

## **LEGISLATIVE COUNCIL BRIEF**

### **VOTING BY IMPRISONED PERSONS BILL**

#### **INTRODUCTION**

At the meeting of the Executive Council on 28 April 2009, the Council ADVISED and the Chief Executive ORDERED that the Voting by Imprisoned Persons Bill at **Annex A** should be introduced into the Legislative Council (“LegCo”).

#### **JUSTIFICATIONS**

##### **The High Court’s judgment on Three Judicial Review Cases on Prisoners’ Voting Right**

2. In August 2008, the Court granted leave to three judicial review (“JR”) applications which challenged the constitutionality of the existing across-the-board restrictions on prisoners' right to be registered as electors and to vote under the Legislative Council Ordinance (“LCO”) (Cap. 542). After hearing the cases in November 2008 and February 2009, the Court ruled that the existing across-the-board restrictions on prisoners’ right to be registered as electors and to vote were unconstitutional. Arrangements should be made to enable prisoners and remanded unconvicted persons to vote on the election day. Background of the JR cases is at **Annex B**.

##### **Proposed Way Forward on Prisoners’ Voting Right**

3. In order to take forward the Court’s judgment on the JR cases, the Administration launched a public consultation exercise on prisoners’ voting right from 9 February to 23 March 2009. Taking into account the views received in the exercise, the Administration suggested the following proposals for relaxing the existing restrictions on prisoners’ voting right:

- (a) to remove the existing disqualification of prisoners from being registered as electors under section 31(1)(a)-(b) of the LCO;

- (b) to remove the existing disqualification of prisoners from voting under section 53(5)(a)-(b) of the LCO;
- (c) to remove the existing disqualification of persons convicted of election-related or bribery offences from being registered as electors under section 31(1)(c) and the existing disqualification of such persons from voting under section 53(5)(c) of the LCO;
- (d) to introduce into the LegCo within the 2008/09 legislative session the Voting by Imprisoned Persons Bill, which provides for amendments to the relevant disqualification provisions under the LCO and other electoral ordinances. Amendments to the relevant subsidiary legislation under the Electoral Affairs Commission Ordinance (“EACO”) (Cap. 541) will also be introduced in the same legislative session; and
- (e) to implement the practical voting arrangements for prisoners and remanded unconvicted persons as set out in the Consultation Document on Prisoners’ Voting Right.

## **THE BILL**

- 4. The main provisions of the Voting by Imprisoned Persons Bill are –
  - (a) clauses 2 to 3 amend the Chief Executive Election Ordinance (Cap. 569) to remove the disqualification of persons who have been sentenced to imprisonment or death, persons who are serving a term of imprisonment and persons who have been convicted of certain election-related or bribery-related offences (“the three types of persons”) from voting at a Chief Executive Election and an Election Committee Subsector Election.
  - (b) clauses 4 to 5 amend the provisions under the LCO on the electors’ registered addresses to enable eligible prisoners who do not have a home in Hong Kong outside the prison to be registered as electors.
  - (c) clauses 6 to 7 amend the LCO to remove the disqualification of the three types of persons from being registered as electors and from voting at a LegCo Election.

- (d) clause 8 amends the District Councils Ordinance (Cap. 547) to remove the disqualification of the three types of persons from voting at a District Council Election.
- (e) clauses 9 to 10 amend the Village Representative Election Ordinance (Cap. 576) to remove the disqualification of the three types of persons from being registered as an elector and from voting at a Village Representative Election.

The existing provisions in the relevant ordinances being amended are at **Annex C**.

5. The subsidiary legislation under the EACO will be amended separately to set out the detailed practical voting arrangements for prisoners and remanded unconvicted persons.

#### **LEGISLATIVE TIMETABLE**

6. The legislative timetable will be –

Publication in the Gazette	30 April 2009
First Reading and commencement of Second Reading debate	6 May 2009
Resumption of Second Reading debate, Committee Stage and Third Reading	To be notified

#### **IMPLICATIONS OF THE PROPOSALS**

7. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. There are no productivity, environmental and sustainability implications. The amendments in the Bill will not affect the current binding effect of the LCO and the related regulations.

8. The voting arrangements for prisoners and remanded unconvicted persons are currently being worked out by the Constitutional and Mainland

Affairs Bureau<sup>1</sup>, the Home Affairs Department<sup>2</sup>, the EAC, the Registration and Electoral Office, and the relevant law enforcement agencies. Subject to further assessment, bureaux and departments involved in the implementation of the new voting arrangements will require additional resources to cope with the additional workload. They will try to absorb the additional resource requirements from within their existing envelope allocations as far as possible. Where necessary, they will seek additional resources in accordance with the established resource allocation mechanism.

## **PUBLIC CONSULTATION**

9. The Administration briefed the LegCo Panel on Constitutional Affairs on 20 April 2009 on the results of the public consultation on prisoners' voting right and our legislative proposals.

## **PUBLICITY**

10. A press release will be issued and a spokesman will be made available to answer public enquiries.

## **ENQUIRIES**

11. For enquiries about this brief, please contact Mr Ivanhoe CHANG, Principal Assistant Secretary for Constitutional and Mainland Affairs, at 2810 2908.

Constitutional and Mainland Affairs Bureau  
28 April 2009

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<sup>1</sup> The voting arrangements will be in relation to the Chief Executive Elections, Election Committee Subsector Elections, LegCo Elections and District Council Elections.

<sup>2</sup> The voting arrangements will be in relation to the Village Representative Elections.

A BILL

To

Amend the Chief Executive Election Ordinance, the Legislative Council Ordinance, the District Councils Ordinance and the Village Representative Election Ordinance to remove restrictions on –

- (a) registration of persons who have been sentenced to death or imprisonment, persons who are serving a sentence of imprisonment and persons who have been convicted of certain election-related or bribery-related offences as electors under the Legislative Council Ordinance and the Village Representative Election Ordinance; and
- (b) voting at elections of the Chief Executive, members of the Legislative Council, members of District Councils, members of the Election Committee and village representatives by those persons.

Enacted by the Legislative Council.

PART 1

SHORT TITLE

**1. Short title**

This Ordinance may be cited as the Voting by Imprisoned Persons Ordinance.

## PART 2

### AMENDMENTS TO THE CHIEF EXECUTIVE ELECTION ORDINANCE

#### **2. Disqualification from voting**

(1) Section 26(a) of the Chief Executive Election Ordinance (Cap. 569) is amended by adding “or” at the end.

(2) Section 26(b) is repealed.

(3) Section 26(c) is amended by repealing “(c),”.

(4) Section 26(c) is amended by repealing “; or” and substituting a comma.

(5) Section 26(d) is repealed.

#### **3. Election Committee**

The Schedule is amended by repealing section 30(1)(b), (c) and (d).

## PART 3

### AMENDMENTS TO THE LEGISLATIVE COUNCIL ORDINANCE

#### **4. Who is eligible to be registered as an elector: geographical constituencies**

Section 24 of the Legislative Council Ordinance (Cap. 542) is amended by adding –

- “(3) Subsection (2)(b) does not apply to a person who –
- (a) is serving a sentence of imprisonment; and
  - (b) does not have a home in Hong Kong outside the prison.”.

#### **5. Elector to reside in Hong Kong**

(1) Section 28 is amended by adding –

- “(1A) If –

- (a) a person serving a sentence of imprisonment applies for registration as an elector in the register of geographical constituencies; and
- (b) at the time of the application, the person does not have a home in Hong Kong outside the prison,

the prescribed address, as defined in subsection (1B), is deemed to be the person's only or principal residence in Hong Kong for the purposes of subsection (1).

(1B) In subsection (1A), “prescribed address” (訂明地址) means –

- (a) the last dwelling-place in Hong Kong at which the person resided and which constituted the person's sole or main home; or
- (b) if no address is established to the satisfaction of the Electoral Registration Officer to be the last dwelling-place in Hong Kong at which the person resided and which constituted the person's sole or main home, the residential address of the person furnished under regulation 4(1)(b) or 18(1) of the Registration of Persons Regulations (Cap. 177 sub. leg. A) and last recorded under those Regulations.”.

(2) Section 28 is amended by adding –

“(2A) If –

(a) an elector is serving a sentence of imprisonment; and

(b) the elector no longer has a home in Hong Kong outside the prison,

the residential address of the elector last notified to the Electoral Registration Officer is deemed to continue to be the elector's only or principal residence in Hong Kong for the purposes of subsection (2).”

**6. When person is disqualified from being registered as an elector**

Section 31(1)(a), (b) and (c) is repealed.

**7. When an elector is disqualified from voting at an election**

Section 53(5)(a), (b) and (c) is repealed.

## PART 4

### AMENDMENT TO THE DISTRICT COUNCILS ORDINANCE

**8. When an elector is disqualified from voting at an election**

Section 30(b), (c) and (d) of the District Councils Ordinance (Cap. 547) is repealed.

## PART 5

### AMENDMENTS TO THE VILLAGE REPRESENTATIVE ELECTION ORDINANCE

**9. When an elector is disqualified from voting at an election**

Section 14(b), (c) and (d) of the Village Representative Election Ordinance (Cap. 576) is repealed.



**10. When a person is disqualified from being registered as an elector**

Section 16(a), (b) and (c) is repealed.

**Explanatory Memorandum**

Under the current laws of Hong Kong, 3 types of persons (persons who have been sentenced to death or imprisonment, persons who are serving a sentence of imprisonment and persons who have been convicted of certain election-related or bribery-related offences) are prohibited from being registered as voters and electors in, and from voting at, elections of the Chief Executive, members of the Legislative Council, members of District Councils, members of the Chief Executive Election Committee and village representatives.

2. The object of this Bill is to amend the Chief Executive Election Ordinance (Cap. 569), the Legislative Council Ordinance (Cap. 542), the District Councils Ordinance (Cap. 547) and the Village Representative Election Ordinance (Cap. 576) to remove those prohibitions.

Part 1 of the Bill

3. Clause 1 provides for the short title of the Ordinance.

4. The Bill contains no commencement clause. If enacted, the Ordinance will come into operation on the day on which it is published in the Gazette.

Part 2 of the Bill

5. Part 2 contains amendments to the Chief Executive Election Ordinance (Cap. 569) to remove the prohibition mentioned in paragraph 1 in relation to election of the Chief Executive and members of the Chief Executive Election Committee.

Part 3 of the Bill

6. Part 3 contains amendments to the Legislative Council Ordinance (Cap. 542).

7. Section 24 of that Ordinance provides that a person who is registered as an elector in an existing final register of geographical constituencies is not entitled

to be included as an elector in any subsequent register of geographical constituencies if the Electoral Registration Officer is satisfied that the person no longer resides at the residential address recorded against the person's name in that existing register and that Officer does not know the person's new principal residential address. Clause 4 adds a new provision to provide that an imprisoned person who is a registered elector and who no longer has a home in Hong Kong outside the prison is not to be regarded as having ceased to reside at the recorded residential address so that the person is entitled to be included as an elector in any subsequent register.

8. Section 28 of that Ordinance provides that –

- (a) a person who seeks to be registered as an elector in the register of geographical constituencies must satisfy the Electoral Registration Officer that the residential address notified in the person's application for registration is the person's only or principal residence in Hong Kong; and
- (b) the name of an elector may be omitted from the final register of geographical constituencies if the Electoral Registration Officer is satisfied that the residential address last notified to that Officer is no longer the elector's only or principal residence in Hong Kong.

9. Clause 5 introduces amendments to section 28 of that Ordinance to –

- (a) allow an imprisoned person who does not have a home in Hong Kong outside the prison to use the last dwelling-place or the residential address recorded under the Registration of Persons Regulations (Cap. 177 sub. leg. A) for registration purposes; and
- (b) ensure that the names of imprisoned persons who are registered electors will not be omitted by reason of their no longer having a home outside the prison.

10. Clauses 6 and 7 remove the prohibition mentioned in paragraph 1 in relation to registration as an elector for a constituency and voting at a Legislative Council election.

Part 4 of the Bill

11. Clause 8 removes the prohibition mentioned in paragraph 1 in relation to voting at a District Council election.

Part 5 of the Bill

12. Clauses 9 and 10 remove the prohibition mentioned in paragraph 1 in relation to registration as an elector for, and voting at, a village representative election.

**Background of the Judicial Review Cases  
on Prisoners' Voting Right**

**I. Relevant Legislation**

**Legislative Council Ordinance**

The Legislative Council Ordinance (“LCO”) (Cap. 542) governs, among other things, the registration of electors and conduct of elections for the Legislative Council (“LegCo”) of the Hong Kong Special Administrative Region.

**Registration of Electors**

2. As provided under section 48 of the LCO, only a registered elector is eligible to vote at a LegCo Election. A registered elector is a person whose name appears on the final register (“FR”) of electors as compiled and published by the Electoral Registration Officer under the Ordinance.

3. All Hong Kong permanent residents aged 18 or above who ordinarily reside in Hong Kong may apply for registration as an elector. Eligible electors may submit the application at any time of the year. However, they need to apply before the statutory deadline<sup>1</sup> of the year if they wish to have their names included in the FR to be published in that year. If the application is made after the deadline, their names will only be recorded in the FR to be published in the subsequent year.

**Disqualification from Registration as Electors**

4. The LCO also provides for disqualification of persons from being registered as electors. Amongst other disqualification provisions, section 31(1)(a)-(c) of the Ordinance applies to persons convicted of certain types of crimes and to prisoners. A natural person is disqualified from being registered as an elector for a constituency if the person—

- (a) 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

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<sup>1</sup> The statutory deadline is 16<sup>th</sup> July for a District Council election year, and 16<sup>th</sup> May for other years.

- (ii) received a free pardon; or
- (b) on the date of application for registration, is serving a sentence of imprisonment; or
- (c) without limiting paragraph (a), where the election is to be held or is held within 3 years after the date of the person's conviction, is or has been convicted:
  - (i) of having engaged in corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554); or
  - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap. 201); or
  - (iii) of any offence prescribed by regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541).

### **Disqualification from Voting**

5. The LCO also sets out the arrangements under which a person is disqualified from voting. Section 53(5)(a)-(c) of the LCO specifies the disqualification provisions applicable to persons convicted of certain types of crimes and to prisoners. An elector is disqualified from voting if the elector—

- (a) 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
- (b) on the date of the election, is serving a sentence of imprisonment; or
- (c) without limiting paragraph (a), where the election is to be held or is held within 3 years after the date of the person's conviction, is or has been convicted:

- (i) of having engaged in corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554); or
- (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap. 201); or
- (iii) of any offence prescribed by regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541).

## **II. Applications for Judicial Review**

6. On 8 August 2008, Mr. Chan Kin-sum, Simon, a prisoner, applied for leave to apply for Judicial Review (“JR”) to challenge the constitutionality of section 31(1)(b) and 53(5)(b) of the LCO (case no. HCAL 79/2008). Chan also sought an order of Mandamus directing the Electoral Affairs Commission (“EAC”) to provide Hong Kong permanent residents who are serving a custodial sentence access to polling stations for the LegCo Election to be held on 7 September 2008.

7. On 15 August 2008, Mr. Choi Chuen-sun, a prisoner and a registered elector, applied for leave to apply for JR, seeking relief in similar terms as sought by Chan as well as an order of Mandamus directing the EAC to change his address to the prison address in the electoral register (case no. HCAL 83/2008).

8. On 11 August 2008, the Hon Leung Kwok-hung lodged another JR application on similar grounds and sought similar relief as Chan’s application (case no. HCAL 82/2008). He also challenged the constitutionality of section 31(1)(a)(i) and 53(5)(a)(i) of the LCO and sought an order of Mandamus directing the EAC to provide convicted persons and remanded unconvicted persons access to polling stations and/or facilities on 7 September 2008.

9. The Court granted leave to the JR applications on 18 August 2008.

## **III. The High Court’s Judgment**

10. After hearing the cases in November 2008, the Court handed down its judgment on the three JR cases in December 2008. The Court considers that the existing general, automatic, and indiscriminate restrictions on prisoners’ right to register as electors and to vote are unconstitutional. Arrangements should be made to enable prisoners to vote on the election day. The Court also takes the view that arrangements

should be made to enable remanded unconvicted persons to vote on the election day whilst being held in custody.

11. Another hearing on the JR cases was held in February 2009 during which the Court heard the submissions made by the parties on the appropriate relief (i.e. form of remedies) to be granted. On 11 March 2009, the Court handed down the judgment on the relief granted to the JR cases as summarised below-

- (a) the Court declares that the existing across-the-board restrictions on prisoners' right to be registered as electors and to vote under the LCO are unconstitutional;
- (b) the Court also declares that the EAC has a statutory duty to make all necessary arrangements that are within its powers to make to provide prisoners and remanded unconvicted persons who are registered as electors and are either serving sentences of imprisonment or held in custody with access to polling stations and/or voting facilities on the election day in a LegCo election, including a by-election; and
- (c) the Court grants a temporary suspension order in relation to its declarations relating to prisoners' voting right up to 31 October 2009.

### Existing Provisions Being Amended by the Voting by Imprisoned Persons Bill

Chapter:	569	Title:	CHIEF EXECUTIVE ELECTION ORDINANCE	Gazette Number:	L.N. 187 of 2001
Section:	26	Heading:	<b>Disqualification from voting</b>	Version Date:	21/09/2001

If a member of the Election Committee whose name appears on the final register of members of the Election Committee-

- (a) resigns under section 3(3) of the Schedule;
  - (b) is serving a sentence of imprisonment on the polling date of an election;
  - (c) falls within paragraph (a), (b), (c), ( f ) or (g) of section 18 of the Schedule; or
  - (d) is or has been convicted, within the 3 years before the polling date of an election, in the manner prescribed by subparagraph (i), (ii) or (iii) of section 18(e) of the Schedule,
- he shall be disqualified from voting at the poll.

Chapter:	569	Title:	CHIEF EXECUTIVE ELECTION ORDINANCE	Gazette Number:	7 of 2008
Schedule:		Heading:	<b>SCHEDULE</b>	Version Date:	25/04/2008

#### 18. When a person is disqualified from being a subsector candidate

A person is disqualified from being nominated as a candidate at a subsector election and from being elected as a member of the Election Committee if the person-

- (a) has ceased to have a substantial connection with the subsector concerned;



- (b) has ceased to be registered or eligible to be registered as an elector for a geographical constituency;
- (c) has in Hong Kong or in 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;
- (d) on the date of nomination or on the date of the subsector election, is serving a sentence of imprisonment;
- (e) without limiting paragraph (c), where the subsector election is to be held or is held within 3 years after the date of the person's conviction, is or has been convicted-
  - (i) of having engaged in corrupt conduct or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554);
  - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201); or
  - (iii) of any offence prescribed by the EAC Regulations;
- (f) is found for the time being under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his property and affairs; or
- (g) is a member of the armed forces of the People's Republic of China or any other country or territory.

### **30. When a voter is disqualified from voting at subsector election**

- (1) A person registered as a voter for a subsector is disqualified from voting at a subsector election for that subsector, if the person-
- (a) has ceased to be eligible to be registered as a voter for that subsector;
  - (b) has in Hong Kong or in 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;
- (c) on the date of the relevant subsector election, is serving a sentence of imprisonment;
- (d) without limiting paragraph (b), where the subsector election is to be held or is held within 3 years after the date of the person's conviction, is or has been convicted-
  - (i) of having engaged in corrupt conduct or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554);
  - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201); or
  - (iii) of any offence prescribed by the EAC Regulations;
- (e) is found for the time being under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his property and affairs; or
- (f) is a member of the armed forces of the People's Republic of China or any other country or territory.

Chapter:	542	Title:	LEGISLATIVE COUNCIL ORDINANCE	Gazette Number:	134 of 1997
Section:	24	Heading:	<b>Who is eligible to be registered as an elector: geographical constituencies</b>	Version Date:	03/10/1997

## PART V

### REGISTRATION OF ELECTORS

(1) Subject to this Part, a person is eligible to be registered as an elector for a geographical constituency only if the person-

- (a) is already registered as an elector in the then existing final register of geographical constituencies; or
- (b) applies in accordance with this Part to be registered as such an elector and is entitled to be so registered.

(2) A person is not, by virtue of being registered as an elector in an existing final register of geographical constituencies, entitled to be included as an elector in any subsequent register of geographical constituencies if the Electoral Registration Officer is satisfied on reasonable grounds that the person-

- (a) has since ceased to ordinarily reside in Hong Kong; or
- (b) no longer resides at the residential address recorded against the person's name in that existing register and that Officer does not know the person's new principal residential address (if any) in Hong Kong.

Chapter:	542	Title:	LEGISLATIVE COUNCIL ORDINANCE	Gazette Number:	134 of 1997
Section:	28	Heading:	<b>Elector to reside in Hong Kong</b>	Version Date:	03/10/1997

(1) A natural person is not eligible to be registered as an elector in the register of geographical constituencies unless, at the time of applying for registration, the person satisfies the Electoral Registration Officer-

- (a) that the person ordinarily resides in Hong Kong; and
- (b) that the residential address notified in the person's application for registration is the person's only or principal residence in Hong Kong.

(2) The Electoral Registration Officer may omit from the final register of geographical constituencies the name of an elector if satisfied on reasonable grounds-

- (a) that the elector no longer ordinarily resides in Hong Kong; or
- (b) that the residential address last notified to that Officer is no longer the elector's only or principal residence in Hong Kong.

(3) In this section, a reference to a person's only or principal residence in Hong Kong is a reference to a dwelling-place in Hong Kong at which the person resides and which constitutes the person's sole or main home.

Chapter:	542	Title:	LEGISLATIVE COUNCIL ORDINANCE	Gazette Number:	L.N. 189 of 2003
Section:	<b>31</b>	Heading:	<b>When person is disqualified from being registered as an elector</b>	Version Date:	11/07/2003

(1) A natural person is disqualified from being registered as an elector for a constituency if the person-

- (a) 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
- (b) on the date of application for registration, is serving a sentence of imprisonment; or
- (c) without limiting paragraph (a), where the election is to be held or is held within 3 years after the date of the person's conviction, is or has been convicted-
  - (i) of having engaged in corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554); or
  - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201); or
  - (iii) of any offence prescribed by regulations in force under the Electoral Affairs Commission Ordinance (Cap 541); or
- (d) 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
- (e) is a member of the armed forces of the Central People's Government or any other country or territory.

Chapter:	542	Title:	LEGISLATIVE COUNCIL ORDINANCE	Gazette Number:	L.N. 189 of 2003
Section:	53	Heading:	<b>When an elector is disqualified from voting at an election</b>	Version Date:	01/10/2004

(5) An elector is also disqualified from voting at an election if the elector-

(a) 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

(b) on the date of the election, is serving a sentence of imprisonment; or

(c) without limiting paragraph (a), where the election is to be held or is held within 3 years after the date of the person's conviction, is or has been convicted-

(i) of having engaged in corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554); or

(ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201); or

(iii) of any offence prescribed by regulations in force under the Electoral Affairs Commission Ordinance (Cap 541); or

(d) 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

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

Chapter:	547	Title:	DISTRICT COUNCILS ORDINANCE	Gazette Number:	33 of 2002
Section:	30	Heading:	<b>When an elector is disqualified from voting at an election</b>	Version Date:	27/12/2002

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) 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) on the date of the election, is serving a sentence of imprisonment; or
- (d) without limiting paragraph (b), where the election is to be held or is held within 3 years after the date of the person's conviction, is or has been convicted-
  - (i) of having engaged in corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554); or
  - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201); or
  - (iii) of any offence prescribed by regulations in force under the Electoral Affairs Commission Ordinance (Cap 541); or
- (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
- (f) is a member of the armed forces of the Central People's Government or any other country or territory.

Chapter:	576	Title:	VILLAGE REPRESENTATIVE ELECTION ORDINANCE	Gazette Number:	2 of 2003
Section:	14	Heading:	<b>When an elector is disqualified from voting at an election</b>	Version Date:	14/02/2003

A person registered as an elector for a Village is disqualified from voting at an election for the Village if the person-

- (a) has ceased to be eligible to be so registered;
- (b) has, in Hong Kong or any other place, been sentenced to death or imprisonment (by whatever name called) and has not-
  - (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;
- (c) on the date of the election, is serving a sentence of imprisonment;
- (d) without limiting paragraph (b), where the election is to be held or is held within 3 years after the date of the person's conviction, is or has been convicted-
  - (i) of having engaged in corrupt or illegal conduct;
  - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201); or
  - (iii) of any offence prescribed by the EAC Regulations;
- (e) is found under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his property and affairs; or
- (f) is a member of the armed forces of the People's Republic of China or any other country or territory.



Chapter:	576	Title:	VILLAGE REPRESENTATIVE ELECTION ORDINANCE	Gazette Number:	2 of 2003
Section:	16	Heading:	<b>When a person is disqualified from being registered as an elector</b>	Version Date:	14/02/2003

A person is disqualified from being registered as an elector for a Village if the person-

- (a) has, in Hong Kong or any other place, been sentenced to death or imprisonment (by whatever name called) and has not-
  - (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;
- (b) on the date of application for registration, is serving a sentence of imprisonment;
- (c) without limiting paragraph (a), where the election is to be held or is held within 3 years after the date of the person's conviction, is or has been convicted-
  - (i) of having engaged in corrupt or illegal conduct;
  - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201); or
  - (iii) of any offence prescribed by the EAC Regulations;
- (d) is found under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his property and affairs; or
- (e) is a member of the armed forces of the People's Republic of China or any other country or territory.