

CHAPTER 2

THE ELECTION COMMITTEE

Section 1 – The Election Committee and its Sectors and Subsectors

2.1 The EC is constituted under the CEEO for the purpose of electing the CE. The EC constituted on 1 February 2007 under the CEEO expired on 31 January 2012. According to section 9 of the CEEO, the term of office of the EC shall be five years and shall commence on 1 February in the year during which the term of office of the CE is to expire.

2.2 The EC comprises four sectors which are sub-divided into 38 subsectors. Out of these 38 subsectors,

- (a) EC members of 35 subsectors are elected by voters in the subsectors at the subsector ordinary elections;
- (b) the Hong Kong deputies to the National People's Congress ("NPC") and Members of the Legislative Council ("LegCo") are ex-officio members of the EC and constitute respectively the NPC subsector and the LegCo subsector; and
- (c) the Religious subsector: Members are returned to the EC by way of nomination by the six designated bodies of the subsector.

Details of the composition of the EC are set out at **Appendix I**.

Section 2 – Registration of Voters for the Election Committee Subsectors

2.3 The CEEO provides for the annual publication of a provisional register (“PR”) and a final register (“FR”) of voters for subsectors. Detailed procedures for registration of voters for the subsectors are set out in the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (“EAC (R) (FCSEC) Reg”). The Electoral Registration Officer (“ERO”) is required to publish, not later than 15 June in a non-District Council (“DC”) election year (or 15 August in a DC election year), the PR of voters for subsectors together with an omissions list containing the names of those persons who were formerly registered as subsector voters, but are taken out from the PR and proposed to be omitted from the next FR, based on the information received by the ERO who is satisfied on reasonable grounds that the persons concerned are no longer eligible to be registered or are disqualified from being registered as voters. The ERO is also required to publish the subsector FR not later than 25 July in that year (or 25 September in a DC election year).

2.4 For 2011, which was a DC election year, the subsector PR and the omissions list were published on 15 August 2011 for public inspection until 29 August 2011. By the deadline on 29 August 2011, there was no claim or objection against the entries in the subsector PR and omissions list lodged with the ERO. The ERO also took the opportunity to seek and obtain the approval of the Revising Officers to add to the subsector FR 185 entries of voters whose eligibility for registration was reinstated or subsequently confirmed and to remove 52 entries of voters who had requested de-registration or whose notifications for registration were undelivered. The subsector FR was then published by the ERO on 15 September 2011.

2.5 The 2011 DC Election and the 2011 ECSS Elections were held on 6 November 2011 on 11 December 2011 respectively. Since the 2011 ECSS Elections were held only about one month after the 2011 DC Election, arrangements were made in accordance with the CEEO to enable the newly elected DC members to be automatically registered in the two DC subsectors before the ECSS Elections in December 2011. Where the names of any newly elected DC members had already been registered as voters in other subsectors, arrangements were also made to remove these names from the FR of such subsectors at the same time when the persons concerned were automatically registered in the DC subsectors. To reflect the aforesaid registration, the ERO updated the subsector FR mentioned in paragraph 2.4 above and published an updated subsector FR on 18 November 2011.

2.6 Persons whose names appeared on the subsector FR were eligible to make nomination at the ECSS Elections and to vote at the poll on 11 December 2011, unless they had been disqualified from doing so under the law. The subsector FR will continue to have effect until the publication of the next subsector FR in July 2012. A breakdown of the number of voters for the EC subsectors is at **Appendix II**.

Section 3 – Publication of the Interim Register and the Final Register of Members of the Election Committee

2.7 According to section 40 of the Schedule to the CEEO, the ERO is required to compile an interim register (“IR”) of members of the new term EC and publish the IR within seven days after publication of the results of the ECSS ordinary elections. The ERO is also required to compile an FR of members of the new term EC on the basis of the IR of EC members, taking into account any

amendments made, and publish the FR on the date when the term of office of the new EC commences.

2.8 The results of the ECSS Elections held on 11 December 2011 were published in the Gazette on 15 December 2011. The ERO published the IR for the EC members for public inspection on 21 December 2011. The FR of the new term EC members based on the IR of EC members was published on 1 February 2012. Persons whose names appeared on the FR of EC members were eligible to make nomination at the CE Election and to vote at the poll scheduled for 25 March 2012, unless they had been disqualified from doing so under sections 16(5)¹ and 26² of the CEEO. A breakdown of the number of EC members on the FR is at **Appendix III**. The FR of EC members will cease to have effect upon the publication of the next FR of EC members.

¹ According to section 16(5) of the CEEO, an EC member whose name appears on the final register shall be disqualified from making nominations if he or she-

- (a) resigns from the EC;
- (b) is serving a sentence of imprisonment for the time being (in the case of nomination) or on the polling date (in the case of voting);
- (c) has ceased to have a substantial connection with the subsector concerned;
- (d) has ceased to be registered or eligible to be registered as an elector for a geographical constituency;
- (e) has in Hong Kong or in any other place been sentenced to death or imprisonment (by whatever name called) and has not either served the sentence or undergone such other punishment as a competent authority may have substituted for a sentence, or received a free pardon;
- (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;
- (g) is a member of the armed forces of the People's Republic of China or any other country or territory; or
- (h) is or has been convicted, within the three years before the polling date, of having engaged in corrupt conduct or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554); or of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201); or of any offence prescribed by the EAC Regulations.

² According to section 26 of the CEEO, an EC member whose name appears on the final register shall be disqualified from voting at the poll if he or she-

- (a) resigns from the EC;
- (b) has ceased to have a substantial connection with the subsector concerned;
- (c) has ceased to be registered or eligible to be registered as an elector for a geographical constituency;
- (d) 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
- (e) is a member of the armed forces of the People's Republic of China or any other country or territory.

Section 4 – Voters Disqualified from Voting at the 2011 ECSS Elections

2.9 According to section 30 of the Schedule to the CEEO, a registered voter for a subsector is disqualified from voting at the relevant subsector election if he/she has ceased to be eligible to be registered as a voter for that subsector. After the publication of the subsector FR and before the polling day of the ECSS Elections, the ERO would issue a letter to the registered voters who are found to have ceased to be eligible for registration to remind them not to vote at the relevant elections and of the legal consequence if they vote at the elections.

2.10 In the run-up to the polling day of the 2011 ECSS Elections, there were public concerns about suspected ineligible voter cases and that the registered voters of some subsectors, including the Information Technology subsector and the Education subsector, might have ceased to be eligible to be registered as voters and would be disqualified from voting at the ECSS Elections. To allay the aforesaid public concerns, the ERO issued letters to all umbrella organisations shortly before the poll setting out the legislative provisions relating to disqualification from voting, and the offence where a person voted at an election knowing that he was not entitled to vote at that election. The letter also appealed to the umbrella organisations to remind their members not to vote at the ECSS Elections if they had lost their eligibility for voting and sought their assistance in providing the ERO with a list of such persons. Both the Chairman of the EAC and SCMA disseminated and stressed the same message through the media on different occasions.

2.11 During the period between the date of publication of the subsector FR and the polling day of the ECSS Elections, a total of 322 voters in ten subsectors, including the Information Technology subsector and the Education

subsector, were identified as having been disqualified from voting. The ERO issued letters to such persons in November and early December 2011 to remind them not to vote at the ECSS Elections and the legal consequence if they voted at the elections. In response to the Registration and Electoral Office (“REO”)’s letter, four voters provided documentary proof of their continued eligibility to the REO and their eligibility for voting was subsequently verified before the poll. The poll registers were also marked with identifiers of these disqualified voters so that should the voters turn up at the polling stations to cast votes, the Presiding Officers (“PROs”) concerned could suitably advise and warn them of the legal consequence if they voted in the elections. No disqualified voter was found to have voted at the 2011 ECSS Elections.