3 years.

(9) A candidate who is convicted of an offence under subsection (8) is subject to the same disqualifications as a person convicted of having engaged in illegal conduct.

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