

CHAPTER 3

THE ELECTION COMMITTEE

Section 1 – The Election Committee and its Sectors and Subsectors

3.1 The EC is constituted under the CEEO for the purpose of nominating and electing the CE. According to section 9 of the CEEO, the term of office of the EC shall be 5 years and shall commence on 1 February in the year during which the term of office of the CE is to expire. Therefore, the EC constituted on 1 February 2012 expired on 31 January 2017.

3.2 The EC comprises 38 subsectors in 4 major sectors. 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 LegCo are ex-officio members of the EC and constitute respectively the NPC subsector and the LegCo subsector; and
- (c) EC members of the Religious subsector are returned by way of nomination by the 6 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

3.3 The CEEO provides for the annual publication of a PR and a FR of voters for subsectors. Detailed procedures for registration of voters for the subsectors are set out in the EAC (ROE) (FCSEC) Reg. The ERO is required to publish, not later than 1 June in a non-DC election year (not later than 1 August in a DC election year), the PR of voters for subsectors together with an OL. The OL sets out the names and addresses of those persons (either an individual or a body) who were formerly registered as subsector voters, but are struck out by the ERO when compiling the PR of voters and proposed to be omitted from the next FR of voters, where the ERO is satisfied on reasonable grounds based on the information received that the concerned persons (either an individual or a body) are no longer eligible to be registered or do not wish to remain registered in the register. The ERO is also required to publish the subsector FR not later than 25 July in that year (not later than 25 September in a DC election year).

3.4 For 2016, which was a non-DC election year, the subsector PR and the OL were published on 1 June 2016 for public inspection until 25 June 2016. During the period, members of the public might lodge with the ERO objections to the entries in the subsector PR. Any persons whose particulars had not been recorded in the PR of voters or whose names had been included in the OL might also lodge claims with regard to such cases to reinstate their VR. By the deadline on 25 June 2016, the ERO received two notices of claims. The hearings in respect of these claims were held on 29 June, 30 June and 4 July 2016 respectively. After the hearings, the Revising Officer dismissed the 2 claims. The subsector FR was then published by the ERO on 16 July 2016.

3.5 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 2016, unless they had been disqualified from doing so under the law. The subsector FR would continue to have effect until the publication of the next subsector FR in July 2017. 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

3.6 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 7 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 EC FR on the date when the term of office of the new EC commences.

3.7 The results of the ECSS Ordinary Elections held on 11 December 2016 were published in the Gazette on 15 December 2016. The ERO also published the IR for the EC members for public inspection on 21 December 2016. The FR of the new term EC members based on the IR of EC members was published on 1 February 2017. 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 26 March 2017, 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.

Section 4 – Voters Disqualified from Voting at the 2016 Election Committee Subsector Ordinary Elections

3.8 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 Ordinary 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.

3.9 The FR of voters shall be valid for 1 year upon its publication in July 2016. Since the 2016 ECSS Ordinary Elections would be held on 11

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

- (a) has resigned as an EC member (other than an ex-officio member);
- (b) is serving a sentence of imprisonment for the time being (in 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 any substitute 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/her 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 3 years before the polling date, of having engaged in corrupt or illegal conduct in contravention of the ECICO; of an offence against Part II of the Prevention of Bribery Ordinance (Cap. 201); or of any offence prescribed by the regulations made by the EAC.

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

- (a) has resigned as an EC member (other than an ex-officio member);
- (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 to be incapable, by reason of mental incapacity, of managing and administering his/her 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.

December 2016, there might be changes in the registration eligibility of voters of individual subsectors in the interim. To maintain the integrity of the election, the ERO had written to about 270 designated bodies³ in October/November 2016 and requested them to keep the REO updated on any latest changes concerning the VR eligibility of their members/staff and to remind their members/staff not to vote in the 2016 ECSS Ordinary Elections in case they had lost their registration eligibility subsequent to the publication of the FR of voters.

3.10 In the process of obtaining the latest information of the members/staff of the designated bodies to verify whether the voters in the FR of voters could still fulfil the registration eligibility, the REO had identified 1 403 voters who might have been disqualified from voting in the 2016 ECSS Ordinary Elections owing to the loss of registration eligibility. These voters were mainly from the Information technology subsector, Higher education subsector, Accountancy subsector, and Social welfare subsector. The REO had written to the voters concerned before the polling day of this election to inform them of the change in their registration eligibility and reminded them of the statutory provision that it would be a corrupt conduct under the ECICO if a person voted at an election knowing that he/she was not entitled to do so. These voters should not vote in the 2016 ECSS Ordinary Elections unless they had presented proof to clarify their registration eligibility in their respective subsectors before the election. According to the prevailing electoral legislation, although such voters had lost their eligibility to vote in the election concerned, the REO had no power to stop them from voting as their names were still included in the existing FR of voters. However, if such voters requested to be issued with the ballot papers at the polling station on the polling day, the polling staff would remind them of their loss of eligibility to vote at the election

³ These designated bodies (about 270) were from contested subsectors, not including those from individual uncontested subsectors.

concerned. If they insisted to vote, the polling staff would give a verbal warning reminding them that voting at an election knowing that they were not entitled to do so might constitute a breach of the ECICO. Polling staff would record such cases and the REO would refer the cases to the law enforcement agencies (“LEAs”) for investigation afterwards⁴.

⁴ For the 2016 ECSS Ordinary Elections, the REO had, in accordance with relevant records, referred cases involving two voters from the Higher education subsector and 1 voter from the Information technology subsector to the ICAC for follow-up action. In accordance with section 93(2) of the EAC (EP) (EC) Reg, the provisions on secrecy of votes do not apply to the disclosure of any information relating to whether a person has or has not applied for a ballot paper to the ICAC for the purpose of facilitating its investigation of illegal conduct under the ECICO.