

## CHAPTER 6

### APPOINTMENT AND ROLES OF ELECTION AGENT, ELECTION EXPENSE AGENTS, POLLING AGENTS AND COUNTING AGENTS

#### PART I : GENERAL

6.1 This chapter deals with the appointment of agents at an election and their roles. Each candidate may appoint four types of agents, namely election agent, election expense agent, polling agent and counting agent. The REO will remind all candidates of the deadline for the appointment of agents about ten days before the polling day and will also provide all candidates with name lists of election agents, polling agents and counting agents received by the REO for their reference three days before the polling day. *[Amended in September 2019 and September 2023]*

6.2 A candidate should think carefully before selecting any of his/her agents. He/She should choose persons suitable for the task. The agents will be viewed as his/her representatives and their conduct may affect the public's perception of him/her and his/her election.

#### PART II : TYPES AND NUMBERS OF AGENTS

6.3 A candidate may appoint the following agents to assist him/her at an election:

- (a) **one** election agent [s 26(1) of the EAC (EP) (DC) Reg];
- (b) **any number** of election expense agents [s 28(1) of the EAC (EP) (DC) Reg];

- (c) a maximum of **two** polling agents for **each polling station** other than a dedicated polling station situated in a penal institution [s 45(3) of the EAC (EP) (DC) Reg];
- (d) **one** polling agent for **each dedicated polling station** situated in a penal institution other than a maximum security prison [s 45(5A) of the EAC (EP) (DC) Reg]; and

(Only candidates themselves may enter maximum security prisons (see para. 6.25 below). For arrangements regarding the admission of election agents or polling agents to dedicated polling stations situated in penal institutions, see paras. 6.12 to 6.15 and paras. 6.24 to 6.26 below.)

- (e) a maximum of **two** counting agents for **each counting station** [s 66(2) of the EAC (EP) (DC) Reg].

*[Amended in January 2010 and September 2019]*

### **PART III : QUALIFICATIONS OF AGENTS**

6.4 The election, polling and counting agents should be holders of the Hong Kong identity card and have attained the age of 18 years [ss 26(2), 45(4) and 66(3) of the EAC (EP) (DC) Reg] while an election expense agent needs to be a person who has attained the age of 18 years [s 28(2) of the EAC (EP) (DC) Reg].

### **PART IV : CIVIL SERVANTS ACTING AS AGENTS**

6.5 Civil servants, other than directorate officers, Administrative

Officers, Information Officers, police officers and those officers acting in the above grades or ranks with a view to substantive appointment thereto (i.e. other than acting for temporary relief purpose), may act as agents or assist in electioneering activities **provided that** they are not already appointed as ROs, AROs, PROs, polling or counting staff, that there is no conflict of interest with their official duties, that no use of public resources is involved, and that no government uniform is worn when participating in electioneering activities. To avoid any unfairness or appearance of unfairness or conflict of interest, civil servants who work in a constituency or have extensive contacts with the public in a constituency are strongly advised not to accept appointment by a candidate in that constituency to be his/her agent and/or participate in electioneering activities in the constituency concerned. Civil servants who participate in electioneering activities, including the seeking of election donations, for any candidates should not use or give the impression of using any public resources in such activities. The guidelines set out in this paragraph are equally applicable to the non-civil service government staff<sup>37</sup>. *[Amended in September 2007, August 2008, September 2011, September 2012, September 2019 and September 2023]*

## **PART V : ELECTION AGENT**

### **Appointment**

6.6 A candidate may appoint **one** election agent to assist him/her and to act on his/her behalf at an election [s 26(1) of the EAC (EP) (DC) Reg].

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<sup>37</sup> For the purpose of this set of Guidelines, non-civil service government staff refer to the staff employed on non-civil service terms by the HKSAR Government, including:

- (a) those employed under the Non-Civil Service Contract Staff Scheme pursuant to Civil Service Bureau Circular No. 2/2001;
- (b) those employed under the Post-retirement Service Contract Scheme pursuant to Civil Service Bureau Circular No. 13/2015; and
- (c) other government staff employed on non-civil service terms that do not fall under the categories of (a) or (b) above.

The appointment may be made at any time after the candidate submits his/her nomination form.

6.7 The candidate must give notice of the appointment of his/her election agent to the RO for the constituency to which the candidate belongs [s 26(3) of the EAC (EP) (DC) Reg]. The notice must be in the specified form, signed by both the candidate and the election agent, and delivered by hand, by post, by electronic mail or by facsimile transmission to the RO. If the notice of appointment is given on the polling day, it should not be delivered to the RO by post [s 26(5), (6) and (13) of the EAC (EP) (DC) Reg]. The appointment will not be effective until the notice of appointment is received by the RO [s 26(4) of the EAC (EP) (DC) Reg]. *[Amended in September 2011 and September 2015]*

6.8 An election agent must not incur election expenses for or on behalf of a candidate unless he/she has been appointed by the candidate as an election expense agent. Expenses incurred by an election agent purporting to be appointed as an election expense agent before the notice of appointment is duly received by the RO for promoting the election of a candidate or for prejudicing the election of another candidate or other candidates may, depending on the circumstances, still be treated as the election expenses incurred in respect of the candidate. **It is important to note that** it is an **illegal conduct** for any person other than a candidate or a candidate's election expense agent to **incur election expenses at or in connection with an election** [s 23(1) of the ECICO]. *[Amended in September 2015 and September 2019]*

### **Revocation**

6.9 The appointment of an election agent may be revoked by the candidate at any time. The candidate must give notice of the revocation in writing in the specified form and deliver the signed notice by hand, by post, by

electronic mail or by facsimile transmission to the RO. If the notice of revocation is given on the polling day, it should not be delivered to the RO by post. A revocation of an appointment of an election agent will not be effective until such notice is received by the RO. [S 26(8), (9), (10) and (13) of the EAC (EP) (DC) Reg] *[Amended in September 2011 and September 2015]*

6.10 If an election agent dies or has his/her appointment revoked, the candidate may appoint another election agent. In such a case, the candidate must give notice of the replacement appointment in the specified form to the RO in accordance with para. 6.7 above [s 26(11), (12) and (13) of the EAC (EP) (DC) Reg]. Like other election agents, the new election agent has to follow the arrangements set out in paras. 6.12 to 6.16 below, including the requirement to submit an application to the CEO if he/she wishes to observe the poll at a dedicated polling station situated in a penal institution (other than a maximum security prison). *[Amended in January 2010 and September 2019]*

### **Notification**

6.11 Not later than ten days after the close of the nomination period, and thereafter as required, each validly nominated candidate or his/her election agent will receive from the RO a notice containing the particulars of all the election agents (e.g. names and correspondence addresses) appointed by all candidates for the constituency concerned [s 27(1), (3) and (7) of the EAC (EP) (DC) Reg]. The RO must also display outside his/her office a notice of the particulars of the election agents [s 27(5) of the EAC (EP) (DC) Reg]. *[Amended in September 2011]*

### **Role of an Election Agent**

6.12 A duly appointed election agent ranks in the **most important position** amongst all types of agents of a candidate. He/She has the **authority**

**to do everything a candidate is authorised to do** under the EAC (EP) (DC) Reg for the purposes of the election, **except:**

- (a) to sign the nomination form or make any requisite declaration in relation to a candidate's nomination;
- (b) to withdraw the candidate's candidature;
- (c) to incur election expenses save where he/she has been appointed as an election expense agent by the candidate;
- (d) to authorise an election expense agent to incur election expenses;  
and
- (e) to enter a dedicated polling station situated in a maximum security prison.

[S 26(14) and (15) of the EAC (EP) (DC) Reg] *[Amended in September 2007, January 2010 and September 2015]*

**IMPORTANT :**

An election agent is, along with the candidate, responsible for the management of the election campaign. A candidate is responsible for all the acts of his/her election agent. If the election agent fails in his/her duties, he/she may contravene the law, in particular the ECICO, and other criminal offences for which the candidate may also be liable, with serious consequences. An election agent will need to be authorised as an election expense agent by a candidate to incur election expenses. If so authorised, the election agent will also become

an election expense agent (see Part VI of this chapter).  
*[Amended in September 2012]*

6.13 Candidates and their election agents are normally allowed admission to polling stations, counting stations and ballot paper sorting stations in respect of the constituency concerned and are entitled to be present at the counting of the votes. Depending on whether they are observing the poll or the count, they should observe the rules applicable to the polling agents and/or counting agents. They are therefore advised to familiarise themselves with the guidelines set out in Parts VII and VIII of this chapter. Due to security reasons, only candidates may enter dedicated polling stations situated in maximum security prisons to observe the poll. An election agent who wishes to observe the poll at a dedicated polling station situated in a penal institution other than a maximum security prison must deliver an application in the specified form to the CEO by hand, by post, by electronic mail or by facsimile transmission at least one week before the polling day. The election agent may not be admitted to that dedicated polling station unless the CCS has given consent to his/her admission. If the CCS refuses to give consent to the application received, he/she will notify the candidate or the election agent as soon as practicable. [S 26(15) and (18) of the EAC (EP) (DC) Reg]  
*[Amended in January 2010, September 2015 and September 2023]*

6.14 The CCS may, upon an application delivered to the CEO during the week before the polling day, give consent if he/she is satisfied that a person imprisoned or held in custody by the CSD, who is entitled to vote for the relevant constituency at the relevant dedicated polling station, is admitted or transferred to the penal institution concerned during that week and that the application is made without undue delay after the admission or transfer [s 26(17) of the EAC (EP) (DC) Reg]. The REO will post and update on its website the number of registered electors who are imprisoned or held in custody in individual penal institutions daily from Monday to Friday (other

than a general holiday) starting from three weeks before the polling day and on the Saturday immediately before the polling day for candidates' reference. *[Added in January 2010, amended in September 2012 and September 2015]*

6.15 No election agent may enter a dedicated polling station situated in a penal institution if a polling agent has already been appointed by the same candidate for that polling station [s 26(16) of the EAC (EP) (DC) Reg]. *[Added in January 2010]*

6.16 The PRO of a polling station may regulate the number of candidates, election agents and polling agents to be admitted to the polling station at any one time, for the purpose of maintaining order in the polling station and ensuring that the polling is conducted smoothly [s 47(2) of the EAC (EP) (DC) Reg]. *[Amended in January 2010 and September 2023]*

## **PART VI : ELECTION EXPENSE AGENTS**

### **Authorisation**

6.17 A candidate may authorise **any number** of election expense agents to incur election expenses on his/her behalf in the DC election [s 28(1) of the EAC (EP) (DC) Reg]. The authorisation will remain in force until the end of the election period, i.e. the end of the polling day or the last polling day if there is more than one polling day, unless it is revoked earlier [ss 2 and 23(7) of the ECICO]. *[Amended in September 2007]*

6.18 The authorisation of an election expense agent made by a candidate shall be in writing in the specified form and state the name, identity document number and residential address of the election expense agent, and must specify the maximum amount of election expenses the agent may incur.



It should be signed by both the candidate and the election expense agent [s 28(3), (4) and (5) of the EAC (EP) (DC) Reg]. A copy of the authorisation must be delivered by hand, by post, by electronic mail or by facsimile transmission to the relevant RO, or the CEO if the RO has not been appointed [s 28(6) and (7) of the EAC (EP) (DC) Reg]. *[Amended in September 2007 and September 2015]*

6.19 The authorisation of an election expense agent is not effective until it has been received by the relevant RO or the CEO as the case may be [s 28(7A) of the EAC (EP) (DC) Reg]. Before the authorisation is received by the relevant RO or the CEO (as the case may be), no election expenses should be incurred by a person purporting to be authorised as an election expense agent. It is also important to note that it is an **illegal conduct** for any person other than a candidate or his/her election expense agent to **incur election expenses** [s 23(1) of the ECICO]. The expenses so incurred may also be counted as the candidate's election expenses.

### **Revocation**

6.20 The authorisation of an election expense agent may be revoked by a candidate at any time. The candidate must give notice of the revocation as soon as possible in writing in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the relevant RO, or the CEO if the relevant RO has not been appointed [s 28(11), (12) and (12A) of the EAC (EP) (DC) Reg]. The revocation of the authorisation of an election expense agent will only be effective when the relevant RO or the CEO, as the case may be, receives the notice [s 28(13) of the EAC (EP) (DC) Reg]. The election expenses already incurred before the RO or the CEO receives the notice will still be counted as election expenses of the candidate. *[Amended in September 2007 and September 2015]*

### **Role of Election Expense Agents**

6.21 An election expense agent is authorised **to incur election expenses on behalf of a candidate**. He/She must not incur election expenses in excess of the amount specified in the agent's authorisation; otherwise he/she commits a criminal offence [s 23(4) of the ECICO].

### **Candidate's Duty to Know the Details of Election Expenses Incurred by his/her Election Expense Agents**

6.22 Every candidate (whether elected or not or returned uncontested, or having withdrawn the candidature before the close of nominations or been decided as not validly nominated, or not having incurred any election expenses) **must**, subject to criminal penalty for breach, submit to the CEO a return and declaration of his/her election expenses and election donations ("election return") with supporting invoices and receipts issued by the goods or service providers or to donors (as the case may be). According to s 2 of the ECICO, "candidate" means a person who stands nominated as a candidate at an election and also means a person who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate at the election. The candidate must ensure that the election return is lodged before the expiry of the period of 60 days after the election is settled in relation to the constituency concerned (and in relation to all the constituencies concerned if the election is held for 2 or more constituencies) or within such extended period as may be allowed by the CFI under the relevant law. An election is settled in relation to a constituency on the date on which any of the following events occurs:

- (a) the result of the election is notified in the Gazette; or
- (b) the election is declared to have failed.

[S 37(1), (1F), (1G) and (1N) of the ECICO and Part V of Chapter 15]  
*[Amended in September 2023]*

For the efficient and effective discharge of his/her duty, the candidate should **make sure** that his/her election expense agents will keep account of all election expenses incurred on his/her behalf and will provide to him/her, as soon as practicable but not later than the period mentioned above, a detailed statement of expenditure in which each item of expenditure of \$500 or above has to be supported by an invoice and a receipt. If any item of expenditure incurred by the election expense agents is paid or defrayed or contributed to by a donation, the candidate should **make sure** that they will provide him/her with a statement stating the expenses. If any item is not explicit in monetary terms, it should be assessed at a reasonable value. If any item of donation is valued at more than \$1,000, it should be supported by a copy of the receipt for the donation issued to the donor (in a standard form signed by the candidate). Should any election expense agents fail to provide such statements together with the invoices and receipts issued by goods or service providers or to donors, as the case may be, the candidate will have difficulty in discharging his/her duty to file the election return, which **may render him/her liable for a criminal offence** under s 38 of the ECICO. *[Amended in September 2007, September 2011, September 2019 and September 2023]*

### **Public Inspection of Authorisation of Election Expense Agents**

6.23 The RO will make available for public inspection all copies of authorisations of election expense agents submitted by candidates until the expiration of the period during which copies of the election returns lodged by the candidates are available for inspection, i.e. the period ending with the 60<sup>th</sup> day before the first anniversary of the date of the deadline for lodging the relevant election returns (disregarding any order made by the CFI under s 40 of the ECICO allowing a candidate to lodge an election return within a further

period as specified by the CFI [s 41(6) of the ECICO]. This offers the public and other candidates an opportunity to scrutinise the maximum amount of election expenses that could be incurred by the election expense agents on behalf of the candidates. [S 29 of the EAC (EP) (DC) Reg] *[Amended in September 2011, September 2019 and September 2023]*

## **PART VII : POLLING AGENTS**

### **Appointment**

6.24 A candidate may appoint a **maximum of two polling agents** for each polling station, other than a dedicated polling station situated in a penal institution, used for polling for the constituency for which he/she is nominated [s 45(3) of the EAC (EP) (DC) Reg]. The notice of appointment must be in writing, in the specified form, signed by the candidate and delivered by hand, by post, by electronic mail or by facsimile transmission to the relevant RO, at least **seven days** before the polling day [s 45(5), (5D) and (8) of the EAC (EP) (DC) Reg]. Where a candidate wishes to appoint a polling agent after the above deadline, he/she is required to give notice of the appointment to the PRO of the polling station concerned. The written notice must be delivered by the candidate or his/her election agent **in person** to the PRO of the relevant polling station on the polling day [s 45(6) of the EAC (EP) (DC) Reg]. The appointment of a polling agent will not be effective until the notice of appointment is received by the relevant RO or PRO, as the case may be [s 45(7) of the EAC (EP) (DC) Reg]. *[Amended in January 2010 and September 2015]*

6.25 In respect of the appointment of a polling agent to be admitted to a dedicated polling station situated in a penal institution, the following provisions apply:

- (a) only the candidate is allowed to be present in a dedicated polling station situated in a maximum security prison [s 45(5A)(c) of the EAC (EP) (DC) Reg];
- (b) only one polling agent may be appointed for a dedicated polling station situated in a penal institution (except a maximum security prison). The appointment is effective only when a notice of the appointment made in the specified form is delivered to the CEO by hand, by post, by electronic mail or by facsimile transmission at least **seven days** before the polling day, and the CCS has given consent to the presence of the agent [s 45(5A) and (5D) of the EAC (EP) (DC) Reg]; and
- (c) for a dedicated polling station situated in a penal institution (except a maximum security prison), no polling agent may be appointed if the CCS has already given consent to the presence of the election agent of the same candidate at that polling station [s 45(5A)(b) of the EAC (EP) (DC) Reg].

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

6.26 If the CCS refuses to give consent to the appointment, he/she will notify the candidate or his/her election agent as soon as practicable [s 45(5C) of the EAC (EP) (DC) Reg]. The CCS may, upon receipt of a notice of appointment given during the week before the polling day, still give consent if he/she is satisfied that a person imprisoned or held in custody by the CSD, who is entitled to vote for the relevant constituency at the dedicated polling station situated in a penal institution, is admitted or transferred to the penal institution concerned during that week and that the notice of appointment is given without undue delay after the admission or transfer [s 45(5B) of the EAC (EP) (DC) Reg]. The REO will post and update on its website the number of registered

electors who are imprisoned or held in custody in individual penal institutions daily from Monday to Friday (other than a general holiday) starting from three weeks before the polling day and on the Saturday immediately before the polling day for candidates' reference. *[Added in January 2010, amended in September 2015 and September 2019]*

### **Revocation**

6.27 The appointment of a polling agent may be revoked by the candidate at any time. The candidate must give notice of revocation in writing in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the relevant RO (other than on the polling day). If the notice of revocation is given on the polling day:

- (a) for a polling agent appointed for a polling station other than a dedicated polling station situated in a penal institution, such notice must be delivered to the relevant PRO by either the candidate or his/her election agent **in person**;
- (b) for a polling agent appointed for a dedicated polling station situated in a penal institution, such notice must be delivered to the relevant RO by hand, by electronic mail or by facsimile transmission.

[S 45(9), (10), (11) and (11A) of the EAC (EP) (DC) Reg] *[Amended in September 2015]*

6.28 A revocation of an appointment of a polling agent is not effective until the notice thereof is received by the relevant RO or PRO, as the case may be [s 45(12) of the EAC (EP) (DC) Reg]. If a replacement of polling agent is appointed and he/she wishes to observe the poll at a dedicated polling station

situated in a penal institution (other than a maximum security prison), he/she is required to follow the arrangements set out in paras. 6.24 to 6.26 above. *[Amended in January 2010 and September 2015]*

### **Role of Polling Agents**

6.29 Polling agents are appointed **to assist a candidate in observing the conduct of the poll**, to detect impersonation or other irregularities at the polling stations.

### **Provisions which the Polling Agents should be Aware of**

6.30 Only one polling agent of each candidate may be admitted at any one time to the polling station for which he/she has been appointed, on behalf of the candidate [s 47(6) of the EAC (EP) (DC) Reg]. Inside the polling station, the polling agent is required to stay and keep his/her movements within the area designated for observation of the poll and not outside. Where a candidate or his/her election agent is present within a polling station, a polling agent of that candidate will not be allowed to be present at the same time within the polling station [s 47(7) and (8) of the EAC (EP) (DC) Reg] (see Part V of Chapter 4 regarding the admission of candidates, election agents and polling agents to the polling station). *[Amended in January 2010]*

6.31 Every person, other than electors and the police officers, officers of the CSD, officers of any law enforcement agency or members of the CAS on duty, must make a Declaration of Secrecy on the specified form before entering a polling station and observe the provisions governing the secrecy of voting [s 93(1) and (5) of the EAC (EP) (DC) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a polling station will observe the secrecy of the vote of the elector and, in particular, will not divulge which elector has voted for which candidate. *[Amended in January 2010]*

6.32 Upon arrival at the polling station for which he/she has been appointed, a polling agent shall report to the PRO and produce his/her identity card and the Declaration of Secrecy completed by him/her for inspection [s 47(10) of the EAC (EP) (DC) Reg].

6.33 The polling agents should pay attention to the following procedures that shall apply on the polling day:

(a) Before the poll

- (i) About 30 minutes before the commencement of the poll (or about 15 minutes for dedicated polling stations situated in penal institutions), the PRO will inform the candidates or their agents (either election agents or polling agents), if present, of the number of ballot papers in the PRO's possession, and open the sealed packets of ballot papers to show them the books of ballot papers not yet issued to any elector ("**UNISSUED ballot papers**");
- (ii) About 15 minutes before the commencement of the poll, the PRO will show to the above persons the empty ballot boxes before proceeding to lock and seal them.

(b) During the poll

- (i) Where a person, claiming to be a particular elector entered on the FR, applies for a ballot paper after an earlier person has already been issued with a ballot paper under the name of such an elector, the PRO may issue a ballot paper with the words "**TENDERED**" and "**重複**" endorsed on the front to the latter elector **only if** he/she is not certain that



the latter person is the former person who was issued with a ballot paper earlier, and the latter person has answered the appropriate questions in accordance with the law as set out in para. 4.45 of Chapter 4 to the satisfaction of the PRO. Such a ballot paper shall not be counted at the counting of votes. [Ss 60 and 78(1)(b) of the EAC (EP) (DC) Reg];

- (ii) 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 a new ballot paper to the elector in exchange for the spoilt one. The PRO shall endorse the words “**SPOILT**” and “**損壞**” on the front of the spoilt ballot paper and keep it in his/her own custody. The spoilt ballot paper will not be put into a ballot box and will not be counted at the counting of votes. [Ss 62 and 78(1)(c) of the EAC (EP) (DC) Reg];
  
- (iii) For any ballot papers which have been issued and abandoned or found left behind anywhere in the polling station, the PRO shall endorse them with the words “**UNUSED**” and “**未用**” on the front and keep them in his/her own custody. Such ballot papers shall not be put into a ballot box and will not be counted at the counting of votes. [Ss 61 and 78(1)(d) of the EAC (EP) (DC) Reg] Under these circumstances, the PRO will show to each candidate or his/her election agent or polling agent, if present at the relevant time, such ballot papers.

(c) After the poll

The PRO shall, in the presence of persons at the polling station, lock and seal the flaps of the inserting slots of the ballot boxes. He/She will also inform each candidate or his/her agent, if present, of the number of each type of ballot papers in his/her possession (i.e. unissued ballot papers, spoilt ballot papers and unused ballot papers) [s 63A(1) of EAC (EP) (DC) Reg]. Candidates, their election agents, polling agents and counting agents, if present, may stay inside the polling station to observe the conversion of the venue into a counting station [s 63(1A) of EAC (EP) (DC) Reg]. The count will commence upon the completion of the conversion (except for small polling stations and dedicated polling stations, see Part XI of Chapter 4 for the relevant arrangement).

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

6.34 Generally speaking, a polling agent may observe all proceedings in the polling station for which he/she has been appointed and record his/her observations but shall not do anything that may interfere with the conduct of the poll. A polling agent **may**:

- (a) observe the opening of sealed packets of ballot papers and the locking and sealing of empty ballot boxes before the poll commences, and the locking and sealing of the ballot boxes during or at the close of the poll; *[Amended in September 2012]*

**IMPORTANT :**

Any polling agent who signs the sealing certificate of a ballot box as witness is required to write his/her name in block letters beneath his/her signature for easy identification. Candidates are advised to keep a list of their own polling agents to facilitate checking when the sealing certificate is broken at the counting station.

- (b) leave the polling station at any time within the one-hour slot after he/she is admitted to the polling station; in that case his/her place may be taken by the relevant candidate, election agent or another polling agent (representing the same candidate) appointed to attend at the polling station (see para. 6.30 above);
- (c) subject to para. 6.35(b) below, observe the issue of ballot papers to an elector by the polling staff (including their making a record in the entry relating to the elector in the EPR or drawing a line across the relevant entry in the printed copy or extract of the FR (if used)) provided that the polling agent will not interfere with the work of the polling staff;
- (d) where there is reasonable ground for questioning the bona fides of an elector, ask the PRO to put the following prescribed questions (subject to necessary modifications) to that person at the time of his/her application for a ballot paper (but not afterwards):
  - (i) “Are you the person registered in the FR now in effect for this District Committees constituency/District Council geographical constituency (as the case may be), as follows (the PRO to read the whole entry as it is recorded in the

copy or extract of the FR supplied to that PRO)?”

- (ii) “Have you already voted for this or any other District Committees constituency/District Council geographical constituency (as the case may be) in this election?”

**IMPORTANT :**

The person will not be issued with any ballot paper unless he/she has answered the questions to the satisfaction of the PRO [s 54(2), (3) and (4) of the EAC (EP) (DC) Reg].

- (e) where there is reasonable cause to believe that a person who has applied for a ballot paper has engaged in corrupt conduct by impersonation, inform the PRO for appropriate action before that person leaves the polling station. This may possibly lead to the arrest of the person. The polling agent must however undertake in writing to give evidence to substantiate the allegation in a court of law. [S 55 of the EAC (EP) (DC) Reg]

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

6.35 Inside a polling station, a polling agent **must not**:

- (a) interfere with or attempt to influence any elector;
- (b) speak to or communicate with any elector, or interfere with or attempt to interfere with any ballot boxes, ballot papers, backup storage device of the EPR system, the marked copy of the FR of electors in printed form (if used) or other relevant election

materials. In this regard, a polling agent should station within the designated area demarcated by red adhesive tapes, and must not enter, or move close to, the restricted zone delineated with yellow tapes which is about 1 metre or 2 metres (depending on the configuration) around the voting compartments. Moreover, a polling agent must not ask an elector about his/her identity card number or check an elector's identity card;

- (c) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of any elector. A polling agent should read and observe carefully the provisions governing the secrecy of voting issued with the form of Declaration of Secrecy;
- (d) exhibit, leave or distribute any campaign material;
- (e) display or wear any promotional material, such as any badge, emblem, clothing or head-dress, which:
  - (i) may promote or prejudice the election of a 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
- (f) use a mobile telephone, paging machine or any other device for electronic communication.

[Ss 48, 94 and 112 of the EAC (EP) (DC) Reg] *[Amended in September 2007, September 2011, September 2015 and September 2023]*

6.36 A polling agent must not misconduct himself/herself in or in the vicinity of a polling station or fail to obey any lawful order of the RO or the PRO; otherwise he/she commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months [s 48(4) and (7) of the EAC (EP) (DC) Reg] and may be ordered by the RO or the PRO to leave the area. If he/she fails to leave immediately, 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 any law enforcement agency if the polling station is a dedicated polling station; or
- (c) any other person authorised in writing by the RO or the PRO to remove him/her.

The person so removed may not re-enter the polling station during that day except with the permission of the RO or the PRO. [S 49(2), (3) and (4) of the EAC (EP) (DC) Reg] *[Amended in January 2010]*

### **Other Useful Information for Polling Agents**

6.37 Polling staff, candidates, their election agents and polling agents will be required to wear an identification device issued by the RO or the PRO for identification. If in doubt, a polling agent may enquire with the PRO as to the identities of the persons inside the polling station. No attempt, however, should be made to obtain information as to the identity of any elector who is about to vote or has voted. *[Amended in September 2015]*

6.38 Electors with mobility difficulty may be permitted to vote in a designated special polling station. Candidates or their agents can make enquiries with the RO for information.

6.39 Only the PRO, the DPRO or an APRO may, in the presence of one polling staff as a witness, help an elector mark a ballot paper if the elector claims that he/she is unable to read or is incapacitated from marking his/her vote by himself/herself due to visual impairment or other physical causes [s 59(1) and (2) of the EAC (EP) (DC) Reg]. The candidates or their agents present should be informed when such a request for assistance is received. Candidates or their polling agents in the polling station may suggest to the PRO, the DPRO or an APRO a particular polling staff not working at the ballot paper issuing desk as the witness, but the final decision as to which polling staff should be the witness remains with the PRO, DPRO or APRO. Under no circumstances should an elector's relative, friend or any other person be allowed to accompany the elector in the course of voting. *[Amended in September 2012 and September 2015]*

6.40 In each polling station, subject to practicability of production, a number of **braille templates** are made available for persons with visual impairment in need to facilitate marking their votes on the ballot papers [s 59(3) of the EAC (EP) (DC) Reg]. The basic features of the template are as follows:

- (a) the template for each constituency is of the same width and length as the ballot paper;
- (b) the template contains numbers in braille and Arabic numerals printed in relief (if any)<sup>38</sup> starting with the first numeral which represent the candidate numbers assigned to the candidates of the constituency and are arranged from the top downwards in ascending order; on the left hand side against each of the number is a round hole;

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<sup>38</sup> In the DC ordinary election, due to the constraint of the size and design of the ballot paper for the DCC, only braille representing the candidate number will be embossed on the template for the constituency.

- (c) the **top left hand corner** of the ballot paper as well as that of the template are cut so as to guide the person with visual impairment to place the template on top of the front side of the ballot paper in the proper direction; and
- (d) when the template is placed properly on the ballot paper, each braille number corresponds with the candidate number of the constituency; and each of the holes on the template corresponds with the circle/oval on the ballot paper against the candidate number. The number of holes equals the number of candidates in the constituency.

In the case of an election in respect of a DCC which adopts the “block vote” voting system, a person with visual impairment should fill the oval through the holes of the template against the candidate number of the candidate of his/her choice. A maximum of 30 candidate numbers can be embossed in a braille template. It is not practical to produce braille templates if there are more than 30 candidates in a DCC. A person with visual impairment may request the PRO to mark the ballot paper of his/her choice on his/her behalf. In the case of an election in respect of a DCGC which adopts the “double seats and single vote” voting system or a by-election of the DCC which adopts the “block vote” voting system, a person with visual impairment should affix the chop provided at the polling station to give a single “✓” in the circle through the holes of the template against the candidate number of the candidate of his/her choice.

*[Amended in September 2015, September 2019 and September 2023]*

6.41 No person may canvass, display or wear any promotional material relating to any candidate or the election within a polling station. Candidates and their agents should not bring electioneering materials into the polling station or leave them there, and should remove any promotional badges, emblems, clothing or head-dress before entering. No person is allowed to use



a sound amplifying system or device for any purpose within the NCZ; nor should he/she use such system or device or any activities (e.g. lion dance) for canvassing so that the sound emitted by it can be heard within the NCZ [s 43(13) of the EAC (EP) (DC) Reg]. However, an officer of the CSD may use a sound amplifying system or device in the NCZ of a dedicated polling station situated in a penal institution for the performance of his/her duties on the polling day [s 43(13A) of the EAC (EP) (DC) Reg]. Also, a person must not stay or loiter in the NSZ without the express permission of the PRO [s 43(13)(d) of the EAC (EP) (DC) Reg]. Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of the PRO, the relevant RO for the constituency, or a member of the EAC, commits an offence and will be 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]. Normally such permission is only granted to government photographers as they have to take photos for publicity purposes. Polling agents should also read Parts II to XI of Chapter 4 on all matters relating to polling, and pay special attention to paras. 4.63 to 4.66 of Chapter 4 for activities that are prohibited and the consequences of conducting such activities in a polling station. *[Amended in September 2007, September 2011, September 2012 and September 2019]*

6.42 If a candidate or his/her election or polling agent has any complaint about whatever happens inside a polling station, he/she should follow the procedures laid down in Chapter 19 on Complaints Procedure of the Guidelines.

## **PART VIII : COUNTING AGENTS**

### **Appointment**

6.43 Each candidate may appoint **not more than two counting agents** to observe the counting of votes at a counting station of the constituency contested by the candidate, and the sorting of ballot papers received from dedicated polling stations at a ballot paper sorting station [ss 2(3), 66(1) and (2) of the EAC (EP) (DC) Reg]. A person appointed as a counting agent need not be, but may be, appointed as a polling agent at the same time. *[Amended in January 2010 and September 2019]*

6.44 The notice of appointment must be in writing, in the specified form signed by the candidate and delivered by hand, by post, by electronic mail or by facsimile transmission to the relevant RO at least **seven days** before the polling day [ss 2(3), 66(4), (4A) and (6) of the EAC (EP) (DC) Reg]. Where a candidate wishes to appoint a counting agent after the above deadline, the notice of the appointment must be delivered by the candidate or his/her election agent **in person** to the PRO for the relevant counting station on the polling day during the period from the commencement of the poll to the conclusion of the count (for counting stations) or the completion of the sorting of ballot papers (for ballot paper sorting stations) [ss 2(3) and 66(5) of the EAC (EP) (DC) Reg]. The appointment of a counting agent is only effective when the notice of such appointment is received by the RO or the PRO, as the case may be [ss 2(3) and 66(7) of the EAC (EP) (DC) Reg]. *[Amended in January 2010 and September 2015]*

### **Revocation**

6.45 The appointment of a counting agent may be revoked by the candidate at any time. The candidate must give notice of the revocation in

writing in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the RO (other than on the polling day) [ss 2(3), 66(9) and (9A) of the EAC (EP) (DC) Reg]. If the candidate intends to revoke the appointment on the polling day, the notice of revocation must be delivered by the candidate or his/her election agent **in person** to the PRO [ss 2(3) and 66(10) of the EAC (EP) (DC) Reg]. A revocation of appointment of a counting agent is not effective until the notice thereof is received by the RO or the PRO, as the case may be [ss 2(3) and 66(11) of the EAC (EP) (DC) Reg]. *[Amended in January 2010, September 2012 and September 2015]*

### **Role of Counting Agents**

6.46 Counting agents are appointed to:

- (a) observe in the counting stations the breaking of the seals on the ballot boxes, the sorting, separation and counting of ballot papers and the counting of votes on the valid ballot papers; or
- (b) observe in the ballot paper sorting stations the breaking of the seals on the ballot boxes received from dedicated polling stations and the sorting of the envelopes in the ballot boxes which contain ballot papers cast at the dedicated polling stations.

This arrangement ensures the transparency of the sorting and counting process and is conducive to the principle of openness and fairness (see Parts XII and XIII of Chapter 4). *[Amended in January 2010]*

### **Provisions which the Counting Agents should be Aware of**

6.47 Every person authorised to stay at a counting station or a ballot

paper sorting station, other than the police officers, the officers of the CSD, the officers of any law enforcement agencies and members of the CAS on duty, must make a Declaration of Secrecy on a specified form before the counting of votes or sorting of ballot papers commences and observe the provisions governing the secrecy of voting [s 93 of the EAC (EP) (DC) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a counting station or a ballot paper sorting station will observe the secrecy of the vote of the elector and, in particular, will not divulge which elector has voted for which candidate. Members of the public present within the area designated by the PRO are not required to make a Declaration of Secrecy. [Ss 68(5) and 93(2) of the EAC (EP) (DC) Reg] *[Amended in January 2010 and September 2011]*

6.48 Upon arrival at the counting station or the ballot paper sorting station, a counting agent shall report to the PRO and produce his/her identity card and the Declaration of Secrecy completed by him/her for inspection [ss 2(3) and 68(4) of the EAC (EP) (DC) Reg]. *[Amended in January 2010]*

6.49 Counting agents are entitled to be present throughout the count to observe the entire counting proceedings. They will be allowed by the PRO to stay close to and around the counting tables to observe the count. Nonetheless, they must not touch any ballot papers. A counting agent **may**:

- (a) observe the breaking of the seals on the ballot boxes and the opening of the ballot boxes and, where applicable, envelopes containing cast ballot papers for the relevant constituency by the PRO; *[Amended in September 2012]*
- (b) inspect any papers other than ballot papers taken from the ballot boxes before they are disposed of;

- (c) observe the conduct of the count by counting staff, including how votes on individual ballot papers are counted;
- (d) observe the determination of questionable ballot papers by the PRO and make representations on behalf of the candidate concerned [s 79(1) of the EAC (EP) (DC) Reg]; and
- (e) observe, where he/she wishes, the packing of ballot papers by the counting staff and the PRO at the conclusion of the count.

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

6.50 A counting agent in a ballot paper sorting station **may**:

- (a) observe the opening of the ballot boxes received from dedicated polling stations;
- (b) inspect any papers other than the envelopes containing cast ballot papers taken from the ballot boxes before they are disposed of;
- (c) observe the counting of the envelopes containing cast ballot papers in each ballot box;
- (d) observe the sorting of the aforesaid envelopes according to each constituency; and
- (e) observe the sealing of the receptacles containing the sorted envelopes before they are delivered to the PRO of the respective main counting stations of the relevant constituencies.

*[Added in January 2010]*

- 6.51 A counting agent **must not**:
- (a) touch, handle, separate or arrange ballot papers or envelopes; and
  - (b) misconduct in or in the vicinity of a counting station or a ballot paper sorting station, or fail to obey any lawful order of the PRO, otherwise he/she commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months and may be ordered by the PRO to leave the area [s 69(2) and (3) of the EAC (EP) (DC) Reg]. If he/she 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 counting station or the ballot paper sorting station, as the case may be, during that day except with the permission of the PRO. [Ss 2(3), 70(3) and (4) of the EAC (EP) (DC) Reg]

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

6.52 Counting agents should read Parts XII and XIII of Chapter 4 on all matters relating to sorting of ballot papers and counting of votes, and pay special attention to paras. 4.74 to 4.78 and paras. 4.82 to 4.87 of Chapter 4 for activities that are prohibited and the consequences of conducting such activities in ballot paper sorting stations and counting stations. *[Amended in September 2007 and January 2010]*