

CHAPTER 14

EXIT POLL

PART I : GENERAL

14.1 This chapter sets out the guidelines for the conduct, publication and broadcast of exit polls on the polling day. The EAC respects academic freedom and freedom of expression in conducting exit polls. However, the EAC also strives to uphold the principles of openness, honesty and fairness in the conduct of public elections, including the protection of electors from undue influence or interference and the maintenance of order outside the polling stations. As such, a fair balance between the two ends must be struck. *[Amended in September 2011, September 2019 and September 2023]*

14.2 Secrecy of the vote is an important principle under the electoral system. It is entirely voluntary for electors to participate in any exit polls and they are not required to disclose to the persons or organisations conducting the exit polls their voting preference unless they wish to do so. *[Added in September 2019]*

14.3 Voting polls inside a polling station or an NSZ are strictly prohibited by virtue of the secrecy provisions under the law. However, exit polls may be conducted within the NCZ outside the exit of the polling station if approval from the EAC has been obtained [s 94(7) of the EAC (EP) (DC) Reg]. *[Added in September 2019]*

14.4 No exit polls approved by the EAC should be used for electioneering purposes in promoting or prejudicing the election of a candidate or candidates. Persons or organisations conducting exit polls must not be

affiliated with the candidates, and must ensure that the results of exit polls will not be disclosed to any candidate or other persons before the close of the poll. The interviewers should make clear to the electors that participation in the exit polls is entirely voluntary. *[Added in September 2019]*

14.5 To strictly regulate the exit polls, all persons or organisations applying for the conduct of exit polls are required to make a statutory declaration of compliance with the terms and guidelines governing the conduct of exit polls (see para. 14.12 below). The approval may be revoked if the terms and guidelines are contravened. If the persons or organisations concerned knowingly make any false statutory declaration, they will be in breach of s 36 of the Crimes Ordinance and shall be liable on conviction to imprisonment for 2 years and to a fine. *[Added in September 2019]*

14.6 Except for exit polls conducted within the NCZ on the polling day mentioned in para. 14.3 above, election-related opinion polls conducted outside the NCZ or before the polling day are not regulated by the existing legislation. These polls do not fall within the scope of exit polls regulated by the EAC. *[Added in September 2019]*

14.7 **The EAC appeals to the media to act with self-discipline, goodwill and in a spirit of voluntary co-operation in publishing and broadcasting the results of exit polls and other election-related opinion polls by refraining from announcing the said results before the close of the poll, lest there be undue influence on electors' voting behaviour.** *[Amended in August 2008 and September 2019]*

PART II : SECRECY OF THE VOTE

14.8 **The ballot is secret.** It is an elector's right to keep his/her vote

secret. An elector does not have to disclose his/her choice of candidate if he/she does not want to. **It is a criminal offence for a person, without lawful authority, to require, or purport to require, an elector to disclose the name of, or any particular relating to, the candidate for whom the elector has voted at an election** [s 48 of the DCO and s 94(7) of the EAC (EP) (DC) Reg]. **Interviewers who conduct exit polls must respect the electors' right and wish not to be disturbed**, and should inform the electors being interviewed that their participation in the exit polls is voluntary prior to the conduct of exit polls. *[Amended in September 2007 and August 2008]*

14.9 Any announcement or disclosure of results of exit polls or predictions, particularly in relation to any individual candidate, during the polling hours may affect electors' voting preference and have an impact on election results. **The EAC, therefore, reminds the media and persons/organisations concerned that they should not announce the results of exit polls or make specific remarks or predictions on the performance of individual candidates before the close of the poll. Furthermore, interviewers of approved exit polls should not speak to or communicate with candidates or their agents when conducting the poll outside polling stations.** *[Amended in August 2008 and September 2015]*

PART III : CONDUCT OF EXIT POLLS

14.10 Any person or organisation may apply for conducting exit polls in respect of any constituency to the REO, which handles such applications on behalf of the EAC. Since the person or organisation applying for the conduct of exit polls is required to make a statutory declaration (see para. 14.12 below) of compliance with the relevant terms and guidelines governing the conduct of exit polls, for which there are serious consequences and possible criminal liability in case of breaches, the individual applicant must be at least 18 years

of age. Nevertheless, to avoid giving the public a misimpression of unfairness and to maintain order at the polling stations, approval would normally not be granted if the application involves one or more of the following circumstances:

- (a) the applicant has publicly expressed support for any candidate contesting in the constituency of which any polling stations are covered by the exit poll;
- (b) the applicant organisation has a member standing as a candidate contesting in the constituency of which any polling stations are covered by the exit poll;
- (c) the person responsible for the exit poll or the interviewer assigned for the conduct of the poll is currently a member of an organisation:
 - (i) which has a member standing as a candidate contesting in the constituency of which any polling stations are covered by the exit poll; or
 - (ii) which has publicly expressed support for any candidate contesting in the constituency of which any polling stations are covered by the exit poll;
- (d) the applicant organisation, the person responsible for the exit poll or the conduct of the proposed exit poll may cause embarrassment to the EAC given its role;
- (e) the conduct of the proposed exit poll may affect the operation of or cause disturbance at the polling station, compromise public perception of the credibility of the election, or lead to any concerns of public order or public health, etc.

Approval to the applications will be considered on a case-by-case basis and there are no exhaustive lists of considerations. An application will generally not be approved if the background of the applicant/organisation (including his/her/its affiliation) and the applicant/organisation/proposed exit poll's association with any person/matter may discredit or be perceived as discrediting the role of the EAC and the credibility of the election.

[Amended in August 2008, January 2010, September 2012, September 2015, September 2019 and September 2023]

14.11 For security reasons, no exit polls may be conducted for dedicated polling stations. For the purpose of better control of the conduct of exit polls, persons or organisations intending to conduct exit polls must provide the following to the REO at **the latest ten days before the polling day**:

- (a) the name and address of the person or organisation intending to conduct an exit poll on the polling day;
- (b) the identity document number and name of the person responsible for the exit poll together with his/her telephone number(s) for contact, especially during the polling hours; and
- (c) a list showing the number of persons who will be deployed for the conduct of the exit poll at each polling station on the polling day together with the identity document number and name of each of all the persons who will be so deployed.

[Amended in August 2008, January 2010 and September 2012]

14.12 A person or an organisation applying for the conduct of exit polls must make a statutory declaration by virtue of the Oaths and Declarations Ordinance (Cap 11) to abide by the relevant terms and guidelines governing the conduct of exit polls. Upon receipt of the application, the REO will consider the application and issue approval to the person or organisation concerned as appropriate. If a person or an organisation fails to comply with the terms stipulated in the approval letter and the guidelines set out in this chapter, the approval to conduct exit polls on the polling day or during the polling hours may be revoked. The EAC may also make a reprimand or censure in a public statement which will include the name of the person or organisation who/which fails to comply with the terms stipulated in the approval letter and the guidelines. A notice showing the persons or organisations allowed to conduct exit polls and their contact telephone numbers will be released to the public prior to the polling day for the reference of the public and candidates. Such a notice will also be displayed at the respective polling stations.

IMPORTANT :

Persons or organisations applying for the conduct of exit polls are not allowed to collect or retain any personal data relating to the identity of the electors (i.e. any data relating directly or indirectly to the electors, from which it is practicable for their identities to be directly or indirectly ascertained, such as names, Hong Kong identity card numbers, telephone numbers and addresses).

[Amended in August 2008, September 2011, September 2015, September 2019 and September 2023]

14.13 Exit polls must not be conducted inside polling stations and the NSZ. Interviewers should note that canvassing is prohibited within the NCZ and is subject to criminal sanction, with the exception of door-to-door

canvassing activities (in both residential premises and commercial premises such as restaurants or shops) on any storey above or below street level (i.e. not including the storey at the street level) in buildings other than the one in which a polling station is located, provided that permission has been obtained for entry to the building for canvassing votes, no obstruction is caused to electors and no sound amplifying device is used. Interviewers must therefore take extra care in conducting exit polls so as not to give rise to any suspicion that they are canvassing electors inside the NCZ. Interviewers, like any other person, are not allowed to stay or loiter in an area designated as an NSZ (within the NCZ but immediately outside the entrance/exit to each polling station). [S 43 of the EAC (EP) (DC) Reg] Interviewers are also not allowed to accost electors in the NSZ. All these measures are for the purpose of securing safe and smooth passage of electors into and out of polling stations. *[Amended in September 2007, September 2011 and September 2019]*

14.14 The PRO of a polling station may, if circumstances permit, designate an area **outside the exit of the polling station** for interviewers to conduct exit polls therein. As the entrance and exit of some polling stations are at the same location, interviewers conducting exit polls should keep a reasonable distance from the exit and ensure that electors entering the polling station will not be affected when the said exit polls are being conducted. *[Added in September 2019]*

PART IV : IDENTIFICATION OF INTERVIEWERS

14.15 There were cases where exit poll interviewers were mistaken for government officials or polling staff. Interviewers are therefore required to display prominently an identification device showing the identity of the person or organisation conducting an exit poll so that electors will not be misled into thinking that they are appointed by the Government. In addition, the

interviewers are required to make known to the electors that any response is entirely voluntary. Arrangements should be made for electors to be aware of the name of the person or organisation conducting the exit poll at the start of the interview and the fact that the exit poll is not commissioned by the Government. *[Amended in August 2008 and September 2012]*

14.16 After receipt of the information referred to in para. 14.11 above, the REO will notify the person or organisation concerned to collect a number of identification devices bearing the name of the person or organisation that is required to be displayed prominently by each of the persons included in the list in para. 14.11(c) above when conducting an exit poll. Any person not displaying prominently such a device will not be allowed to conduct an exit poll outside any polling station. *[Amended in August 2008]*

PART V : EXIT POLLS AND OTHER OPINION POLLS FOR ELECTIONEERING

14.17 As mentioned in para. 14.4 above, exit polls approved by the EAC are not allowed to be used for electioneering purposes in all circumstances. *[Added in September 2019]*

14.18 If a candidate makes use of the results of other opinion polls for the purpose of promoting the election of himself/herself or prejudicing the election of other candidates, the expenses incurred for conducting the polls will be regarded as his/her election expenses. *[Added in September 2019]*

14.19 If persons other than candidates or the authorised election expense agents make use of the results of the exit polls or other opinion polls for the purpose of promoting or prejudicing the election of any candidate, they

will commit the relevant offence of incurring election expenses without being authorised as an election expense agent. *[Added in September 2019]*

PART VI : SANCTION

14.20 Apart from the criminal sanction provided in the DCO and the EAC (EP) (DC) Reg, if the EAC comes to know that any broadcaster or organisation has failed to heed or comply with the guidelines in this chapter, it may make a **reprimand** or **censure** in a public statement which will include the name of the broadcaster or the organisation concerned. *[Amended in August 2008 and September 2019]*