

Chapter:	547	DISTRICT COUNCILS ORDINANCE	Gazette Number	Version Date
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		Long title	L.N. 77 of 1999	19/03/1999
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An Ordinance to provide for the declaration of Districts, the establishment, composition and functions of District Councils, the procedure for election of persons to be members of District Councils; and to provide for related matters.

[The Ordinance, except for section 88(1) and sections 1, 5, 6, 7, 9, 10, 13(a), 15, 16, 17, 18, 21, 25 and 31 of Schedule 6	}	19 March 1999	<i>L.N. 77 of 1999</i>
The remaining provisions	}	1 January 2000]	

(Originally 8 of 1999)

Part:	I	PRELIMINARY	L.N. 77 of 1999	19/03/1999
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Section:	1	Short title	L.N. 77 of 1999	19/03/1999
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- (1) This Ordinance may be cited as the District Councils Ordinance.
- (2) (Omitted as spent)

Section:	2	Interpretation	L.N. 55 of 2000	03/03/2000
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In this Ordinance, unless the context otherwise requires-

"appointed member" (委任議員) means a person who is appointed as a member of a District Council under section 11 or 16;

"by-election" (補選) means an election to elect a person as an elected member otherwise than at an ordinary election;

"candidate" (候選人) means a candidate nominated for election as an elected member;

"Chairman" (主席) means, in relation to a District Council, the person holding the office of Chairman of that Council under Part VI;

"committee" (委員會) means, in relation to a District Council, a committee appointed by it under section 71;

"constituency" (選區) means an area declared to be a constituency under section 6(1)(a);

"corrupt conduct" (舞弊行為) means corrupt conduct engaged in in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554); (Replaced 10 of 2000 s. 47)

"costs" (費用、訟費) includes charges and expenses;

"Court" means the Court of First Instance;

"Designated Officer" (指定人員) means the Director of Home Affairs;

"District" (地方行政區) means an area declared to be a District in or under this Ordinance;

"District Council" (區議會) means a body established as a District Council by or under this Ordinance;

"District Officer" (民政事務專員) means, in relation to a District Council, the person who performs the functions of the office of District Officer in the Home Affairs Department for the District for which that District Council is established;

"elected member" (民選議員) means a person who is elected as a member of a District Council under Part V;

"election" (選舉) means an ordinary election or a by-election;

"election petition" (選舉呈請、選舉呈請書) means an election petition lodged under Part V;

"elector" (選民) means any person whose name is included in the existing final register;

"Electoral Affairs Commission" (選舉管理委員會) means the Electoral Affairs Commission established by section 3 of the Electoral Affairs Commission Ordinance (Cap 541);

"electoral officer" (選舉事務主任) includes a Returning Officer, an Assistant Returning Officer, the Electoral Registration Officer, or any other person who is appointed under this Ordinance or the Electoral Affairs Commission Ordinance (Cap 541) to exercise functions or perform duties at or in connection with an election;

"Electoral Registration Officer" (選舉登記主任) has the meaning given by the Legislative Council Ordinance (Cap 542);

"existing final register" (現有的正式選民登記冊) means a final register of geographical constituencies compiled and published by the Electoral Registration Officer under section 32 of the Legislative Council Ordinance (Cap 542) which is currently in force;

"ex officio member" (當然議員) means a person who holds office as such under section 9(1)(c);

"function" (職能) includes a power and an authority;

"identity document" (身分證明文件) means-

- (a) an identity card issued to a person under the Registration of Persons Ordinance (Cap 177); or
- (b) a document issued to a person under regulations in force under that Ordinance certifying that the person is exempt from being required to register under that Ordinance; or
- (c) any other document issued to a person that is acceptable to the Electoral Registration Officer as proof of the person's identity;

"illegal conduct" (非法行為) means illegal conduct engaged in in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554); (Replaced 10 of 2000 s. 47)

"judicial officer" (司法人員) means the holder of a judicial office, as defined in section 2 of the Public Service Commission Ordinance (Cap 93);

"member" (議員) means an elected member, an appointed member or an ex officio member;

"ordinary election" (一般選舉) means-

- (a) in relation to a District Council, the first election to elect persons to be the elected members of the District Council; or
- (b) elections to elect persons to fill the vacancies caused by the expiration of the term of office of the elected members of District Councils;

"prescribed public officer" (訂明公職人員) means any of the following-

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

"the regulations" (《規例》) means regulations made and in force under this Ordinance;

"Returning Officer" (選舉主任) means a person holding office as a Returning Officer under section 75 and includes any person appointed to act in place of such an Officer when the Officer is absent or when an office of Returning Officer is vacant;

"Rural Committee" (鄉事委員會) has the meaning given by section 3(3) of the Heung Yee Kuk Ordinance (Cap

1097);

"Vice Chairman" (副主席) means, in relation to a District Council, the person holding the office of Vice Chairman of that Council under Part VI.

Part:	II	DECLARATION OF DISTRICTS, ESTABLISHMENT OF DISTRICT COUNCILS, DECLARATION OF NUMBER OF ELECTED MEMBERS AND APPOINTED MEMBERS AND DECLARATION OF CONSTITUENCIES	L.N. 77 of 1999	19/03/1999
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Section:	3	Declaration of Districts	L.N. 77 of 1999	19/03/1999
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(1) Each area named in column 2 of Part II of Schedule 1 and delineated on the map specified opposite to it in column 3 of that Part is declared to be a District for the purposes of this Ordinance.

(2) The number specified in Part I of Schedule 1 is the number of Districts to be declared for the purposes of this Ordinance.

(3) The Designated Officer must ensure that at least one copy of each map that defines the area of a District is kept at that Officer's office and is made available for inspection by members of the public during ordinary business hours of that office.

(4) No charge is payable by a member of the public who wishes to inspect a copy of the map.

(5) A map certified by the Designated Officer as a true copy of a map that defines the area of a District is conclusive evidence of the area of the District.

Section:	4	Establishment of District Councils	L.N. 77 of 1999	19/03/1999
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There is established for a District specified in column 2 of Schedule 2, the body known as a District Council having the name specified opposite to it in column 3 of that Schedule, with effect from the date specified in relation to it in column 4 of that Schedule.

Section:	5	Number of members to be elected to a District Council and the number of members to be appointed to it	L.N. 77 of 1999	19/03/1999
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(1) The number specified in column 3 of Part I of Schedule 3 in relation to a District Council specified in column 2 of that Part is the number of members to be elected to that Council.

(2) The number specified in column 4 of Part I of Schedule 3 in relation to a District Council specified in column 2 of that Part is the maximum number of members to be appointed to that Council.

Section:	6	Declaration of constituencies	L.N. 77 of 1999	19/03/1999
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(1) The Chief Executive in Council may, by order published in the Gazette-

(a) declare any area within a District to be a constituency for the purposes of an election to elect the members of the District Council established for that District; and

(b) give names to those constituencies.

(2) When making an order under subsection (1), the Chief Executive in Council must have regard to the recommendations made by the Electoral Affairs Commission in the last report of the Commission submitted in accordance with section 18 of the Electoral Affairs Commission Ordinance (Cap 541) for the purposes of the election to which the order relates.

(3) If an order under this section refers to a map that defines the area of a constituency-

(a) the Electoral Registration Officer must ensure that at least one copy of the map is kept at that Officer's office and is made available for inspection by members of the public during ordinary business hours of that office; and

(b) the Designated Officer must ensure that at least one copy of the map is kept at that Officer's office and is made available for inspection by members of the public during ordinary business hours of that office.

(4) No charge is payable by a member of the public who wishes to inspect a copy of the map.

(5) A map certified by the Electoral Registration Officer as a true copy of a map that defines the area of a constituency is conclusive evidence of the area of the constituency.

Section:	7	Number of elected members to be returned for each constituency	L.N. 77 of 1999	19/03/1999
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The number of elected members to be returned for each constituency is one.

Section:	8	Chief Executive in Council may amend Schedule 1, 2 or 3	L.N. 77 of 1999	19/03/1999
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(1) The Chief Executive in Council may subject to the approval of the Legislative Council, by order published in the Gazette, amend Schedule 1, 2 or 3.

(2) Without limiting the generality of subsection (1), the power given to the Chief Executive in Council under that subsection includes a power-

- (a) to determine the number of Districts; and
- (b) to declare new Districts in place of the Districts existing at the time an order under subsection (1) is made; and
- (c) to establish a District Council for any District declared under section 3 or this section and specify a date for the establishment; and
- (d) to specify the number of members to be elected to a District Council and the number of members to be appointed to it; and
- (e) to specify the election for which an order made under this section applies.

(3) An order under this section may contain such incidental, consequential, supplemental, transitional or saving provisions necessary or expedient in consequence of the order.

Part:	III	COMPOSITION OF A DISTRICT COUNCIL	L.N. 77 of 1999	19/03/1999
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Section:	9	District Councils to consist of elected members, appointed members and ex officio members	L.N. 77 of 1999	19/03/1999
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(1) A District Council is to consist of-

- (a) elected members; and
- (b) appointed members; and
- (c) if it is a District Council established for a District in which there is one or more Rural Committees, subject to subsection (2) and sections 17, 18 and 19, as ex officio members, the Chairman of each such Rural Committee while holding office as the Chairman.

(2) If a Rural Committee specified in column 5 of Part II of Schedule 3 is a Rural Committee that falls within more than one District, for the purposes of subsection (1)(c), it is taken to be in the District specified opposite to it in column 2 of that Part.

(3) The Chairman of each Rural Committee specified in column 5 of Part II of Schedule 3 is eligible under subsection (1)(c) to become ex officio member of the District Council specified opposite to it in column 3 of that Part.

(4) Subsections (2) and (3) and Part II of Schedule 3 are without prejudice to any other law governing Rural Committees.

Section:	10	An elected member or appointed member taken to have resigned on becoming an ex officio member	L.N. 77 of 1999	19/03/1999
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If a person holding office as an elected member or appointed member of a District Council ("the first office") becomes entitled to hold office as an ex officio member of the same or another District Council ("the second office"), that person is taken to have resigned from the first office with effect immediately before the date on which the person commences to hold the second office.

Part:	IV	MEMBERSHIP OF A DISTRICT COUNCIL	L.N. 77 of 1999	19/03/1999
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Part:	IV	Appointed Members	L.N. 77 of 1999	19/03/1999
Division:	1			

Section:	11	Chief Executive to appoint members and how long appointed members are to hold office	L.N. 77 of 1999	19/03/1999
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(1) The Chief Executive may appoint as members of a District Council a number of persons not exceeding the number specified in column 4 of Part I of Schedule 3 in relation to that District Council.

(2) Subject to section 13, an appointed member holds office from the date specified in the letter of appointment and vacates office on 31 December of the year in which an ordinary election is next held after the appointment.

Section:	12	Who may be appointed to a District Council	L.N. 77 of 1999	19/03/1999
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A person is eligible for appointment as a member of a District Council only if the person-

- (a) has reached 21 years of age; and
- (b) is an elector; and
- (c) is not disqualified from voting at an election; and
- (d) is not disqualified from being an appointed member by virtue of section 14 or any other law; and
- (e) has ordinarily resided in Hong Kong for the 3 years immediately preceding the appointment.

Section:	13	Appointed members to accept office	L.N. 77 of 1999	19/03/1999
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An appointment under section 11 or 16 does not take effect unless the person appointed swears acceptance of office in Form 1 set out in Schedule 4 and lodges the form of acceptance with the Designated Officer within the period specified for the purpose in the letter of appointment.

Section:	14	Disqualification of appointed members	33 of 2002	27/12/2002
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- (1) A person is disqualified for appointment and from holding office as an appointed member, if the person-
- (a) is-
 - (i) a judicial officer; or
 - (ii) a prescribed public officer; or
 - (b) has, in Hong Kong, or any other place, been sentenced to death or imprisonment (by whatever name called) and has not either-
 - (i) served the sentence or undergone such other punishment as a competent authority may have substituted for the sentence; or
 - (ii) received a free pardon; or
 - (c) has been convicted of treason; or
 - (d) without limiting paragraph (b), where the term of office is to begin within 5 years after the date of the person's conviction, has been convicted, or is convicted after the beginning of the term of office-
 - (i) in Hong Kong or any other place, of an offence for which the person has been sentenced to imprisonment, whether suspended or not, for a term exceeding 3 months without the option of a fine; or
 - (ii) of having engaged in corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554); or
 - (iii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201); or
 - (iv) of any offence prescribed by regulations in force under the Electoral Affairs Commission Ordinance (Cap 541); or (Replaced 10 of 2000 s. 47)
 - (e) is a representative or a salaried functionary of the government of a place outside Hong Kong; or
 - (f) is a member of any national, regional or municipal legislature, assembly or council of any place

outside Hong Kong, other than a people's congress or people's consultative body of the People's Republic of China, whether established at the national level or local level; or

- (g) is an undischarged bankrupt or, within the previous 5 years, has either obtained a discharge in bankruptcy or has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap 6) with the person's creditors, in either case without paying the creditors in full. (Amended 33 of 2002 s. 5)

(2) An appointed member is also disqualified from holding office if the person is found under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his or her property and affairs. (Amended 33 of 2002 s. 5)

(3) Subsection (2) does not prevent a person from being eligible for appointment as a member if subsequently it is found under the Mental Health Ordinance (Cap 136) that the person has become capable of managing and administering his or her property and affairs. (Amended 33 of 2002 s. 5)

(4) Subject to subsection (6), an appointed member is also disqualified from holding office for the remainder of that member's term of office if the member does not attend meetings of the District Council for 4 consecutive months ("disqualifying period") without obtaining the consent of the Council before the end of that period.

(5) The disqualifying period under subsection (4) begins on the day next following the date of the meeting of the Council at which the member is first absent without consent.

(6) If during the disqualifying period no meetings are held or only one meeting is held, that period is extended to end immediately after the 3rd consecutive meeting from which the member is absent.

(7) An appointed member is also disqualified from holding office if the person was not eligible for appointment as a member under section 12.

Section:	15	How an appointed member can resign	L.N. 77 of 1999	19/03/1999
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(1) An appointed member may at any time resign from office as an appointed member by giving written notice of resignation to the Designated Officer.

(2) A notice of resignation is not effective unless it is signed by the member concerned.

(3) A notice of resignation takes effect-

- (a) on the date on which the notice is received by the Designated Officer; or
 (b) if a later date is specified in the notice, on that later date.

Section:	16	When appointed member's office becomes vacant and appointment of a substitute	L.N. 77 of 1999	19/03/1999
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(1) An appointed member's office becomes vacant if the member-

- (a) dies; or
 (b) resigns in accordance with section 15 or is taken to have resigned under section 10; or
 (c) is disqualified under section 14 from holding office as an appointed member.

(2) When the office of an appointed member becomes vacant under subsection (1), the Chief Executive may appoint another person to hold office as an appointed member in that member's place.

(3) Subject to section 13, a person appointed under subsection (2) holds office from the date specified in the letter of appointment and vacates office on 31 December of the year in which an ordinary election is next held after the appointment.

Part:	IV	Ex Officio Members	L.N. 77 of 1999	19/03/1999
Division:	2			

Section:	17	Ex officio members to accept office	L.N. 77 of 1999	19/03/1999
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(1) A person who is a Chairman of a Rural Committee does not become an ex officio member unless the person swears acceptance of office in Form 2 set out in Schedule 4 and lodges the form of acceptance with the Designated Officer.

(2) A person who is a Chairman of a Rural Committee cannot accept office as an ex officio member in more

than one District Council concurrently.

Section:	18	When the office of ex officio member becomes vacant	L.N. 77 of 1999	19/03/1999
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Where a person who is an ex officio member dies, ceases to hold office as Chairman of a Rural Committee or is disqualified from holding office as an ex officio member under section 19, the office of the ex officio member becomes vacant until that person or that person's successor as the Chairman of the Rural Committee becomes an ex officio member in accordance with section 17.

Section:	19	Disqualification of ex officio members	33 of 2002	27/12/2002
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(1) A person who is a Chairman of a Rural Committee is disqualified from holding office as an ex officio member, if the person-

- (a) is-
 - (i) a judicial officer; or
 - (ii) a prescribed public officer; or
- (b) has, in Hong Kong, or any other place, been sentenced to death or imprisonment (by whatever name called) and has not either-
 - (i) served the sentence or undergone such other punishment as a competent authority may have substituted for the sentence; or
 - (ii) received a free pardon; or
- (c) has been convicted of treason; or
- (d) without limiting paragraph (b), where the term of office is to begin within 5 years after the date of the person's conviction, has been convicted, or is convicted after the beginning of the term of office-
 - (i) in Hong Kong or any other place, of an offence for which the person has been sentenced to imprisonment, whether suspended or not, for a term exceeding 3 months without the option of a fine; or
 - (ii) of having engaged in corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554); or
 - (iii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201); or
 - (iv) of any offence prescribed by regulations in force under the Electoral Affairs Commission Ordinance (Cap 541); or (Replaced 10 of 2000 s. 47)
- (e) is a representative or a salaried functionary of the government of a place outside Hong Kong; or
- (f) is a member of any national, regional or municipal legislature, assembly or council of any place outside Hong Kong, other than a people's congress or people's consultative body of the People's Republic of China, whether established at the national level or local level; or
- (g) is an undischarged bankrupt or, within the previous 5 years, has either obtained a discharge in bankruptcy or has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap 6) with the person's creditors, in either case without paying the creditors in full. (Amended 33 of 2002 s. 6)

(2) An ex officio member is also disqualified from holding office if the person is found under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his or her property and affairs. (Amended 33 of 2002 s. 6)

(3) Subsection (2) does not prevent a person from holding office as an ex officio member if subsequently it is found under the Mental Health Ordinance (Cap 136) that the person has become capable of managing and administering his or her property and affairs. (Amended 33 of 2002 s. 6)

(4) Subject to subsection (6), an ex officio member is also disqualified from holding office until the members elected at the next ordinary election commence their term of office if the member does not attend meetings of the District Council for 4 consecutive months ("disqualifying period") without obtaining the consent of the Council before the end of that period.

(5) The disqualifying period under subsection (4) begins on the day next following the date of the meeting of the Council at which the member is first absent without consent.

(6) If during the disqualifying period no meetings are held or only one meeting is held, that period is extended to end immediately after the 3rd consecutive meeting from which the member is absent.

Part: Division:	IV 3	Elected Members	L.N. 77 of 1999	19/03/1999
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Section:	20	Who is eligible to be nominated as a candidate	L.N. 77 of 1999	19/03/1999
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- (1) A person is eligible to be nominated as a candidate at an election only if the person-
- (a) has reached 21 years of age; and
 - (b) is an elector; and
 - (c) is not disqualified from voting at an election; and
 - (d) is not disqualified from being nominated as a candidate or elected as an elected member by virtue of section 21 or any other law; and
 - (e) has ordinarily resided in Hong Kong for the 3 years immediately preceding the nomination.
- (2) A person who holds office as a member of a District Council is not eligible to be nominated in a by-election as a candidate.
- (3) A person who holds office as the Chairman of a Rural Committee is not eligible to be nominated as a candidate at an election.
- (4) A person is not eligible to be nominated as a candidate for a constituency if the person is currently nominated as a candidate for another constituency.

Section:	21	When person is disqualified from being nominated as a candidate and from being elected as an elected member	33 of 2002	27/12/2002
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- (1) A person is disqualified from being nominated as a candidate at an election, and from being elected as an elected member, if the person-
- (a) is-
 - (i) a judicial officer; or
 - (ii) a prescribed public officer; or
 - (b) has, in Hong Kong, or any other place, been sentenced to death or imprisonment (by whatever name called) and has not either-
 - (i) served the sentence or undergone such other punishment as a competent authority may have substituted for the sentence; or
 - (ii) received a free pardon; or
 - (c) has been convicted of treason; or
 - (d) on the date of nomination, or of the election, is serving a sentence of imprisonment; or
 - (e) without limiting paragraph (b), where the election is to be held or is held within 5 years after the date of the person's conviction, is or has been convicted-
 - (i) in Hong Kong or any other place, of an offence for which the person has been sentenced to imprisonment, whether suspended or not, for a term exceeding 3 months without the option of a fine; or
 - (ii) of having engaged in corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554); or
 - (iii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201); or
 - (iv) of any offence prescribed by regulations in force under the Electoral Affairs Commission Ordinance (Cap 541); or (Replaced 10 of 2000 s. 47)
 - (f) is ineligible to be a candidate or to be elected as an elected member because of the operation of this Ordinance or any other law; or
 - (g) is a representative or a salaried functionary of the government of a place outside Hong Kong; or
 - (h) is a member of any national, regional or municipal legislature, assembly or council of any place outside Hong Kong, other than a people's congress or people's consultative body of the People's Republic of China, whether established at the national level or local level; or
 - (i) is an undischarged bankrupt or, within the previous 5 years, has either obtained a discharge in bankruptcy or has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap 6) with the person's creditors, in either case without paying the creditors in full.
- (2) A person is also disqualified from being nominated as a candidate at an election if the person is found under

the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his or her property and affairs, but a person disqualified under this subsection is eligible for nomination as a candidate if, under that Ordinance, it is subsequently found that the person has become capable of managing and administering his or her property and affairs.

(3) A person is also disqualified from being elected as an elected member if the person is found under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his or her property and affairs, but a person disqualified under this subsection ceases to be disqualified if, under that Ordinance, it is subsequently found that the person has become capable of managing and administering his or her property and affairs.

(Amended 33 of 2002 s. 7)

Section:	22	How long elected member is to hold office	L.N. 77 of 1999	19/03/1999
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(1) An elected member holds office for a period of 4 years beginning on 1 January next following the ordinary election in which the member was elected and vacates office at the end of that period.

(2) A person elected to fill a vacancy caused by an elected member's ("first elected member") office becoming vacant before the expiry of the full term, holds office from the date on which the result of the by-election at which the person was elected is declared and vacates office on the day the first elected member would have vacated office had that member served the full term.

Section:	23	Elected members to accept office	L.N. 77 of 1999	19/03/1999
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(1) A person who is elected to be a member is to be regarded as having accepted office unless the person gives written notice of non-acceptance to the Designated Officer not later than 7 days after the date on which notification of the person's election is published in the Gazette.

(2) A notice of non-acceptance is not effective unless it is signed by the person concerned.

(3) A notice of non-acceptance takes effect on the date on which the notice is received by the Designated Officer and the person giving the notice is taken to have resigned from office as an elected member from that date.

(4) If a person gives notice in accordance with this section, the Designated Officer must, within 21 days after receiving the notice, publish in the Gazette a notice to the effect that the person has not accepted office as a member.

Section:	24	Disqualification of elected members	33 of 2002	27/12/2002
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(1) An elected member is disqualified from holding office if the member-

(a) becomes-

- (i) a judicial officer; or
- (ii) a prescribed public officer; or

(b) has, in Hong Kong, or any other place, been sentenced to death or imprisonment (by whatever name called) and has not either-

- (i) served the sentence or undergone such other punishment as a competent authority may have substituted for the sentence; or
- (ii) received a free pardon; or

(c) has been convicted of treason; or

(d) without limiting paragraph (b), after being elected, is convicted-

- (i) in Hong Kong or any other place, of an offence for which the person has been sentenced to imprisonment, whether suspended or not, for a term exceeding 3 months without the option of a fine; or
- (ii) of having engaged in corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554); or
- (iii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201); or
- (iv) of any offence prescribed by regulations in force under the Electoral Affairs Commission Ordinance (Cap 541); or (Replaced 10 of 2000 s. 47)

(e) is a representative or a salaried functionary of the government of a place outside Hong Kong; or

(f) is a member of any national, regional or municipal legislature, assembly or council of any place outside Hong Kong, other than a people's congress or people's consultative body of the People's

- Republic of China, whether established at the national level or local level; or
- (g) is an undischarged bankrupt or, within the previous 5 years, has either obtained a discharge in bankruptcy or has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap 6) with the person's creditors, in either case without paying the creditors in full. (Amended 33 of 2002 s. 8)

(2) Subsection (1)(d) does not prevent a person from being eligible to be a candidate at an election to be held 5 years after the disqualification.

(3) An elected member is also disqualified from holding office if the person is found under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his or her property and affairs. (Amended 33 of 2002 s. 8)

(4) Subsection (3) does not prevent a person from being eligible to be a candidate at an election if subsequently it is found under the Mental Health Ordinance (Cap 136) that the person has become capable of managing and administering his or her property and affairs. (Amended 33 of 2002 s. 8)

(5) Subject to subsection (7), an elected member is also disqualified from holding office for the remainder of that member's term of office if the member does not attend meetings of the District Council for 4 consecutive months ("disqualifying period") without obtaining the consent of the Council before the end of that period.

(6) The disqualifying period under subsection (5) begins on the day next following the date of the meeting of the Council at which the member is first absent without consent.

(7) If during the disqualifying period no meetings are held or only one meeting is held, that period is extended to end immediately after the 3rd consecutive meeting from which the member is absent.

(8) An elected member is also disqualified from holding office if the person was not eligible to be nominated as a candidate under section 20.

Section:	25	How an elected member can resign	L.N. 77 of 1999	19/03/1999
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(1) An elected member may at any time resign from office as an elected member by giving written notice of resignation to the Designated Officer.

(2) A notice of resignation is not effective unless it is signed by the member concerned.

(3) A notice of resignation takes effect—

(a) on the date on which the notice is received by the Designated Officer; or

(b) if a later date is specified in the notice, on that later date.

Section:	26	When elected member's office becomes vacant	18 of 2011	15/07/2011
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An elected member's office becomes vacant if—

(a) the member dies; or

(b) the member resigns in accordance with section 25 or is taken to have resigned under section 10 or 23(3); or

(c) the member is disqualified under section 24 from holding office as an elected member; or

(d) subject to sections 58A and 60(1A), the Court determines under section 55 that the member was not duly elected and that no other person was duly elected instead; or (Amended 18 of 2011 s. 13)

(e) (if an appeal against a determination referred to in paragraph (d) is lodged to the Court of Final Appeal)—

(i) the Court of Final Appeal determines under section 58B that the member was not duly elected and that no other person was duly elected instead; or

(ii) the appeal proceedings are terminated in other circumstances. (Added 18 of 2011 s. 13)

Part:	V	ELECTION OF MEMBERS TO A DISTRICT COUNCIL	L.N. 77 of 1999	19/03/1999
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Part:	V	When an Ordinary Election is to be Held	L.N. 77 of 1999	19/03/1999
Division:	1			

Section:	27	Chief Executive to specify dates for holding ordinary elections	L.N. 77 of 1999	19/03/1999
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- (1) The first ordinary election must be held in 1999.
- (2) An ordinary election must be held in each subsequent fourth year after the first ordinary election is held under subsection (1).
- (3) The Chief Executive must determine a date for holding an ordinary election under this section and give notice of that date in the Gazette.
- (4) The date specified in the notice must be not earlier than 60 days and not later than 15 days before the new term of office of the elected members is to begin.

Section:	28	Suspension of operation of District Councils to enable ordinary election to be held	L.N. 77 of 1999	19/03/1999
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- (1) After the Chief Executive determines a date for holding an ordinary election and gives notice under section 27(3), the Designated Officer may, to facilitate the holding of such election, determine a date with effect from which the operation of the District Councils is to be suspended until the commencement of the term of office of the members elected at that ordinary election.
- (2) The Designated Officer must give notice in the Gazette of the date determined by that Officer under subsection (1).
- (3) Subject to subsection (4), the operation of all District Councils and their committees stand suspended with effect from the date determined by the Designated Officer under subsection (1).
- (4) If the Designated Officer is of the opinion that circumstances so warrant, that Officer may permit or request a District Council or a committee to hold one or more meetings during the period of suspension.
- (5) Nothing in this section is to be construed as affecting the term of office of a person who is a member of a District Council when the operation of that District Council is suspended under this section.

Part:	V	Who May Vote at an Election	L.N. 77 of 1999	19/03/1999
Division:	2			

Section:	29	Who is entitled to vote at an election	18 of 2011	15/07/2011
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- (1) A person is entitled to vote at an election only if the person is an elector.
- (2) In the case of the first ordinary election, an elector is entitled to vote only in the constituency allocated to the elector by the Electoral Registration Officer under section 31.
- (3) In any subsequent ordinary election a person is entitled to vote only in the constituency (being a constituency declared under this Ordinance) for which the person is registered as an elector in the existing final register.
- (4) An elector is entitled to vote only once at an election.
- (5) In the first ordinary election an elector may not be prevented from voting in that election only because the elector's name should not have been included in the existing final register or the register referred to in section 31.
- (6) In any subsequent election, an elector may not be prevented from voting at an election only because the elector's name should not have been included in the existing final register.
- (7) Subsection (5) or (6) does not—
 - (a) preclude the Court from making a determination under section 55; (Amended 18 of 2011 s. 14)
 - (aa) preclude the Court of Final Appeal from making a determination under section 58B; or (Added 18 of 2011 s. 14)
 - (b) affect the person's liability to be charged with, and convicted of, an offence relating to voting at the election concerned.

Section:	30	When an elector is disqualified from voting at an election	L.N. 216 of 2009	30/10/2009
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- An elector is disqualified from voting at an election if the elector-
- (a) has ceased to be eligible to be registered as an elector under the Legislative Council Ordinance (Cap 542); or

(b)-(d) (Repealed 7 of 2009 s. 9)

(e) is found under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his or her property and affairs; or (Amended 33 of 2002 s. 9)

(f) is a member of the armed forces of the Central People's Government or any other country or territory.

Section:	31	Electoral Registration Officer to publish register for the first ordinary election	L.N. 77 of 1999	19/03/1999
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(1) In the case of the first ordinary election, the Electoral Registration Officer must-

(a) allocate to an elector a constituency in which he is entitled to vote at that election, according to the elector's residential address as recorded in the existing final register; and

(b) not later than 2 months before the date specified under section 27 for holding the first ordinary election, publish a register showing the constituency allocated to each elector under paragraph (a).

(2) The Electoral Registration Officer may amend the register referred to in subsection (1) so as to rectify any clerical or printing error or any incorrect name, address or other personal particulars of a person who is recorded in the register.

Part:	V	Conduct of Elections	L.N. 77 of 1999	19/03/1999
Division:	3			

Section:	32	Vacancy in membership of elected members of a District Council to be declared	L.N. 77 of 1999	19/03/1999
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(1) If a vacancy arises in the office of an elected member, the Designated Officer must, by notice published in the Gazette, declare the existence of the vacancy within 21 days after becoming aware of the vacancy.

(2) Without limiting subsection (1), the Designated Officer must declare the existence of a vacancy after becoming aware that, after the close of polling for an election, a candidate returned at the election has died before that candidate is declared to be elected as an elected member at the election.

Section:	33	By-election to be held to fill vacancy in membership of District Councils	L.N. 77 of 1999	19/03/1999
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(1) The Electoral Affairs Commission must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541), arrange for a by-election to be held in the following circumstances and not otherwise-

(a) on the making of a declaration as to the existence of a vacancy in the membership of a District Council under section 32; and

(b) on the making of a declaration under section 40(1) that the proceedings for the election for a constituency have been terminated; and

(c) on the making of a declaration under section 39(2) that an election for a constituency has failed because no candidate has been validly nominated for the election; and

(d) on the making of a declaration under section 40(3) that an election for a constituency has failed because of the death or disqualification of the successful candidate at the election.

(2) However, a by-election to fill a vacancy occurring in the membership of a District Council is not to be held within the 4 months preceding the end of the current term of office of the elected members.

Section:	34	What requirements are to be complied with by persons nominated as candidates	L.N. 77 of 1999	19/03/1999
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(1) A person is not validly nominated as a candidate for an election unless-

(a) a deposit has, in the manner prescribed by regulations in force under the Electoral Affairs Commission Ordinance (Cap 541), been lodged by or on behalf of the person with the Returning Officer concerned; and

- (b) the nomination form includes or is accompanied by a declaration to the effect that the person will uphold the Basic Law and pledge allegiance to the Hong Kong Special Administrative Region.
- (2) The deposit is to be of such an amount as is prescribed by the regulations for the purposes of this section.

Section:	35	Withdrawal of candidate's nomination	L.N. 77 of 1999	19/03/1999
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(1) A candidate may withdraw the candidate's nomination for election at any time before the close of nominations for the election and not otherwise.

(2) The withdrawal of a candidate's nomination has effect only if it is in writing signed by the candidate and complies with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541) for the purposes of this section.

Section:	36	Who are validly nominated candidates	L.N. 81 of 2007	01/09/2007
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(1) The Returning Officer must, as soon as practicable after receiving a nomination form that complies with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541), decide in accordance with those regulations whether or not a person is validly nominated as a candidate.

(2) If, after the Returning Officer has made a decision under subsection (1) that a candidate is validly nominated for election for a constituency but before the date specified for holding the election, proof is given to the satisfaction of the Returning Officer that the candidate has died, that Officer must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541)- (Amended 1 of 2007 s. 3)

(a) publicly declare that the candidate has died; and

(b) further declare which candidate or candidates are validly nominated for election for that constituency.

(3) Subsection (2) does not apply if the Returning Officer has publicly declared under section 39(1) that the candidate was duly elected as an elected member.

(4) If, after the Returning Officer has made a decision under subsection (1) that a candidate is validly nominated for election for a constituency but before the date specified for holding the election, proof is given to the satisfaction of the Returning Officer that the candidate is disqualified from being nominated as a candidate, the Returning Officer must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541), vary the decision to the effect that the candidate is not validly nominated. If the Returning Officer so varies the decision, that Officer must, in accordance with those regulations- (Amended 1 of 2007 s. 3)

(a) publicly declare that the decision has been varied; and

(b) further declare which candidate or candidates are validly nominated for election for that constituency.

(5) Subsection (4) does not apply if the Returning Officer has publicly declared under section 39(1) that the candidate was duly elected as an elected member.

Section:	37	Candidates entitled to send letters to electors free of postage	L.N. 77 of 1999	19/03/1999
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(1) One letter, addressed to each elector in the constituency for which the candidate is validly nominated, may be sent free of postage by or on behalf of the candidate.

(2) Each letter must relate to the election concerned and must comply with all requirements and limitations (if any) prescribed by regulations in force under the Electoral Affairs Commission Ordinance (Cap 541).

(3) The cost to the Postmaster General of enabling candidates to exercise their entitlements under this section is a charge on, and is payable from, the general revenue.

Section:	38	When ordinary election can be postponed or adjourned	L.N. 77 of 1999	19/03/1999
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(1) The Chief Executive may, by order, direct the postponement of an ordinary election if, before the holding of the election, the Chief Executive is of the opinion that the election is likely to be obstructed, disrupted, undermined or seriously affected by riot or open violence or any occurrence of public danger.

(2) The Chief Executive may, by order, direct the adjournment of the polling or counting of votes in respect of an ordinary election if, during the polling or counting of votes in respect of the election, the Chief Executive is of the opinion that the polling or counting of votes is likely to be or is being obstructed, disrupted, undermined or seriously affected by riot or open violence or any occurrence of public danger.

(3) The Returning Officers concerned must give effect to a direction under this section as soon as practicable after being notified of it.

(4) If an ordinary election, or the polling or counting of votes at an ordinary election, is directed to be postponed or adjourned under this section, the Chief Executive must, by notice published in the Gazette, specify a date for the holding of an election, or a poll or the counting of votes, in place of the postponed election or the adjourned polling or counting. That date must not be later than 14 days from the date on which the election, poll or count would have taken place but for the direction.

Section:	39	What is to happen if insufficient candidates are nominated	L.N. 77 of 1999	19/03/1999
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(1) If, after the close of nomination of candidates for election for a constituency, only one candidate has been validly nominated, the Returning Officer must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541), publicly declare the candidate to be duly elected as an elected member.

(2) If, after the close of nomination of candidates for election for a constituency, no candidate was validly nominated, the Returning Officer must, by notice published in the Gazette, declare the election to have failed.

Section:	40	When election proceedings are terminated or when an election fails	L.N. 81 of 2007	01/09/2007
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(1) If, on the day specified for the holding of an election but before the close of polling for the election, proof is given to the satisfaction of the Returning Officer that a validly nominated candidate for election for a constituency has died or is disqualified from being elected, that Officer must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541), publicly declare that the proceedings for the election for the constituency are terminated. (Amended 1 of 2007 s. 4)

(2) If, after the close of polling for an election but before declaring the result of the election, proof is given to the satisfaction of the Returning Officer that a candidate for election for a constituency has died or is disqualified from being elected, the proceedings for the election for the constituency are not to be terminated at that stage. If the counting of votes in respect of the election has not begun or is being conducted, the counting of votes is to begin or to continue as if the death or disqualification had not occurred. (Amended 1 of 2007 s. 4)

(3) If, after the counting of votes is finished, the candidate referred to in subsection (2) is found to be successful at the election, the Returning Officer must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541), publicly declare the election to have failed.

Section:	41	System of voting and counting of votes	L.N. 81 of 2007	01/09/2007
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(1) At every election which is contested-

- (a) a poll shall be taken in each constituency or constituencies in which the election is held; and
- (b) the voting at that poll shall be by secret ballot; and
- (c) the election shall be conducted in accordance with the regulations and regulations in force under the Electoral Affairs Commission Ordinance (Cap 541).

(2) The votes shall be given and counted in accordance with the simple or relative majority system of election (otherwise known as the "first past the post" voting system) whereby the elector shall vote for not more than one of the candidates and the candidate to whom the greatest number of votes have been given shall be declared by the Returning Officer as the only candidate to be elected.

(3) If, after the counting of votes is finished, 2 or more of the most successful candidates have an equal number of votes, the Returning Officer must determine the result of the election by drawing lots. The person on whom the lot falls must be determined by the Returning Officer to be the elected member for the constituency concerned.

(4) As soon as practicable after determining the result of the election, the Returning Officer must publicly declare as elected the candidate who was successful at the election.

(5) Despite subsection (4), if, before declaring the result of an election for a constituency, proof is given to the satisfaction of the Returning Officer that the candidate who was successful at the election has died or is disqualified from being elected, that Officer-

- (a) must not declare that candidate as elected; and
- (b) must publicly declare, under section 40(3), that the election has failed.

Section:	42	Consequences of non-compliance with requirements of this Ordinance	L.N. 77 of 1999	19/03/1999
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In any proceedings brought to question the validity of an election, the Court must not declare the election to be invalid only because of-

- (a) a failure to comply with the regulations or with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541); or
- (b) a mistake in the use of a nomination form,

if it appears to the Court that the election was conducted in accordance with the principles laid down in this Ordinance and the Electoral Affairs Commission Ordinance (Cap 541) and that the failure to comply or mistake did not affect the result of the election.

Section:	43	Misnomer or inaccuracy not to affect operation of election document	L.N. 77 of 1999	19/03/1999
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(1) A misnomer or inaccurate description of a person, a person's identity document or place specified in a document to which this section applies does not limit the full operation of the document with respect to that person, identity document or place if the description of the person, identity document or place is such as to be commonly understood.

(2) This section applies to a register, nomination paper, ballot paper, notice or other document prepared for the purposes of an election.

Section:	44	Election to be presumed to be valid	18 of 2011	15/07/2011
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Every election is presumed to be valid until— (Amended 18 of 2011 s. 15)

- (a) the Court determines, on the hearing of an election petition, that the election is invalid; or
- (b) the Court of Final Appeal determines, on hearing an appeal against the Court's determination, that the election is invalid.

(Amended 18 of 2011 s. 15)

Section:	45	Election not to be questioned only because of defect in the appointment of an electoral officer	L.N. 77 of 1999	19/03/1999
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An election is not to be questioned only because of a defect in the appointment of a person as an electoral officer if the person was at the relevant time holding office or acting as such an officer at the election.

Section:	46	Returning Officer to publish result of election	L.N. 77 of 1999	19/03/1999
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(1) The Returning Officer for an election to return an elected member for a constituency must publish in the Gazette a notice declaring that the candidate returned at the election is the elected member duly elected for the constituency.

(2) The Returning Officer concerned must ensure that the publication and notice required by this section comply with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541).

Section:	46A	Candidate declared to be returned is presumed to be duly elected	18 of 2011	15/07/2011
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Subject to section 60(1A), a person declared under section 46 as returned at an election is presumed to be duly elected until he or she is ruled by the Court or the Court of Final Appeal, on the determination of an election petition or appeal, as not duly elected.

(Added 18 of 2011 s. 16)

Section:	47	Offences by electoral officers with respect to conduct of election	L.N. 77 of 1999	19/03/1999
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(1) Any person holding office as an electoral officer at an election who neglects or refuses to perform the functions or duties of that office in relation to the election commits an offence and is liable on conviction to a fine at level 2.

(2) A prosecution for an offence under this section may be brought only with the consent of the Secretary for Justice.

(3) A person is not to be liable to conviction under this section unless the complaint or information alleging the offence is laid within 3 months after the date of the alleged commission of the offence.

Section:	48	Elector not to be required to disclose how vote was cast	L.N. 77 of 1999	19/03/1999
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(1) An elector who is asked to disclose the name of, or any particulars relating to, the candidate for whom the elector voted at the election is not required to answer the question.

(2) A person must not, without lawful authority, require, or purport to require, an elector to disclose the name of, or any particulars relating to, the candidate for whom the elector voted at an election.

(3) A person who contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 2.

Part:	V	Election Petitions	L.N. 55 of 2000	03/03/2000
Division:	4			

Section:	49	Election may be questioned only by election petition made on specified grounds	L.N. 55 of 2000	03/03/2000
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(1) An election to return an elected member may be questioned only on the following grounds-

(a) the ground that the person declared by the Returning Officer in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541) to have been elected as an elected member at the election was not duly elected because-

- (i) the person was ineligible to be, or was disqualified from being, a candidate at the election; or
- (ii) corrupt or illegal conduct was engaged in by or in respect of that person at or in connection with the election; or (Amended 10 of 2000 s. 47)
- (iii) corrupt or illegal conduct was generally prevalent at or in connection with the election; or (Amended 10 of 2000 s. 47)
- (iv) material irregularity occurred in relation to the election, or to the polling or counting of votes at the election; or

(b) a ground specified in any other enactment that enables an election to be questioned.

(2) An election to return an elected member may be questioned only by an election petition lodged under section 50.

(3) In this section-

"corrupt or illegal conduct" (舞弊或非法行為) means corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554);

"election" (選舉) includes nomination proceedings and the decisions of the Returning Officer or any Assistant Returning Officer. (Replaced 10 of 2000 s. 47)

Section:	50	Who may lodge election petition	L.N. 77 of 1999	19/03/1999
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An election petition may be lodged-

- (a) by 10 or more electors entitled to vote in the relevant constituency; or
- (b) by a person claiming to have been a candidate in the relevant constituency.

Section:	51	Who may be made respondent to election petition	L.N. 77 of 1999	19/03/1999
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Any person whose election is questioned by an election petition and the Returning Officer in respect of the election may be made a respondent to the petition.

Section:	52	Court to have jurisdiction to determine election petitions	L.N. 77 of 1999	19/03/1999
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(1) The Court has the same jurisdiction and the same functions in respect of an election petition as it has in respect of an ordinary cause of action within its jurisdiction.

(2) An election petition is triable in open court and, unless the Chief Justice otherwise directs, before one judge.

(3) The Chief Justice may make rules providing for giving effect to this Part and for regulating matters relating to the preparation, lodgement, service, trial and withdrawal of election petitions and costs in respect of those petitions (including the giving of security for costs), and the practice and procedure concerning the trial of those petitions.

Section:	53	Period within which election petition and appeal must be lodged*	18 of 2011	15/07/2011
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(1) An election petition questioning an election may be lodged only during the period of 2 months following the date on which the Returning Officer has published the result of the election in the Gazette. (Amended 18 of 2011 s. 17)

(2) Despite section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap 484), notice of a motion for the purpose of an application for leave to appeal to the Court of Final Appeal under section 22(1)(c) of that Ordinance must be filed within 14 working days after the date on which the written judgment of the Court to be appealed from is handed down, and the applicant must give the opposite party 3 days' notice of his or her intended application at any time during the period of 14 working days. (Added 18 of 2011 s. 17)

Note:

* (Amended 18 of 2011 s. 17)

Section:	54	Court may direct security to be given for costs	L.N. 77 of 1999	19/03/1999
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(1) Within 5 days after lodging an election petition in the Court, or within such other period as the Court directs, the petitioner must give security for all costs that may become payable by the petitioner to any witness who gives evidence in the proceedings on the petitioner's behalf or to any respondent.

(2) The amount of security to be given under this section is to be of such amount, not exceeding \$20000, as the Court directs. That amount is to be provided in such manner and form as the Court directs.

(3) An election petition is taken to have been withdrawn if this section is not complied with.

Section:	55	Court to determine election petition	18 of 2011	15/07/2011
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(1) At the end of the trial of an election petition that relates to an election that was not contested, the Court must determine whether any decision of the Returning Officer as to the validity of a nomination was correct and, if not correct, determine whether the person declared by that Officer to have been elected in that election was or was not duly elected.

(2) At the end of the trial of an election petition that relates to an election that was contested, the Court must determine whether the person whose election is questioned was or was not duly elected and, if not duly elected, determine whether some other person was duly elected instead.

(3) At the end of the trial of an election petition, the Court must announce its determination by means of a written judgment. (Amended 18 of 2011 s. 18)

(4) (Repealed 18 of 2011 s. 18)

(5) The Court may, on its own initiative, provide the Secretary for Constitutional and Mainland Affairs, the Electoral Affairs Commission or the Director of Home Affairs with a report on any matter arising in the course of the trial of an election petition if in its opinion the matter should be reported. (Amended L.N. 130 of 2007)

(6) The Court must comply with any request made by the Secretary for Constitutional and Mainland Affairs, the

Electoral Affairs Commission or the Director of Home Affairs to provide a report on any specified matter arising from the trial of an election petition. (Amended L.N. 130 of 2007)

- (7) If, at the end of the trial of an election petition, it appears to the Court that a specified person may have engaged in corrupt or illegal conduct at or in connection with the election, the Court is required to provide the Director of Public Prosecutions with a report giving details of the conduct. (Added 10 of 2000 s. 47)

Section:	56	What happens if election petition is withdrawn	L.N. 77 of 1999	19/03/1999
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(1) Subject to section 54(3), a petitioner must not withdraw or abandon, or cease to prosecute, an election petition unless the petitioner has obtained the leave of the Court.

(2) At the hearing of an application for leave referred to in subsection (1)-

- (a) any person who could have lodged an election petition in respect of the election concerned, or the Secretary for Justice, may apply to the Court to be substituted as petitioner; and
- (b) the Court may, if it thinks appropriate, accordingly substitute that person or the Secretary for Justice.

(3) If an application to withdraw or abandon, or to cease to prosecute, an election petition is, in the opinion of the Court, induced by a corrupt bargain or the offer or giving of corrupt consideration, the Court may direct that the security given by or on behalf of the original petitioner is to remain as security for any costs that are incurred by the substituted petitioner. To the extent of such sum as the Court may direct, the original petitioner (and that original petitioner's sureties, if any) is to be liable to pay the costs of the substituted petitioner.

(4) If the Court does not so direct, then before the substituted petitioner may proceed with the substituted election petition, security of the same amount as would be required to be given under section 54 in the case of an original election petition must be given by or on behalf of that petitioner in the same manner and form, and within such period, as the Court directs. This subsection does not apply to the Secretary for Justice.

(5) Subject to subsections (3) and (4), a substituted petitioner stands in the same position as the original petitioner.

(6) If a petitioner is substituted for the original petitioner, the original petitioner must provide the substituted petitioner with all evidence available to the original petitioner and relevant to the continued prosecution of the election petition.

(7) The petitioner is liable to pay the costs of the respondent if-

- (a) the election petition is withdrawn or abandoned; or
- (b) the petition is taken to have been withdrawn under section 54(3); or
- (c) the petitioner ceases to prosecute the petition.

(8) If there are 2 or more petitioners, an application to withdraw or abandon, or to cease to prosecute, the election petition can be made only with the consent of all the petitioners.

(9) Any person who-

- (a) contravenes subsection (1); or
- (b) without reasonable excuse, fails to comply with subsection (6),

commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 6 months.

Section:	57	When an election petition is terminated	L.N. 77 of 1999	19/03/1999
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(1) If an election petition is lodged by one person, the petition is terminated by that person's death.

(2) If an election petition is lodged by 2 or more petitioners, the petition is terminated if the last remaining petitioner dies.

(3) The termination of an election petition under this section does not affect the liability of the estate of the deceased petitioner, or the liability of any other person, for the payment of costs previously incurred.

(4) On the termination of an election petition under this section, the Registrar of the High Court must publish in the Gazette a notice of the termination. Within 14 days after the publication of the notice, any person who could have lodged an election petition in respect of the election concerned may apply to the Court in writing to be substituted as a petitioner. On receiving such an application, the Court may, if it thinks appropriate, substitute the applicant for the original petitioner.

(5) The same security must be given by or on behalf of the substituted petitioner as would be required to be given by or on behalf of the original petitioner.

Section:	58	When respondent can withdraw from election petition proceedings and be substituted	L.N. 77 of 1999	19/03/1999
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- (1) If, before the trial of an election petition, a respondent other than a Returning Officer-
- (a) dies, resigns or otherwise ceases to hold the office to which the petition relates; or
 - (b) gives the Registrar of the High Court notice that the respondent does not intend to oppose the petition,
- that Registrar must publish in the Gazette a notice of that fact.
- (2) Within 14 days after the publication of such a notice, any person who could have lodged an election petition in respect of the election concerned may apply to the Court in writing to be substituted as a respondent to oppose the election petition. On receiving such an application, the Court must order the applicant to be substituted as respondent to the petition.
- (3) A respondent who has given notice under subsection (1)(b) cannot appear or participate in the proceedings on the election petition in opposition to that petition.

Section:	58A	Court's determination of election petition suspended before deadline of appeal	18 of 2011	15/07/2011
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The effect of the determination of the Court of an election petition is suspended until the expiry of the period within which notice of a motion for the purpose of an application for leave to appeal to the Court of Final Appeal against the determination may be filed under section 53(2).

(Added 18 of 2011 s. 19)

Section:	58B	Court of Final Appeal's determination	18 of 2011	15/07/2011
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At the end of the hearing of an appeal against the determination of the Court of an election petition, the Court of Final Appeal must—

- (a) determine—
 - (i) if the election petition relates to an election that was not contested—
 - (A) whether the decision of the Returning Officer as to the validity of the relevant nomination was correct; and
 - (B) if the decision was not correct, whether the person declared to have been elected in that election was or was not duly elected;
 - (ii) if the election petition relates to an election that was contested—
 - (A) whether the person whose election is questioned was or was not duly elected; and
 - (B) if the person was not duly elected, whether some other person was duly elected in place of the person; and
- (b) announce its determination by means of a written judgment.

(Added 18 of 2011 s. 19)

Section:	59	Acts of person not invalid if determined not duly elected*	18 of 2011	15/07/2011
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If the Court or the Court of Final Appeal determines that a person who was originally declared to have been duly elected as an elected member was not duly elected as an elected member, the determination does not invalidate acts purporting to have been done by the person as an elected member before the date on which the written judgment of the Court or the Court of Final Appeal, as the case may be, is handed down.

(Replaced 18 of 2011 s. 20)

Note:

* (Replaced 18 of 2011 s. 20)

Section:	60	What is to happen if an elected member is determined not to have been duly elected	18 of 2011	15/07/2011
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- (1) If, on the hearing of an election petition, the Court determines that a person who was declared under section 46

as duly elected as an elected member was not duly elected as an elected member— (Amended 18 of 2011 s. 21)

- (a) subject to subsection (1A) and section 58A, that person ceases to be an elected member; and
- (b) subject to subsection (2), that person's office as an elected member becomes vacant from the date on which the written judgment of the Court is handed down.

(1A) If—

- (a) the Court determines that a person who was declared under section 46 as duly elected as an elected member was not duly elected as an elected member; and
 - (b) the person lodges an appeal under section 22(1)(c) of the Hong Kong Court of Final Appeal Ordinance (Cap 484) against the determination, the person continues, subject to subsections (3) and (5), to be an elected member. (Added 18 of 2011 s. 21)
- (2) If, on the hearing of an election petition, the Court determines that a person was duly elected as an elected member in place of a person that the Court has determined not to have been duly elected at the election, subject to subsection (1A) and section 58A, the first-mentioned person becomes an elected member from the date on which the written judgment of the Court is handed down.
- (3) If, on the hearing of an appeal against the determination of the Court of an election petition, the Court of Final Appeal determines that a person who was declared under section 46 as duly elected as an elected member was not duly elected as an elected member—
- (a) that person ceases to be an elected member; and
 - (b) subject to subsection (4), that person's office as an elected member becomes vacant from the date on which the written judgment of the Court of Final Appeal is handed down. (Added 18 of 2011 s. 21)
- (4) If, on the hearing of an appeal against the determination of the Court of an election petition, the Court of Final Appeal determines that a person was duly elected as an elected member in place of a person that the Court of Final Appeal has determined not to have been duly elected as an elected member, the first-mentioned person becomes an elected member from the date on which the written judgment of the Court of Final Appeal is handed down. (Added 18 of 2011 s. 21)
- (5) If the Court determines that a person who was declared under section 46 as duly elected as an elected member was not duly elected as an elected member and the person lodges an appeal under section 22(1)(c) of the Hong Kong Court of Final Appeal Ordinance (Cap 484) against the determination, the person—
- (a) ceases, if an application to withdraw an application for leave to appeal or an application to withdraw an appeal is made under rule 11 or 17 (as the case may be) of the Hong Kong Court of Final Appeal Rules (Cap 484 sub. leg. A) in relation to the appeal and an order is made by the Court of Final Appeal granting the application, to be an elected member on the date on which the order is made by the Court of Final Appeal; or
 - (b) ceases, if the appeal proceedings are terminated in other circumstances, to be an elected member on the date on which the appeal proceedings are terminated,
- and the determination of the Court against which the appeal is lodged stands from that date. (Added 18 of 2011 s. 21)

(Amended 18 of 2011 s. 21)

Part:	VA	FINANCIAL ASSISTANCE FOR CANDIDATES IN RESPECT OF ELECTION EXPENSES	L.N. 81 of 2007	01/09/2007
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(Part VA added 1 of 2007 s. 6)

Section:	60A	Interpretation: Part VA	18 of 2011	15/07/2011
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(1) In this Part—

“auditor” (核數師) means a certified public accountant (practising) as defined in the Professional Accountants Ordinance (Cap 50);

“Chief Electoral Officer” (總選舉事務主任) means the Chief Electoral Officer appointed under section 9 of the Electoral Affairs Commission Ordinance (Cap 541);

“claim” (申索) means a claim for financial assistance payable under this Part;

“declared election expenses” (申報選舉開支) means, in relation to a candidate, the amount set out as election

expenses incurred by the candidate in the election return lodged for the relevant election;

“disqualified candidate” (喪失資格的候選人) means a candidate in respect of whom proof is given to the satisfaction of the Returning Officer under section 40(2) that the candidate is disqualified from being elected;

“elected as an elected member” (當選為民選議員), in relation to a candidate, means—

- (a) a candidate who is declared to be duly elected in a notice published under section 46, unless he or she is determined under section 55(1) or (2) or 58B to be not duly elected; (Amended 18 of 2011 s. 22)
- (b) a deceased candidate who is found to be successful at the election under section 40(3), unless proof is given to the satisfaction of the Returning Officer under section 40(2) that he or she is disqualified from being elected; or
- (c) a candidate who becomes an elected member under section 60(2);

“election return” (選舉申報書) has the meaning assigned to it by section 2(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554);

“eligible candidate” (合資格候選人) means a candidate who is eligible for financial assistance under section 60C(a) or (b);

“political party” (政黨) means—

- (a) a political body or organization operating in Hong Kong, that purports to be a political party; or
- (b) a body or organization the principal function or main object of which is to promote or prepare a candidate for election as a Member of the Legislative Council or as a member of any District Council;

“specified rate” (指明資助額) means the amount specified in Schedule 7.

(2) Subject to any determination the Court may make on the validity of a vote in the course of determining an election petition, for the purposes of this Part—

- (a) the total number of valid votes cast in any constituency is the total number of ballot papers containing valid votes received in that constituency; and
- (b) the total number of valid votes cast for a candidate for such a constituency is the total number of ballot papers containing valid votes cast for that candidate.

(3) For the purposes of section 60D(2)(a), the number of registered electors for a constituency is the number of electors registered for that constituency in the final register of geographical constituencies compiled and published by the Electoral Registration Officer under section 32 of the Legislative Council Ordinance (Cap 542) which is in force at the time the election is held.

Section:	60B	Financial assistance payable to candidates	L.N. 81 of 2007	01/09/2007
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(1) An eligible candidate is entitled to financial assistance in the form of a monetary payment, in accordance with this Part, in respect of the declared election expenses of that candidate for an election.

- (2) Subject to this Part, financial assistance is payable to an eligible candidate whether or not that candidate—
- (a) represents a political party or an organization that is not a political party; or
 - (b) is an independent candidate.

(3) An amount payable as financial assistance is payable whether or not the declared election expenses have been paid or are due for payment in whole or in part.

(4) For the avoidance of doubt, it is stated that financial assistance payable under this Part is not an election donation within the meaning of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554).

Section:	60C	Eligibility for financial assistance	L.N. 81 of 2007	01/09/2007
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A candidate for a constituency is eligible for financial assistance only if he is—

- (a) a candidate who is elected as an elected member; or
- (b) a candidate who is not elected as an elected member but who—
 - (i) is not a disqualified candidate; and
 - (ii) obtains at least 5% of the total number of valid votes cast in the constituency concerned.

Section:	60D	Amount payable as financial assistance	18 of 2011	01/09/2011
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(1) If the election for a constituency is contested, the amount payable as financial assistance to a candidate is the

lowest of the following amounts— (Amended 18 of 2011 s. 39)

- (a) the amount obtained by multiplying the total number of valid votes cast for the candidate by the specified rate;
 - (b) 50% of the maximum amount of election expenses that can be incurred by or on behalf of the candidate under section 3 of the Maximum Amount of Election Expenses (District Council Election) Regulation (Cap 554 sub. leg. C); (Replaced 18 of 2011 s. 39)
 - (c) the declared election expenses of the candidate. (Added 18 of 2011 s. 39)
- (2) If the election for a constituency is uncontested, the amount payable as financial assistance to a candidate is the lowest of the following amounts— (Amended 18 of 2011 s. 39)
- (a) the amount obtained by multiplying 50% of the number of registered electors for the constituency by the specified rate;
 - (b) 50% of the maximum amount of election expenses that can be incurred by or on behalf of the candidate under section 3 of the Maximum Amount of Election Expenses (District Council Election) Regulation (Cap 554 sub. leg. C); (Replaced 18 of 2011 s. 39)
 - (c) the declared election expenses of the candidate. (Added 18 of 2011 s. 39)

Section:	60E	Entitlement to financial assistance not affected by failure of election, but financial assistance not payable if election proceedings are terminated	L.N. 81 of 2007	01/09/2007
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(1) A declaration by the Returning Officer under section 40(3) that an election has failed does not affect any entitlement to financial assistance under this Part.

(2) If the proceedings for an election are terminated under section 40(1), financial assistance is not payable in respect of that election.

Section:	60F	Financial assistance to be paid out of general revenue	L.N. 81 of 2007	01/09/2007
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An amount payable as financial assistance under this Part is a charge on, and is to be met from, the general revenue.

Section:	60G	Recovery of payment of financial assistance	L.N. 81 of 2007	01/09/2007
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(1) Where a payment of financial assistance is made under this Part and the recipient is not entitled to receive the whole or part of the amount paid—

- (a) the Chief Electoral Officer shall give a written notice to the recipient requiring repayment of the whole or part, as the case may be, of the amount paid; and
- (b) the recipient must repay the whole or part, as the case may be, of the amount paid, to the Government within 3 months after the date of the notice,

in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541).

(2) Any amount that is not repaid under subsection (1) may be recovered as a civil debt due to the Government.

(3) If a person from whom an amount is recoverable as a civil debt under subsection (2) dies before such recovery, the estate of that deceased person is liable to the extent of the deceased person's liability.

(4) In any proceedings for the purposes of subsection (2), a certificate signed by the Chief Electoral Officer, stating, in relation to a payment of financial assistance under this Part, the amount, the date and the recipient of the payment is admissible as evidence of the matters stated in the certificate.

Section:	60H	How financial assistance is to be claimed and paid	L.N. 81 of 2007	01/09/2007
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(1) A claim must be—

- (a) presented to the Chief Electoral Officer within the period or extended period provided for in section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) for lodging an election return; and
- (b) accompanied by an election return.

(2) A claim must be made, supported and verified also in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541).

(3) Without limiting the generality of subsection (2), the Chief Electoral Officer may appoint an auditor to assist in verifying any claim (including the auditing of the accounts in the election return accompanying the claim).

(4) A payment of financial assistance is to be made by the Chief Electoral Officer.

(5) The manner of payment of financial assistance must also be in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541).

(6) Where a person entitled to financial assistance dies before a claim is made, a claim may be made on behalf of the estate of the deceased person, and any payment of financial assistance in such case is to be made for the benefit of the estate.

(7) Where a person entitled to financial assistance dies after a claim is made but before a payment of financial assistance is made or the claim is otherwise disposed of, the claim may be continued on behalf of the estate of the deceased person, and any payment of financial assistance in such case is to be made for the benefit of the estate.

(8) Where a person entitled to financial assistance dies before or after a claim is made, his or her legal personal representative or such other person as specified in regulations in force under the Electoral Affairs Commission Ordinance (Cap 541) may take any action in respect of the claim that the deceased person may have taken.

Section:	60I	Financial assistance not to be paid until disposal of election petition	L.N. 81 of 2007	01/09/2007
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(1) The Chief Electoral Officer must not make any payment of financial assistance during the period specified in section 53 for lodging an election petition, but may receive or process a claim during that period.

(2) If an election petition relating to an election for a constituency is lodged, the Chief Electoral Officer must not make any payment of financial assistance to any candidate for that constituency until the determination, abandonment or termination of the petition under Division 4 of Part V.

(3) In this section, a reference to the abandonment of an election petition includes a reference to withdrawing or ceasing to prosecute an election petition.

Part:	VI	FUNCTIONS, CHAIRMAN AND VICE CHAIRMAN AND PROCEDURE OF A DISTRICT COUNCIL	L.N. 77 of 1999	19/03/1999
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Part:	VI	Functions of a District Council	L.N. 77 of 1999	19/03/1999
Division:	1			

Section:	61	Functions of a District Council	L.N. 77 of 1999	19/03/1999
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The functions of a District Council are-

- (a) to advise the Government-
 - (i) on matters affecting the well-being of the people in the District; and
 - (ii) on the provision and use of public facilities and services within the District; and
 - (iii) on the adequacy and priorities of Government programmes for the District; and
 - (iv) on the use of public funds allocated to the District for local public works and community activities; and
- (b) where funds are made available for the purpose, to undertake-
 - (i) environmental improvements within the District;
 - (ii) the promotion of recreational and cultural activities within the District; and
 - (iii) community activities within the District.

Part:	VI	Chairman and Vice Chairman of a District Council	L.N. 77 of 1999	19/03/1999
Division:	2			

Section:	62	Election of first Chairman and Vice Chairman	L.N. 77 of 1999	19/03/1999
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(1) A District Council is to elect a Chairman and a Vice Chairman from amongst its members at the first meeting of the Council held after each ordinary election.

(2) The first meeting referred to in subsection (1) must be held within the period of 30 days after the term of office of the members elected at the ordinary election begins.

(3) Subject to subsection (2), the District Officer must decide the time, date and place of the first meeting and notify the members.

(4) The District Officer must preside at the first meeting of a District Council until the Chairman and Vice Chairman are elected.

(5) Subject to section 64(1), the Chairman and Vice Chairman are to hold office as long as they are members of the Council.

(6) A person cannot hold office as the Chairman and Vice Chairman at the same time.

(7) In this section, "first meeting" (首次會議) means the meeting to be held under subsections (1) and (2).

Section:	63	Resignation of Chairman or Vice Chairman	L.N. 77 of 1999	19/03/1999
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(1) The Chairman or Vice Chairman may at any time resign from his or her office as such by giving written notice of resignation to the District Officer.

(2) A notice of resignation is not effective unless it is signed by the Chairman or Vice Chairman concerned, as the case may be.

(3) A notice of resignation takes effect-

(a) on the date on which the notice is received by the District Officer; or

(b) if a later date is specified in the notice, on that later date.

Section:	64	When office of Chairman or Vice Chairman becomes vacant	L.N. 77 of 1999	19/03/1999
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(1) If the Chairman or Vice Chairman dies or resigns or the member holding office as the Chairman or Vice Chairman ceases to be a member, the office of the Chairman or Vice Chairman, as the case may be, becomes vacant.

(2) If the office of Chairman or Vice Chairman becomes vacant, the members must elect a Chairman or Vice Chairman, as the case may be, from amongst themselves at the first meeting of the District Council after the office becomes vacant.

(3) If the office of Chairman and Vice Chairman both become vacant, the District Officer must preside at the meeting held for the purpose of electing the Chairman and Vice Chairman, until the Chairman and Vice Chairman are elected.

(4) If the office of Chairman becomes vacant, and the Vice Chairman is nominated for the office of Chairman, the District Officer must preside at the meeting held for the purpose of electing the Chairman.

Section:	65	Election of Chairman or Vice Chairman to be in accordance with Schedule 5	L.N. 77 of 1999	19/03/1999
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The election of Chairman and Vice Chairman must be held in accordance with the procedure set out in Schedule 5.

Section:	66	Duties of Chairman and Vice Chairman	L.N. 77 of 1999	19/03/1999
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(1) The Chairman is to preside at meetings of the District Council.

(2) The Vice Chairman is to perform the duties of the Chairman (including presiding at meetings) if the Chairman is unable to act, is absent or if the office of the Chairman becomes vacant.

(3) If both the Chairman and Vice Chairman are absent from a meeting, the members present are to elect a member from amongst themselves to preside at the meeting.

Section:	67	Chairman or other person presiding to have a casting vote	L.N. 77 of 1999	19/03/1999
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(1) Subject to subsection (2), at a meeting of a District Council, the Chairman, or other member presiding under section 66(2) or (3) is to have an original vote and a casting vote if the votes are equal.

(2) A member presiding at a meeting for the purpose of electing a Chairman or Vice Chairman does not have a casting vote.

Part:	VI	Procedure of a District Council	L.N. 77 of 1999	19/03/1999
Division:	3			

Section:	68	District Council may make standing orders	L.N. 77 of 1999	19/03/1999
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- (1) A District Council may make standing orders for regulating its procedure and that of its committees.
- (2) Without limiting the generality of subsection (1), the standing orders may make provision for-
 - (a) times and places of meetings of the District Council or of a committee; or
 - (b) the summoning, notices, keeping of minutes of proceedings of meetings; or
 - (c) the voting on matters put before a meeting; or
 - (d) the determination of any matter by circulation of papers; or
 - (e) the preservation of order at meetings.
- (3) A District Council must, in its standing orders, provide for the quorum of the committees appointed by it.

Section:	69	District Council may appoint secretary	L.N. 77 of 1999	19/03/1999
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(1) For the purpose of carrying out its functions, a District Council may appoint a public officer to act as the secretary of that District Council.

(2) A District Council may determine the duties of the person appointed as secretary under subsection (1).

Section:	70	Quorum of a District Council	L.N. 77 of 1999	19/03/1999
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The quorum of a District Council is not less than half the members of the Council holding office for the time being.

Section:	71	District Council may appoint committees	L.N. 77 of 1999	19/03/1999
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(1) For the purpose of carrying out its functions, a District Council may appoint committees in accordance with this section.

(2) A District Council may appoint to a committee any person who is not a member if the person satisfies the qualifications set out in section 20(1).

(3) A committee of a District Council is to elect a member of the committee who is also a member of that Council, as the chairman of the committee.

(4) A member appointed under subsection (2) may vote at a meeting of the committee and is to be counted for the purpose of constituting a quorum.

(5) A District Council may delegate any of its functions to a committee.

Section:	72	Proceedings of a District Council or a committee not affected by vacancy or defect in membership	L.N. 77 of 1999	19/03/1999
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(1) A vacancy in the membership of a District Council does not affect its power to transact business.

(2) The validity of proceedings of a District Council are not affected by-

- (a) a vacancy in the membership of the District Council;
- (b) a defect in the appointment or election of a member;
- (c) a defect as to the eligibility of a person to be a member.

(3) The validity of proceedings of a committee are not affected by a defect in the appointment of or eligibility

of a person to be a member of the committee.

- (4) For the purposes of this section-
 - (a) a vacancy in the membership of a District Council includes a vacancy in its membership when it first meets after an ordinary election; and
 - (b) a defect in the eligibility of a person to be an appointed member or ex officio member includes failure to swear acceptance of office.

Part:	VII	FUNCTIONS AND DUTIES OF OFFICERS UNDER THIS ORDINANCE	L.N. 77 of 1999	19/03/1999
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Section:	73	Functions and duties of Electoral Registration Officer and assistants	L.N. 77 of 1999	19/03/1999
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(1) The Electoral Registration Officer has such functions and duties as are conferred or imposed on that Officer by or under this Ordinance.

(2) An Assistant Electoral Registration Officer may, with the authority of the Electoral Registration Officer, exercise and perform the functions and duties of the Electoral Registration Officer.

(3) The executive authorities of the Government must ensure that the Electoral Registration Officer is provided with such staff as that Officer requires in order to exercise and perform that Officer's functions and duties under this Ordinance.

(4) Expenses properly incurred by the Electoral Registration Officer in the exercise or performance of that Officer's functions or duties under this Ordinance or the Electoral Affairs Commission Ordinance (Cap 541) are a charge on, and are payable from, the general revenue.

Section:	74	Electoral Registration Officer may specify forms	L.N. 77 of 1999	19/03/1999
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The Electoral Registration Officer may specify the form of any application, notice, return, record or other document required for the purposes of Part V.

Section:	75	Appointment of Returning Officers and assistants	L.N. 77 of 1999	19/03/1999
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(1) The Electoral Affairs Commission must appoint for each constituency a Returning Officer and such number of Assistant Returning Officers as appears to the Commission to be necessary to enable an election to be held in the constituency.

(2) A Returning Officer has such functions and duties as are conferred or imposed on that Officer by or under this Ordinance.

(3) An Assistant Returning Officer may, with the authority of the Returning Officer concerned, exercise and perform the functions and duties of Returning Officer.

(4) The Electoral Affairs Commission must publish in the Gazette a notice of the appointment of a Returning Officer and that Officer's address.

(5) The executive authorities of the Government must ensure that each Returning Officer is provided with such staff as that Officer requires in order to exercise and perform that Officer's functions and duties under this Ordinance.

(6) Expenses properly incurred by a Returning Officer in the exercise or performance of that Officer's functions or duties under this Ordinance or the Electoral Affairs Commission Ordinance (Cap 541) are a charge on, and are payable from, the general revenue.

Section:	76	Offence to obstruct or hinder electoral officer	L.N. 77 of 1999	19/03/1999
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A person who, without reasonable excuse, obstructs or hinders, or interferes with, an electoral officer in the exercise of a function conferred, or the performance of a duty imposed, by or under this Ordinance commits an offence and is liable on conviction to a fine at level 2

Section:	77	Chief Executive may give directions as to exercise or performance of electoral officers' functions and duties	L.N. 77 of 1999	19/03/1999
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(1) The Chief Executive may give directions, either generally or in any particular case, with respect to the exercise or performance by an electoral officer of any of the officer's functions or duties under this Ordinance with respect to the holding or conduct of an election. The directions have no effect to the extent that they are inconsistent with this Ordinance or the Electoral Affairs Commission Ordinance (Cap 541).

(2) An electoral officer must, when exercising or performing a function or duty under this Ordinance, comply with any direction given by the Chief Executive under this section with respect to the exercise or performance of the function or duty.

Section:	78	Death or incapacity of electoral officer not to terminate authority	L.N. 77 of 1999	19/03/1999
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Death or incapacity of an electoral officer does not terminate any authority conferred by the officer for the purposes of this Ordinance.

Part:	VIII	LEGAL PROCEEDINGS	L.N. 77 of 1999	19/03/1999
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Section:	79	Proceedings against persons on grounds of disqualification	L.N. 77 of 1999	19/03/1999
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(1) The Secretary for Justice may bring proceedings in the Court against any person who is acting or claims to be entitled to act, as a member on the ground that the person is disqualified from acting as such.

(2) Proceedings under this section may not be brought after 6 months from the date on which the person concerned acted or claimed to be entitled to act as a member.

(3) If, in proceedings brought under this section, it is proved that the defendant acted as a member while disqualified from acting in that office, the Court may-

- (a) make a declaration to that effect; and
- (b) grant an injunction restraining the defendant from so acting; and
- (c) order the defendant to pay to the Government such sum as the Court thinks appropriate, not exceeding \$5000 for each occasion on which the person so acted while disqualified.

(4) If, in proceedings brought under this section, it is proved that the defendant claimed to be entitled to act as a member while disqualified from acting in that office, the Court may-

- (a) make a declaration to that effect; and
- (b) grant an injunction restraining the defendant from so acting.

(5) Proceedings against a person on the ground that the person has acted, while disqualified from acting, or claimed to have been entitled to act, as a member may be brought only in accordance with this section and by the Secretary for Justice.

(6) For the purposes of this section, a person is disqualified from acting as a member if the person-

- (a) is not qualified to be, or is disqualified from being, a member; or
- (b) has ceased to hold office as a member.

Section:	80	Period within which complaint or information is to be laid	L.N. 77 of 1999	19/03/1999
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Except as otherwise provided by this Ordinance, a complaint or information alleging the commission of an offence against this Ordinance must be laid within 3 years from the date of the alleged commission.

Part:	IX	CHIEF EXECUTIVE IN COUNCIL TO MAKE REGULATIONS AND AMEND SCHEDULE 4 OR 5	L.N. 77 of 1999	19/03/1999
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Section:	81	Chief Executive in Council may make regulations	L.N. 77 of 1999	19/03/1999
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(1) The Chief Executive in Council may make regulations for the better carrying out of the purposes of this Ordinance.

- (2) In particular, a regulation under this section may provide for all or any of the following-
- (a) the number or qualifications of subscribers required to complete a nomination paper for a candidate; and
 - (b) the amount that a candidate is required to lodge as a deposit at an election; and
 - (c) the forfeiture of the deposit if the candidate fails to obtain a prescribed proportion of the votes cast at the election and for the return of the deposit if the candidate obtains that proportion of votes at the election.

(3) A provision of a regulation may make it an offence, punishable by a fine not exceeding level 2, for a person to contravene a provision of the regulation.

- (4) A regulation may-
- (a) make different provisions for different circumstances and provide for a particular case or class of cases; and
 - (b) be made so as to apply only in specified circumstances; and
 - (c) prescribe fees for the purposes of the regulation.

Section:	82	Chief Executive in Council may amend Schedule 4, 5 or 7*	L.N. 81 of 2007	01/09/2007
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The Chief Executive in Council may, by order published in the Gazette, amend Schedule 4,5 or 7.
(Amended 1 of 2007 s. 7)

Note:

* (Amended 1 of 2007 s. 7)

Part:	X	MISCELLANEOUS	L.N. 77 of 1999	19/03/1999
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Section:	83	Designated Officer to give notice of membership	L.N. 77 of 1999	19/03/1999
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The Designated Officer must, within 21 days after receiving notices of acceptance lodged under sections 13 and 17(1), publish in the Gazette the names of persons who have become appointed members and ex officio members and their terms of office.

Section:	84	Designated Officer to give notice of vacancy	L.N. 77 of 1999	19/03/1999
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If a vacancy arises in the membership of an appointed member or ex officio member, the Designated Officer must give notice of the vacancy in the Gazette within 21 days after becoming aware of the vacancy.

Section:	85	Directions by Chief Executive to a District Council	L.N. 77 of 1999	19/03/1999
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(1) The Chief Executive may, after consultation with a District Council, give that Council directions of a general character, in the performance of its functions, in relation to matters which affect the public interest.

- (2) A District Council must give effect to directions given under subsection (1).

Section:	86	Protection of members	L.N. 77 of 1999	19/03/1999
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A member of a District Council or a committee shall not be subjected to any liability, action, claim or demand by reason of anything done bona fide for the purpose of carrying into effect the provisions of this Ordinance or any other enactment conferring functions on a District Council.

Section:	87	Transitional: application of section 28 to first ordinary election	L.N. 77 of 1999	19/03/1999
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In relation to the first ordinary election to be held under this Ordinance, section 28 is to have effect as if "Provisional District Board" and "Provisional District Boards" were substituted for "District Council" and "District Councils" respectively.

Part:	XI	REPEALS AND CONSEQUENTIAL AMENDMENTS	8 of 1999	01/01/2000
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Section:	88	(Omitted as spent)	8 of 1999	01/01/2000
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(Omitted as spent)

Section:	89	(Omitted as spent)	8 of 1999	01/01/2000
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(Omitted as spent)

Schedule:	1	NUMBER OF AND DECLARATION OF DISTRICTS	L.N. 156 of 2006	01/01/2008
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[sections 3 & 8]

PART I

NUMBER OF DISTRICTS

The number of Districts to be declared for the purposes of this Ordinance is 18.

PART II

DECLARATION OF DISTRICTS

Item	District	Delineation of District area
1.	Central and Western District	That area delineated and edged grey on the map numbered DC/2000/A and deposited in the office of the Designated Officer.
2.	Eastern District	That area delineated and edged grey on the map numbered DC/2000/C and deposited in the office of the Designated Officer.
3.	Kowloon City District	That area delineated and edged grey on the map numbered DC/2000/G and deposited in the office of the Designated Officer.
4.	Kwun Tong District	That area delineated and edged grey on the map numbered DC/2000/J and deposited in the office of the Designated Officer.
5.	Sham Shui Po District	That area delineated and edged grey on the map numbered DC/2006/F and deposited in the office of the Designated Officer.
6.	Southern District	That area delineated and edged grey on the maps numbered DC/2000/D1 and DC/2000/D2 and deposited in the office of the Designated Officer.
7.	Wan Chai District	That area delineated and edged grey on the map numbered DC/2000/B and deposited in the office of the Designated Officer.
8.	Wong Tai Sin District	That area delineated and edged grey on the map numbered DC/2000/H and deposited in the office of the Designated Officer.
9.	Yau Tsim Mong District	That area delineated and edged grey on the map numbered DC/2000/E and deposited in the office of the Designated Officer.
10.	Islands District	That area delineated and edged grey on the map numbered DC/2000/T and deposited in the office of the Designated Officer.

11. Kwai Tsing District That area delineated and edged grey on the map numbered DC/2006/S and deposited in the office of the Designated Officer.
12. North District That area delineated and edged grey on the maps numbered DC/2000/N1 and DC/2000/N2 and deposited in the office of the Designated Officer.
13. Sai Kung District That area delineated and edged grey on the maps numbered DC/2000/Q1 and DC/2000/Q2 and deposited in the office of the Designated Officer.
14. Sha Tin District That area delineated and edged grey on the map numbered DC/2000/R and deposited in the office of the Designated Officer.
15. Tai Po District That area delineated and edged grey on the maps numbered DC/2000/P1 and DC/2000/P2 and deposited in the office of the Designated Officer.
16. Tsuen Wan District That area delineated and edged grey on the map numbered DC/2000/K and deposited in the office of the Designated Officer.
17. Tuen Mun District That area delineated and edged grey on the map numbered DC/2000/L and deposited in the office of the Designated Officer.
18. Yuen Long District That area delineated and edged grey on the map numbered DC/2000/M and deposited in the office of the Designated Officer.
(Amended L.N. 156 of 2006)

Schedule:	2	ESTABLISHMENT OF DISTRICT COUNCILS	L.N. 77 of 1999	19/03/1999
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[sections 4 & 8]

Item	Name of District	Name of District Council	Date of establishment
1.	Central and Western District	Central and Western District Council	1 January 2000
2.	Eastern District	Eastern District Council	1 January 2000
3.	Kowloon City District	Kowloon City District Council	1 January 2000
4.	Kwun Tong District	Kwun Tong District Council	1 January 2000
5.	Sham Shui Po District	Sham Shui Po District Council	1 January 2000
6.	Southern District	Southern District Council	1 January 2000
7.	Wan Chai District	Wan Chai District Council	1 January 2000
8.	Wong Tai Sin District	Wong Tai Sin District Council	1 January 2000
9.	Yau Tsim Mong District	Yau Tsim Mong District Council	1 January 2000
10.	Islands District	Islands District Council	1 January 2000
11.	Kwai Tsing District	Kwai Tsing District Council	1 January 2000
12.	North District	North District Council	1 January 2000
13.	Sai Kung District	Sai Kung District Council	1 January 2000
14.	Sha Tin District	Sha Tin District Council	1 January 2000
15.	Tai Po District	Tai Po District Council	1 January 2000
16.	Tsuen Wan District	Tsuen Wan District Council	1 January 2000
17.	Tuen Mun District	Tuen Mun District Council	1 January 2000
18.	Yuen Long District	Yuen Long District Council	1 January 2000

Schedule:	3		L.N. 161 of 2010	01/01/2012
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[sections 5, 8, 9 & 11]

PART I

NUMBER OF ELECTED MEMBERS AND
APPOINTED MEMBERS

Item	District Council	Number of elected members	Number of appointed members
1.	Central and Western District Council	15	4
2.	Eastern District Council	37	9
3.	Kowloon City District Council	22	5
4.	Kwun Tong District Council	35	8
5.	Sham Shui Po District Council	21	5
6.	Southern District Council	17	4
7.	Wan Chai District Council	11	3
8.	Wong Tai Sin District Council	25	6
9.	Yau Tsim Mong District Council	17	4
10.	Islands District Council	10	4
11.	Kwai Tsing District Council	29	7
12.	North District Council	17	5
13.	Sai Kung District Council	24	5
14.	Sha Tin District Council	36	9
15.	Tai Po District Council	19	5
16.	Tsuen Wan District Council	17	5
17.	Tuen Mun District Council	29	7
18.	Yuen Long District Council	31	7

(Amended 33 of 2002 s. 10; L.N. 139 of 2006; L.N. 161 of 2010)

PART II

RURAL COMMITTEES IN DISTRICTS

Item	District	District Council	Number of Rural Committees	Names of Rural Committees
1.	Islands District	Islands District Council	8	Cheung Chau Rural Committee Lamma Island (North) Rural Committee Lamma Island (South) Rural Committee Mui Wo Rural Committee Peng Chau Rural Committee South Lantau Rural Committee Tai O Rural Committee Tung Chung Rural Committee Tsing Yi Rural Committee
2.	Kwai Tsing District	Kwai Tsing District Council	1	
3.	North District	North District Council	4	Fanling District Rural Committee Sha Tau Kok District Rural Committee Sheung Shui District Rural Committee Ta Kwu Ling District Rural Committee
4.	Sai Kung District	Sai Kung District Council	2	Hang Hau Rural Committee Sai Kung Rural Committee
5.	Sha Tin District	Sha Tin District Council	1	Sha Tin Rural Committee
6.	Tai Po District	Tai Po District Council	2	Sai Kung North Rural Committee Tai Po Rural Committee
7.	Tsuen Wan	Tsuen Wan	2	Ma Wan Rural Committee

8.	District Tuen Mun District	District Council Tuen Mun District Council	1	Tsuen Wan Rural Committee Tuen Mun Rural Committee
9.	Yuen Long District	Yuen Long District Council	6	Ha Tsuen Rural Committee Kam Tin Rural Committee Pat Heung Rural Committee Ping Shan Rural Committee San Tin Rural Committee Shap Pat Heung Rural Committee

Schedule:	4	FORMS FOR ACCEPTANCE OF OFFICE	L.N. 77 of 1999	19/03/1999
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[sections 13, 17 & 82]

FORM 1

DISTRICT COUNCILS ORDINANCE (Cap 547)

ACCEPTANCE OF OFFICE UNDER
SECTION 13

I, *
of *

**affirm/swear that-

- (a) I take the office as an appointed member of the *District Council upon myself and will duly and faithfully fulfill the duties of the office according to the best of my ability;
- (b) I will uphold the Basic Law;
- (c) my allegiance is to the Hong Kong Special Administrative Region of the People's Republic of China; and
- (d) to the best of my knowledge and belief I am not disqualified for appointment and from holding office as an appointed member by virtue of section 14 of the District Councils Ordinance.

**Affirmed/sworn this * day of *

(Signature)

This acceptance was **affirmed/sworn and signed before me, a **Magistrate/Commissioner for Oaths.

(Signature)

* Complete as appropriate.

** Delete whichever is inapplicable.

FORM 2

DISTRICT COUNCILS ORDINANCE (Cap 547)

ACCEPTANCE OF OFFICE UNDER
SECTION 17(1)

I, *
of *

****affirm/swear that-**

- (a) I take the office as an ex officio member of the *District Council upon myself and will duly and faithfully fulfill the duties of the office according to the best of my ability;
- (b) I will uphold the Basic Law;
- (c) my allegiance is to the Hong Kong Special Administrative Region of the People's Republic of China; and
- (d) to the best of my knowledge and belief I am not disqualified from holding office as an ex officio member by virtue of section 19 of the District Councils Ordinance.

****Affirmed/sworn this *..... day of *.....**

(Signature)

This acceptance was ****affirmed/sworn** and signed before me, a ****Magistrate/Commissioner for Oaths**.

(Signature)

* Complete as appropriate.

**** Delete whichever is inapplicable.**

Schedule:	5	VOTING PROCEDURE UNDER SECTION 65 OF THIS ORDINANCE	L.N. 77 of 1999	19/03/1999
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[sections 65 & 82]

1. The election of Chairman and Vice Chairman is to be conducted by one or more secret ballots held amongst those present and entitled to vote at the election and according to this Schedule.
2. Nominations must be in writing. A member must be nominated by at least one other member and the nomination must be subscribed by at least 2 other members (not including the member nominating the candidate).
3. Nominations may be given at any time up to the time when the person presiding at the meeting calls for the closing of nominations. The nominated person must indicate the person's consent to the nomination and acceptance, if elected, of the office to which the person is nominated.
4. If the office of Chairman and Vice Chairman are both vacant, the same person can be nominated and consent to nomination for both offices. If the same person is so nominated, the election of the Chairman is to take place first and then the election of the Vice Chairman. If a person nominated for both offices, is elected the Chairman, that person is taken to have withdrawn from the election of Vice Chairman when the result of the first election is declared.
5. Subject to section 6, if only one candidate is nominated for the office of Chairman, the candidate is treated as having been elected Chairman. If only one candidate is nominated for the office of Vice Chairman, the candidate is treated as having been elected Vice Chairman.
6. If the same person is nominated for the office of Chairman and Vice Chairman and no other person is nominated for either of the offices, that person is to be treated as having been elected Chairman.
7. A candidate who receives an absolute majority of votes is elected.
8. If there are 2 or more candidates for the office of Chairman (either initially or after elimination ballots) and each receives an equal number of votes, a further ballot is to be held.
9. If there are 2 or more candidates for the office of Vice Chairman (either initially or after elimination ballots) and each receives an equal number of votes, a further ballot is to be held.

10. If, either in relation to the election of Chairman or to the election of Vice Chairman, a further ballot is held under section 8 or 9 and the candidates for the Chairman or Vice Chairman, as the case may be, receive an equal number of votes, the candidates draw lots to determine which candidate is elected for the office of Chairman or Vice Chairman, as the case may be.

11. If there are 2 or more candidates for the office of Chairman and no candidate receives an absolute majority of votes-

- (a) the candidate who receives the least number of votes retires following which a further ballot is held for the remaining candidates;
- (b) if 2 or more candidates receive an equal number of votes and that number is the least number of votes for a candidate, a separate ballot is held for those candidates, and the candidate who receives the least number of votes retires following which a further ballot is held for the remaining candidates.

12. If there are 2 or more candidates for the office of Vice Chairman and no candidate receives an absolute majority of votes-

- (a) the candidate who receives the least number of votes retires following which a further ballot is held for the remaining candidates;
- (b) if 2 or more candidates receive an equal number of votes and that number is the least number of votes for a candidate, a separate ballot is held for those candidates, and the candidate who receives the least number of votes retires following which a further ballot is held for the remaining candidates.

13. If a separate ballot is held under section 11(b) or 12(b), and in either case the same candidates receive an equal number of votes, the candidates for the relevant office draw lots to determine who retires following which a further ballot is held for the remaining candidates.

14. In this Schedule, "an absolute majority of votes" (絕對多數票) means that the candidate receives more than half of the valid votes cast excluding abstentions.

Schedule:	6	(Omitted as spent)	8 of 1999	01/01/2000
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(Omitted as spent)

Schedule:	7	FINANCIAL ASSISTANCE: SPECIFIED RATE	18 of 2011	01/09/2011
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[sections 60A & 82]

The rate of financial assistance for the purposes of Part VA of this Ordinance is \$12.

(Schedule 7 added 1 of 2007 s. 8. Amended 18 of 2011 s. 40)