

CHAPTER 4

POLLING AND COUNTING ARRANGEMENTS

PART I : GENERAL

4.1 An elector may vote only at the polling station allocated to him/her. In general, the REO will assign a DCGC elector to vote at a polling station within his/her DCGC and close to his/her residential address recorded in the final register of GCs. For DCC elections, 1 polling station will be set up in each of the 18 Districts in Hong Kong for a DCC elector to vote at a polling station within the District where his/her DCC belongs. *[Added in September 2019 and amended in September 2023]*

4.2 If an elector with mobility difficulty is assigned to a polling station that is not easily accessible for him/her, the elector may apply to the REO for re-assigning to a special polling station with barrier-free access to cast his/her vote. Please see para. 4.21 below for details. *[Added in September 2019 and amended in September 2023]*

4.3 A No Canvassing Zone (“NCZ”) will be designated outside each polling station to ensure that electors can gain access to the polling station without interference. In addition, a No Staying Zone (“NSZ”) in which no one is allowed to stay or loiter will also be designated immediately outside the entrance/exit of a polling station to avoid any obstruction of the entry/exit. *[Added in September 2019]*

4.4 No canvassing activities are allowed within the NCZ. Regarding buildings within the NCZ, all canvassing activities by candidates and their campaigners are prohibited in the entire building where a polling

station is located as well as on the ground floor of other buildings, regardless of whether they are government or private premises, and even if approval from the building management concerned is obtained. Please see Part III of this chapter for details. *[Added in September 2019]*

4.5 The CEO will designate by notice in the Gazette the polling hours at least 10 days before the polling day. About 30 minutes before the commencement of poll (or 15 minutes for dedicated polling stations situated in penal institutions), the PRO will admit the candidates, their election agents or polling agents, if present, into the polling station to observe the process of opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. After the close of the poll, the PRO will lock and seal the ballot boxes in the presence of the candidates and their agents, if present. The count will only commence when polling at all polling stations of the same constituency has closed. *[Added in September 2019 and amended in September 2023]*

4.6 Only electors and designated/authorised persons are allowed entry to a polling station. Electors requiring assistance from others for entering a polling station may make a request to the PRO for discretionary arrangements as appropriate. *[Added in September 2019]*

4.7 In order to be more flexible, efficient and accurate in the issuance of ballot papers, an Electronic Poll Register (“EPR”) system will generally be adopted for issuing ballot papers at polling stations (except for dedicated polling stations). Upon entry to a polling station, electors should follow the instructions on site and collect ballot papers at any of the ballot paper issuing desks. Please see Parts VI and VII of this chapter for details. *[Added in September 2023]*

4.8 The ballot is autonomous and secret. No one may use any force or threaten to use force against a person to make him/her vote or not vote for any particular candidate at an election. Also, no one is obligated to disclose which candidate he/she has voted for or is going to vote for. *[Added in September 2019]*

4.9 After collecting the ballot paper, an elector should immediately proceed to a voting compartment to mark his/her vote on the ballot paper. Each voting compartment can only be used by one elector at any one time. Based on the principle of the autonomous and secret ballot, it is prohibited by the law to have anyone (not even a relative or friend of the elector) to accompany or assist the elector to vote. If an elector has difficulty in marking his/her vote, he/she may, as stipulated under the law, ask the PRO or the PRO's deputy to mark the ballot paper on his/her behalf according to his/her voting preference, in the presence of one polling staff as a witness. Please see para. 4.53 below for details. *[Added in September 2019 and amended in September 2023]*

4.10 No one is allowed to display, circulate, share or discuss with others any material containing the name and/or number of a candidate inside the polling station or the NCZ. Such acts are against the law. Nevertheless, it is not prohibited by the law for an elector to enter the polling station with a memorandum containing the name or number of the candidate of his/her choice (e.g. a leaflet bearing the information of the candidate or a reminder note commonly known as “thunder in the palm (掌心雷)”) for that elector's own reference to mark the ballot paper inside the voting compartment. *[Added in September 2019]*

4.11 Under no circumstances is anyone allowed to induce an elector to vote or not to vote for a particular candidate or particular candidates by offering advantages, food, drink or entertainment, by using force or duress against a

person, or by a deception, and to wilfully obstruct or prevent an elector from voting at the election. Such acts violate the ECICO. There are occasions when electors may require assistance from others or transportation service in accessing the polling station. However, in the course of the assistance and service, it must not involve the aforesaid unlawful acts under any pretext to induce an elector to vote or not to vote for a particular candidate or particular candidates. For details about corrupt conduct to wilfully obstruct or prevent another person from voting at an election, please see para. 16.27 of Chapter 16. *[Added in September 2019 and amended in September 2023]*

4.12 Exit polls may be conducted within the NCZ outside polling stations by organisations approved by the REO. Participation in any exit poll is entirely voluntary. Electors need not disclose to the organisations concerned which candidates they have voted for unless they wish to do so. Please see Chapter 14 for matters relating to exit polls. *[Added in September 2019 and amended in September 2023]*

4.13 Polling stations are classified into 5 types:

- (a) **Ordinary Polling Stations** – for use by DCGC electors to cast their votes. The ordinary polling stations will be converted to counting stations immediately after the close of the poll for counting DCGC ballot papers;
- (b) **DCC Polling Stations** – for use by DCC electors to cast their votes within the District where his/her DCC belongs. The DCC polling stations will be converted to counting stations and designated as main counting stations immediately after the close of the poll for counting DCC ballot papers. DCC ballot papers from 1 or more than 1 special polling station(s), ballot paper sorting station or dedicated polling station(s) will be delivered to

the designated main counting station and mixed with the DCC ballot papers in at least 1 ballot box at the polling station designated as the main counting station before counting;

- (c) **Dedicated Polling Stations** – set up inside penal institutions or other suitable places (e.g. police stations) for registered electors who are imprisoned or held in custody by the law enforcement agencies on the polling day to cast their votes. Counting of votes will not be carried out at dedicated polling stations. Ballot papers cast therein will subsequently be counted at the main counting stations of the relevant constituencies. For DCGCs, since each dedicated polling station established in penal institutions and police stations will have 1 DCGC ballot box for electors of different DCGCs to cast their votes, the ballot papers received must first be delivered to a ballot paper sorting station for sorting after the close of the poll. For DCCs, the number of DCC electors imprisoned or held in custody in each penal institution will be checked prior to the polling day. DCC polling stations will be set up accordingly at the dedicated polling stations in penal institutions where DCC electors are imprisoned or held in custody, with corresponding DCC ballot boxes provided. After close of the poll, the ballot boxes will be delivered directly to the corresponding main counting stations and the ballot papers inside will be mixed with other ballot papers of the same DCC for counting. As for DCC dedicated polling stations established in police stations, each will have 1 ballot box for electors of different DCCs to cast their votes. Therefore, the ballot papers received must first be delivered to a ballot paper sorting station for sorting after the close of the poll. Staff at the ballot paper sorting station will open the ballot boxes of DCC dedicated polling stations from police stations and place ballot

papers of the same DCC in orange receptacle(s). The ballot papers will then be delivered to the designated main counting stations and mixed with other ballot papers of the same DCC for counting;

- (d) **Special Polling Stations** – for electors with mobility difficulty who have applied for re-assigning to a polling station with barrier-free access because the originally assigned one is not accessible by wheelchairs. For DCGC elections, as there are many polling stations in a DCGC, the special polling station will be set up in an ordinary polling station with barrier-free access within the same DCGC. DCGC electors allocated with a special polling station will cast their votes into the same ballot boxes being used by the newly assigned ordinary polling station, and the votes will be counted together with the ballot papers of the same DCGC in the ballot boxes of that ordinary polling station. For DCC elections, since only 1 DCC polling station will be set up for each of the 18 Districts in Hong Kong, if any DCC polling station does not have barrier-free access, DCC polling stations in other Districts will be used as special polling stations. DCC electors allocated with a special polling station will cast their votes into their respective DCC ballot boxes inside the special polling stations. The ballot papers will be delivered to the respective DCC polling station designated as the main counting station and mixed with the DCC ballot papers in that polling station before counting²⁷; and

- (e) **Small Polling Stations** – in relation to DCGCs, referring to polling stations at which less than 200 electors are assigned to

²⁷ Since only 1 DCC polling station will be set up in each of the 18 Districts in Hong Kong, the REO will strive to arrange venues with barrier-free access to set up DCC polling stations. Therefore, it is unlikely that additional special polling stations will need to be designated for DCC elections.

vote. Small polling stations are only designated for polling and counting of votes will not be carried out therein. After the close of the poll, the ballot boxes of a small polling station will be delivered to the designated main counting station and the DCGC ballot papers inside will be mixed with the DCGC ballot papers in that main counting station before counting. Small polling stations will not be designated for DCCs.

[Added in September 2023]

PART II : BEFORE THE POLL

Gazettal of Notice

4.14 A number of polling stations will be designated in each of the DCGCs. For DCC elections, one DCC polling station will be set up for each of the respective Districts. Besides, dedicated polling stations for DCGC and DCC elections will be set up in penal institutions (if necessary) and designated police stations. Polling stations, with the exception of small polling stations, special polling stations and dedicated polling stations, will be converted to counting stations for the count of DCGC or DCC ballot papers after the close of the poll. *[Added in September 2023]*

4.15 The CEO must designate by notice in the Gazette particular place(s) as polling station(s) (including ordinary polling station(s), DCC polling station(s), special polling station(s) and small polling station(s)), dedicated polling station(s), ballot paper sorting station(s)²⁸ or counting station(s) at least 10 days before the polling day. The CEO may also

²⁸ A ballot paper sorting station may be set up to sort ballot papers received from dedicated polling stations according to each constituency before they are delivered to the corresponding main counting stations for counting of votes.

designate the same place as both a polling station and a counting station. If there are 2 or more counting stations for a constituency, he/she will designate the polling station at which the largest number of electors are to vote as the **dominant counting station**²⁹. For DCGCs, the CEO will also designate a polling station (other than a special polling station) at which less than 200 electors are to vote as a **small polling station**. If 2 or more polling stations have been designated for a constituency and at least 1 of them is a small polling station, a special polling station or a dedicated polling station, he/she will designate 1 polling station (other than a small polling station, a special polling station or a dedicated polling station) as a **main counting station** for the purpose of counting the votes cast at the polling station, the small polling station(s), the special polling station(s) and/or the dedicated polling station(s). Nonetheless, the CEO may, before the election, designate another place in addition to or in substitution of a place designated as a polling station, if necessary. [Ss 31(1), (1A), (1B), (1C), (1CA), (1D), (4) and 32 of the EAC (EP) (DC) Reg] The RO must, at least 10 days before the polling day, give notice in writing to each candidate of the place or places at which counting of votes and where applicable, at which sorting of ballot papers received from the dedicated polling stations is to take place for the constituency contested by the candidates [ss 2(3), 65(3) and (4) of the EAC (EP) (DC) Reg]. *[Amended in August 2008, January 2010, September 2012, September 2015, September 2019 and September 2023]*

4.16 Where premises occupied by any school or organisation/association/body receiving grant from the Government's general revenue are concerned, the CEO may require by written notice the owner or occupier to allow an authorised person to carry out site visits. If the CEO considers the premises suitable for use as a polling station or a counting station,

²⁹ For a constituency with 2 or more counting stations, the counting station serving the largest number of registered electors will be designated as the dominant counting station to coordinate the results of counting of votes of all the counting stations for the constituency.

the CEO may require by written notice the owner or occupier to make available the premises for use as a polling station or a counting station in the DC election and allow an authorised person to carry out preparatory work and store materials at the premises. Anyone who fails to comply with the above requirements is liable to a fine of \$50,000. [Ss 31 and 31A of the EAC (EP) (DC) Reg] Besides, to facilitate the smooth conduct of major public elections and minimise the impact of the elections on schools' operation, in accordance with Education Bureau Circular No. 5/2020, starting from the school year 2020/21, all public sector schools, Direct Subsidy Scheme schools and private schools offering formal curriculum, including secondary schools, primary schools, kindergartens and kindergarten-cum-child care centres, shall designate the day following a major public election (i.e. DC ordinary elections and LegCo general elections) as a school holiday. *[Added in September 2023]*

No Canvassing Zone and No Staying Zone

4.17 An area outside each polling station will be designated as the NCZ and NSZ, the boundaries of which will be determined by the RO. All candidates of the constituency concerned will be notified of these zones before the polling day [s 43 of the EAC (EP) (DC) Reg]. The RO may also authorise the PRO to vary the NCZ or NSZ on the polling day [s 43(8A) of the EAC (EP) (DC) Reg]. (See Chapter 13 for details)

Allocation of Polling Stations

4.18 A polling station for a DCGC is normally situated within the boundaries of the DCGC, but where there are no suitable premises for use within the DCGC, polling stations may have to be designated in nearby areas outside the DCGC. Where circumstances require, temporary structures may also be designated as polling stations. The polling stations designated for the DCGCs will be, as far as practicable, close to the residential addresses of

electors recorded in the final register of GCs. However, DCC electors will be assigned to vote at their corresponding DCC polling stations. Electors imprisoned or held in custody by the law enforcement agencies will be assigned to vote at the dedicated polling stations as appropriate [s 33(3) of the EAC (EP) (DC) Reg]. *[Amended in January 2010, September 2015 and September 2023]*

Poll Card

4.19 At least ten days before the polling day, poll cards will be sent to electors of contested constituencies at their registered addresses or correspondence addresses (if applicable) to notify them of the date, time and place of the poll. If the CEO decides to change any polling station, the CEO must as soon as practicable notify the electors, RO and PRO concerned in a manner that the CEO considers appropriate. To allow electors serving a sentence of imprisonment on the polling day to receive the poll cards as early as possible, the REO will send the poll cards to the penal institutions where the electors are serving their sentences insofar as practicable. [S 34(1), (2A), (3) and (4) of the EAC (EP) (DC) Reg] *[Amended in January 2010, September 2015 and September 2023]*

Uncontested Election

4.20 If no more candidates have been validly nominated than the number of members to be returned for a constituency, the candidate(s) will be declared as duly elected [s 23(1) of the EAC (EP) (DC) Reg]. Electors of that constituency do not need to vote, and will be issued a notice to that effect. *[Amended in September 2011 and September 2023]*

Special Polling Station

4.21 An elector **may vote only at the polling station(s) allocated to him/her** by the CEO [s 36(1) of the EAC (EP) (DC) Reg]. Most of the polling stations are accessible to persons with mobility difficulty. Accessibility of the polling station to persons who are wheelchair users or have difficulty in walking will be specified clearly in the location map attached to the poll card sent to each elector. If an elector with mobility difficulty is allocated a polling station not accessible to him/her, he/she may **at least five days** before the polling day apply to the CEO for re-assigning to a special polling station to cast his/her vote [s 35 of the EAC (EP) (DC) Reg]. If a special polling station is re-allocated to him/her, then he/she may vote only at that polling station [s 36(2) of the EAC (EP) (DC) Reg]. Subject to availability, free Rehabus service may also be arranged to take those electors to and from the special polling station. In case special circumstances require, the CEO may allocate to an elector an alternative polling station, in addition to or in substitution of the one originally allocated to him/her [s 33(4) of the EAC (EP) (DC) Reg]. The electors concerned may make enquiries with the REO on this subject by telephone or in writing. *[Amended in September 2007, September 2015 and September 2019]*

Dedicated Polling Station

4.22 Due to security reasons, the Commissioner of Correctional Services (“CCS”) is required to separate some persons imprisoned or held in custody from others inside the penal institutions. The CCS shall assign a time slot during the polling hours of a dedicated polling station situated in a penal institution to an elector who is held in custody and allocated to that polling station to vote, and inform the elector of the time slot assigned. The CCS must assign time slots for the electors so as to give them a reasonable opportunity to vote. An elector to whom a time slot is assigned may only cast

his/her vote during that time slot (see para. 4.56(c) below). [S 30(2A), (2B), (3A) and (5) of the EAC (EP) (DC) Reg] *[Added in January 2010]*

PART III : OUTSIDE THE POLLING STATION

4.23 Unless it is not practicable to do so, the PRO will arrange a copy of the relevant Introduction to Candidates published by the REO to be displayed outside the polling station, or if it is a dedicated polling station inside the polling station to facilitate easy reference by electors. *[Amended in September 2011]*

4.24 The CEO will display a map or plan showing the delineation of the polling station outside the polling station, or if it is a dedicated polling station inside the polling station [s 46(1A) of the EAC (EP) (DC) Reg]. An NCZ will be designated outside each polling station to ensure the undisturbed access of electors to the polling station. In addition, an NSZ in which no one is allowed to stay or loiter will be designated immediately outside the entrance/exit of a polling station to avoid obstruction to electors who enter or exit. Canvassing activities within an NCZ will be prohibited (except for the static display of EAs authorised by the RO, such as EAs mounted at designated spots). A notice of the determination of the NCZ and a map or plan showing the boundary of the area will be put up at or near the polling station [s 43(7) of EAC (EP) (DC) Reg]. (See Chapter 13 for details) *[Amended in September 2007, August 2008, January 2010, September 2011, September 2012, September 2015 and September 2019]*

- 4.25 On the polling day, a person must not:
- (a) engage in canvassing votes (including suggesting not voting for any candidate) within the NCZ, except for the door-to-door canvassing activities stated in para. 4.26 below;
 - (b) use a sound amplifying system or device for any purpose within the NCZ, except for the performance of duties by officers of the CSD on the polling day at dedicated polling stations situated in penal institutions;
 - (c) use a sound amplifying system or device, or conduct any activity (e.g. lion dance) for canvassing votes, so that the sound emitted by it can be heard in the NCZ;
 - (d) display or wear in the NCZ any promotional materials, such as any badge, emblem, clothing or head-dress (except for the static display of EAs authorised by the RO, such as EAs mounted at designated spots), which:
 - (i) may promote or prejudice the election of 1 candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or to a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or
 - (e) stay or loiter in the NSZ without the express permission of the PRO;

otherwise he/she commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months. [Ss 43(13), (13A), 48(5) and (7) of the EAC (EP) (DC) Reg] *[Amended in September 2007, September 2011, September 2015 and September 2019]*

4.26 No canvassing activities are allowed on the street level (i.e. ground floor) within the NCZ. Door-to-door canvassing may be allowed on the storeys above or below the street level, provided that permission has been obtained for entry into any building other than the building where the polling station is located within an NCZ for canvassing votes, and that no obstruction is caused to any person and no sound amplifying system or device is used. For the purpose of such door-to-door canvassing, it is permitted to display or wear promotional materials (e.g. any badge, emblem, clothing or head-dress which may promote or prejudice the election of a candidate or candidates at the election) or materials making direct reference to a body a member of which is standing as a candidate in the election, or the registered name or emblem of a prescribed body printed on any ballot paper for the election, but under no circumstances are such materials allowed to appear on the street level within the NCZ. [S 43(13), (14) and (15) of the EAC (EP) (DC) Reg] (See Chapter 13 for details) *[Added in September 2019]*

PART IV : POLLING HOURS

4.27 The CEO will designate by notice in the Gazette the polling hours at least 10 days before the polling day [s 30(4) of the EAC (EP) (DC) Reg]. About 30 minutes before the commencement of poll (or 15 minutes for dedicated polling stations situated in penal institutions), the PRO at a polling station will admit the candidates, their election agents or polling agents, if present, into the polling station to observe the process of opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. The PRO

will show that the sealed packets of ballot papers are not tampered with before opening the packets and the ballot boxes are empty before locking and sealing the boxes [s 51 of the EAC (EP) (DC) Reg]. The PRO will also inform such persons of and show to them the number of ballot papers of that constituency in his/her possession. For each candidate, only 1 person (i.e. either the candidate, election agent or polling agent) may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. *[Amended in September 2019 and September 2023]*

4.28 For dedicated polling stations situated in penal institutions, due to security reasons,

- (a) only a maximum of two candidates may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes at a dedicated polling station situated inside a maximum security prison;
- (b) only a maximum of any two of the candidates, their election agents or polling agents may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes at a dedicated polling station situated in a penal institution other than a maximum security prison.

Admission of candidates, their election agents or polling agents to the aforesaid dedicated polling stations to observe the process of opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes will be on a **first-come-first-served basis**. (The procedures for election agents or polling agents to apply for admission to dedicated polling stations situated in penal institutions are set out in Chapter 6.) *[Amended in January 2010 and September 2019]*

4.29 Where no candidates or none of their agents are present at the polling station, the above process of opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes will be conducted in the presence of any two of the following persons inside the polling station: police officers, members of the Civil Aid Service (“CAS”), officers of the CSD or polling staff (as the case may be). *[Amended in January 2010 and September 2019]*

4.30 For a small polling station and a special polling station where the votes cast will not be counted therein, a notice about the venue for the counting of votes will be displayed by the PRO outside the station [s 42(1A) of the EAC (EP) (DC) Reg]. For a dedicated polling station, a notice providing information on the ballot paper sorting station (if any) and the main counting station will be displayed inside the station [s 42(1B) of the EAC (EP) (DC) Reg]. *[Amended in January 2010]*

4.31 The polls for DCGC and DCC elections are conducted at ordinary polling stations and DCC polling stations respectively, and their ballot papers and ballot boxes will be different. Likewise, their ballot papers and ballot boxes at a dedicated polling station will also be different. *[Added in September 2023]*

4.32 Ballot papers for the respective DCGCs and DCCs will be made easily distinguishable by their difference(s) in colour, colour pattern and/or code (printed in the front and at the back). *[Added in September 2023]*

PART V : PERSONS TO BE ADMITTED TO THE POLLING STATION

4.33 In addition to electors, only the following persons may be admitted to a polling station:

- (a) the PRO and other polling staff;
- (b) members of the EAC;
- (c) the CEO;
- (d) the RO and Assistant Returning Officers (“AROs”) for the relevant constituency;
- (e) public officers on duty at the polling station, including police officers, members of the CAS, etc.;
- (f) officers of the CSD and other law enforcement agencies on duty at dedicated polling stations;
- (g) candidates and election agents of the relevant constituency subject to para. 4.34 below;
- (h) polling agents appointed for the polling station (not applicable to dedicated polling stations situated in maximum security prisons) subject to para. 4.34 below;
- (i) public officers authorised in writing by the CEO;
- (j) any person authorised in writing by a member of the EAC;
- (k) a person authorised in writing by the RO for liaison purposes; and
- (l) a child accompanying an elector who enters the polling station for the purpose of voting (if the PRO considers that the child

should not be left unattended while that elector is in the polling station and the child will not disturb or cause inconvenience to any person in the polling station).

[S 47(4), (5) and (13) of the EAC (EP) (DC) Reg] *[Amended in September 2007, January 2010]*

A notice will be displayed at the entrance of the polling station, or inside a dedicated polling station, stating that only electors and designated/authorised persons may be allowed to enter.

4.34 For the purpose of maintaining order in the polling station, the PRO may regulate the number of electors, candidates, election agents and polling agents to be admitted to the polling station at any one time [s 47(2) of the EAC (EP) (DC) Reg]:

- (a) for each candidate, only one person among the candidate, election agent or polling agents may enter and be present at the polling station at any one time [s 47(6), (7), (8) and (9) of the EAC (EP) (DC) Reg];
- (b) a notice will be displayed outside each polling station specifying the capacity of the designated area inside the polling station for candidates, election agents or polling agents to observe the poll;
- (c) admission of candidates, election agents and polling agents will be on a **first-come-first-served basis**. In order that as many candidates, election agents and polling agents as possible may have the chance to observe the poll in the polling station, any candidate, election agent or polling agent who has been admitted to the polling station may only stay for one hour. He/She must

then leave the polling station unless there is no other candidate, election agent or polling agent waiting for admission. He/She may apply for admission into the polling station again on a first-come-first-served basis;

- (d) as stated in (c) above, to ensure fairness, waiting slots for entering a polling station are all allocated on a first-come-first-served basis. If a candidate or his/her agent seeks admission to a polling station but all the waiting slots are full until the close of the poll, no vacant slot can be allocated to the candidate or his/her agent. However, if no one among this candidate and his/her agents has earlier entered the polling station to observe the poll on the polling day, the PRO concerned will endeavour to give the candidate or his/her agent an opportunity to enter the polling station to observe the poll before the close of the poll under a special arrangement. Under this special arrangement, the person concerned will replace a candidate or his/her agent who has been allocated the last waiting slot for admission to the polling station if this candidate or any of his/her agents has already been given an earlier slot to observe the poll in that polling station;
- (e) anyone upon admission into a polling station has to sign and register his/her time of entry on a log sheet. A candidate, an election agent or a polling agent who has to queue outside the polling station for his/her turn to observe the poll at the designated area will be given a number chit that indicates the order of admission. The polling staff will call out the number to admit the holder of the number chit concerned. If the holder concerned is not present at the time, his/her place will be taken over by the person next in line. The person who has lost his/her

place due to his/her absence will have to obtain a new number chit when he/she returns; and

- (f) for security reasons, only a maximum of two candidates may be present at any one time to observe the poll at dedicated polling stations situated inside maximum security prisons, and a maximum of two persons among the candidates, their election agents or polling agents may be admitted to a dedicated polling station situated in a penal institution other than a maximum security prison at any one time. Observers will have to take turn in case more than two candidates or their agents intend to observe the poll at the same time. The PRO may regulate the number of people entering the dedicated polling stations (see Chapter 6 for details).

[Amended in January 2010 and September 2019]

4.35 Except for an elector, a police officer, an officer of the CSD, an officer of any law enforcement agency or a member of the CAS who are on duty, all other persons permitted to enter a polling station are required to sign a **Declaration of Secrecy** on a specified form³⁰ before entering the polling station and observe the regulations on the secrecy of voting. [S 93 of the EAC (EP) (DC) Reg] *[Amended in January 2010, September 2011 and September 2019]*

³⁰ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/the CEO (or a person whose official designation is that of a deputy to the CEO)/a Justice of the Peace/a solicitor with a practising certificate.

PART VI : HOW TO ISSUE BALLOT PAPERS

4.36 The EPR system will be adopted in general for issuing ballot papers at polling stations (except for dedicated polling stations) for a more flexible, efficient and accurate issuance of ballot papers [s 56 of the EAC (EP) (DC) Reg]. The printed copy of FR will be used in issuing ballot papers at dedicated polling stations, the polling stations where the EPR system cannot be adopted because of lacking network coverage, or in the event of system failure.
[Added in September 2023]

4.37 Prior to issuance of any ballot papers to electors, the polling staff must, depending on whether the EPR system or a printed copy of FR is used in the polling station concerned, follow one of the following procedures for issuing ballot papers:

(a) Use of EPR System in Issuing Ballot Papers

Upon entry to the polling station, an elector will be directed to one of the ballot paper issuing desks to collect the ballot paper. The polling staff will request the elector to present his/her Hong Kong Permanent Identity Card (“HKID”). The polling staff will then check the elector’s HKID, and scan it with a tablet to verify whether the person is a registered elector of the relevant constituency, so as to ascertain that he/she can be issued with a ballot paper for a constituency. If a specified identity document other than the HKID is presented by the elector, then the PRO’s authorisation is to be obtained for the manual input of the elector’s HKID number into the EPR system for verification purpose.

The polling staff will softly call out the name of the elector as stated in the entry in the EPR system. The polling staff will show to the elector that the ballot paper for a constituency being issued to him/her is unmarked, and then issue the ballot paper to that elector. The EPR system will record the types of ballot papers being issued and the time of issuance, but no record will be made as to which particular ballot paper is given to the elector. To ensure accurate record-keeping, the elector may check his/her name, partial identity document number and the types of ballot papers issued to him/her as shown on the screen of the system during the issuance process.

(b) Use of Printed Copy of FR in Issuing Ballot Papers

The printed copy of FR will be used in issuing ballot papers at dedicated polling stations, polling stations where the EPR system cannot be adopted because of lacking network coverage, or in the event of system failure. The polling staff will check the elector's identity document against the entry in the printed copy of FR to verify whether the person is an elector of the constituency. Upon confirmation, the polling staff will softly call out the name of the elector as stated in the entry in the printed copy of FR, and draw a line across the name and the identity document number therein to indicate that the ballot paper has been issued to the elector. The polling staff will conduct the line-drawing under observation of the elector to ensure accuracy, while at the same time covering up the entries of other electors in the printed copy of FR to safeguard the personal data privacy of the other electors.

The polling staff will then show to the elector that the ballot paper for a constituency being issued to him/her is unmarked, and then issue the ballot paper to that elector. No record will be made as to which particular ballot paper is given to the elector.

(c) **Use of Printed Copy of FR in the Event of EPR System Failure**

In case the EPR system breaks down while in use on the polling day rendering the system inoperable, the fallback arrangement will come into operation and the polling staff will use the printed copy of FR (as stated in (b) above) to issue ballot papers to electors until the close of the poll. At the same time, the fallback mode of the EPR system has to be activated so that the polling staff can, prior to issuance of any ballot papers, check the local storage device in order to confirm that an elector applying for ballot papers has not collected any ballot papers at the polling station when the EPR system was in normal operation. The HKID numbers of electors who have collected their ballot papers are captured in the local storage device in an encrypted form, but other personal particulars of the electors, such as their names, will not be recorded.

[S 56 of the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.38 To facilitate the verification of the total number of ballot papers issued, the counterfoil of each ballot paper bears a serial number on its front. However, the serial number will not appear on the ballot paper and neither the polling staff nor the EPR system will record the serial number of the ballot paper issued to an elector. [Ss 52(11) and 56(4) of EAC (EP) (DC) Reg] The polling staff and the EPR system will only register the quantity of ballot papers

issued to electors at the ballot paper issuing desks for calculating the hourly voter turnout and cumulative voter turnout. While the voter turnout statistics will be posted outside the polling stations for the public's information, they are for reference only. *[Added in September 2023]*

4.39 According to the established procedures, all ballot papers are issued at the ballot paper issuing desks and counted towards the cumulative voter turnout. "TENDERED" ballot papers and ballot papers issued to electors in replacement of "SPOILT" ballot papers must be handled and issued by the PRO at the PRO desk (see paras. 4.61 and 4.62 below for details). *[Added in September 2023]*

PART VII : QUEUING ARRANGEMENT

4.40 Electors have to queue up to enter the polling station. As stipulated in s 52A of the EAC (EP) (DC) Reg, the PRO may make special queuing arrangements for persons with special needs including, by definition:

- (a) persons who are not less than 70 years of age;
- (b) pregnant women; or
- (c) persons who are not able to queue for a long time or have difficulty in queuing because of illness, injury, disability or dependence on mobility aids.

[Added in September 2023]

4.41 The PRO may, having regard to the actual situation, set up two queues outside the polling station, one for persons with special needs and the

other for the general public. The actual arrangement for collecting ballot papers at ballot paper issuing desks may vary depending on the methods for issuing ballot papers. Seats may also be provided in the polling station for persons with special needs to take rest before joining the special queue to collect ballot papers.

(a) **Queuing Arrangement When the EPR System is Used**

When the EPR system is used for issuing ballot papers, a tablet of the EPR system will be set up at each ballot paper issuing desk, which provides flexibility to serve any elector without the restriction of confining the ballot paper issuing desks to a group of HKID prefixes allocated according to the printed copy of FR.

To cater for persons with special needs (see para. 4.40 above), the PRO will assign a number of ballot paper issuing desks (special ballot paper issuing desks) for their use while other ballot paper issuing desks are available for use by the general public. Electors may collect their ballot papers at the respective ballot paper issuing desks as directed by the polling staff.

When there is a relatively long queue of persons with special needs, the PRO may, having regard to the actual situation, assign more special ballot paper issuing desks so as to shorten their waiting time. The PRO may also, having regard to the actual situation, direct people in the ordinary queue to use special ballot paper issuing desks when the desks are free or when few people are in the special queue.

Having regard to the order and the overall situation of the polling station, the PRO may flexibly deploy the ballot paper issuing

desks and make other special arrangements as appropriate to give priority to persons with special needs and shorten their waiting time.

[S 52A of the EAC (EP) (DC) Reg]

(b) Queuing Arrangement When Printed Copy of FR is Used

For some polling stations where the EPR system cannot be used due to their locations or actual circumstances, the printed copy of FR will be used for issuing ballot papers. To avoid duplicate issuance of ballot papers, the printed copy of FR will be split into parts, by the alphabetical prefixes of HKID number to match the number of the ballot paper issuing desks, and each part will be assigned to the relevant issuing desk. A line will be drawn across the entry of the elector in the printed copy of FR when the elector has collected the ballot papers.

Under this situation, the PRO may also set up two queues outside the polling station, one for persons with special needs and the other for the general public.

Regarding the collection of ballot papers at the ballot paper issuing desks, past experience has shown that most holders of HKID numbers prefixed with A, B, C and so forth are senior citizens. More ballot paper issuing desks will therefore be assigned by the PRO for these alphabetical prefixes to shorten the waiting time of this group of persons with special needs. However, considering that holders of HKID numbers prefixed with other alphabetical letters may also have special needs due to age or physical conditions, the PRO may likewise, having regard

to the actual situation, set up a special queue for each ballot paper issuing desk to shorten their waiting time.

(c) **Queuing Arrangement When Switch to Printed Copy of FR is Required due to Failure of the EPR System**

In the event of failure of the EPR system rendering it inoperable, the polling station should activate the fallback mode and switch to the use of the printed copy of FR for issuing ballot papers. The aforementioned procedures regarding the use of the printed copy of FR for issuing ballot papers will be adopted at ballot paper issuing desks. Yet, the polling staff will first check the encrypted record in the local storage device and confirm that the elector has not been issued with any ballot paper prior to activation of the fallback mode so as to avoid duplicate issuance of ballot papers. The special queuing arrangement regarding the use of the printed copy of FR for issuing ballot papers also applies to this scenario.

[Added in September 2023]

4.42 As shown in past experience, when polling staff request to go to vote at their assigned polling stations, the PRO will arrange as far as practicable and release them to do so usually during meal breaks or off-peak hours of the polling station. However, the heavy workload and stringent manpower of some polling stations may still affect their operation. Therefore, to facilitate polling staff's early resumption of work to serve the electors, if there is a long queue when they get to the assigned polling station, they may present their polling staff identification to staff of that polling station and be permitted to enter the polling station for priority queuing to collect ballot papers and cast their votes, so that they can return to their polling stations as

soon as practicable to continue to serve the electors. *[Added in September 2023]*

PART VIII : PRESENTATION OF DOCUMENT FOR COLLECTING BALLOT PAPER

4.43 Upon arrival at the polling station, an elector should show to the polling staff at the ballot paper issuing desk the original of any of the following documents, to the satisfaction of the PRO or polling staff, before he/she can be issued with a ballot paper:

- (a) the original of the elector's HKID;
- (b) alternative documents:
 - (i) a document issued by the Commissioner of Registration to the elector certifying that the elector is exempt, under regulation 25 of the Registration of Persons Regulations, from being required to register under the Registration of Persons Ordinance (Cap 177);
 - (ii) a document issued by the Commissioner of Registration acknowledging that the elector has applied:
 - (1) to be registered under the Registration of Persons Ordinance; or
 - (2) for a new HKID issued under regulation 13 or 14 of the Registration of Persons Regulations but is awaiting its issuance;

- (iii) a valid HKSAR Passport issued to the elector under the Hong Kong Special Administrative Region Passports Ordinance (Cap 539);
 - (iv) a valid HKSAR seaman's identity book issued to the elector under regulation 3 of the Immigration Regulations (Cap 115A);
 - (v) a valid document of identity issued to the elector under regulation 3 of the Immigration Regulations; or
- (c) a document evidencing the elector's report to a police officer of the loss or destruction of the document referred to in para. 4.43(a), (b)(i) or (ii) above, together with the original of a valid passport or similar travel document (not being one referred to in para. 4.43(a), (b)(i) to (v) above) issued to him/her showing his/her name and photograph.

[S 53(1A) of the EAC (EP) (DC) Reg] *[Amended in September 2019]*

4.44 For an elector applying for a ballot paper at a dedicated polling station situated in a penal institution, the document to be shown is a document issued by the CCS showing the elector's name, photograph and prisoner registration number allocated by the Commissioner to the elector for identification purposes. [S 53(1B) of the EAC (EP) (DC) Reg] *[Added in September 2019]*

4.45 If there are reasonable grounds to question the bona fides of an elector, the PRO shall ask him/her the following questions at the time of his/her application for a ballot paper (but not afterwards):

- (a) “Are you the person registered in the final register now in effect for this District Committees constituency/District Council geographical constituency (as appropriate), as follows (the PRO to read the whole entry as it is recorded in the copy or extract of the FR supplied to that Officer)?”; and
- (b) “Have you already voted for this or any other District Committees constituency/District Council geographical constituency (as appropriate) in this election?”

When asking the questions, the PRO must have regard to whether the ballot paper applied for is a DCGC ballot paper or a DCC ballot paper, and he/she must choose, frame, adjust or modify the questions accordingly. A person will not be issued with any ballot paper unless he/she has answered the questions to the satisfaction of the PRO. [S 54(1A), (2) and (4) of the EAC (EP) (DC) Reg] *[Amended in September 2023]*

4.46 Where there is a reasonable cause to believe that a person has engaged in corrupt conduct by impersonation of an elector, the PRO may request a police officer to arrest that person. If the polling station is a dedicated polling station, the PRO may request an officer of the CSD or the law enforcement agency to remove the person concerned from the polling station and report the case to the police. [S 55(1), (2) and (2A) of the EAC (EP) (DC) Reg] *[Amended in January 2010]*

PART IX : VOTING METHODS

4.47 When issued with the ballot paper, an elector will also be provided with a cardboard attached with a chop of the tick “✓” sign (or a black pen for a DCC elector to mark the DCC ballot paper, depending on the design of the ballot paper). The cardboard will be collected by the polling staff after the elector has inserted his/her ballot paper into the ballot box before leaving the polling station. In a DC ordinary election or where the CEO considers it appropriate in a by-election, an envelope (on which the name and the code of the relevant constituency will be marked by the polling staff when issuing the ballot paper) will be provided to an elector of a dedicated polling station to enclose his/her marked ballot paper to facilitate the subsequent sorting of the ballot paper in a ballot paper sorting station while preserving the secrecy of vote. *[Amended in September 2019 and September 2023]*

4.48 Having collected the ballot paper and the cardboard attached with a chop of the tick “✓” sign (for DCGC electors) or the black pen (for DCC electors), the elector should immediately proceed to a voting compartment to mark the ballot paper to indicate his/her choice of candidate(s). Marking of ballot papers for the DCGC and the DCC are different, depending on their respective voting systems. An elector should read carefully the instructions given on the ballot paper and follow the instructions in marking his/her choice of candidate(s). One compartment can only be used by one elector at one time. *[Amended in January 2010, September 2015, September 2019 and September 2023]*

4.49 The ballot paper should be marked in the following manner, as appropriate:

DCGC Elections

- (a) Each elector can vote for one candidate of his/her choice. On the ballot paper, the elector must affix the chop provided by the polling station to mark a single “✓” in the circle opposite the name of the candidate of the elector’s choice;

DCC Elections

- (b) (i) Each elector must vote for a number of candidates that is exactly equal to the number of members to be returned for the DCC of the District. The elector must use the black pen provided by the polling station to fill the ovals on the ballot paper opposite the names of the candidates of the elector’s choice.
- (ii) However, in the case of a DCC by-election, the EAC can instruct the elector to affix the chop provided by the polling station to mark a single “✓” in the circle(s) opposite the name(s) of the candidate(s) of the elector’s choice.

[Ss 57A and 58 of the EAC (EP) (DC) Reg]

As it is an offence for anyone to take photographs, films or make any video or audio recording within a polling station, electors must not take photographs of their marked ballot papers (see para. 4.66 below). *[Added in September 2023]*

4.50 An elector of the DCGC or DCC, after marking the ballot paper in the manner as described in para. 4.49 above, should cast his/her vote into the

ballot box in the way as directed by the EAC. The ways deemed fit by the EAC for casting votes are as follows:

Envelope Provided

- (a) (i) put the ballot paper, unfolded, into an envelope provided at the polling station; and
- (ii) put the ballot paper contained in the envelope into the ballot box; or
- (b) (i) fold the ballot paper so that the marked side is inside;
- (ii) put the folded ballot paper into an envelope provided at the polling station; and
- (iii) put the ballot paper contained in the envelope into the ballot box;

Envelope Not Provided

- (a) put the ballot paper, unfolded, into the ballot box with the marked side facing down; or
- (b) (i) fold the ballot paper so that the marked side is inside; and
- (ii) put the folded ballot paper into the ballot box.

[S 57(2A) of the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.51 Upon leaving the voting compartment, the elector should immediately put his/her marked ballot paper, whether or not folded and/or

contained in an envelope, into the ballot box as directed by the polling staff. The elector should then return the cardboard and the chop (if any) to the polling staff, and leave the polling station without undue delay [s 57(2), (2A) and (3) of the EAC (EP) (DC) Reg]. *[Amended in January 2010 and September 2023]*

IMPORTANT :

An elector who has collected the ballot paper must proceed to a voting compartment to mark the ballot paper immediately and, after casting his/her vote, leave the polling station without undue delay. A person who fails to obey any order of the PRO or misconducts himself/herself commits an offence. The PRO may seek assistance from police officers and order the person to leave the polling station immediately. [S 49(2) and (3) of the EAC (EP) (DC) Reg]

If an elector deliberately makes an error in marking the ballot paper and asks the PRO to issue a new ballot paper to him/her repeatedly, the PRO may reject the request. If there is a reasonable cause to believe that a person impersonates an elector to apply for a ballot paper, the PRO may request police officers to arrest that person [s 55(2) and (2A) of the EAC (EP) (DC) Reg]. A person engages in corrupt conduct if he/she directly or indirectly, by a deception, induces another person not to vote at the election, or wilfully obstructs or prevents another person from voting at the election [s 14 of the ECICO]. It is an offence for a person to remove a ballot paper from a polling station. According to s 17(1)(c) of the ECICO, any person who removes a ballot paper from a polling station with intent to deceive also commits an offence. It will also be a corrupt conduct at an election under s 17(1)(d) and (e) of the ECICO if any person,

without lawful authority, destroys, defaces, takes or otherwise interferes with a ballot paper in use or having been used at the election; or without lawful authority, destroys, removes, opens or otherwise interferes with a ballot box in use at the election.

[Amended in September 2019]

Candidates or their agents and electors should make a complaint to PROs, ROs, law enforcement agencies or the EAC about any possible contravention of the electoral law. All complaints will be treated in strict confidence. The EAC will refer any complaints about suspected violation of the law to the law enforcement agencies for follow-up action.

[Amended in September 2019 and September 2023]

4.52 An elector with visual impairment who so requests will be provided with a **braille template** to facilitate his/her marking of the ballot paper by himself/herself [s 59(3) of the EAC (EP) (DC) Reg]. The template should be returned to the polling staff after use. For details about the template, see para. 6.40 of Chapter 6. *[Amended in January 2010]*

4.53 An elector must mark his/her vote on the ballot paper by himself/herself and cannot request other electors to do it on his/her behalf. If the elector is unable to mark a ballot paper by himself/herself (e.g. being unable to read or is incapacitated because of impaired eyesight or other physical cause) to indicate his/her choice of candidate(s), he/she may ask the PRO, Deputy Presiding Officer (“DPRO”) or Assistant Presiding Officer (“APRO”) to mark the ballot paper on his/her behalf. The marking of the ballot paper as such must be made in the presence of one polling officer as a witness. [S 59(1) and (2) of the EAC (EP) (DC) Reg] *[Amended in September 2015, September 2019 and September 2023]*

4.54 **The ballot is secret. No one is allowed to use force or duress, or threaten to use force or duress, against a person to make him/her vote or not vote for a particular candidate or particular candidates at an election [s 13 of the ECICO]. Also, no one is required to disclose which candidate he/she has voted for or is going to vote for.** It is an offence for anyone to, without lawful authority, require or purport to require an elector to disclose the name of or any particulars relating to the candidate whom the elector has voted for and offenders are liable to a fine at level 2 (\$5,000) [s 48 of the DCO]. Some other prohibited acts which may infringe the secrecy of the vote during the polling and counting process are also specified under s 94 of the EAC (EP) (DC) Reg. Any person who commits any of the acts prohibited under that section commits an offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. *[Amended in September 2007, September 2019 and September 2023]*

4.55 To safeguard the secrecy of ballot by electors, no one shall, at any time, disclose whether an elector has or has not applied for a ballot paper or voted; or disclose the identity of an elector at a dedicated polling station. Anyone who makes such disclosure, unless otherwise permitted by the law, commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. [S 94(1), (1A), (2) and (10) of the EAC (EP) (DC) Reg] *[Added in January 2010 and amended in September 2019]*

Issuance of “UNUSED”, “SPOILT” or “TENDERED” Ballot Papers

4.56 If an elector has been issued with a ballot paper for a constituency but leaves the polling station without casting his/her vote is not allowed to return to the polling station later to cast the vote not yet cast, except under the following circumstances:

- (a) if, after having been issued with a ballot paper, the elector is unable to mark the ballot paper immediately for a reason considered justified by the PRO, he/she may, with the permission of the PRO, hand back the ballot paper to the PRO and return to the polling station later to cast his/her vote [s 56A(1) of the EAC (EP) (DC) Reg];
- (b) if, after having been issued with a ballot paper, the elector has become incapacitated from voting or completing the voting by physical illness and has left the polling station without marking his/her ballot paper, he/she may return to the polling station to cast his/her vote before the close of the poll provided that prior to his/her leaving the polling station, the unmarked ballot paper has been returned to the PRO [s 56A(5) of the EAC (EP) (DC) Reg];
or
- (c) in the case of a dedicated polling station situated in a penal institution, the elector has to return to the polling station to cast his/her vote within the existing or any newly assigned time slot [s 56A(5B) of the EAC (EP) (DC) Reg].

[Amended in September 2019]

4.57 If the above situations arise in a polling station other than a dedicated polling station, the following procedures must be taken by the PRO:

- (a) the PRO must keep that ballot paper in his/her custody and, when the elector returns to the polling station to vote before the close of the poll, return such ballot paper to the elector in the presence of a police officer [s 56A(3) and (6) of the EAC (EP) (DC) Reg]; and

- (b) if the elector has not returned to the polling station at the close of the poll, the PRO must endorse the ballot paper with the words “**UNUSED**” and “**未用**” and show it to each candidate, his/her election agent or polling agent who is present at the time. Ballot papers endorsed as such must not be put into the ballot box and must not be counted at the counting of votes [ss 61 and 78(1)(d) of the EAC (EP) (DC) Reg].

[Amended in September 2007, January 2010, September 2015 and September 2019]

4.58 If the above situations arise in a dedicated polling station, the following procedures must be taken by the PRO and/or the CCS or his/her officer:

- (a) the PRO must keep that ballot paper in his/her custody and, when the elector returns to the dedicated polling stations to vote before the close of the poll, return such ballot paper to the elector in the presence of an officer of the CSD or any law enforcement agency [s 56A(3) and (6) of the EAC (EP) (DC) Reg];
- (b) where a dedicated polling station situated in a penal institution is concerned, the CCS or his/her officer must as far as practicable assign to the elector a new time slot during the polling hours appointed for that dedicated polling station situated in a penal institution, and notify the elector of the new time slot [s 56A(2A) and (5A) of the EAC (EP) (DC) Reg]; and
- (c) if the elector has not returned to the dedicated polling station at the close of the poll, the PRO must endorse the ballot paper with the words “**UNUSED**” and “**未用**” and show it to each candidate,

his/her election agent or polling agent who is present at the time. Ballot paper endorsed as such must not be put into the ballot box and must not be counted at the counting of votes [ss 61 and 78(1)(d) of the EAC (EP) (DC) Reg].

[Amended in September 2019 and September 2023]

4.59 If any issued ballot paper (whether marked or unmarked) is found abandoned or left behind in a voting compartment or other areas inside the polling station, it must be handed in to the PRO. The ballot paper will then be endorsed with the words “**UNUSED**” and “**未用**” on the front and be kept by the PRO. In no circumstances can ballot paper endorsed as such be put into the ballot box. These ballot papers shall not be counted at the counting of votes. [Ss 61 and 78(1)(d) of the EAC (EP) (DC) Reg] *[Amended in September 2019]*

4.60 The PRO is required to keep in his/her custody the ballot paper handed in under the circumstances described in para. 4.56 above only if he/she knows which elector left the ballot paper behind. Otherwise, the ballot paper left behind in the polling station should be endorsed as “**UNUSED**” and “**未用**” and will not be counted at the counting of votes [ss 61 and 78(1)(d) of the EAC (EP) (DC) Reg]. *[Amended in September 2015]*

4.61 Any elector who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him/her may ask the PRO to exchange it for another unmarked ballot paper. If the PRO considers the request reasonable, he/she will issue one new ballot paper to the elector in exchange for the spoiled ballot paper. The spoiled ballot paper will be endorsed with the words “**SPOILT**” and “**損壞**” on the front and be kept by the PRO. Spoilt ballot papers shall not be counted at the counting of votes.

[Ss 62 and 78(1)(c) of the EAC (EP) (DC) Reg] *[Amended in September 2015 and September 2019]*

4.62 Where a person, claiming to be a particular elector on the FR, applies for a ballot paper after an earlier person has already been issued with a ballot paper as such an elector, the PRO may issue a tendered ballot paper to the latter elector **only if** the PRO is not certain that the latter person is the former person who has been issued with a ballot paper earlier, and the latter person has answered the questions set out by the law (para. 4.45 above) to the satisfaction of the PRO. The PRO may in such circumstances issue one ballot paper with the words “**TENDERED**” and “重複” endorsed on the front. Such ballot paper shall not be counted at the counting of votes. [Ss 60 and 78(1)(b) of the EAC (EP) (DC) Reg] *[Amended in September 2007, August 2008, September 2015 and September 2019]*

PART X : CONDUCT INSIDE THE POLLING STATION

4.63 Subject to para. 4.64 below, no person (including electors) should interfere with or attempt to influence any other elector. Specifically, no one shall:

- (a) communicate with any other elector contrary to a direction of the RO, ARO, PRO or any polling officer not to do so;
- (b) attempt to obtain or disclose information about the vote of other electors;
- (c) display or distribute any promotional materials for canvassing purposes;

- (d) display or wear any promotional materials, such as any badge, emblem, clothing or head-dress, which:
 - (i) may promote or prejudice the election of 1 candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or to a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or
- (e) use a mobile telephone, paging machine or any other form of electronic communication device contrary to a direction of the RO, ARO, PRO or any polling officer not to do so.

Any person who contravenes the above regulations commits an offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 or 6 months (as the case may be). [Ss 48 and 94 of the EAC (EP) (DC) Reg] *[Amended in September 2007, August 2008, September 2011 and September 2015]*

4.64 Only the following persons may communicate with electors, and use a mobile telephone, paging machine or any other form of electronic communication device within a polling station:

- (a) the PRO and other polling staff;
- (b) members of the EAC;
- (c) the CEO;
- (d) the ROs and AROs for the relevant constituency;

- (e) police officers and members of the CAS on duty at the polling station;
- (f) an officer of the CSD or other law enforcement agency on duty at a dedicated polling station;
- (g) a person authorised in writing by the ROs for liaison purposes; and
- (h) any person authorised in writing by a member of the EAC.

[S 48(1) and (6) of the EAC (EP) (DC) Reg] *[Amended in September 2007, January 2010 and September 2015]*

4.65 Any person who misconducts himself/herself or fails to obey any lawful order of the RO or the PRO at a polling station or its vicinity commits an offence, and is liable to a fine and imprisonment. He/She may be ordered by such officer to leave the polling station or the vicinity of the polling station. A person misconducts himself/herself if he/she disrupts the poll or disturbs or causes inconvenience to other persons in the polling station. An elector must cast his/her vote without undue delay, otherwise he/she may be ordered by the RO or the PRO to leave the polling station immediately. If a person fails to leave immediately as ordered by the RO or the PRO, he/she may be removed by:

- (a) a police officer (if the polling station is not a dedicated polling station);
- (b) an officer of the CSD or the law enforcement agency (if the polling station is a dedicated polling station); or

- (c) a person authorised in writing by the RO or the PRO to do so.

[Amended in September 2012]

The person so removed may not re-enter the polling station on that day except with the permission of the RO or the PRO. [s 49(2), (2A), (3) and (4) of the EAC (EP) (DC) Reg] Nevertheless, the powers conferred on the RO or the PRO are not to be exercised to order an elector to leave or remove an elector from the polling station so as to prevent the elector from voting at the polling station allocated to him/her [s 49(5) of the EAC (EP) (DC) Reg]. *[Amended in January 2010 and September 2019]*

4.66 A person commits an offence if he/she takes photographs, films or makes any video or audio recording within a polling station without the express permission of the PRO, the RO for the constituency or constituencies for which the polling station is used or a member of the EAC. Offenders are liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 48(2) and (9) of the EAC (EP) (DC) Reg]. Generally speaking, such permission is only granted to government photographers for performing publicity duties. *[Amended in September 2007, September 2015 and September 2019]*

PART XI : CLOSE OF THE POLL

4.67 An elector who intends to vote but is not already at the designated entrance of the polling station by the close of the poll will not be allowed in afterwards. When the close of the poll approaches but there is a long queue of electors outside the polling station waiting to vote, the PRO will arrange for polling staff to hold up a signboard to direct electors to proceed to the end of the queue. If there are still electors queuing outside the entrance of

the polling station at the close of the poll, polling staff will stand at the end of the queue to stop latecomers from joining the queue and, if practicable, let electors already in the queue enter the polling station and close the entrance of the polling station. If there are too many such electors and temporarily cannot arrange all of them to enter the polling station, polling staff will continue to stand at the end of the queue and hold up a signboard to ensure that no latecomers will be allowed to join the queue. *[Amended in September 2023]*

4.68 In short, all electors who have arrived and queued up outside the polling station before the close of the poll may enter the polling station to cast their votes. However, some polling stations are located at a place inside a building. If an elector has arrived at the building but has not reached the entrance of the place where the polling station is located or has not queued up outside the entrance by the close of the poll, he/she will not be allowed to enter the polling station or join the queue for entry to the polling station to vote. The PRO will close the entrance of the polling station only when all electors having arrived at the entrance of the polling station or queued up outside the entrance of the polling station before the close of the poll have entered the polling station. *[Added in September 2023]*

A Polling Station which is also a Counting Station

4.69 Polling stations (except for small polling stations, special polling stations and dedicated polling stations) will be designated as counting stations for the counting of votes. At the close of the poll, a notice will be displayed by the PRO in a prominent place outside the polling stations as soon as practicable to inform the public that the poll has been closed and the polling station is being prepared for the counting of votes. If the EPR system is used in the polling station, the PRO must also confirm the close of the poll through the system. The counting station will be opened to the public when the preparations are completed. While it is closed in preparation for the counting

of votes, candidates, their election agents, counting agents and polling agents may stay inside the polling station to observe the process of locking and sealing of ballot boxes. The ballot boxes will be locked and sealed by the PRO in the presence of the candidates and/or their agents (if any). The PRO will also inform them of the numbers of unissued ballot papers, spoiled ballot papers and unused ballot papers in his/her possession. All such ballot papers will then be made up into separate sealed packets for respective constituencies. The marked printed copies of FR (if used) will also be made up into separate sealed packets. Besides, the PRO will prepare a ballot paper account to estimate the number of ballot papers in the ballot boxes. [S 63(1), (1A), (2) and (3) of the EAC (EP) (DC) Reg] *[Amended in September 2007, January 2010, September 2015 and September 2023]*

4.70 The locked and sealed ballot boxes referred to in para. 4.69 above will be kept by the PRO until the counting of votes begins. The PRO will open all ballot boxes (and if necessary, retain ballot papers inside at least one ballot box to be mixed with the ballot papers delivered from small polling stations, ballot paper sorting stations and/or dedicated polling stations (as the case may be)), and put all ballot papers inside the ballot boxes on the counting table (see Part XII below). *[Amended in September 2015, September 2019 and September 2023]*

A Polling Station which is not a Counting Station

4.71 **Small polling stations, special polling stations and dedicated polling stations will not be converted to counting stations after the close of the poll.** For a small polling station or a special polling station, the PRO will, as soon as practicable, display a notice in a prominent place outside the polling station to inform the public that the poll has been closed. Besides, if the EPR system is used in the polling station, the PRO must also confirm the close of the poll through the system. After the close of the poll, a candidate, his/her

election agent and polling agent may stay in the polling station to observe the process of locking and sealing of ballot boxes. For dedicated polling stations, the following persons may stay to observe the process:

- (a) a candidate, his/her election agent and polling agent may stay in a dedicated polling station not situated in a penal institution;
- (b) a maximum of only two persons among the candidates, their election agents or polling agents may stay in a dedicated polling station situated in a penal institution other than a maximum security prison; and
- (c) a maximum of only two candidates may stay in a dedicated polling station situated in a maximum security prison.

[S 63A(2) and (2A) of the EAC (EP) (DC) Reg] *[Amended in September 2019 and September 2023]*

In the presence of the candidates and/or their agents (if any), the ballot boxes will be locked and sealed by the PRO. The PRO will also inform them of the numbers of unissued ballot papers, spoilt ballot papers and unused ballot papers in his/her possession. All such ballot papers and the marked printed copies of FR (if used) will also be made up into separate sealed packets. The PRO will prepare a ballot paper account for each constituency to estimate the number of ballot papers in the ballot boxes. [Ss 63A(1), (2) and 64 of the EAC (EP) (DC) Reg] *[Amended in January 2010, September 2015 and September 2023]*

IMPORTANT :

Under the principle of secrecy of the ballot, given the relatively small number of votes cast at the small polling stations, special polling stations and dedicated polling stations, votes cast will not

be counted therein. For small polling stations and special polling stations, after the close of the poll, the ballot box (locked and sealed) will be delivered to the designated main counting station. In the case of dedicated polling stations, the ballot box (locked and sealed) will be delivered to the ballot paper sorting station or the corresponding main counting station according to the notice of the CEO. See paras. 4.74 to 4.80 below for the ballot paper sorting and delivery arrangements regarding the ballot paper sorting stations, and paras. 4.90 and 4.103 for how the ballot papers transported to the main counting stations will be processed. *[Added in September 2023]*

4.72 As the votes cast at the small polling stations, special polling stations and dedicated polling stations will not be counted therein, the PRO (or APRO if it is a special polling station) will first deliver the locked and sealed ballot boxes, the sealed packets of relevant electoral documents referred to in para. 4.71 above and the ballot paper accounts to the corresponding main counting station under police escort. The ballot boxes of a dedicated polling station will be transported to the corresponding ballot paper sorting station or main counting station, as the case may be. [S 63A(3) and (4) of the EAC (EP) (DC) Reg] *[Amended in January 2010, September 2012, September 2015 and September 2019]*

4.73 Not more than two persons among the candidates and/or their agents, if they so wish, will be allowed to accompany the PRO in the delivery of the locked and sealed ballot boxes, together with the sealed packets of relevant electoral documents and the ballot paper account prepared by the PRO, from the polling station to the relevant ballot paper sorting station or main counting station under police escort. Where there are more than two of them wishing to accompany in the delivery, the PRO will draw lots to determine which two persons will be allowed. Candidates and their agents are allowed

to stay in the polling station until they see the arrival of police officers for escorting the delivery. Thereafter, all persons other than those two persons who are allowed to accompany in the delivery must leave the polling station. *[Amended in September 2007, January 2010 and September 2019]*

PART XII : SORTING OF BALLOT PAPERS

Conduct at the Ballot Paper Sorting Station

4.74 In a DC ordinary election, or a DC by-election where the CEO considers it appropriate, ballot paper sorting station(s) will be set up by the REO for sorting by constituencies the ballot papers received from dedicated polling stations before the ballot papers are delivered to the corresponding main counting stations for the counting of votes. The PRO of a ballot paper sorting station may determine the time at which the sorting of ballot papers is to begin, which must be a time after the poll has closed at all the dedicated polling stations situated in penal institutions but may be a time before the poll has closed at all the other polling station(s). Before the polling day, candidates will be informed of the expected time of the commencement of the sorting of ballot papers at the ballot paper sorting station(s). [Ss 2(3), 63A(4) and 65(2A) of the EAC (EP) (DC) Reg] *[Added in January 2010]*

4.75 Only the following persons may be present at the sorting of ballot papers:

- (a) the ROs, AROs, PROs, DPROs, APROs and counting staff for the relevant constituencies;
- (b) members of the EAC;

- (c) the CEO;
- (d) candidates and their election agents and counting agents of the relevant constituencies;
- (e) police officers and members of the CAS on duty at the ballot paper sorting station;
- (f) public officers authorised in writing by the CEO;
- (g) any person authorised by the RO or the PRO; and
- (h) any person authorised in writing by a member of the EAC.

The PRO will designate a restricted area for counting staff to sort the ballot papers. Candidates and their agents are prohibited from entering the restricted area. Any member of the public may observe the sorting of ballot papers from the public area designated by the PRO unless the PRO considers that the presence of a person may:

- (a) cause disorder or disturbance in the ballot paper sorting station;
or
- (b) prejudice the secrecy of the individual votes.

[Ss 2(3) and 68 of the EAC (EP) (DC) Reg] *[Added in January 2010]*

4.76 Except for police officers and members of the CAS on duty, every person authorised to be present at a ballot paper sorting station must

make a **Declaration of Secrecy** on a specified form³¹ before entering the ballot paper sorting station and observe the regulations on the secrecy of voting [ss 2(3) and 93 of the EAC (EP) (DC) Reg]. Members of the public present within the public area are not required to make a Declaration of Secrecy. *[Added in January 2010]*

4.77 Except with the express permission of the relevant PRO, the RO for the constituency for which the ballot paper sorting station is used or a member of the EAC, as the case may be, it is an offence for any person to take photographs, films or make video or audio recording within the restricted area of a ballot paper sorting station during the period commencing from the time at which the sorting of ballot papers is to begin and ending upon the completion of the sorting. [Ss 2(3) and 69 of the EAC (EP) (DC) Reg] *[Added in January 2010]*

4.78 Any person who misconducts himself/herself or fails to comply with any lawful order of the PRO at or in the vicinity of a ballot paper sorting station commits an offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months. He/She may be ordered by the PRO to leave the area immediately. A person misconducts himself/herself if he/she disrupts the sorting of ballot papers or disturbs or causes inconvenience to other persons in the ballot paper sorting station. The PRO may also order a person to leave the ballot paper sorting station immediately if the person's conduct in the venue is not in line with the purpose for which he/she was authorised or permitted for the entry to or presence in the ballot paper sorting station. If the person fails to leave immediately, he/she may be removed by a police officer or by any other person authorised in writing by the PRO. The person so removed may not re-enter the relevant ballot paper sorting station on that day except with the

³¹ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/the CEO (or a person whose official designation is that of a deputy to the CEO)/a Justice of the Peace/a solicitor with a practising certificate.

permission of such PRO. [Ss 2(3), 69 and 70 of the EAC (EP) (DC) Reg]
[Added in January 2010]

Sorting of Ballot Papers

4.79 The PRO of a ballot paper sorting station will sort the envelopes containing the ballot papers, received from the dedicated polling station(s) in the presence of the candidates, their election agents or counting agents, if present. The PRO will check whether the ballot boxes and sealed packets are properly sealed. The seal on the ballot box will be broken by the PRO in the presence of the candidates, their election agents or counting agents, if present. The PRO will then open the ballot boxes and empty the contents onto a sorting table. After the PRO has opened the ballot box, the candidates, their election agents or counting agents may request to inspect any papers, other than the envelopes which contain the marked ballot papers, taken out from the ballot boxes before their disposal. **None of the candidates, their election agents or counting agents should touch any envelopes or ballot papers.** *[Added in January 2010 and amended in September 2012]*

4.80 The PRO of a ballot paper sorting station shall:

- (a) open the ballot boxes received from the dedicated polling station(s);
- (b) sort the envelopes in each ballot box according to each constituency;
- (c) count and record the number of envelopes for each constituency;
- (d) verify the ballot paper account by comparing it with the number of envelopes recorded under para. 4.80(c) above;

- (e) prepare a statement in writing as to the result of the verification;
- (f) prepare a statement in writing as to the number of envelopes recorded under para. 4.80(c) above;
- (g) make into separate bundles the sorted envelopes together with the relevant statement prepared under para. 4.80(f) above;
- (h) place each bundle in a separate orange receptacle and seal it in the presence of those present at the counting zone;
- (i) arrange the orange receptacles to be delivered to the PROs of the corresponding main counting stations of the relevant constituencies³²; and *[amended in September 2015]*
- (j) send to the CEO the ballot paper accounts, verifications of number of ballot papers and the sealed packets made up under para. 4.71 above.

[S 75A of the EAC (EP) (DC) Reg] *[Added in January 2010 and amended in September 2011 and September 2023]*

³² If no electors of a constituency have cast votes at the dedicated polling station(s), no ballot boxes/orange receptacles will be delivered to the corresponding main counting station. In that case, the PRO of that main counting station will be notified accordingly.

PART XIII : THE COUNT

Conversion of Polling Station to Counting Station

4.81 Polling stations (except for small polling stations, special polling stations and dedicated polling stations) will be converted to counting stations where the votes will be counted and the counting results will be announced to the candidates and their agents present. If the same place is designated as both a polling station and a counting station, the PRO of the polling station is to be regarded as the PRO of the counting station [s 37(4) of the EAC (EP) (DC) Reg]. The PRO, assisted by the DPRO(s), APROs, polling staff and counting staff, is responsible for converting the polling station to a counting station and conducting the count. Before the counting of votes begins, a notice will be displayed outside the counting station specifying at what time the counting station is expected to be open to the public to observe the counting of votes [s 65(8) of the EAC (EP) (DC) Reg]. The telephone number of the counting station should be provided on the notice, so that the candidates or their agents will be able to contact the counting staff. *[Amended in January 2010]*

Conduct at the Counting Station

4.82 Only the following persons may be present at the counting of votes:

- (a) the ROs, AROs, PROs, DPROs, APROs and counting staff for the relevant constituencies;
- (b) members of the EAC;
- (c) the CEO;

- (d) candidates and their election agents and counting agents of the relevant constituencies;
- (e) police officers and members of the CAS on duty at the counting station;
- (f) public officers authorised in writing by the CEO;
- (g) any person authorised by the RO or the PRO; and
- (h) any person authorised in writing by a member of the EAC.

The PRO will designate a restricted area inside the counting zone for counting staff to count the votes. Candidates and their agents are prohibited from entering the restricted area. Members of the public may observe the counting of the votes from an area (“the public area”) at the counting station set apart for that purpose by the PRO unless the PRO considers that the presence of a person may:

- (a) cause disorder or disturbance in the counting station; or
- (b) prejudice the secrecy of the individual votes.

[S 68 of the EAC (EP) (DC) Reg]

4.83 Members of the public and the media have the rights to observe the count inside the public area but not the counting zone at the counting station. That said, in order to maintain order inside the counting station, it is a long-standing practice for the PRO or the RO to reject further entrants when the public area reaches the maximum capacity for public entry. To enhance the transparency of the admission arrangement for counting stations, a notice

setting out the maximum capacity of the public area will be displayed outside each counting station by the PRO. *[Added in September 2023]*

4.84 Besides, photographing and/or video-recording is allowed inside a counting station. Members of the public, including the media, can take photographs and/or videos inside the public area (but not inside the counting zone). For record purposes, video recording systems will be installed in each counting station (including inside the counting zone) to record the actual situation of the counting station (including the public area). *[Added in September 2023]*

4.85 Except for police officers and members of the CAS on duty, every person authorised to be present at a counting zone must make a **Declaration of Secrecy** on a specified form³³ before entering the counting zone and observe the regulations on the secrecy of voting [s 93 of the EAC (EP) (DC) Reg]. Members of the public and the media present within the public area are not required to make a Declaration of Secrecy. *[Amended in September 2023]*

4.86 Except with the express permission of the relevant PRO, the RO for the constituency for which the counting station is used or a member of the EAC, as the case may be, it is an offence for any person to take photographs, films or make audio or video recording within the counting zone during the period commencing from the time at which the counting of the votes is to begin at the counting zone of the counting station and ending upon the completion of the count and re-count, if any, of the constituency. [S 69 of the EAC (EP) (DC) Reg]

³³ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/the CEO (or a person whose official designation is that of a deputy to the CEO)/a Justice of the Peace/a solicitor with a practising certificate.

4.87 Any person who misconducts himself/herself or fails to comply with any lawful order of the PRO at or in the vicinity of a counting station commits an offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months. He/She may be ordered by the PRO to leave the area immediately. A person misconducts himself/herself if he/she disrupts the counting of votes or disturbs or causes inconvenience to other persons in the counting station. The PRO may also order a person to leave the counting station immediately if the person's conduct in the venue is not in line with the purpose for which he/she was authorised or permitted for the entry to or presence in the counting station. If the person fails to leave immediately, he/she may be removed by a police officer or by any other person authorised in writing by the PRO. The person so removed may not re-enter the relevant counting station on that day except with the permission of such PRO. [Ss 69 and 70 of the EAC (EP) (DC) Reg] *[Amended in September 2019]*

Counting of Votes

4.88 The PRO of a counting station will conduct the counting of votes in the presence of the candidates, their election agents or counting agents. The PRO will check whether all the ballot boxes and sealed packets are properly sealed. The seal on each ballot box will be broken by the PRO in the presence of the candidates, their election agents or counting agents, if present. All the ballot boxes will then be opened by the PRO and the contents will be emptied onto a counting table. After the PRO has opened the ballot box, the candidates, their election agents or counting agents may request to inspect any papers other than ballot papers taken out from the ballot boxes before their disposal. **None of the candidates, their election agents or counting agents should touch any ballot papers.** [S 74 of the EAC (EP) (DC) Reg]

Counting of DCGC Votes

4.89 The PRO of a counting station (except for the PRO of a main counting station or a ballot paper sorting station) shall:

- (a) sort the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate transparent plastic boxes on the table;
- (b) separate and put aside the invalid and questionable ballot papers, if any;
- (c) determine the validity of questionable ballot papers;
- (d) count the valid votes obtained by each candidate;
- (e) verify the number of the ballot papers counted by comparing it with the ballot paper account for the DCGC from the polling station and prepare a statement in writing as to the result of the verification; and
- (f) compile the final counting results.

[Ss 75(1) and 76 of the EAC (EP) (DC) Reg] *[Amended in January 2010, September 2011, September 2019 and September 2023]*

4.90 The PRO of a main counting station shall:

- (a) count and record the number of DCGC ballot papers in the ballot box(es) received from each small polling station, special polling

station and/or dedicated polling station and verify the number by comparing it with the respective ballot paper accounts;

- (b) open the envelopes in each orange receptacle received from a ballot paper sorting station, count and record the number of DCGC ballot papers in the envelopes, and verify the number by comparing it with the respective statement on the number of envelopes where such station has been set up in a DC ordinary election or in a by-election as considered appropriate by the CEO;
- (c) prepare a statement in writing as to the respective result of the verification in (a) and (b) above;
- (d) mix the ballot papers in at least one of the DCGC ballot boxes from the polling station designated as the main counting station with the ballot papers delivered from the small polling stations, special polling stations, ballot paper sorting stations and/or dedicated polling stations (as the case may be);
- (e) sort all the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate transparent plastic boxes on the table;
- (f) separate and put aside the invalid and questionable ballot papers, if any;
- (g) determine the validity of questionable ballot papers;
- (h) count the valid votes obtained by each candidate;

- (i) upon completing the counting of votes, verify the number of the DCGC ballot papers recorded in the counting process by comparing it with the ballot paper account in respect of the main counting station concerned (excluding those from the small polling stations, special polling stations and/or dedicated polling stations which have been processed in accordance with (a) above) and prepare a statement in writing as to the result of the verification; and

- (j) compile the final counting results.

[Ss 75(1A) and 76 of the EAC (EP) (DC) Reg] *[Amended in January 2010, September 2015, September 2019 and September 2023]*

4.91 The cumulative voter turnout announced on the polling day is an estimate based on the statistics on ballot papers issued to electors by polling staff at the ballot paper issuing desks (see para. 4.39 above). Under certain circumstances, the cumulative voter turnout may not tally with the number of ballot papers in the ballot boxes because it does not take into account the numbers of ballot papers endorsed as “TENDERED”³⁴ issued at the PRO desk or the “UNUSED”³⁵ ones which were found abandoned or left behind in the polling station instead of being put into the ballot boxes (see paras. 4.59 and 4.62 above). After adding the number of “TENDERED” ballot papers and deducting the number of “UNUSED” ballot papers, the cumulative voter turnout should, in principle, tally with the number of ballot papers in the ballot

³⁴ “TENDERED” ballot papers are issued at the PRO desk. They are not counted in the cumulative voter turnout, but were put into the ballot box and included in the number of ballot papers actually counted from the ballot box.

³⁵ Polling staff occasionally find ballot papers have been abandoned or left behind in the polling station. The PRO will endorse such ballot papers with the words “UNUSED” and “未用”, and keep them in his/her custody. These ballot papers have been counted in the cumulative voter turnout although they were not put into the ballot box.

boxes³⁶. A discrepancy may also occur between the two numbers if any ballot paper was taken away without authorisation and consequently not put into the ballot box. In any event, the counting results shall be based on the number of ballot papers actually counted from the ballot boxes, while the cumulative voter turnout is for reference only. *[Added in September 2023]*

Invalid Ballot Papers

4.92 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is not marked with the chop provided by the polling station;
- (c) it is endorsed on the front with the words “**SPOILT**” and “**損壞**”;
- (d) it is endorsed on the front with the words “**TENDERED**” and “**重複**”;
- (e) it is endorsed on the front with the words “**UNUSED**” and “**未用**”;

³⁶ See para. 4.39 above. Ballot papers issued to electors in replacement of “SPOILT” ballot papers are issued at the PRO desk. The “SPOILT” ballot papers to be kept by the PRO were issued at the ballot paper issuing desks, so they have been counted in the cumulative voter turnout. On the other hand, ballot papers issued to electors by the PRO in replacement of “SPOILT” ballot papers were put into the ballot box and hence subsequently included in the number of ballot papers actually counted from the ballot box.

- (f) the vote recorded on it is for a deceased or disqualified candidate whose name and other information on the ballot paper are crossed out under s 40(2) of EAC (EP) (DC) Reg; or
- (g) votes are given for more than one candidate (e.g. by marking a “✓” each against two candidates).

[S 78(1) of the EAC (EP) (DC) Reg]

These ballot papers will be set aside as invalid on the spot. They will not be counted and will not be treated as questionable ballot papers. A candidate, his/her election agent or a counting agent may inspect these ballot papers but is not entitled to make representations to the PRO concerning these ballot papers [s 78(2) of the EAC (EP) (DC) Reg]. *[Amended in September 2007, September 2019 and September 2023]*

Questionable Ballot Papers

4.93 Ballot papers with doubtful validity in the following categories are set aside as questionable ballot papers. A questionable ballot paper will be decided as invalid if in the opinion of the PRO:

- (a) it has any writing or mark by which the elector can possibly be identified;
- (b) it is not marked in accordance with s 58(2) of the EAC (EP) (DC) Reg, i.e. not marked by affixing the chop to give a single “✓” in the circle opposite the name of the candidate of the elector’s choice on the ballot paper, and the elector’s intention is unclear. However, the PRO may count that ballot paper if he/she is

satisfied that the elector's intention is clear, notwithstanding that the "✓" mark is not placed inside the circle;

- (c) it is substantially mutilated; or
- (d) it is void for uncertainty.

Questionable ballot papers must be separated and forwarded to the PRO to decide whether the votes are to be counted. [S 76(5)(a) of the EAC (EP) (DC) Reg] When deciding on the validity of the ballot papers in (a) above, the PRO will make reference to the judgment made by the court on an election petition case (HCAL 127/2003). In that case, the court ruled that the handwritten tick found on the ballot paper in question in the said election petition was considered a mark by which the elector could possibly be identified. The validity of ballot papers with any other writings or marks will remain to be determined by the PRO on a case-by-case basis. [S 79(2) and (3) of the EAC (EP) (DC) Reg] *[Amended in September 2019 and September 2023]*

4.94 The validity of all questionable ballot papers shall be decided by the PRO [s 79(2) of the EAC (EP) (DC) Reg]. The PRO will invite the candidates, their election agents or counting agents present to participate in the determination process of questionable ballot papers. *[Amended in September 2015]*

4.95 The determination process of questionable ballot papers will be conducted in the following manner:

- (a) the PRO will inform the candidates and their agents of his/her initial decision on the validity of each questionable ballot paper. A candidate, his/her election agent or counting agent may inspect

and make representations concerning any questionable ballot paper [s 79(1) of the EAC (EP) (DC) Reg];

- (b) the PRO will then consider their representations and make his/her final decision on the validity of the questionable ballot paper (see para. 4.96 below) [s 79(2) of the EAC (EP) (DC) Reg];
- (c) if the PRO decides that a questionable ballot paper is invalid and, therefore, not to be counted, he/she must endorse the words “不獲接納” and “rejected” on the front of it. In that case, if any candidate, election agent or counting agent objects to the PRO’s final decision, the PRO must also endorse the words “反對此選票不獲接納” and “rejection objected to” on that ballot paper [s 79(4) of the EAC (EP) (DC) Reg];
- (d) if any candidate, election agent or counting agent objects to the decision of the PRO to count a questionable ballot paper, the PRO must endorse the words “反對此選票獲接納” and “acceptance objected to” on that ballot paper [s 79(5) of the EAC (EP) (DC) Reg]; and
- (e) the PRO shall prepare a statement to record his/her decisions made in respect of all questionable ballot papers [s 79(6) of the EAC (EP) (DC) Reg].

[Amended in September 2007, September 2015 and September 2023]

4.96 The decision of the PRO in regard to any question arising in respect of any ballot paper at the counting of votes shall be **final** [s 80 of the

EAC (EP) (DC) Reg], which may be questioned by an election petition [s 49 of the DCO] (see Part II of Chapter 5).

Counting Arrangements

4.97 The counting of votes will proceed continuously, as far as possible, until the counting of all the votes is completed. *[Amended in September 2007 and September 2019]*

DCGCs with One Counting Station

4.98 For a DCGC with only one counting station, after the count, the PRO will make known the result to the relevant candidates, their election agents or counting agents, if present. These candidates or their election agents may request the PRO for the DCGC to re-count the votes, and the relevant PRO shall comply with any such request unless in his/her opinion the request is unreasonably made. [S 80A of the EAC (EP) (DC) Reg] *[Amended in September 2023]*

DCGCs with Two or More Counting Stations

4.99 For a DCGC with two or more counting stations, the counting station serving the largest number of registered electors will be designated by the CEO as the dominant counting station [s 31(1B) of the EAC (EP) (DC) Reg]. Only the candidates or election agents of that DCGC who are present at the station can request a re-count of all the votes cast in respect of the DCGC concerned [s 80B(8) of the EAC (EP) (DC) Reg]. *[Amended in September 2019 and September 2023]*

4.100 After the counting of votes at an individual counting station for the DCGC is completed, the relevant PRO will make known the counting result to the candidates or their election agents or counting agents, if present.

Candidates, their election agents or counting agents may request the PRO to re-count the votes, and the PRO shall comply with any such request unless in his/her opinion the request is unreasonably made. In the case of a counting station other than the dominant counting station, where there is no request for a re-count, or where the request for a re-count is rejected, or the re-count is completed and there is no request for a further re-count, or the request for a further re-count is rejected by the PRO, the PRO shall report to the PRO of the dominant counting station the counting results. [S 80B(1), (2), (3), (4), (5) and (7) of the EAC (EP) (DC) Reg] *[Amended in September 2023]*

4.101 The PRO of the dominant counting station may decide whether a re-count of all the votes of all the counting stations for the DCGC is necessary. If a candidate or his/her election agent requests to re-count all the votes of all the counting stations for the DCGC, such a request shall be made to the PRO of the dominant counting station, and he/she will decide whether the request should be acceded to. If he/she decides that such a request for a re-count is reasonable in the circumstances, he/she will inform the PROs of the other counting stations for the DCGC to conduct a re-count at their corresponding counting stations, and he/she will conduct a re-count at the dominant counting station at the same time. [S 80B(8) and (9) of the EAC (EP) (DC) Reg] *[Amended in September 2019 and September 2023]*

4.102 The PRO of each of the other counting stations will make known the result of the re-count at his/her counting station to the candidates or their election agents or counting agents, if present, and shall report the same to the PRO of the dominant counting station who shall inform the candidates, their election agents or counting agents present at the dominant counting station of all such re-count results. [S 80B(10) and (11) of the EAC (EP) (DC) Reg] *[Amended in August 2008]*

Counting of DCC Votes

- 4.103 The PRO of a DCC main counting station shall:
- (a) count and record the number of DCC ballot papers in the ballot box(es) received from the special polling stations, dedicated polling stations set up in penal institutions and/or police stations and/or in the orange receptacle(s) from ballot paper sorting stations, and verify the number by comparing it with the respective ballot paper accounts, and prepare a statement in writing as to the respective result of the verification;
 - (b) mix the ballot papers in at least one of the DCC ballot boxes from the polling station designated as the main counting station with the ballot papers delivered from the special polling stations, ballot paper sorting stations and/or dedicated polling stations (as the case may be);
 - (c) count the valid votes obtained by each candidate in accordance with the “block vote” and “first past the post” voting system described in s 41A of the DCO;
 - (d) separate and put aside the invalid and questionable ballot papers, if any;
 - (e) determine the validity of questionable ballot papers;
 - (f) upon completing the counting of votes, verify the number of DCC ballot papers recorded in the counting process by comparing it with the ballot paper account in respect of the main counting station concerned (excluding those from the special polling

stations, the dedicated polling stations and/or ballot paper sorting stations which have been processed in accordance with (a) above) and prepare a statement in writing as to the result of the verification; and

- (g) compile the final counting results.

[S 75B of the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.104 The votes cast may be counted manually by counting staff or by using an approved programme and a computer. Approved programme means any computer software that the EAC is satisfied is programmed to count the votes for a DCC so as to give an accurate result. [S 75B(5) and (7) of the EAC (EP) (DC) Reg] *[Added in September 2023]*

Invalid Ballot Papers

4.105 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is endorsed on the front with the words “**TENDERED**” and “**重複**”;
- (c) it is endorsed on the front with the words “**SPOILT**” and “**損壞**”;
- (d) it is endorsed on the front with the words “**UNUSED**” and “**未用**”;

- (e) in respect of a DCC by-election, it is not marked with the chop provided by the polling station while the elector is required to do so;
- (f) the vote recorded on it is for a deceased or disqualified candidate whose name and other information on the ballot paper are crossed out under s 40(2) of EAC (EP) (DC) Reg; or
- (g) the number of votes marked on the ballot paper is not equal to the number of members to be returned.

[S 78(1) of the EAC (EP) (DC) Reg]

These ballot papers will be set aside as invalid on the spot. They will not be counted and will not be treated as questionable ballot papers. A candidate, his/her election agent or counting agent may inspect these ballot papers but is not entitled to make representations to the PRO concerning these ballot papers [s 78(2) of the EAC (EP) (DC) Reg]. *[Added in September 2023]*

Questionable Ballot Papers

4.106 Ballot papers with doubtful validity in the following categories are set aside as questionable ballot papers. A questionable ballot paper will be decided as invalid if in the opinion of the PRO:

- (a) it has any writing or mark by which the elector can possibly be identified;
- (b) it is not marked in accordance with s 57A(1) or 57A(3)(b) of the EAC (EP) (DC) Reg:

- (i) the ballot paper is not marked by filling in black the ovals on it opposite the names of the candidates of the elector's choice, and the intention of the elector is unclear. However, the PRO may count the votes on that ballot paper if he/she is satisfied that the intention of the elector is clear, notwithstanding the deviation from the requirements in s 57A(1) of the EAC (EP) (DC) Reg; or
- (ii) for a DCC by-election, if the elector is required to mark the ballot paper with the chop provided by the polling station, and the ballot paper is not marked by affixing the chop to give a single "✓" in the circle opposite the names of the candidates of the elector's choice on the ballot paper in accordance with s 57A(3)(b) of the EAC (EP) (DC) Reg, and the elector's intention is unclear. However, the PRO may count that ballot paper if he/she is satisfied that the elector's intention is clear, notwithstanding that the "✓" mark is not placed inside the circle;
- (c) it is substantially mutilated; or
- (d) it is void for uncertainty.

Questionable ballot papers must be separated and forwarded to the PRO to decide whether the votes are to be counted. [S 76(5)(a) of the EAC (EP) (DC) Reg] When deciding on the validity of the ballot papers in (a) above, the PRO will make reference to the judgment made by the court on an election petition case (HCAL 127/2003) (see para. 4.93 above for details). [S 79 (2) and (3) of the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.107 The validity of all questionable ballot papers shall be decided by the PRO [s 79(2) of the EAC (EP) (DC) Reg]. The PRO will invite the candidates, their election agents or counting agents present to participate in the determination process of questionable ballot papers. *[Added in September 2023]*

4.108 The determination process of questionable ballot papers will be conducted in the following manner:

- (a) the PRO will inform the candidates and their agents of his/her initial decision on the validity of each questionable ballot paper. A candidate, his/her election agent or counting agent may inspect and make representations concerning any questionable ballot paper [s 79(1) of the EAC (EP) (DC) Reg];
- (b) the PRO will then consider their representations and make his/her final decision on the validity of the questionable ballot paper (see para. 4.109 below) [s 79(2) of the EAC (EP) (DC) Reg];
- (c) if the PRO decides that a questionable ballot paper is invalid and, therefore, not to be counted, he/she must endorse the words “不獲接納” and “rejected” on the front of it. In that case, if any candidate, election agent or counting agent objects to the PRO’s final decision, the PRO must also endorse the words “反對此選票不獲接納” and “rejection objected to” on that ballot paper [s 79(4) of the EAC (EP) (DC) Reg];
- (d) if any candidate, election agent or counting agent objects to the decision of the PRO to count a questionable ballot paper, the PRO must endorse the words “反對此選票獲接納” and “acceptance

objected to” on that ballot paper [s 79(5) of the EAC (EP) (DC) Reg]; and

- (e) the PRO shall prepare a statement of the ballot papers which are not counted (including all questionable ballot papers which are rejected) [s 79(6) of the EAC (EP) (DC) Reg].

[Added in September 2023]

4.109 The decision of the PRO on any question arising from any ballot paper at the counting of votes shall be **final** [s 80 of the EAC (EP) (DC) Reg], which may be questioned by an election petition if needed [s 49 of the DCO] (see Part II of Chapter 5). *[Added in September 2023]*

Counting Arrangements

4.110 The counting of votes will proceed continuously, as far as possible, until the counting of all the votes is completed. *[Added in September 2023]*

DCCs with One Counting Station

4.111 For a DCC with only one counting station, after the count, the PRO will make known the result to the relevant candidates, their election agents or counting agents, if present. These candidates or their election agents may request the PRO for the DCC to re-count the votes, and the relevant PRO shall comply with any such request unless in his/her opinion the request is unreasonably made. [S 80A of the EAC (EP) (DC) Reg] *[Added in September 2023]*

DCCs with Two or More Counting Stations

4.112 For a DCC with two or more counting stations, the counting station serving the largest number of registered electors will be designated by the CEO as the dominant counting station [s 31(1B) of the EAC (EP) (DC) Reg]. Only the candidates or election agents of that DCC who are present at the station can request a re-count of all the votes cast in respect of the DCC concerned [s 80B(8) of the EAC (EP) (DC) Reg]. *[Added in September 2023]*

4.113 After the counting of votes at an individual counting station for the DCC is completed, the relevant PRO will make known the counting result to the candidates or their election agents or counting agents, if present. Candidates, their election agents or counting agents may request the PRO to re-count the votes, and the PRO shall comply with any such request unless in his/her opinion the request is unreasonably made. In the case of a counting station other than the dominant counting station, where there is no request for a re-count, or where the request for a re-count is rejected, or the re-count is completed and there is no request for a further re-count, or the request for a further re-count is rejected by the PRO, the PRO shall report to the PRO of the dominant counting station the counting results. [S 80B(1), (2), (3), (4), (5) and (7) of the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.114 The PRO of the dominant counting station may decide whether a re-count of all the votes of all the counting stations for the DCC is necessary. If a candidate or his/her election agent requests to re-count all the votes of all the counting stations for the DCC, such a request shall be made to the PRO of the dominant counting station, and he/she will decide whether the request should be acceded to. If he/she decides that such a request for a re-count is reasonable in the circumstances, he/she will inform the PROs of the other counting stations for the DCC to conduct a re-count at their corresponding counting stations, and he/she will conduct a re-count at the dominant counting

station at the same time. [S 80B(8) and (9) of the EAC (EP) (DC) Reg]
[Added in September 2023]

4.115 The PRO of each of the other counting stations will make known the result of the re-count at his/her counting station to the candidates or their election agents or counting agents, if present, and shall report the same to the PRO of the dominant counting station who shall inform the candidates, their election agents or counting agents present at the dominant counting station of all such re-count results. [S 80B(10) and (11) of the EAC (EP) (DC) Reg]
[Added in September 2023]

PART XIV : DECLARATION OF RESULT

4.116 For a constituency with only one counting station, the PRO shall report to the RO for the constituency the final counting or re-count result. The RO shall declare the candidate who is successful at the election as elected. [Ss 80A(7) and 81(1) of the EAC (EP) (DC) Reg] *[Amended in September 2023]*

4.117 For a constituency with two or more counting stations, the PRO of each of the counting stations shall report to the RO for the constituency the final counting or re-count result of his/her counting station. If the PRO is not the PRO of the dominant counting station, he/she shall also report to the PRO of the dominant counting station the final counting or re-count result of his/her counting station. The PRO of the dominant counting station shall report to the RO the total of the final counting or re-count results of all the counting stations for the constituency. After tallying the total of the final counting or re-count results with all the final counting or re-count results reported from individual counting stations for the constituency, the RO shall declare the candidate who

is successful at the election as elected. [Ss 80B(7), (12) and 81(1) of the EAC (EP) (DC) Reg] *[Amended in September 2023]*

4.118 In the event that one or more than one member is still to be returned for the constituency and the most successful candidates remaining have an equal number of votes, the RO shall determine the result of the election by drawing lots. He/She shall use the means of contact of such candidates provided in their nomination forms to request them to be present at his/her office or any other place as determined by him/her for conducting the drawing of lots and such candidates shall comply as soon as possible. If the RO fails to contact such a candidate, the RO may draw lots on behalf of the candidate. (See paras. 2.49 and 2.54 for detailed procedures for the drawing of lots) He/She shall declare the candidate on whom the lot falls as elected. He/She shall display a notice of all the result of the election in a prominent place outside his/her office. The result of the election will also be published in the Gazette within ten days of the declaration of the result. [Ss 80C and 82 of the EAC (EP) (DC) Reg] *[Amended in September 2023]*

PART XV : DISPOSAL OF DOCUMENTS

4.119 As soon as practicable after the PRO has ascertained the result of the poll at an election, he/she shall seal all the relevant documents and ballot papers into packets. Candidates and their agents may be present to observe the packing. [S 83 of the EAC (EP) (DC) Reg]

4.120 These sealed packets together with other documents including the nomination forms, notices of appointment of agents, etc. will then be deposited with the CEO for safe custody for at least six months from the date of the election to which they relate before they are destroyed. [Ss 84 and 86 of the EAC (EP) (DC) Reg] *[Amended in September 2019]*

4.121 **Except pursuant to a court order** in relation to an election petition or criminal proceedings, **no person may inspect any ballot paper in the custody of the CEO.** [S 85 of the EAC (EP) (DC) Reg]

PART XVI : POSTPONEMENT OR ADJOURNMENT OF THE ELECTION, THE POLL OR THE COUNT

4.122 The DCO and the EAC (EP) (DC) Reg provide for the postponement or adjournment of the election, the poll or the count for a DC ordinary election as well as such cases in respect of an individual constituency or an individual polling/counting station. *[Added in September 2023]*

4.123 Regarding the postponement or adjournment of **an ordinary election as a whole and the poll at all polling stations and/or the count at all counting stations**, if, before the holding of an ordinary election or during the poll or the count in respect of an ordinary election, the CE is of the opinion that the election, the poll or the count is likely to be or is being obstructed, disrupted, undermined or seriously affected by riot, open violence or any danger to public health or safety, then the CE may, by order, direct the postponement or adjournment of the election, the poll or the count. Besides, if it appears to the EAC that the election, the poll or the count is likely to be obstructed, disrupted, undermined or seriously affected by (a) a typhoon or other climatic condition of a serious nature; or (b) an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or the count, then the EAC may announce the postponement or adjournment of the election, the poll or the count. [S 38(1) and (2) of the DCO and s 1 of Schedule 1 to the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.124 Regarding **an individual constituency**, if, during or before an ordinary election or by-election or at any time during the poll or the count in respect of the election, it appears to the EAC that the election, the poll at all the polling stations or the count at all the counting stations for a particular constituency is likely to be obstructed, disrupted, undermined or seriously affected by (a) a typhoon or other climatic condition of a serious nature; (b) riot, open violence or any danger to public health or safety; or (c) an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or the count, then the EAC may announce the postponement or adjournment of the election or by-election, the poll at all the polling stations or the count at all the counting stations for that constituency. [S 2 of Schedule 1 to the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.125 Regarding the **poll or the count at an individual polling/counting station**, if, at any time during the poll or the count of an ordinary election or by-election, it appears to the PRO that the poll at the polling station or the count at the counting station is likely to be obstructed, disrupted, undermined or seriously affected by (a) a typhoon or other climatic condition of a serious nature; (b) riot, open violence or any danger to public health or safety; or (c) an occurrence which appears to the PRO to be a material irregularity relating to the election, the poll or the count, then the PRO may announce the adjournment of the poll at that polling station or the count at that counting station. [S 3 of Schedule 1 to the EAC (EP) (DC) Reg] *[Added in September 2023]*

4.126 If an ordinary election or by-election or the poll or count has to be postponed or adjourned in accordance with s 38 of the DCO or Schedule 1 to the EAC (EP) (DC) Reg, the CE or the EAC must appoint a date for holding the election, the poll or the count as soon as practicable after the postponement or adjournment. The date appointed must not be later than 14 days after the date originally scheduled. Pursuant to the established contingency measures

of the EAC, the election, the poll or the count will usually be postponed or adjourned to the fallback polling day (i.e. the following Sunday). [S 38(4) of the DCO and s 7 of Schedule 1 to the EAC (EP) (DC) Reg] There is no provision in the relevant electoral laws and regulations regarding further postponement or adjournment of an already postponed or adjourned election, poll or count. *[Added in September 2023]*

PART XVII : DISTRICT COUNCIL BY-ELECTION TO BE HELD

4.127 The EAC must, in accordance with regulations in force under the DCO, arrange for a DC by-election to be held in the following circumstances and not otherwise:

- (a) on the making of a declaration by the DHA as to the existence of a vacancy in the membership of a DC; and
- (b) on the making of a declaration by an RO that the election for a constituency has failed.

[S 33 of the DCO] *[Added in September 2023]*

4.128 There is no provision in the subsisting law regarding the holding of any by-election to cater for the event that a DC ordinary election, poll or count has to be postponed or adjourned due to the circumstances mentioned in paras. 4.123 to 4.125 above but cannot be held within the 14 days after the scheduled date as stipulated in the law. *[Added in September 2023]*