

## 選舉管理委員會條例

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香港特別行政區

1997 年第 129 號條例



行政長官  
董建華  
1997 年 8 月 28 日

本條例旨在就設立選舉管理委員會使其成為法人團體，以就地方選區及該等選區的分界的劃定作出建議並負責進行和監督選舉訂定條文；以及就附帶事宜訂定條文。

[1997 年 8 月 29 日]

由臨時立法會制定。

第 I 部  
導言

1. 簡稱

本條例可引稱為《選舉管理委員會條例》。

2. 釋義

- (1) 在本條例中，除文意另有所指外——
- “公眾議會” (public body) 指在“選舉”的定義的 (a)(i)、(ii) 或 (iii) 段中提述的任何團體；
- “立法會” (Legislative Council) 指香港特別行政區的立法會；
- “主席” (Chairman) 指獲根據第 3(2) 條委任的人，或根據附表 2 第 1(5) 段暫代該人行事的人；
- “地方選區” (geographical constituency) 除第 17 條另有規定外，指在某公眾議會有專屬的代表席位 (不論是有一個或多於一個代表席位) 的地區範圍；
- “政治性團體” (political body) 指——
  - (a) 政黨或宣稱是政黨的組織；或



TUNG Chee-hwa  
Chief Executive  
28 August 1997

An Ordinance to provide for the establishment of the Electoral Affairs Commission as a body corporate, for the purpose of making recommendations regarding the delineation of geographical constituencies and demarcation of their boundaries and to be responsible for the conduct and supervision of elections, and matters incidental thereto.

[29 August 1997]

Enacted by the Provisional Legislative Council.

PART I  
PRELIMINARY

1. Short title

This Ordinance may be cited as the Electoral Affairs Commission Ordinance.

2. Interpretation

- (1) In this Ordinance, unless the context otherwise requires—
- “by-election” (補選) means an election to fill a vacancy in a public body arising other than from—
  - (a) the expiration of the term of office of all those members who are to be elected under any electoral law as members of that public body; or
  - (b) the dissolution of a public body;
- “Chairman” (主席) means the person appointed under section 3(2) or the person acting for him under paragraph 1(5) of Schedule 2;
- “Chief Electoral Officer” (總選舉事務主任) means the person appointed as such under section 9;

- (b) 其主要功能或宗旨是為參加選舉的候選人宣傳或作準備的組織；
- “推選委員會”(Selection Committee)指在1990年4月4日第七屆全國人民代表大會第三次會議通過的《全國人民代表大會關於香港特別行政區第一屆政府和立法會產生辦法的決定》中提述的推選委員會；
- “換屆選舉”(General election)指——
- (a) 為選出第一屆立法會全體議員而舉行的選舉；或
- (b) 在立法會解散後為填補立法會的懸空席位而舉行的選舉；
- “補選”(by-election)指為填補公眾議會的懸空席位而舉行的選舉，而該懸空席位的出現並非是由以下原因引起的——
- (a) 根據任何選舉法當選某公眾議會成員的全體成員席位任期屆滿；或
- (b) 公眾議會的解散；
- “選民”(elector)指名列根據任何選舉法有權在選舉中投票的人的登記冊內的人士；
- “選管會”(Commission)指藉第3條設立的選舉管理委員會；
- “選管會成員”(member of the Commission)包括主席；
- “選舉”(election)除第17條另有規定外，指為以下目的而舉行的選舉——
- (a) 選出以下團體的議員或成員——
- (i) 立法會；
- (ii) 以下團體的後繼團體——
- (A) 臨時市政局；或
- (B) 臨時區域市政局；或
- (iii) 各臨時區議會的後繼團體；
- (b) 選出選舉委員會的委員；
- “選舉法”(electoral law)指為以下選舉作出規定的有效法律——
- (a) 選出某公眾議會的成員的選舉；或
- (b) 選出選舉委員會的委員的選舉；
- “選舉委員會”(election committee)指為按照某選舉法選出人士擔任立法會議員而根據該法組成的選舉委員會；
- “臨時立法會”(Provisional Legislative Council)指香港特別行政區的臨時立法會；
- “臨時市政局”(Provisional Urban Council)具有《臨時市政局條例》(第101章)給予該詞的涵義；
- “臨時區域市政局”(Provisional Regional Council)具有《臨時區域市政局條例》(第385章)給予該詞的涵義；
- “臨時區議會”(Provisional District Board)具有《臨時區議會條例》(第366章)給予該詞的涵義；

- “Commission”(選管會) means the Electoral Affairs Commission established by section 3;
- “election”(選舉), subject to section 17, means an election held for the purpose of—
- (a) electing the members of—
- (i) the Legislative Council;
- (ii) a body which is the successor to—
- (A) the Provisional Urban Council; or
- (B) the Provisional Regional Council; or
- (iii) those bodies which are successors to the Provisional District Boards;
- (b) electing the members of the election committee;
- “election committee”(選舉委員會) means the election committee constituted under an electoral law for the purpose of returning persons in accordance with that law, as members of the Legislative Council;
- “elector”(選民) means a person whose name appears on a register of persons entitled, under any electoral law, to vote at an election;
- “electoral law”(選舉法) means any law in force providing for the election of—
- (a) the members of a public body; or
- (b) the members of the election committee;
- “function”(職能) includes a power and a duty;
- “General election”(換屆選舉) means an election held for the purpose of—
- (a) electing all the members of the first Legislative Council; or
- (b) filling the vacancies in the Legislative Council following a dissolution of that Council;
- “geographical constituency”(地方選區), subject to section 17, means a geographical area having separate representation (whether by one or more members) in a public body;
- “Legislative Council”(立法會) means the Legislative Council of the Hong Kong Special Administrative Region;
- “member of the Commission”(選管會成員) includes the Chairman;
- “political body”(政治性團體) means—
- (a) a political party or an organization that purports to be a political party; or
- (b) an organization whose principal function or main object is to promote or prepare a candidate for an election;
- “Provisional District Board”(臨時區議會) has the meaning assigned to it by the Provisional District Boards Ordinance (Cap. 366);
- “Provisional Legislative Council”(臨時立法會) means the Provisional Legislative Council of the Hong Kong Special Administrative Region;
- “Provisional Regional Council”(臨時區域市政局) has the meaning assigned to it by the Provisional Regional Council Ordinance (Cap. 385);
- “Provisional Urban Council”(臨時市政局) has the meaning assigned to it by the Provisional Urban Council Ordinance (Cap. 101);

“總選舉事務主任”(Chief Electoral Officer)指獲根據第9條委任此職的人；

“職能”(function)包括權力及責任。

(2) 為免生疑問，現宣布“選舉”一詞在其定義(a)段中的涵義包括補選。

(3) 在本條例中凡提述執行職能，即包括提述履行責任或行使權力(視乎情況所需)。

## 第 II 部

### 選管會的設立

#### 3. 選管會的設立及其成員

(1) 現藉本條設立一個名為選舉管理委員會的法人團體，該團體可以該名義起訴及被起訴。

(2) 選管會由行政長官按照本條委任的下列人士所組成——

- (a) 一名主席；及
- (b) 兩名其他成員。

(3) 獲根據第(2)(a)款委任為主席的人必須是高等法院法官，而行政長官在委任主席前必須諮詢終審法院首席法官的意見。

(4) 除第(5)款另有規定外，只有根據《基本法》第二十六條有權投票的人方可獲委任為選管會成員或擔任選管會成員。

(5) 任何人如有以下情況，即不具有獲委任為選管會成員或擔任選管會成員的資格——

- (a) 他在行政長官選舉中獲提名為候選人；
- (b) 他是推選委員會委員；
- (c) 他是或成為《基本法》附件一提述的選舉委員會委員；
- (d) 他是或成為——
  - (i) 行政會議成員；
  - (ii) 臨時立法會或立法會議員；
  - (iii) 臨時市政局或臨時區域市政局的議員或臨時市政局或臨時區域市政局的後繼團體的成員；

“public body”(公眾議會) means a body referred to in paragraph (a)(i), (ii) or (iii) of the definition of “election”;

“Selection Committee”(推選委員會) means the Selection Committee referred to in the Decision of the National People’s Congress on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region adopted at the Third Session of the Seventh National People’s Congress on 4 April 1990.

(2) For the avoidance of doubt it is declared that “election” within the meaning of paragraph (a) of the definition of it includes a by-election.

(3) Any reference in this Ordinance to the performance of a function includes a reference to the performance of a duty or exercise of a power, as the case may require.

## PART II

### ESTABLISHMENT OF COMMISSION

#### 3. Establishment and membership

(1) There is established by this section a body corporate by the name of the Electoral Affairs Commission which may sue and be sued in that name.

(2) The Commission shall consist of—

- (a) a Chairman; and
- (b) 2 other members,

appointed by the Chief Executive in accordance with this section.

(3) The person appointed as Chairman under subsection (2)(a) must be a Judge of the High Court and he must be so appointed in consultation with the Chief Justice of the Court of Final Appeal.

(4) Subject to subsection (5), only a person who has the right to vote under Article 26 of the Basic Law may be appointed or hold office as a member of the Commission.

(5) A person is not eligible for appointment as a member of the Commission or to hold office as such—

- (a) if he is nominated as a candidate for election as Chief Executive;
- (b) if he is a member of the Selection Committee;
- (c) if he is or becomes a member of the Election Committee referred to in Annex I to the Basic Law;
- (d) if he is or becomes—
  - (i) a member of the Executive Council;
  - (ii) a member of the Provisional Legislative Council or the Legislative Council;
  - (iii) a member of the Provisional Urban Council or the Provisional Regional Council or a body which is the successor to either of those Councils;

- (iv) (A) 臨時區議會的議員；或  
(B) 臨時區議會的任何後繼團體的成員；或  
(v) 任何政治性團體的成員；
- (e) 他是或成為附表 1 第 II 部所描述的人；
- (f) 行政長官認為他是或成為積極地從事政治活動的人；
- (g) 他擔任《退休金利益條例》(第 99 章) 第 2(1) 條所指的司法人員的職位 (高等法院法官除外)；
- (h) 他是或成為香港以外任何地方的國家級、地區級或市級國會、立法機關、議院或議會的成員；
- (i) 他是或成為——
  - (i) 中國人民政治協商會議全國委員會委員；或
  - (ii) 中國人民政治協商會議地方委員會委員；
- (j) 他是或成為中央人民政府或任何其他國家的武裝部隊的成員；
- (k) 他——
  - (i) 在緊接獲委任 (如他獲委任的話) 的日期之前的 4 年內，曾在行政長官選舉中獲提名為候選人；
  - (ii) 在緊接獲委任 (如他獲委任的話) 的日期之前的 4 年內，曾是推選委員會委員；
  - (iii) 在緊接獲委任 (如他獲委任的話) 的日期之前的 4 年內，曾是《基本法》附件一所述的選舉委員會委員；
  - (iv) 在緊接獲委任 (如他獲委任的話) 的日期之前的 4 年內，曾是行政會議成員；
  - (v) 在緊接獲委任 (如他獲委任的話) 的日期之前的 4 年內，曾是於 1997 年 7 月 1 日之前存在的行政局的議員；
  - (vi) 在緊接獲委任 (如他獲委任的話) 的日期之前的 4 年內，曾在選舉中——
    - (A) 獲提名為候選人；
    - (B) 擔任或獲委任為候選人的代理人；或
    - (C) 以任何身分簽署提名任何人為候選人；
  - (vii) 在緊接獲委任 (如他獲委任的話) 的日期之前的 4 年內，曾是立法會議員；
  - (viii) 在緊接獲委任 (如他獲委任的話) 的日期之前的 4 年內，曾是臨時立法會、臨時市政局、臨時區域市政局或臨時區議會的議員；

- (iv) a member of—
  - (A) a Provisional District Board; or
  - (B) any of those bodies which are successors to the Provisional District Boards; or
  - (v) a member of any political body;
- (e) if he is or becomes a person described in Part II of Schedule 1;
- (f) if, in the opinion of the Chief Executive, he is or becomes actively engaged in politics;
- (g) if he holds a judicial office (other than that of a Judge of the High Court) within the meaning of section 2(1) of the Pension Benefits Ordinance (Cap. 99);
- (h) if he is or becomes a member of any national, regional or municipal congress, legislature, assembly or council of any place outside Hong Kong;
- (i) if he is or becomes a member of—
  - (i) the National Committee of the Chinese People's Political Consultative Conference; or
  - (ii) a Local Committee of the Chinese People's Political Consultative Conference;
- (j) if he is or becomes a member of the armed forces of the Central People's Government or any other country;
- (k) if, within the 4 years immediately before the date of appointment (were he to be appointed), he—
  - (i) has been nominated as a candidate in the election of the Chief Executive;
  - (ii) has been a member of the Selection Committee;
  - (iii) has been a member of the Election Committee referred to in Annex I to the Basic Law;
  - (iv) has been a member of the Executive Council;
  - (v) has been a member of the Executive Council which existed before 1 July 1997;
  - (vi) has—
    - (A) been nominated as a candidate;
    - (B) acted or been appointed as the agent of a candidate; or
    - (C) subscribed in any capacity to the nomination of a person as a candidate, in an election;
  - (vii) has been a member of the Legislative Council;
  - (viii) has been a member of the Provisional Legislative Council, the Provisional Urban Council, the Provisional Regional Council or a Provisional District Board;

- (ix) 在緊接獲委任(如他獲委任的話)的日期之前的4年內,曾是任何團體的成員,而該團體是臨時市政局、臨時區域市政局或臨時區議會的後繼團體;
- (x) 在緊接獲委任(如他獲委任的話)的日期之前的4年內,曾是選舉委員會的委員;
- (xi) 在緊接獲委任(如他獲委任的話)的日期之前的4年內,曾是附表1第III部所描述的人;或
- (xii) 被行政長官認為他在緊接獲委任(如他獲委任的話)的日期之前的4年內,曾以其他方式積極地從事政治活動;
- (l) 他在緊接獲委任(如他獲委任的話)的日期之前的4年內,曾是——
  - (i) 香港以外任何地方的國家級、地區級或市級國會、立法機關、議院或議會的成員;
  - (ii) 中國人民政治協商會議全國委員會委員;或
  - (iii) 中國人民政治協商會議地方委員會委員。
- (6) 獲根據第(2)款委任的人士的任期——
  - (a) 不得超逾5年,亦不得少於3年;及
  - (b) 由行政長官在委任時指明。
- (7) 選管會主席及其他成員有權獲得由行政長官釐定的薪酬及津貼。
- (8) 行政長官在根據第(2)款作出委任後,須在切實可行的範圍內,盡快在憲報刊登關於該等委任的公告。
- (9) 附表2就選管會而適用。
- (10) 第(4)及(5)款(第(5)(g)款除外)在作出必要的修改後,就根據第7(1)(g)條設立或委出的委員會的成員而適用,一如其就選管會成員而適用。

### 第 III 部

#### 選管會的職能、權力及責任

#### 4. 選管會的職能

選管會的職能如下——

- (a) 考慮或檢討地方選區的分界,以根據第V部作出建議;
- (b) 負責進行及監督選舉;

- (ix) has been a member of any body which is the successor to the Provisional Urban Council or the Provisional Regional Council or any of those bodies which are successors to the Provisional District Boards;
- (x) has been a member of the election committee;
- (xi) has been a person described in Part III of Schedule 1; or
- (xii) in the opinion of the Chief Executive, has been otherwise actively engaged in politics;
- (l) if, within the 4 years immediately before the date of appointment (were he to be appointed), he has been a member of—
  - (i) any national, regional or municipal congress, legislature, assembly or council of any place outside Hong Kong;
  - (ii) the National Committee of the Chinese People's Political Consultative Conference; or
  - (iii) a Local Committee of the Chinese People's Political Consultative Conference.
- (6) An appointment under subsection (2) shall be for a period—
  - (a) which shall not exceed 5 years or be less than 3 years; and
  - (b) specified by the Chief Executive at the time of appointment.
- (7) The Chairman and other members of the Commission shall be entitled to such remuneration and allowances as are determined by the Chief Executive.
- (8) The Chief Executive shall give notice in the Gazette of any appointment under subsection (2) as soon as practicable after that appointment.
- (9) Schedule 2 applies in respect of the Commission.
- (10) Subsections (4) and (5) (other than subsection (5)(g)) apply in respect of a member of a committee established or appointed under section 7(1)(g), subject to necessary modifications, as if they apply in respect of a member of the Commission.

### PART III

#### FUNCTIONS, POWER AND DUTIES OF COMMISSION

#### 4. Functions of Commission

The functions of the Commission are—

- (a) to consider or review the boundaries of geographical constituencies for the purpose of making recommendations under Part V;
- (b) to be responsible for the conduct and supervision of elections;

- (c) 負責進行及監督選舉委員會的組成的過程；
- (d) 在不局限 (b) 及 (c) 段的一般性的原則下——
  - (i) 監督選民的登記；
  - (ii) 規管選舉程序；及
  - (iii) 舉辦或監督關於選民登記的推廣活動；
- (e) 不斷檢討 (b)、(c) 及 (d) 段所提述的事項；
- (f) 向行政長官報告任何關於選舉或選舉委員會的組成的過程的事項；
- (g) 執行其根據本條例或任何其他條例而可予執行或被規定須執行的任何其他職能；及
- (h) 一般而言作出其他安排，或採取其認為適當的步驟或作出其認為適當的事情，以確保該等選舉及 (c) 段所提述的過程是公開、誠實及公平地進行的。

## 5. 選管會的一般權力

選管會可——

- (a) 取得、持有或處置任何類別的財產；
- (b) 發表任何資料，以及分發或售賣該等資料；
- (c) 訂立常規以規管其事務的處理或其程序的進行；
- (d) 於執行其在第 V 部所指的職能時，要求任何適當的公共主管當局或公職人員提供選管會認為為估計香港或其任何區域的人口是合理所需的資料；
- (e) 在不局限第 6(3) 條的一般性的原則下，將下列事項通知適當的主管當局或人士，不論是否附加評論——
  - (i) 選管會接獲就某項選舉或就選舉委員會的組成的過程的任何投訴；或
  - (ii) 選管會認為就某項選舉或就選舉委員會的組成的過程屬任何具關鍵性的不妥當之處的事故；
- (f) 行使任何其他條例賦予選管會的權力；及
- (g) 為執行其在本條例或任何其他條例下的職能而作出其認為有需要或適宜作出的其他附帶作為或事情，或行使其認為有需要或適宜行使的權力。

- (c) to be responsible for the conduct and supervision of the process for the formation of the election committee;
- (d) without limiting the generality of paragraphs (b) and (c), to—
  - (i) supervise the registration of electors;
  - (ii) regulate the procedure at an election; and
  - (iii) conduct or supervise promotional activities relating to registration of electors;
- (e) to keep under review the matters referred to in paragraphs (b), (c) and (d);
- (f) to report to the Chief Executive on any matter relating to elections and any process for the formation of the election committee;
- (g) to perform any other function it may perform or is required to perform under this or any other Ordinance; and
- (h) to generally make arrangements, take such steps or do such other things as it considers appropriate for the purpose of ensuring that elections and any process referred to in paragraph (c) are conducted openly, honestly and fairly.

## 5. General powers of Commission

The Commission may—

- (a) acquire, hold or dispose of property of any description;
- (b) publish any material and distribute or sell such material;
- (c) make standing orders to regulate the conduct of its business or procedures;
- (d) in performing its functions under Part V, require from any appropriate public authority or public officer, any information which it considers is reasonably required for the purpose of estimating the population of Hong Kong or any area of Hong Kong;
- (e) without limiting the generality of section 6(3), bring to the notice of the appropriate authority or person, with or without comments—
  - (i) any complaint received by the Commission; or
  - (ii) any occurrence which it considers is a material irregularity, in respect of an election or process for the formation of the election committee;
- (f) exercise the powers conferred on it by any other Ordinance; and
- (g) do such other incidental act or thing or exercise such powers as it considers necessary or expedient for the performance of its functions under this or any other Ordinance.



## 6. 選管會發出指引

- (1) 選管會可發出關於下列事項的指引——
- (a) (i) 進行選舉、監督選舉或選舉程序；  
(ii) 下列人士與選舉相關的活動——  
(A) 候選人；  
(B) 候選人的代理人或任何其他協助候選人的人；或  
(C) 任何其他人士；  
(iii) 選舉委員會的組成的進行或監督，或關於該項組成的程序；
- (b) 在不影響(a)段的一般性的原則下，關於選舉開支，或展示或使用選舉廣告或其他與選舉相關的宣傳資料的事項；及
- (c) 作出第(3)款所提述的任何投訴的程序。
- (2) 選管會須就第(1)款所提述的指引諮詢公眾人士，諮詢方式由選管會決定，但如選管會認為由於有迫切需要發出、撤銷或修訂有關指引，以致進行上述諮詢並非切實可行，則屬例外。
- (3) 選管會須在合理的切實可行範圍內盡快考慮就根據第(1)款發出的指引作出的投訴，並須就該投訴作出其認為適當的決定或在符合第(4)款的規定下，採取其認為適當的行動(包括作出嚴厲譴責或譴責)。
- (4) 選管會在根據第(3)款嚴厲譴責或譴責任何人之前，須作出合理的努力以聯絡該人並給予該人一個合理機會，讓該人就為何不應作出該項嚴厲譴責或譴責而向選管會作出申述。

## 7. 規例

- (1) 選管會可藉訂立規例就以下事項作出規定——
- (a) (i) 選民的登記；  
(ii) 為上述登記定出(如適用的話)——  
(A) 適當的選區或選舉組別；或  
(B) (就選舉委員會而言) 適當的界別或界別分組；

## 6. Commission to issue guidelines

- (1) The Commission may issue—
- (a) guidelines relating to—
- (i) the conduct or supervision of or procedure at an election;
- (ii) the activities, in connection with an election, of—
- (A) a candidate;
- (B) an agent of a candidate or any other person assisting a candidate; or
- (C) any other person;
- (iii) the conduct or supervision of or procedure relating to the formation of the election committee;
- (b) without affecting the generality of paragraph (a), guidelines relating to election expenses or the display or use of election advertisements or other publicity material in connection with an election; and
- (c) guidelines relating to the procedure for making a complaint referred to in subsection (3).
- (2) The Commission shall consult the public in relation to the guidelines referred to in subsection (1), in such manner as it may determine, unless it considers that such consultation is not practicable due to the existence of an urgent need to issue, revoke or amend a guideline.
- (3) The Commission shall consider as soon as reasonably practicable, any complaint relating to a guideline issued under subsection (1), and make any decision or, subject to subsection (4), take such action (including the issuing of a reprimand or censure), as it considers appropriate in respect of such a complaint.
- (4) Before the Commission reprimands or censures any person under subsection (3), it shall make a reasonable effort to contact that person and give a reasonable opportunity for that person to make representations to the Commission as to why the reprimand or censure should not be issued.

## 7. Regulations

- (1) The Commission may, by regulation, provide for the following—
- (a) the—
- (i) registration of electors;
- (ii) determination (where applicable) of—
- (A) the appropriate constituency; or
- (B) in the case of the election committee, the appropriate sectors or subsectors, for such registration;

- (iii) 根據任何選舉法而有權在某選舉中投票的人的登記冊的格式、編製、修訂及改正，以及發表的方式；及
- (iv) 選民資格的確定；
- (b) 選舉的進行或監督及選舉的程序；
- (c) 選舉委員會的組成的進行或監督，及選舉委員會組成的程序；
- (d) 在不局限 (b) 及 (c) 段的一般性的原則下——
  - (i) 在選舉中提名候選人的程序，包括候選人同意提名及提名的撤回；
  - (ii) 就提名候選人繳付保證金的程序；
  - (iii) 由候選人委任代理人及其他協助他參選的人的事宜，以及關於該等委任的事項；
  - (iv) 投票站的指定；
  - (v) 投票站的監管及投票的規管；
  - (vi) 選舉中投票及點票的程序；
  - (vii) 點票站的指定及監管；
  - (viii) 選舉結果的宣布及發表；
  - (ix) 選舉結束後選票及其他文件的處置；及
  - (x) 由任何人或在規例中指明的人就其認為是關於某項選舉、投票或點票的任何不妥當之處向選管會作出報告；
- (e) 獲授權代候選人招致選舉開支的人的委任及他們的行為，以及關於展示或使用選舉廣告或其他與選舉有關的宣傳資料的事項；
- (f) 選管會或在規例中指明的其他人，向在規例中指明的人或指明界別或種類的人要求提供就 (a) 段所提述的任何事項而合理所需的資料；
- (g) 設立或委出委員會 (包括或由一名或多於一名不屬選管會成員的人組成) 及就該等委員會的職能、處事程序和規管作出規定；
- (h) 以候選人去世或喪失資格為理由而撤銷選舉；
- (i) 表格或格式的決定或指明；及

- (iii) form, compilation, revision and correction, and the manner of publication of the register of persons entitled under any electoral law to vote at an election; and
- (iv) ascertainment of qualifications of electors;
- (b) the conduct or supervision of, and procedure at any election;
- (c) the conduct or supervision of, and procedure for the formation of the election committee;
- (d) without limiting the generality of paragraphs (b) and (c)—
  - (i) the procedure for the nomination of candidates in an election, including provision for consent by a candidate for nomination, and withdrawal of a nomination;
  - (ii) the procedure for lodging a deposit in respect of the nomination of a candidate;
  - (iii) the appointment by the candidate, of agents and other persons to assist him in an election and matters relating to such appointments;
  - (iv) the designation of polling stations;
  - (v) the supervision of polling stations and the regulation of the ballot;
  - (vi) the procedure or procedures for voting and counting at an election;
  - (vii) the designation and supervision of counting stations;
  - (viii) the declaration and publication of results of an election;
  - (ix) the disposal of ballot or other papers after an election; and
  - (x) the making of a report to the Commission by any person, or any person specified in the regulations, regarding any occurrence considered by such a person as an irregularity relating to an election, the poll or a counting of the votes;
- (e) the appointment and conduct of persons authorized to incur election expenses on behalf of candidates and matters relating to the display or use of election advertisements or other publicity materials relating to an election;
- (f) the Commission or such other person specified in the regulations to require any information reasonably required in respect of any matter referred to in paragraph (a), from a person or a class or description of persons specified in the regulations;
- (g) the establishment or appointment of committees (including or consisting of a person or persons other than members of the Commission) and provide for the functions, proceedings and regulation of those committees;
- (h) the countermanding of an election on the ground of the death or disqualification of a candidate;
- (i) the determination or specification of forms; and

(j) 一般而言為更有效地施行本條例或任何選舉法的條文和貫徹本條例或任何選舉法的目的，訂定條文。

(2) 在不抵觸第(3)款的條文下，選管會可訂立規例，就——

- (a) 選舉；
- (b) 投票；或
- (c) 點算選票（“點票”），

在被選管會或在規例中指明的人認為因以下因素而相當可能會受或正受妨礙、打擾、破壞或嚴重影響的情況下予以延期或押後，訂定條文——

- (i) 熱帶氣旋或其他惡劣天氣情況；
- (ii) 騷亂、公開暴力或其他危害公眾安全的事故；或
- (iii) 選管會或該指明的人覺得屬關於該項選舉、投票或點票的具關鍵性的不妥當之處的事故。

(3) 第(2)款不得解釋為賦予選管會權力以第(2)(ii)款所提述的理由將——

- (a) 一項換屆選舉延期或押後；
- (b) 一項選出全體根據任何選舉法獲選為——
  - (i) 臨時市政局或臨時區域市政局的後繼團體；或
  - (ii) 臨時區議會的後繼團體，

(c) 就一項換屆選舉或(b)段所提述的選舉而進行的投票（在所有投票站進行者）或點票延期或押後。

(4) 選管會可藉訂立規例，就以下事宜訂定條文——

- (a) (i) 為依據第(2)款延期或押後的選舉、投票或點票指定一個新日期；及
- (ii) 如選舉、投票或點票（視屬何情況而定）是因第(2)(iii)款所提述的理由而延期或押後，指定一個不得遲於自原定日期起計的2天的新日期，而如屬任何其他情況，則不得為一個遲於自原定日期起計的14天的新日期；
- (b) 將一項換屆選舉或第(3)(b)款所提述的選舉，或將就該項換屆選舉或該項其他選舉而進行的投票或點票延期或押後（該延期或押後是由任何主管當局或人根據任何選舉法有權因第(2)(ii)款所提述的理由而作出的）

(j) generally providing for the better carrying into effect the provisions and purposes of this Ordinance or any electoral law.

(2) Subject to subsection (3), the Commission may make regulations to provide for the postponement or adjournment of—

- (a) an election;
- (b) the poll; or
- (c) the counting of votes (“the count”),

where the Commission or any person specified in the regulations is of the opinion that the election, the poll or the count is likely to be or is being obstructed, disrupted or undermined or seriously affected by—

- (i) a typhoon or other climatic condition of a serious nature;
- (ii) riot or open violence or any other occurrence of public danger; or
- (iii) an occurrence which appears to the Commission or the specified person to be a material irregularity relating to the election, the poll or the count.

(3) Subsection (2) shall not be construed as empowering the Commission to postpone or adjourn—

- (a) a General election;
- (b) in relation to—
  - (i) a body which is the successor to the Provisional Urban Council or the Provisional Regional Council; or
  - (ii) those bodies which are successors to the Provisional District Boards,

an election to elect all those members who are to be elected under any electoral law as members of that body or bodies; or

(c) the poll (at all the polling stations) or the count in respect of a General election or an election referred to in paragraph (b),

on any ground referred to in subsection (2)(ii).

(4) The Commission may by regulation provide for—

- (a) the appointment of a new date—
  - (i) for an election, the poll or the count postponed or adjourned pursuant to subsection (2); and
  - (ii) which shall be not later than 2 days from the original date fixed for the election, the poll or the count, as the case may be, in the case of a postponement or adjournment on a ground referred to in subsection (2)(iii) and not later than 14 days from the original date in any other case;
- (b) the procedure for the postponement or adjournment of a General election or an election referred to in subsection (3)(b) or the poll or the count in respect of a General election or such other election, on any ground referred to in subsection (2)(ii) by the authority or person who has power under any electoral law to effect the postponement or adjournment, and the procedure

的程序，以及該主管當局或該人就該項選舉、投票或點票而指定新日期的程序；及

- (c) 指定一個日期舉行選舉，以代替被撤銷的選舉（該日期須在自被撤銷的選舉原應舉行的日期起計的60天內）。
- (5) 根據本條訂立的規例可規定任何人違反該規例中的任何規定或根據該規例作出的規定即屬犯罪，可處不超過第2級的罰款或監禁不超過6個月。
- (6) 根據本條訂立的規例可規定——
- (a) 凡法人團體被裁定犯該規例所訂罪行，並經證明犯該罪行，是得到董事、經理、秘書或任何參與該法人團體的管理的其他人同意或縱容，或是可歸咎於他們的疏忽或遺漏的，則該董事、經理、秘書或該其他人為該罪行負法律責任；及
- (b) 凡合夥中的合夥人被裁定犯該規例所訂罪行，並經證明犯該罪行是得到任何其他合夥人或任何參與該合夥的管理的其他人同意或縱容，或是可歸咎於他們的疏忽或遺漏的，則該合夥人或該其他人為該罪行負法律責任。
- (7) 在本條中，“選區或選舉界別”（constituency）指——
- (a) 地方選區；或
- (b) 根據任何選舉法可從中選出一名或多於一名議員進入立法會的任何其他類別的選區或選舉界別。

## 8. 選舉的報告

- (1) 在不抵觸第(5)款的條文下，凡選管會就關於選舉的事宜根據本條例或任何其他條例具有職能，選管會須在該項選舉結束後的3個月內，或在任何個別情況下行政長官准許的較長限期內，就該等事宜向行政長官作出報告。
- (2) 在不局限第(1)款的一般性的原則下，根據該款所作的報告須包括一份關於就該項選舉向選管會作出的任何投訴的報告。
- (3) 行政長官可要求選管會於他就一般情況或個別情況指明的合理期間內——
- (a) 就他指明而關於選舉的任何事項向他作出報告；或
- (b) 對上述任何事項進行檢討，並向他作出報告，

for the appointment of a new date for the election, the poll or the count by that authority or person; and

- (c) the appointment of a date (being a date not later than 60 days from the date on which the countermanded election would have been held) to hold an election in place of a countermanded election.
- (5) Regulations under this section may provide that any contravention of a requirement in or made under the regulations is an offence and is punishable by a fine not exceeding level 2 or imprisonment not exceeding 6 months.
- (6) Regulations under this section may provide that—
- (a) where a body corporate is convicted of an offence under these regulations and the offence is proved to have been committed with the consent, connivance of, or was attributable to the neglect or omission on the part of a director, manager, secretary or any other person concerned in the management of the body corporate, the director, manager or secretary or that other person is liable for the offence; and
- (b) where a partner of a partnership is convicted of an offence and it is proved that the offence was committed with the consent or connivance of, or was attributable to the neglect or omission on the part of any other partner or person concerned in the management of the partnership, the partner or that other person is liable for the offence.
- (7) In this section, “constituency” (選區或選舉界別) means—
- (a) a geographical constituency; or
- (b) a constituency of any other description by which one or more members may be returned to the Legislative Council under any electoral law.

## 8. Report on elections

- (1) Subject to subsection (5), within 3 months, or such longer period as the Chief Executive may allow in any particular case, of the conclusion of an election, the Commission shall make a report to the Chief Executive on matters relating to that election in respect of which the Commission has any function under this or any other Ordinance.
- (2) Without limiting the generality of subsection (1), a report under that subsection shall include a report on any complaint made to the Commission in connection with that election.
- (3) The Chief Executive may require the Commission to—
- (a) make a report to him in respect of any matter specified by him relating to an election; or
- (b) conduct a review into any such matter and make a report to him,

而該報告須為第 (1) 款所提述的報告以外的另加報告。

(4) 選管會須遵從根據第 (3) 款作出的任何要求。

(5) 如由選管會監督進行的選舉屬換屆選舉，根據第 (1) 款所作的報告必須包括一份關於選舉委員會的組成的報告，但作出報告的限期只在該項換屆選舉結束後開始。

#### 第 IV 部

##### 關於選管會的一般條文

#### 9. 總選舉事務主任

(1) 選管會須透過一名由行政長官委任的總選舉事務主任執行其職能。

(2) 為施行第 (1) 款，總選舉事務主任須在選管會的指示下作出所有為實施選管會的決定而有需要作出的作為及事情。

(3) 總選舉事務主任須獲提供所需的職員。

(4) 總選舉事務主任——

(a) 除第 (5) 款另有規定外，須出席選管會的會議；及

(b) 可出席依據第 7(1)(g) 條設立或委出的委員會的任何會議。

(5) 總選舉事務主任的代表可代替總選舉事務主任出席選管會的任何會議或第 (4)(b) 款所提述的任何會議，但須經主持該會議的人同意。

#### 10. 選管會所委任的人

根據第 9(3) 條提供的職員，或獲選管會委任的任何人，均須視為公務員。

#### 11. 職能的轉授

選管會可將其任何職能（不論是在本條例或任何其他條例下的職能）轉授予總選舉事務主任或選管會認為合適的任何其他人，但根據第 6(1) 條發出指引的權力、根據第 7 條訂立規例的權力、根據第 8 條作出報告的責任或選管會在第 V 部下的職能除外。

within a reasonable period specified by him (generally or in a particular case) and such a report shall be in addition to a report referred to in subsection (1).

(4) The Commission shall comply with any requirement made under subsection (3).

(5) Where the election supervised by the Commission is a General election, the report under subsection (1) must include a report on the formation of the election committee but the period for making that report shall begin only on the conclusion of the General election.

#### PART IV

##### GENERAL PROVISIONS RELATING TO COMMISSION

#### 9. Chief Electoral Officer

(1) The Commission shall perform its functions through a Chief Electoral Officer who shall be appointed by the Chief Executive.

(2) For the purposes of subsection (1), the Chief Electoral Officer shall, under the direction of the Commission, do all acts and things necessary for implementing the decisions of the Commission.

(3) The Chief Electoral Officer shall be provided with such staff as may be required.

(4) The Chief Electoral Officer—

(a) shall, subject to subsection (5), attend the meetings of the Commission; and

(b) may attend any meeting of a committee established or appointed pursuant to section 7(1)(g).

(5) A representative of the Chief Electoral Officer may attend any meeting of the Commission or any meeting referred to in subsection (4)(b) in the place of the Chief Electoral Officer with the consent of the person presiding at the meeting.

#### 10. Appointees of Commission

A member of the staff provided under section 9(3) or a person appointed by the Commission shall be regarded as a public servant.

#### 11. Delegation

The Commission may delegate any of its functions, whether under this or any other Ordinance, other than the power to issue guidelines under section 6(1), make regulations under section 7 a duty to make a report under section 8 or its functions under Part V, to the Chief Electoral Officer or any other person it considers fit.

**12. 開支、付款等**

- (1) 由——
- (a) 選管會、選管會成員或總選舉事務主任在執行本條例或任何其他條例下任何職能時正當招致的所有開支；或
- (b) 任何其他人在執行本條例下任何職能時正當招致的所有開支，
- 均須由政府一般收入支付。
- (2) 根據第 3(7) 條須支付的任何薪酬或津貼，均須由政府一般收入支付。

**13. 選管會成員喪失獲提名的資格**

- (1) 除第 (2) 款另有規定外——
- (a) 選管會成員在其任期內，喪失下列資格——
- (i) 在行政長官選舉中獲提名為候選人的資格；
- (ii) 成為《基本法》附件一所述的選舉委員會委員的資格；或
- (iii) 成為行政會議成員的資格；
- (b) 選管會成員在其任期內——
- (i) 喪失下列資格——
- (A) 在選舉中獲提名為候選人的資格；
- (B) 在選舉中擔任候選人的代理人或獲委任為該等代理人的資格；
- (C) 在選舉中以任何身分簽署提名候選人的資格；
- (ii) 喪失擔任選舉委員會委員的資格；
- (c) 任何停任選管會成員的人，在自其停任的日期起計(包括當日)的 4 年期間內喪失下列資格——
- (i) 在行政長官選舉中獲提名為候選人的資格；
- (ii) 成為《基本法》附件一所述的選舉委員會委員的資格；
- (iii) 成為行政會議成員的資格；
- (iv) 擔任——
- (A) 臨時立法會或立法會議員的資格；
- (B) 臨時市政局或臨時區域市政局的議員的資格或臨時市政局或臨時區域市政局的後繼團體的成員的資格；或

**12. Expenses, payments, etc.**

- (1) All expenses properly incurred by—
- (a) the Commission, a member of the Commission or the Chief Electoral Officer in the performance of any function under this or any other Ordinance; or
- (b) any other person in the performance of any function under this Ordinance,
- shall be payable out of the general revenue.
- (2) Any remuneration or allowance payable under section 3(7) shall be payable out of the general revenue.

**13. Members disqualified from nomination**

- (1) Subject to subsection (2)—
- (a) a member, during his term of office, is disqualified from—
- (i) being nominated as a candidate for election as Chief Executive;
- (ii) becoming a member of the Election Committee referred to in Annex I to the Basic Law; or
- (iii) becoming a member of the Executive Council;
- (b) a member, during his term of office, is disqualified—
- (i) from—
- (A) being nominated as a candidate;
- (B) acting or being appointed as agent of a candidate;
- (C) subscribing in any capacity to the nomination of a candidate,
- in an election;
- (ii) from being a member of the election committee;
- (c) a person who has ceased to hold office as a member of the Commission is disqualified during the period of 4 years beginning on the date he ceases to hold office, from—
- (i) being nominated as a candidate for election as Chief Executive;
- (ii) becoming a member of the Election Committee referred to in Annex I to the Basic Law;
- (iii) becoming a member of the Executive Council;
- (iv) holding office as a member of—
- (A) the Provisional Legislative Council or the Legislative Council;
- (B) the Provisional Urban Council or the Provisional Regional Council or a body which is the successor to either of those Councils; or

(C) 臨時區議會的議員的資格或臨時區議會任何後繼團體的成員的資格；

(v) 在選舉中獲提名為候選人的資格；

(vi) 在選舉中擔任候選人的代理人或獲委任為候選人的代理人的資格；

(vii) 在選舉中以任何身分簽署提名候選人的資格；或

(viii) 擔任選舉委員會委員的資格。

(2) 凡獲委擔任選管會成員的人在其委任日期 14 天內即停任選管會成員，第 (1) 款的規定並不就該人適用。

(3) 第 (1) 及 (2) 款在作出必要的修改後，就根據第 7(1)(g) 條設立或委出的委員會的成員而適用，一如其就選管會成員而適用。

#### 14. 豁免權

(1) (a) 選管會無須就其在執行或本意是執行本條例或任何其他條例下的職能時真誠地作出或沒有作出的作為，招致任何法律責任。

(b) 任何其他人士無須就其在執行或本意是執行本條例下的職能時真誠地作出或沒有作出的作為，招致任何法律責任。

(2) 在不局限第 (1) 款的一般性的原則下，現宣布就誹謗法而言，在任何書面或其他形式的通訊、報告或陳述中，根據第 5(e) 條作出的任何評論或所發表的關於根據第 6(3) 條作出的投訴的任何事項，均有絕對特權。

#### 15. 不得視選管會為政府的受僱人或代理人

選管會不得視為政府的受僱人或代理人，亦不得視為享有政府的任何地位、豁免權或特權。

#### 16. 未經准許而使用選管會名稱

(1) 任何人不得組織或成立以下團體，亦不得成為該團體的董事、幹事或籌辦人，或參與與該團體相關的工作，或成為該團體的成員，不論該團體是否法團——

(C) a Provisional District Board or any those bodies which are successors to the Provisional District Boards;

(v) being nominated as a candidate in an election;

(vi) acting or being appointed as the agent of a candidate in an election;

(vii) subscribing in any capacity to the nomination of a candidate in an election; or

(viii) being a member of the election committee.

(2) Subsection (1) shall not apply in relation to a person who ceases to hold office as a member within 14 days of the date of his appointment.

(3) Subsections (1) and (2) shall apply in relation to a member of a committee established or appointed under section 7(1)(g), subject to necessary modifications, as if they apply in relation to a member of the Commission.

#### 14. Immunity

(1) No liability shall be incurred by—

(a) the Commission in respect of anything done, or omitted to be done, by it in good faith in the performance of a function or the purported performance of a function under this or any other Ordinance; or

(b) any other person in respect of anything done, or omitted to be done, by him in good faith in the performance of a function or the purported performance of a function under this Ordinance.

(2) Without limiting the generality of subsection (1), it is declared that for the purposes of the law of defamation, any comment made under section 5(e) or the publication of any matter relating to a complaint made under section 6(3), in any communication, report or statement, in writing or otherwise, shall be absolutely privileged.

#### 15. Commission not to be regarded servant or agent of Government

The Commission shall not be regarded as a servant or agent of the Government or as enjoying any status, immunity or privilege of the Government.

#### 16. Unauthorized use of Commission name

(1) A person shall not incorporate, form, be a director, office bearer or organizer of, or work in connection with, or be a member of, any body of persons, whether corporate or unincorporate, which without the written consent of the Commission—

- (a) 一個未經選管會書面同意而顯示本身是——
- (i) 選管會或其某部分的團體；或
  - (ii) 與選管會有任何關連或聯繫的團體；
- (b) 一個未經選管會書面同意而使用“選舉管理委員會”或“Electoral Affairs Commission”名稱的團體，或使用與此名稱非常相近的任何語文的名稱的團體，而相近程度令該名稱能誤導任何人相信該團體是——
- (i) 選管會或其某部分；或
  - (ii) 與選管會有任何關連或聯繫的。
- (2) 任何人違反第(1)款，即屬犯罪——
- (a) 一經循簡易程序定罪，可處第2級罰款及監禁3個月；及
  - (b) 一經循公訴程序定罪，可處第4級罰款及監禁6個月。

## 第V部

### 選管會的建議

#### 17. 定義

- (1) 在本部中——
- “地方選區”(geographical constituency)就選舉而言，指在立法會有專屬的代表席位(不論是有了一個或多於一個代表席位)的地區範圍；
- “標準人口基數”(population quota)就選舉而言，指將香港人口總數除以在該項選舉中從所有地方選區中選出的議員的總數所得之數；
- “選舉”(election)指為選出全體從所有地方選區選出的立法會議員而進行的選舉。
- (2) 在本部中，凡提述香港人口之處，須解釋為提述選管會根據第20(6)條所估計的香港人口。

#### 18. 關於選區分界的報告

- (1) 選管會須按照本條的規定，就任何選舉向行政長官提交一份載有以下資料的報告——
- (a) 關於為該項選舉的目的而作出的地方選區的劃定的建議；
  - (b) 選管會建議各上述選區所採用的名稱；

- (a) holds itself out to be—
- (i) the Commission or a part thereof; or
  - (ii) in any way connected or associated with the Commission;
- (b) uses the title “Electoral Affairs Commission” or “選舉管理委員會” or a title in any language which so closely resembles that title so as to be capable of misleading any person into believing that the body of persons is—
- (i) the Commission or a part thereof; or
  - (ii) in any way connected or associated with the Commission.
- (2) Any person who contravenes subsection (1) commits an offence and is liable—
- (a) on summary conviction, to a fine at level 2 and to imprisonment for 3 months; and
  - (b) on conviction on indictment, to a fine at level 4 and to imprisonment for 6 months.

## PART V

### RECOMMENDATIONS OF COMMISSION

#### 17. Definitions

- (1) In this Part—
- “election”(選舉) means an election to elect all the members to be returned to the Legislative Council by all the geographical constituencies;
- “geographical constituency”(地方選區) in relation to an election means a geographical area having separate representation (whether by one or more members) in the Legislative Council;
- “population quota”(標準人口基數), in relation to an election, means the total population of Hong Kong divided by the total number of members to be returned by all the geographical constituencies in that election.
- (2) Any reference to the population of Hong Kong in this Part shall be construed as a reference to the population of Hong Kong as estimated by the Commission under section 20(6).

#### 18. Report on boundaries

- (1) The Commission shall submit to the Chief Executive, in accordance with this section, and in relation to any election, a report containing—
- (a) recommendations as to the delineation of geographical constituencies for the purposes of that election;
  - (b) the name by which the Commission recommends that each such constituency be known;



- (c) 作出該等建議的理由；
  - (d) 在不影響(c)段的一般性的原則下，凡在任何情況下選管會依據第20(5)條的規定不嚴格地按照第20(1)(b)條行事，則為關於不嚴格地按照第20(1)(b)條行事的解釋；及
  - (e) 凡選管會收到任何根據第19(5)條作出的申述，則為該申述或該申述的撮要(視乎選管會就每一個案認為何者適當而定)。
- (2) 根據第(1)款作出的建議，須參照一幅或多於一幅符合以下規定的地圖，該等地圖須連同有關報告一併提交——
- (a) 顯示各建議中的地方選區的劃定分界；
  - (b) 在選管會認為適當的情況下輔以說明，不論是藉參照上述地圖或其他方式對上述地圖上顯示的分界作出說明。
- (3) 第(1)款所提述的報告，須按以下期限提交——
- (a) 就在本條的生效日期後舉行的首項選舉而言，在1997年10月31日或之前；及
  - (b) 就其後的每一項選舉而言，該報告所關乎的選舉之前的12個月以前。
- (4) 行政長官可將第(3)(a)款所提述的期間延長，或在任何個別情況下，將第(3)(b)款所提述的期間延長。

### 19. 臨時建議

- (1) 凡選管會對其擬根據第18條就任何選舉作出的建議有了臨時決定，選管會須在根據該條就該項選舉提交報告之前，安排將符合以下規定的一幅或多於一幅地圖——
- (a) 顯示建議中的地方選區及其劃定分界；及
  - (b) 載有為各上述選區指定的名稱，
- 在選管會認為就供公眾人士於合理時間免費查閱而言屬適當的地方，為供公眾人士如此查閱而展示，為期不少於30天。
- (2) 選管會須藉憲報公告公布可供查閱上述地圖的地點及時間，並須在公告中指明提交為本條的目的而提交的任何書面申述的地址。

- (c) the reasons for the recommendations;
  - (d) without affecting the generality of paragraph (c), where the Commission departs from the strict application of section 20(1)(b) pursuant to section 20(5), an explanation relating to such departure; and
  - (e) where the Commission receives any representations under section 19(5), the representations, or a summary of them, as the Commission considers appropriate in each case.
- (2) The recommendations under subsection (1) shall be made with reference to a map or maps—
- (a) showing the demarcation of the boundaries of each proposed geographical constituency;
  - (b) supplemented, where the Commission considers it appropriate, by a description, whether by reference to the map or maps, or otherwise of any boundary shown on such map or maps,
- which shall be submitted with the report.
- (3) A report referred to in subsection (1) shall be submitted—
- (a) in respect of the first election to be held after the commencement of this section, not later than 31 October 1997; and
  - (b) in respect of each subsequent election, not later than 12 months before the date of the election to which the report relates.
- (4) The Chief Executive may extend the period referred to in subsection (3)(a), or in any particular case, the period referred to in subsection (3)(b).

### 19. Provisional recommendations

- (1) The Commission shall, when it has provisionally determined the recommendations it proposes to make for the purposes of section 18 in respect of any election, and before it submits a report under that section in respect of that election, cause a map or maps—
- (a) showing the delineation of the proposed geographical constituencies and the demarcation of their boundaries; and
  - (b) with a name assigned to each proposed geographical constituency,
- to be exhibited, for a period of not less than 30 days, for inspection by the public at reasonable hours and free of charge, at any place considered appropriate by the Commission for such purpose.
- (2) The Commission shall give notice in the Gazette of the place and hours at which the map or maps may be so inspected and specify in the notice an address to send any representations in writing for the purposes of this section.

(3) 選管會如認為適當，可將根據第(1)款展示的地圖所顯示的任何選區分界的說明，供公眾人士根據該款查閱。

(4) 任何人均可在自憲報刊登第(2)款所指的公告的日期起計的30天內，就擬提出的建議向選管會作出申述。

(5) 為本條的目的而作出的申述可用書面(包括圖文傳真)作出，或在根據第(6)款舉行的任何會議中作出。

(6) 選管會可舉行會議，以根據本條的規定聽取申述，而除選管會認為該等會議不適宜向公眾人士開放外，該等會議須向公眾人士開放。

(7) 選管會——

(a) 須就行將根據第(6)款舉行的會議，以其認為合適的方式通知公眾人士舉行該會議的日期、時間及地點；及

(b) 可採用其認為合適的程序舉行該會議。

(8) 選管會根據第18條作出建議時，須顧及根據本條作出的任何申述。

(9) 第(1)及(4)款在適用於在本條生效日期後作出的第一次臨時建議時，須解釋為猶如——

(a) 第(1)款所提述的30天代以14天一樣；及

(b) 第(4)款所提述的30天代以不少於14天一樣。

## 20. 作出建議的準則

(1) 選管會在為本部的目的而作出建議時——

(a) 須確保各建議中的地方選區的範圍須使其人口在切實可行的範圍內，盡量接近標準人口基數乘以從該地方選區中依據任何選舉法選出進入立法會的議員人數所得的數目(“所得數目”)；

(b) 在就任何建議中的地方選區而言遵從(a)段的規定並非切實可行的情況下，選管會須確保該地方選區的範圍須使其人口不少於適用於該地方選區的所得數目的85%，亦不多於該數目的115%。

(3) The Commission may, where it considers it appropriate, make available for inspection under subsection (1), a description of any boundary shown on a map or maps exhibited under that subsection.

(4) Any person may make representations to the Commission regarding the proposed recommendations within the period of 30 days beginning on the date a notice under subsection (2) is published in the Gazette.

(5) Representations for the purposes of this section may be made in writing (including by facsimile transmission) or at any meeting held under subsection (6).

(6) The Commission may hold meetings for the purpose of receiving representations under this section and any such meeting shall be open to the public except where the Commission considers it desirable that the meeting should not be open to the public.

(7) The Commission—

(a) shall notify the public in such manner as it thinks fit, of the date, time and place of a meeting to be held under subsection (6); and

(b) may adopt such procedures as it thinks fit in respect of such a meeting.

(8) The Commission shall have regard to any representations made under this section when making recommendations under section 18.

(9) In their application to the first provisional recommendations made after the commencement of this section, subsections (1) and (4) shall be read as if—

(a) a reference to 14 days were substituted for the reference to 30 days in subsection (1); and

(b) a reference to not less than 14 days were substituted for the reference to 30 days in subsection (4).

## 20. Criteria for making recommendations

(1) In making recommendations for the purposes of this Part, the Commission shall—

(a) ensure that the extent of each proposed geographical constituency is such that the population in that constituency is as near as is practicable to the number which results (“the resulting number”) when the population quota is multiplied by the number of members to be returned to the Legislative Council by that geographical constituency pursuant to any electoral law;

(b) where it is not practicable to comply with paragraph (a) in respect of a proposed geographical constituency, ensure that the extent of the constituency is such that the population in that constituency does not exceed or fall short of the resulting number applicable to that constituency, by more than 15% thereof.

(2) 選管會在作出有關建議時，須確保各建議中的地方選區均由 2 個或多於 2 個毗連的完整的已宣布區域組成。

(3) 選管會在作出有關建議時，須顧及——

- (a) 社區獨特性及地方聯繫的維持；及
- (b) 有關區域或其部分的自然特徵，例如大小、形狀，以及交通方便程度及發展。

(4) 選管會在作出有關建議時，須顧及——

- (a) 現有的地區的分界；及
- (b) 現有的市政局轄區及區域市政局轄區的分界。

(5) 只有在選管會認為第 (3) 款所提述的考慮事項使其有需要或適宜不嚴格地按第 (1)(a) 或 (b) 款行事的情況下，選管會方可不嚴格地按第 (1)(a) 或 (b) 款行事。

(6) 為施行第 (1) 款——

- (a) 選管會須盡力估計在舉行建議所關乎的選舉的年度內香港的人口總數或任何建議中的選區的人口總數(視屬何情況而定)；及
- (b) 如遵從 (a) 段的規定並非切實可行，選管會在顧及為作出建議屬在有關情況下可能得到的最佳資料後，須估計香港的人口或地方選區的人口(視屬何情況而定)。

(7) 在本條中——

“已宣布區域”(declared area) 指在 1994 年 2 月 18 日作為 1994 年第 93 號法律公告於憲報刊登的名為《1994 年選區(地區)宣布令》的命令的附表內經劃定界線的地區；

“市政局轄區”(Urban Council Area) 具有《臨時市政局條例》(第 101 章) 給予該詞的涵義；

“地區”(District) 具有《臨時區議會條例》(第 366 章) 給予該詞的涵義；

“區域市政局轄區”(Regional Council Area) 具有《臨時區域市政局條例》(第 385 章) 給予該詞的涵義。

## 21. 報告的考慮

行政長官會同行政會議在行政長官接獲根據第 18 或 22(2) 條提交的報告或地圖後，須在切實可行的範圍內盡快考慮該等報告或地圖。

(2) In making such recommendations the Commission shall ensure that each proposed geographical constituency is constituted by 2 or more contiguous whole declared areas.

(3) In making such recommendations the Commission shall have regard to—

- (a) community identities and the preservation of local ties; and
- (b) physical features such as size, shape, accessibility and development of the relevant area or any part thereof.

(4) In making such recommendations the Commission shall have regard to—

- (a) existing boundaries of Districts; and
- (b) existing boundaries of the Urban Council Area and the Regional Council Area.

(5) The Commission may depart from the strict application of subsection (1)(a) or (b) only where it appears that a consideration referred to in subsection (3) renders such a departure necessary or desirable.

(6) The Commission shall, for the purposes of subsection (1)—

- (a) endeavour to estimate the total population of Hong Kong or any proposed constituency, as the case may be, in the year in which the election to which the recommendations relate, is to be held; and
- (b) if it is not practicable to comply with paragraph (a), estimate the population of Hong Kong or the geographical constituency, as the case may be, having regard to the available information which is the best possible in the circumstances for the purpose of making recommendations.

(7) In this section—

“declared area” (已宣布區域) means an area delineated in the Schedule to the order entitled “Declaration of Constituencies (Districts) Order 1994” and published in the Gazette as L.N. 93 of 1994 on 18 February 1994;

“District” (地區) has the meaning assigned to it by the Provisional District Boards Ordinance (Cap. 366);

“Regional Council Area” (區域市政局轄區) has the meaning assigned to it by the Provisional Regional Council Ordinance (Cap. 385);

“Urban Council Area” (市政局轄區) has the meaning assigned to it by the Provisional Urban Council Ordinance (Cap. 101).

## 21. Consideration of report

A report or maps received by the Chief Executive under section 18 or 22(2) shall be considered by the Chief Executive in Council as soon as practicable after such receipt.

**22. 報告的發還**

(1) 行政長官會同行政會議在考慮根據本部提交的報告後，行政長官可將該報告發還，以便選管會進一步考慮其中所載的任何建議。

(2) 凡有報告根據本條發還選管會，選管會須在行政長官指明的期間內，向行政長官提交另一份報告。

(3) 行政長官可根據本條發還就某次選舉提交的首份報告，或報告發還後提交的一份進一步報告。

(4) 第18條在作出必需的修改後，並在情況需要時，就根據第(2)款提交的報告而適用。

(5) 在本條中，凡提述發還報告之處，即包括提述發還報告的一部分或發還與報告一起提交的地圖，而本條亦須據此解釋及具有效力。

**23. 將報告提交立法會省覽**

(1) 行政長官須安排將根據第18或22(2)條提交的報告或地圖，在其提交日期的30天內，提交臨時立法會或立法會(視屬何情況而定)會議席上省覽。

(2) 如第(1)款所提述的期限若非本款有所規定，即會在立法會會期完結之後或立法會解散之後但在其下一會期第二次會議日期之前的期間屆滿，則該段期間須延長至上述第二次會議日期的翌日屆滿。

**相應修訂****《防止賄賂條例》****24. 附表的修訂**

《防止賄賂條例》(第201章)附表現予修訂，加入——  
“85. 選舉管理委員會。”。

**22. Return of report**

(1) The Chief Executive may, after the Chief Executive in Council has considered a report submitted under this Part, return the report for further consideration by the Commission of any recommendation contained in it.

(2) Where a report is returned under this section, the Commission shall make another report to the Chief Executive within such period as is specified by the Chief Executive.

(3) The Chief Executive may return under this section the first report submitted under a particular election or a further report submitted following the return of a report.

(4) Section 18 shall apply in relation to a report submitted under subsection (2) subject to necessary modifications and as the circumstances may require.

(5) In this section, any reference to the return of a report includes a reference to the return of a part of a report or a map or maps submitted with a report, and this section shall be construed and have effect accordingly.

**23. Tabling of report**

(1) The Chief Executive shall cause a report, map or maps submitted under section 18 or 22(2) to be laid on the table of the Provisional Legislative Council or the Legislative Council, as the case may be, within 30 days of the submission thereof.

(2) If any period referred to in subsection (1) would, but for this subsection, expire after the end of a session or a dissolution of the Legislative Council, and before the day of its second meeting in the next following session, that period shall be extended and expire on the day after such second meeting.

**Consequential Amendments****Prevention of Bribery Ordinance****24. Schedule amended**

The Schedule to the Prevention of Bribery Ordinance (Cap. 201) is amended by adding—

“85. Electoral Affairs Commission.”.

## 附表1 [第3條]

## 第I部

在本附表中——

“先前條例”(former Ordinance)指在緊接1997年7月1日前名為《選區分界及選舉事務委員會條例》(第432章)的條例；  
“被廢除條例”(repealed Ordinance)指在緊接1997年7月1日前名為《選舉規定條例》(第367章)的條例。

## 第II部

根據本條例第3(5)(e)條喪失獲委任或擔任選管會成員資格的人為——

- (a) 下列團體的僱員或傭工——
- (i) 臨時立法會或立法會或上述團體的委員會；
  - (ii) 臨時市政局、臨時區域市政局或上述團體的委員會；
  - (iii) 第(ii)分節所提述的團體的後繼團體或該等後繼團體的委員會；或
  - (iv) 任何政治性團體的成員；及
- (b) 根據被廢除條例的下列條文，本應會喪失獲提名為該被廢除條例所指的選舉的候選人資格的人——
- (i) 第19(1)(a)條；
  - (ii) 第19(1)(aa)條；
  - (iii) 第19(1)(ae)條(擔任被廢除條例的附表中第4項所指明職位的人除外)；
  - (iv) 第19(1)(b)條；
  - (v) 第19(1)(c)條；
  - (vi) 第19(1)(d)條；
  - (vii) 第19(1)(da)條；
  - (viii) 第19(1)(f)條；
  - (ix) 第19(1)(g)條；
  - (x) 第19(1)(h)條；
  - (xi) 第19(2)條。

## 第III部

根據本條例第3(5)(k)(xi)條喪失資格的人，為根據先前條例的下列條文，本應會喪失獲委任或擔任職位的資格的人——

- (a) 第3(5)(c)(i)條；
- (b) 第3(5)(c)(ii)條；
- (c) 第3(5)(c)(iii)條；
- (d) 第3(5)(c)(iv)條；
- (e) 第3(5)(c)(v)條。

## SCHEDULE 1

[s. 3]

## PART I

In this Schedule—

“former Ordinance”(先前條例) means the Ordinance known immediately before 1 July 1997 as the Boundary and Election Commission Ordinance (Cap. 432);  
“repealed Ordinance”(被廢除條例) means the Ordinance known immediately before 1 July 1997 as the Electoral Provisions Ordinance (Cap. 367).

## PART II

The persons disqualified under section 3(5)(e) of this Ordinance from appointment or holding office as a member of the Commission are—

- (a) a person who is an employee or servant of—
- (i) the Provisional Legislative Council or the Legislative Council or a committee of any such Council;
  - (ii) the Provisional Urban Council, the provisional Regional Council or the committee of such Council;
  - (iii) a body which is the successor to a Council referred to in sub-subparagraph (ii) or a committee of any such body; or
  - (iv) a member of any political body; and
- (b) persons who would have been disqualified from nomination as a candidate at an election within the meaning of the repealed Ordinance under the following sections of the repealed Ordinance—
- (i) section 19(1)(a);
  - (ii) section 19(1)(aa);
  - (iii) section 19(1)(ae) (except persons holding an office specified in item 4 of the Schedule to the repealed Ordinance);
  - (iv) section 19(1)(b);
  - (v) section 19(1)(c);
  - (vi) section 19(1)(d);
  - (vii) section 19(1)(da);
  - (viii) section 19(1)(f);
  - (ix) section 19(1)(g);
  - (x) section 19(1)(h);
  - (xi) section 19(2).

## PART III

A person disqualified under section 3(5)(k)(xi) of this Ordinance is a person who would have been disqualified from appointment or holding office under any of the following sections of the former Ordinance—

- (a) section 3(5)(c)(i);
- (b) section 3(5)(c)(ii);
- (c) section 3(5)(c)(iii);
- (d) section 3(5)(c)(iv);
- (e) section 3(5)(c)(v).

## 附表 2

## [第 2 及 3 條]

## 適用於選管會的條文

1. (1) 在符合本條的規定下，主席或其他選管會成員——
- (a) 須按照其委任條款任職及離職；及
  - (b) 在停任其職位後，具有再度獲委任的資格。
- (2) 主席或其他選管會成員可隨時以書面通知向行政長官辭職，而其辭職須於以下日期生效——
- (a) 該通知上指明的日期或行政長官收到該通知的日期，以較後者為準；或
  - (b) 如並無指明日期，則為行政長官收到該通知的日期。
- (3) 如主席或其他選管會成員——
- (a) 連續超過 6 個月不在香港；或
  - (b) 被行政長官認為是——
    - (i) 因身體或精神方面的疾病而喪失履行職務能力；或
    - (ii) 因其他情況不能夠或不適宜執行其職位的職能，
 則行政長官可藉給予他的書面通知，將其免任。
- (4) 凡主席或其他成員的職位出現空缺，則行政長官須在切實可行的範圍內，盡快藉憲報公告委任另一人代替，任期由行政長官在委任時指明。
- (5) 如主席或其他成員由於不在香港或任何其他原因，以致在任何一段期間不能夠執行其作為主席或其他成員的職能，則——
- (a) 如屬主席不能執行職能，行政長官可委任另一選管會成員；
  - (b) 如屬任何其他成員不能執行職能，行政長官可委任另一人，在該段期間暫代該主席或該成員（視屬何情況而定）行事。
- (6) 本條例第 3(4)、(5) 及 (6) 條適用於根據第 (1) 或 (4) 節作出的委任或再度委任，而本條例第 3(4) 及 (5) 條則適用於根據第 (5) 節作出的委任。
- (7) 凡主席或其他成員——
- (a) 辭職，則行政長官在收到根據第 (2) 節提交的有關通知後，須在切實可行的範圍內，盡快在憲報刊登關於該項辭職的公告；
  - (b) 因喪失資格或被行政長官免任而停任，則行政長官須在切實可行的範圍內，盡快在憲報刊登關於該項停任的公告。
- (8) 凡某選管會成員（包括主席）因依據本條例第 3(5)(f) 或 3(5)(k)(xi) 條的規定喪失資格而停任，則該成員須當作自根據第 (7) 節刊登的公告的日期起停任。
2. (1) 在符合第 (2) 節的規定下，選管會的會議須在主席決定的時間及地點舉行。
- (2) 選管會每 12 個月須至少舉行一次會議。
- (3) 除第 (6) 節另有規定外，在選管會的任何會議中，主席及其中 1 名成員即組成法定人數。
- (4) 在選管會的任何會議中——
- (a) 主席須主持會議；
  - (b) 任何問題均須由出席及投票的人的多數票決定；及
  - (c) 如票數相等，主席有權投決定票。
- (5) 在不損害本條例第 9 條的原則下，在主席同意下或如根據本條例第 5 條訂立的常規有所規定，並非成員的人亦可出席選管會的會議，但該人或根據本條例第 9 條出席會議的總選舉事務主任及其代表，在選管會的會議中均無權投票。
- (6) 任何關於下列事項的決定，均須在選管會所有成員（但不包括當其時屬第 1(5) 段所述的不能執行所擔任職位的職能的任何成員）出席的會議中作出——
- (a) 根據本條例第 6(1) 條發出指引；及

## SCHEDULE 2

## [ss. 2 &amp; 3]

## PROVISIONS APPLICABLE TO COMMISSION

1. (1) The Chairman or other member of the Commission shall, subject to this section—
- (a) hold and vacate office in accordance with his terms of appointment; and
  - (b) on ceasing to hold office, be eligible for reappointment.
- (2) The Chairman or other member of the Commission may at any time resign his office by notice in writing to the Chief Executive, and the resignation shall take effect—
- (a) from the date specified in the notice or on receipt of the notice by the Chief Executive, whichever is later; or
  - (b) if no date is specified, on receipt of the notice by the Chief Executive.
- (3) If the Chairman or other member of the Commission—
- (a) is absent from Hong Kong for more than 6 months consecutively; or
  - (b) is in the opinion of the Chief Executive—
    - (i) incapacitated due to physical or mental illness; or
    - (ii) otherwise unable or unfit to discharge the functions of his office,
 the Chief Executive may by notice in writing to him remove him from office.
- (4) Where the office of the Chairman or other member becomes vacant, the Chief Executive shall, as soon as practicable by notice published in the Gazette, appoint another person in his place for a period specified by the Chief Executive at the time of appointment.
- (5) If the Chairman or other member, due to absence from Hong Kong or any other reason, is unable to perform the function of his office as the Chairman or other member for any period, the Chief Executive may appoint, in the case of—
- (a) the Chairman, another member of the Commission;
  - (b) any other member, another person,
- to act in the place of the Chairman or the other member, as the case may be, for that period.
- (6) Section 3(4), (5) and (6) of this Ordinance shall apply to an appointment or reappointment under subparagraph (1) or (4) and section 3(4) and (5) of this Ordinance shall apply to an appointment under subparagraph (5).
- (7) Where the Chairman or other member—
- (a) resigns from office, the Chief Executive shall give notice in the Gazette of the resignation as soon as practicable after receipt by the Chief Executive of the relevant notice under subparagraph (2);
  - (b) ceases to hold office due to disqualification or removal, the Chief Executive shall give notice thereof in the Gazette as soon as practicable.
- (8) Where a member of the Commission (including the Chairman) ceases to hold office due to disqualification pursuant to section 3(5)(f) or 3(5)(k)(xi) of this Ordinance, the cessation shall be deemed to operate from the date of the notice under subparagraph (7).
2. (1) Subject to subparagraph (2), meetings of the Commission shall be held at such times and places as may be determined by the Chairman.
- (2) The Commission shall hold a meeting at least once every 12 months.
- (3) Subject to subparagraph (6), at any meeting of the Commission the Chairman and 1 member shall form a quorum.
- (4) At any meeting of the Commission—
- (a) the Chairman shall preside;
  - (b) any question shall be decided by the majority of the votes of those present and voting; and
  - (c) in case of an equality of votes, the Chairman shall have a casting vote.
- (5) Without prejudice to section 9 of this Ordinance, a person who is not a member may attend a meeting of the Commission with the consent of the Chairman or if so provided in the standing orders made under section 5 of this Ordinance, but such a person or the Chief Electoral Officer and his representative attending a meeting under section 9 of this Ordinance shall not be entitled to vote at a meeting of the Commission.
- (6) Any decision relating to—
- (a) the issue of guidelines under section 6(1) of this Ordinance; and

- (b) (i) 根據本條例第7條訂立規例；  
(ii) 為施行本條例第8條而作出報告；或  
(iii) 為施行本條例第V部而作出建議(包括臨時建議)。

(7) 即使選管會出現一成員空缺，選管會仍可行事，而其程序亦不因成員的委任或資格有欠妥之處而作廢。

(8) 在符合本條例及根據本條例第5條訂立的任何常規的規定下，選管會可決定及規管其本身的程序。

- (b) the making of—  
(i) regulations under section 7 of this Ordinance;  
(ii) a report for the purposes of section 8 of this Ordinance; or  
(iii) recommendations for the purposes of Part V of this Ordinance (including provisional recommendations),

shall be made at a meeting of all the members of the Commission (excluding any member who is unable to perform the functions of his office as described in paragraph 1(5), for the time being).

(7) The Commission may act notwithstanding one vacancy in the membership and its proceedings shall not be invalidated by reason of a defect in the appointment or qualification of a member.

(8) Subject to this Ordinance and any standing orders made under section 5 of this Ordinance the Commission may determine and regulate its own procedure.