

## CHAPTER 3

### REGISTRATION OF ELECTION COMMITTEE EX-OFFICIO MEMBERS AND VOTERS, AND VOTING SYSTEM

#### PART I : GENERAL

3.1 According to the Amendment Ordinance, the EC shall be constituted on 22 October 2021. The EC for the subsequent term shall be constituted on 1 February in the year in which the term of office of the CE is to expire. A subsector ordinary election will be held before that date to elect members of the EC for a new term of office of the EC (see paras. 1.4 and 1.5 above). *[Amended in September 2006 and July 2021]*

3.2 Only registered voters whose names appear on the FR of voters may vote at the election. Registered voters may visit the Online Voter Information Enquiry System (“OVIES”) ([www.voterinfo.gov.hk](http://www.voterinfo.gov.hk)) at any time to check their registration particulars. The FR is updated in every voter registration cycle. *[Added in July 2021]*

3.3 Members of the EC are returned by 3 methods, namely (a) ex-officio members; (b) nomination by the designated bodies of the subsectors; and (c) election by eligible voters in the subsectors. *[Added in July 2021]*

3.4 The application for change of registration particulars and application for new registration were closed on 2 April 2021 and 2 May 2021 respectively, i.e. before the enactment of the Amendment Ordinance. The Amendment Ordinance subsequently provided for the reconstitution of the EC and major changes to the composition of the EC subsectors. Hence, the REO

launched the “Special Voter Registration Arrangements”, which ran from 1 June 2021 to 5 July 2021, for all eligible individuals and bodies to submit applications for the following purposes:

- (a) EC ex-officio members: All individuals eligible to be registered as an ex-officio member of the EC should submit registration forms; and
- (b) EC subsector voters: All individuals and bodies eligible to register as voters for EC subsectors, regardless of whether they are currently registered as voters, must submit applications to register before they could be included in the PR<sup>6</sup> for the year of 2021. Under the new electoral arrangement, voter registration for the LegCo FC is no longer pegged with voter registration for EC subsectors.

Starting from the 2022 voter registration cycle, the statutory deadlines for new registration application and for report on change of particulars are both set at 2 June of the year. *[Added in July 2021]*

3.5 True and accurate information must be provided for registration as a voter. Giving false or misleading information knowingly or recklessly for voter registration and thus getting registered as a voter (commonly known as “vote rigging”) is an offence under the law, no matter whether that voter has subsequently voted or not. It is also an offence for a voter to vote despite knowing that he/she is disqualified from being registered as a voter, even if his/her name is still on the FR. *[Added in July 2021]*

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<sup>6</sup> Among all the subsectors, only the eligibility of voter registration for the HYK subsector remains unchanged. If the registered voters of that subsector continue to be eligible for registration, the REO will inform the relevant persons by notifications that they will be included to the subsector PR for the year of 2021. These voters are not required to submit the application for voter registration afresh before the deadline for special registration.

3.6 A registered voter for a subsector (including an individual voter or an authorised representative (“AR”) of a corporate elector) must be a registered voter for a GC or eligible to be registered for a GC and has made an application to be so registered. *[Added in July 2021]*

3.7 A checking mechanism is in place for the REO to conduct relevant checks. If a voter is suspected to be no longer eligible to be registered in the relevant subsector, the REO will include the voter in the statutory inquiry procedure. Where the voter responds to the inquiry and provides valid proof for his/her eligibility for voter registration by the deadline, his/her name may remain on the register for the relevant subsector. Where the voter fails to respond to the inquiry and provide the relevant proof for his/her eligibility for voter registration by the deadline, his/her name will be included in the OL for the relevant subsector. *[Added in July 2021]*

3.8 Pursuant to the reconstitution of EC, as a special arrangement, voters on the 2020 FR will be subject to the following arrangements:

- (a) Since the Hong Kong and Kowloon District Councils subsector, the New Territories District Councils subsector and the Information technology subsector would be abolished, all registered voters of these three subsectors were directly removed from the register without undergoing the process of inquiry by letter or inclusion in the OL; and
- (b) Registered voters of the remaining subsectors would be all included in the OL without initiating the process of inquiry by letter. They were required to apply for voter registration afresh by the statutory deadline (see para. 3.4 above). Applicants with their eligibility verified would be included to the subsector PR for the year of 2021.

[Ss 22(4B), 24 and 28AA of the EAC (ROE) (FCSEC) Reg] *[Added in July 2021]*

3.9 Before the FR is published, the REO will publish a copy of the PR and OL for inspection by specified persons (a relevant court case and the inspection details are set out in paras. 3.46, 3.47 below and Appendix 4). The procedure for objections and claims in respect of eligibility for voter registration will also commence at the same time. Any persons who queries the eligibility of a voter may make an objection and the Revising Officer<sup>7</sup> will make a determination on the case. For individuals/bodies having applied for registration as a voter, if they notice the names missing or relevant particulars incorrectly recorded in the PR, they may make a claim with the Revising Officer for a determination on the claim. Voters whose names have been included in the OL may also make a claim with the Revising Officer, and the voter registration can be maintained if the grounds for the claim are accepted by the Revising Officer. Sufficient information about the objection or claim must be provided by the applicant to inform the Revising Officer of the grounds of the case. *[Added in July 2021]*

3.10 As an established requirement by the law, the person who raises the objection or claim should, in general, attend the hearing (except for incontrovertible cases), otherwise the Revising Officer may dismiss the objection or claim (for details, please see para. 3.53 below). However, objections and claims in relation to the PR for the year of 2021 are subject to special arrangement, under which the Revising Officer will make a determination based on the written submissions only without holding a hearing. Unless the Revising Officer's approval is obtained to retain the voter registration, voters whose names are listed on the OL will be excluded from the subsequent FR. *[Added in July 2021]*

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<sup>7</sup> The Revising Officer may be any magistrate, former magistrate, retired magistrate or any legal officer as defined by the Legal Officers Ordinance (Cap 87), appointed by the Chief Justice [s 77(1) of the LCO].

## **PART II : REGISTRATION AS EX-OFFICIO MEMBERS**

3.11 As mentioned in para. 3.3 above, other than election and nomination, part of the EC members are returned by ex-officio membership. Ex-officio members must apply for registration by submitting the specified form<sup>8</sup> to the ERO, and the validity of their registration will be determined by the CERC. For the procedures of registration as ex-officio members, please see paras. 3.12 to 3.19 below. *[Added in July 2021]*

### **Registration of NPC Deputies and CPPCC Members**

3.12 All NPC deputies and CPPCC members are the ex-officio members of the EC. Their registration forms must be submitted by the Friends of Hong Kong Association Limited (“the Association”) to the ERO. The form must contain a declaration by each NPC deputy or CPPCC member intending to be so registered to specify that he/she is eligible to be registered as an ex-officio member and is not disqualified from being so registered. The form must be signed by each and every applicant, and also be signed on behalf of the Association by a person authorised by the Association for that purpose.

- (a) (i) If an NPC deputy or CPPCC member is also a holder of a specified office in another subsector (“specified subsectors”) (i.e. subsectors that are non-NPC-and-CPPCC subsector), he/she may only register as the ex-officio member of that specified subsector; (ii) if he/she holds more than one specified office in the subsectors that are non-NPC-and-CPPCC subsector, then he/she may choose to be the ex-officio member of one of the specified subsectors,

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<sup>8</sup> The application forms, “Application by NPC Deputy and CPPCC Member for New Registration as Ex-officio Members of Election Committee” (REO-EC(X1)); “Application by Specified Person for New Registration as Ex-officio Members of Election Committee” (REO-EC(X2)); and “Application by Designated Person/Council Chairman or Chairman of the Board of Governors of the relevant University for New Registration as Ex-Officio Members of Election Committee” (REO-EC(X3)), are available at the website of the REO ([www.reo.gov.hk](http://www.reo.gov.hk)).

and designate a person to be the ex-officio member of the remaining subsectors (if applicable<sup>9</sup>) in accordance with the requirements; and

- (b) A total of 190 seats is assigned to the NPC and CPPCC subsector according to the Amendment Ordinance. If the total number of NPC deputies and CPPCC members who are eligible to be registered as ex-officio members deducting the number of members registered in specified subsectors per subparagraph (a)(ii) above exceeds the total 190 seats, then those NPC deputies and CPPCC members may choose to register as extra ex-officio members in other subsectors that they have substantial connection with. If there are NPC deputies or CPPCC members who choose to register in other subsectors as described in this paragraph, then the number of ex-officio seats in that subsector will increase and the number of elected seats of that subsector will decrease accordingly. After the NPC deputies and CPPCC members are registered as the EC members of the relevant subsectors, the number of ex-officio members, and the number of EC members to be returned by nomination or election for each subsector should remain unchanged during that term of the EC.

*[Added in July 2021]*

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<sup>9</sup> This arrangement to designate a person to be the ex-officio member does not apply to the ex-officio seats in the Legal subsector nor the Members of the Legislative Council subsector.

### **Registration of Other Ex-officio Members**

3.13 Generally speaking, the holders of the “specified offices” in each of the subsector (i.e. “specified persons”) may register as the ex-officio members of that subsector. A specified person who makes such a registration must indicate in the specified form in capacity of which specified office he/she is to be registered as an ex-officio member, and make a declaration specifying that he/she is eligible to be registered as an ex-officio member and is not disqualified from being so registered. *[Added in July 2021]*

3.14 However, under the following circumstances, the specified person may designate another person (i.e. “designated person”) who is holding an office in a relevant body to be registered as an ex-officio member of that subsector:

- (a) the specified person is not eligible to be registered as an ex-officio member, including:
  - (i) he/she has not been registered as an elector (or has not made an application to be so registered) under the LCO in the existing GC or is disqualified from being registered as an elector for a GC; or
  - (ii) he/she is a principal official appointed pursuant to a nomination under Article 48(5) of the Basic Law, a prescribed public officer<sup>10</sup> or a civil servant who is holding a specified office in his/her official capacity; or

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<sup>10</sup> Namely, principal officials appointed pursuant to a nomination under Article 48(5) of the Basic Law, directorate officers, Administrative Officers, Information Officers, police officers or any other civil servants holding a specified office in their official capacity.

- (b) the specified person is holding more than one specified office.

*[Added in July 2021]*

3.15 The Amendment Ordinance has set out the substitution arrangement for the ex-officio member in the education subsector. If the Vice-Chancellor/President of a university is a specified person but is not eligible to be registered as an ex-officio member of the education subsector, then the Council Chairman/the Chairman of the Board of Governors of that university will take his/her place and be registered as such. This substitution arrangement is inapplicable to the seats of ex-officio members in the legal subsector, members of the LegCo subsector and the NPC and CPPCC subsector.

*[Added in July 2021]*

3.16 A designated person must complete the specified form for registration as an ex-officio member of the relevant subsector. The form shall include a declaration made by the relevant specified person stating that due to his/her ineligibility to be registered as an ex-officio member or having applied for the registration/having registered as another subsector's ex-officio member, he/she designates another person to be registered as an ex-officio member of the affected subsector. The form must also contain a declaration made by the designated person specifying that the designated person holds an office in a relevant body in relation to the specified office, is eligible to be registered as an ex-officio member and is not disqualified from being so registered. In addition to these declarations, the registration form must be signed by the specified person and the designated person. [Part 1A of the EAC (EP) (EC) Reg]

*[Added in July 2021]*

3.17 An ex-officio member or a holder of a specified office may not become an EC member through nomination or election. A specified person would be deemed to have resigned from the EC if he/she no longer holds the



relevant specified office. Each person may only be registered as an ex-officio member of one subsector only. *[Added in July 2021]*

3.18 For the EC to be constituted in 2021, the above registration forms must be submitted to the ERO no later than 5 July 2021 (from the year of 2021 onwards, the deadline for registration application is no later than 2 June of the year of the election). In other circumstances, after a person has become an NPC deputy, CPPCC member or holder of a specified office, his/her application for registration should also be submitted as soon as possible with the form specified by the ERO. [Part 1A of the EAC (EP) (EC) Reg] *[Added in July 2021]*

3.19 If the registration by a specified person or designated person has been determined by the CERC to be invalid, the specified person may submit another registration form to designate another person to be registered as ex-officio member (where applicable). The registration form must reach the ERO no later than 7 days before the date of publication of the IR of members of the EC. [Part 1A of the EAC (EP) (EC) Reg and ss 5J and 5L of the Schedule to the CEEO] *[Added in July 2021]*

## **PART III : REGISTRATION OF VOTERS FOR SUBSECTORS**

### **Key Dates in Voter Registration**

3.20 For the EC to be constituted in 2021, the REO conducted an exercise of “Special Voter Registration Arrangements”. Its timetable is different from the regular one to be adopted from the 2022 voter registration cycle onwards, as detailed below:

<b>Statutory deadline</b>	<b>Special Voter Registration Arrangements in 2021</b>	<b>Regular Voter Registration Arrangement from 2022 and onwards</b>
Submission of applications for change of particulars	N/A	2 June
Voters to apply for de-registration as a subsector voter	N/A	2 June
Submission of applications for new registration	5 July	2 June
Voters to respond to inquiry letters to retain their voter registration	N/A	2 June
Publication of PR and OL	18 July	1 August
Claims and objections period	18 to 22 July	1 to 25 August
Publication of FR	5 August	25 September

*[Added in July 2021]*

### **Eligibility to Vote**

3.21 Only a registered voter for a subsector has the right to vote in the subsector election. A registered subsector voter refers to an individual or a body (the relevant body will have an AR to vote on its behalf as detailed in paras. 3.22 and 3.23 below) whose name appears on the subsector FR that is in force at the time of the subsector election. The FR shows the subsector of each registered voter. A registered individual voter or AR of a corporate voter

may only vote at that subsector election. [S 28 of the Schedule to the CEEO]  
*[Amended in September 2006 and July 2021]*

### **Qualification for Registration as a Voter**

3.22 There are 2 kinds of voters for the EC subsectors, namely a natural person (i.e. an individual) and a body (i.e. a corporate voter). All specified entities of the subsectors or those already registered in the existing subsector FR without being disqualified as voters are eligible to be registered as a voter for the relevant subsectors. In the case of an individual, he/she is eligible to be registered as a voter for a subsector only if he/she is a registered GC elector, or is eligible to be registered as a GC elector and has made an application to be so registered, and is not disqualified from being so registered. [S 12(1) of the Schedule to the CEEO] A corporate voter is required to appoint an eligible individual to be its AR for the purpose of casting its vote at the election, otherwise it cannot vote [s 28(3) of the Schedule to the CEEO]. An individual is eligible to be appointed as an AR of a corporate voter only if he/she:

- (a) is registered, or eligible to be registered and has made an application to be so registered, as an elector<sup>11</sup> of a GC;
- (b) has a substantial connection with the corporate voter (the substantial connection includes but is not limited to: being a member, partner, officer or employee of the relevant body included in the subsector (or of that body's corporate member));  
and
- (c) is not disqualified from being registered or voting under s 31 or s 53 of the LCO.

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<sup>11</sup> With effect from 1 May 2022, new applicants for voter registration for a GC must submit address proof.

[S 13(2) and (3) of the Schedule to the CEEO] *[Amended in July 2021]*

3.23 A person who is an AR of a corporate voter is not eligible to be appointed as the AR of another corporate voter. [S 13(3) of the Schedule to the CEEO] *[Added in July 2021]*

3.24 An AR must be registered with the ERO. The **corporate voter is required to give notice of appointment of its AR to the ERO in its application form for registration as a corporate voter.** Any decision to appoint, replace or substitute an AR of a corporate voter may only be made by the governing authority, by whatever name called, of the corporate voter. The corporate voter may from time to time replace the AR appointment by a specified form and the form must reach the ERO at least 14 days before the polling day of its subsector. [S 13(4), (5), (6) and (8) of the Schedule to the CEEO and s 20(5) of the EAC (ROE) (FCSEC) Reg] This 14-day limit may be relaxed if the ERO is satisfied that the original AR has died or has suffered a serious illness or has suffered physical or mental incapacity and the replacement notice must reach the REO not later than 3 working days before the relevant polling day. [S 20(6) of the EAC (ROE) (FCSEC) Reg] *[Amended in July 2021]*

3.25 If a person is eligible to be registered as a voter for the HYK subsector, the representatives of Hong Kong members of relevant national organisations subsector, Hong Kong and Kowloon District Committees subsector or the New Territories District Committees subsector, then he/she may only be registered as a voter for the relevant subsectors. If a person is eligible to be registered for more than one subsector, he/she could register as a voter in one subsector in accordance with the priority as set out in the Amendment Ordinance. [S 12(11) and (12) of the Schedule to the CEEO] *[Amended in September 2016 and July 2021]*

3.26 An individual/corporate voter is not entitled to be registered for more than one subsector. *[Amended in October 2011 and September 2016]*

### **Disqualifications from Voting**

3.27 A natural person registered as a voter or AR of a corporate voter for a subsector is disqualified from being registered and voting at a subsector election for that subsector if:

- (a) he/she is no longer eligible to be registered as an elector for a GC (see para. 3.22 above);
- (b) the voter/corporate voter has ceased to be eligible to be registered as a voter for that subsector (this item inapplicable to ARs) [s 30(1)(a) of the Schedule to the CEEO];
- (c) he/she is found by the Court to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs under the Mental Health Ordinance (Cap 136)<sup>12</sup> [s 30(1)(e) of the Schedule to the CEEO]; or
- (d) he/she is a member of the armed forces of the People's Republic of China or any other country or territory [s 30(1)(f) of the Schedule to the CEEO].

*[Added in September 2006, amended in January 2010 and July 2021]*

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<sup>12</sup> Regarding persons with other mental health problems, except for the condition stipulated in para. 3.27(c) above, the law imposes no restriction on such person's right to vote, provided that each must cast the vote on his/her own. If a voter is unable to mark the ballot paper on his/her own, the voter may request 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 1 polling staff as a witness (please refer to para. 5.47 below for details).

3.28 A consular post to which any privilege or immunity is accorded under the Consular Relations Ordinance (Cap 557), or an organisation to which s 2 of the International Organisations and Diplomatic Privileges Ordinance (Cap 190) applies, or an international organisation defined in s 2 of the International Organisations (Privileges and Immunities) Ordinance (Cap 558), is not eligible to be registered as a corporate voter [s 12(21) and (22) of the Schedule to the CEEO]. *[Amended in July 2021]*

### **Application for Registration and Deregistration**

3.29 The registration of voters for the subsector is undertaken in accordance with the provisions of the EAC (ROE) (FCSEC) Reg.

3.30 A person (either an individual or a body) may, by completing the specified form<sup>13</sup>, send his/her/its application for voter registration to the ERO at any time of the year. Any individual or body who was previously de-registered but is presently eligible for voter registration may submit an application for new registration to register again as a voter. *[Amended in September 2006, September 2016 and July 2021]*

3.31 For de-registration as a subsector voter, the voter may make an application in person at the REO. If the voter chooses to make the application in writing instead, no specified form is required. The voter may inform the REO by written notice, which must contain the voter's particulars and be signed by the voter<sup>14</sup>. De-registration will not take immediate effect upon REO's receipt of the application. After receipt of a written notice, the REO will contact the voter concerned to verify the application. Only after

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<sup>13</sup> The application forms are available at the website of the REO ([www.reo.gov.hk](http://www.reo.gov.hk)), including "Election Committee Subsector Voter (Individual) Application for New Registration/Report on Change of Particulars" (REO-SS(I)), "Election Committee Subsector Voter (Body) Application for New Registration/Report on Change of Particulars" (REO-SS(B)), and "Election Committee Subsector Voter (Body) Notice of Replacement/Substitution of Authorised Representative" (REO-SSR).

<sup>14</sup> In the case of a corporate voter, the application for de-registration as subsector voter must be signed by the person-in-charge.

verification will the voter be included in the OL for the relevant subsector. The voter so included in the OL for the subsector may inspect his/her/its voter registration particulars starting from the day of publication of the PR and OL till the end of the inspection period. Where necessary, the voter can lodge a claim with supporting proof to request for reinstatement of his/her voter status. If the application for de-registration cannot be verified by the REO in time, the name of the voter will remain on the PR of the relevant subsector in that year. Given that the voter's registration has not been removed, the voter may choose to vote or not for the relevant subsector on the polling day. The pending application for de-registration will be processed in the next voter registration cycle. *[Added in July 2021]*

3.32 The applications mentioned in paras. 3.30 and 3.31 above may be submitted at any time to the REO. However, if any person (either an individual or body) wishes his/her/its name to be included or excluded in the PR published in a current year, the application must reach the ERO **on or before** the deadline as specified in para. 3.20 above. Applications received by the ERO after the deadline will be regarded as requests for registration or de-registration for the PR of the next year. [Ss 19 and 20 of the EAC (ROE) (FCSEC) Reg] *[Amended in September 2006, September 2016 and July 2021]*

### **Change of Residential Address and Other Personal Particulars**

3.33 A registered voter (either an individual or a body) is not required to re-apply for registration every year. *[Added in January 2010]*

3.34 Nevertheless, a registered individual voter is advised to take note of the following:

- (a) In the case of a change in his/her principal residential address in the FR, he/she **should notify** the ERO **of his/her new principal**

**residential address** in Hong Kong in order to update his/her registration particulars in the register for the next year.

- (b) He/She should notify the ERO of any change of circumstances that may affect his/her eligibility (e.g. his/her connection with a particular subsector). Based on the information provided by the voter, the ERO will decide whether he/she is still eligible to be registered and, if so, in which subsector he/she is eligible.
- (c) Apart from his/her principal residential address, a registered voter should also notify the ERO of any change of his/her other particulars (e.g. name, telephone numbers and email address).
- (d) He/She should notify the ERO of any change of the above registration particulars for action by using a specified form. If applying for change of principal residential address recorded in the FR<sup>15</sup>, the voter must provide relevant documentary evidence to prove that the address stated in the application is his/her principal residential address<sup>16</sup> [s 26A(3) of the EAC (ROE) (FCSEC) Reg]. The address proof must comply with specific requirements, such as that the document must be issued within the last three months<sup>17</sup>. A voter who has reported a change of particulars will be notified by the ERO about the confirmation of his/her updated electoral record [s 26A(10) of the EAC (ROE) (FCSEC) Reg].

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<sup>15</sup> The application form of “Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency” (REO-GC), is available at the website of the REO ([www.reo.gov.hk](http://www.reo.gov.hk)).

<sup>16</sup> For voters who are authorised occupants of public rental housing under the Housing Department or registered residents in the tenancy of subsidised housing under the Hong Kong Housing Society, their applications for change of registered address can be exempted from the above address proof requirement if the reported new residential addresses match the tenancy records of the authorities concerned.

<sup>17</sup> For details on the acceptable address proofs, please refer to the guidance notes of the application form “Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency” (REO-GC) .



- (e) If the voter has **failed to update the ERO of his/her new residential address in Hong Kong** or no longer ordinarily resides in Hong Kong, **his/her name and particulars may be removed from the register of voters.**

*[Added in January 2010, amended in September 2016 and July 2021]*

3.35 A registered corporate voter which has changed its particulars (e.g. name, business/correspondence address and telephone number) should also notify the ERO by using the specified form<sup>18</sup>. In other words, para. 3.34(b) and (d) above applies to a corporate voter in the same way as it applies to an individual voter. For the AR of a corporate voter, para. 3.34(a), (b), (c), (d) and (e) above applies to the change in his/her personal particulars. *[Added in January 2010 and amended in July 2021]*

### **“Ordinarily Residing in Hong Kong”**

3.36 As mentioned in para. 3.22 above, a person must be eligible to be registered as an elector for the GC before he/she is eligible to be registered as an individual voter or be appointed as the AR of a corporate voter. One of the criteria for a person to be eligible to be registered as an elector for the GC is that he/she must “ordinarily reside in Hong Kong” [s 28 of the LCO]. The definition of “ordinarily residing in Hong Kong” is not set out in the subsisting electoral law. In assessing whether a person “ordinarily resides in Hong Kong”, one needs to take into account a host of factors and the specific situation of each case, and determine according to the relevant judgments of the Court, and the conclusion cannot be generalised. One cannot say someone does not “ordinarily reside in Hong Kong” simply because he/she has a place of

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<sup>18</sup> The application form of “Election Committee Subsector Voter (Body) Application for Registration/Report on Change of Particulars” (REO-SS(B)), is available at the website of the REO ([www.reo.gov.hk](http://www.reo.gov.hk)).

residence abroad. According to a court precedent<sup>19</sup>, a person is considered ordinarily residing in a place if he/she remains in that place legally, voluntarily and for a settlement purpose (such as for education, employment or residence), regardless of the duration, and even if he/she is temporarily absent from that place for some reasons. The Court also pointed out that a person may ordinarily reside in two places at the same time. *[Added in July 2021]*

3.37 Generally speaking, for a Hong Kong permanent resident who used to reside in Hong Kong all along, if he/she has now set up for personal reasons another residence elsewhere but still returns to live in Hong Kong from time to time (such as for handling personal matters, social gatherings or family reunion), then he/she can still be regarded as maintaining a reasonable connection with Hong Kong. A condition which must be considered in parallel is that in accordance with the electoral law, the applicant must provide, for the purpose registration as an elector, a residential address which is his/her only or principal residence in Hong Kong (i.e. not a correspondence address but a residential address where he/she habitually resides when he/she is in Hong Kong). Under such circumstances, whether the person still satisfies the statutory requirement of “ordinarily residing in Hong Kong” must be determined according to the actual circumstances of individual case. *[Added in July 2021]*

3.38 On the other hand, if a Hong Kong permanent resident has left Hong Kong to reside in another place without maintaining connections with Hong Kong or any intention to reside in Hong Kong again, or no longer having an only or principal residence in Hong Kong, then he/she no longer meets the statutory eligibility requirements for registration. *[Added in July 2021]*

3.39 To sum up, the individual circumstances of the person must be considered when determining whether that person is “ordinarily residing in

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<sup>19</sup> *Lau San Ching v. Liu Apollonia* (1995) 5 HKPLR 23 citing *R.v. Barnet London Borough Council, ex parte Shah* [1983] 2 AC 309

Hong Kong”, and it is not a matter capable of summary determination. The REO will examine the details and actual circumstances of the relevant voter registration cases carefully, and seek legal advice where necessary. *[Added in July 2021]*

### **Inquiry Procedures**

3.40 To enhance the accuracy of the register of voters, the REO has put in place suitable checking measures. **If it comes to the knowledge of the ERO or if the ERO is satisfied on reasonable grounds that a voter is no longer eligible to be registered in the relevant subsector**, the ERO will initiate the statutory inquiry procedure to ascertain whether the voter whose name is contained in the existing register is still eligible to be registered as a voter for the relevant subsector [s 22(1) and (2) of the EAC (ROE) (FCSEC) Reg]. If the voter (either an individual or a body) fails to provide the information requested by the ERO, or if the ERO, based on the information so received or otherwise obtained, is satisfied on reasonable grounds that the voter is no longer eligible to be registered, then **the voter’s name will be entered on the OL for the relevant subsector and may be removed from the next register of voters**. However, a special arrangement will be applied to the OL prepared in compiling the PR for the year of 2021. On that particular OL, the ERO shall, without going through the process of inquiry by letter, enter the personal particulars or relevant particulars of all persons whose names are recorded in the 2020 subsector FR, unless the ERO is satisfied that the voters concerned are eligible to be registered based on the applications and other information received. [S 24 of the EAC (ROE) (FCSEC) Reg] Before the publication of the next register, a person whose name is recorded in the existing register of voters is still a registered voter for the relevant subsector [s 15 of the Schedule to the CEEO]. In voter registration, it is of utmost importance to provide the ERO with information that is true, accurate and updated. It is an offence for a person to knowingly or recklessly give false or misleading information for voter registration no matter whether he/she subsequently votes

at an election. Offenders are liable to a fine at level 3 (\$10,000) and to imprisonment for 2 years. [S 42 of the EAC (ROE) (FCSEC) Reg] *[Added in July 2021]*

### **Provisional Register and Omissions List**

3.41 The content of the PR shall include:

- (a) Regarding the PR compiled for the year of 2021:
  - (i) the names and principal residential addresses of individuals and the names and business addresses of bodies who/which have applied for registration in the subsector on or before the specified special deadline and whose eligibility and registration are confirmed by the ERO ; and
  - (ii) the names of the ARs of corporate voters.
- (b) Regarding the PR to be compiled from the year of 2022 onwards:
  - (i) the names and principal residential addresses/business addresses of those eligible voters whose names appear in the subsector FR in use at the time, with appropriate updates and correction by the ERO based on information reported or otherwise received;
  - (ii) the names and principal residential addresses/business addresses of the eligible new applicants who have applied for registration in the subsector on or before the new statutory deadline for registration in the year of compiling the register; and

(iii) the names of the ARs of the corporate voters.

A copy of the PR is available for inspection by specified persons during ordinary business hours at specified offices of the REO (please refer to paras. 3.46, 3.47 below and Appendix 4 for details) [s 29 of the EAC (ROE) (FCSEC) Reg] (As specified in the Gazette, the relevant legislative provision comes into operation on 1 May 2022). *[Amended in September 2006, September 2016 and July 2021]*

3.42 At the same time when the subsector PR is published, the ERO will also publish a copy of the OL for inspection by specified persons (please refer to paras 3.46, 3.47 below and Appendix 4 for details). The OL contains the names and principal residential addresses/business addresses of individuals or bodies who/which were registered as subsector voters but are temporarily struck out of the PR and proposed to be omitted from the next FR, because the ERO, based on the information obtained, is satisfied on reasonable grounds that they are disqualified from or no longer qualified for registration (such as persons who have passed away, those who have informed the ERO that they do not wish to be registered anymore, those having changed their principal residential address without the ERO's knowing such changes, or those who are no longer an eligible member of a prescribed body in the relevant subsector) [s 14(4)(a) and (b) of the Schedule to the CEEO and s 24(1) of the EAC (ROE) (FCSEC) Reg]. *[Amended in July 2021]*

3.43 For an imprisoned person who has used the address of his/her last dwelling-place in Hong Kong or the address last recorded under the Registration of Persons Regulations as his/her address for registration as a voter, if the ERO is satisfied on reasonable grounds that the voter has served a sentence of imprisonment and left the penal institution without informing the ERO of his/her new residential address, the ERO shall enter the name and principal residential address of the voter on the OL according to the procedures prescribed in the relevant legislation. [S 9(2A) of the Electoral Affairs

Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap 541A) *[Amended in January 2010 and September 2016]*

3.44 The names and the principal residential addresses/business addresses of persons/bodies included in the subsector OL will be excluded from the PR [s 14(4)(a) and (b) of the Schedule to the CEEO and s 24(1) of the EAC (ROE) (FCSEC) Reg]. However, the inclusion of a voter in the OL does not mean the voter status is immediately invalidated. If the voter lodges a claim to the ERO and the Revising Officer accepts the grounds submitted, the voter status will be retained (see paras. 3.51 to 3.53 below). *[Amended in January 2010, September 2016 and July 2021]*

3.45 The time and place for inspection of the copy of the PR and the OL will be published in a notice in the Gazette and newspapers. Publication of the PR is deemed to be done by publication of that notice. [Ss 25 and 29 of the EAC (ROE) (FCSEC) Reg] (As specified in the Gazette, the relevant legislative provisions come into operation on 1 May 2022) *[Amended in September 2006, January 2010 and September 2016]*

3.46 On 15 October 2019, the Junior Police Officers' Association of the Hong Kong Police Force applied to the Court of First Instance of the High Court for grant of judicial review (HCAL 3042/2019), seeking to prohibit the release by the ERO of any extract of FR containing the names and principal residential addresses (referred to as "linked information") of registered electors for public inspection or to candidates. The JPOA also applied to the court for an urgent interim injunction to stop the ERO from making the FR containing the linked information available for public inspection or providing such electors' information to any person. After the trial was concluded in the Court of First Instance, an appeal was brought to the Court of Appeal for review. The Court of Appeal handed down the judgment on 21 May 2020 and made an order at the hearing on 27 May 2020 (CACV 73/2020). Pursuant to the

judgment and order in that judicial review case, only validly nominated candidates, political parties<sup>20</sup> and members of the press<sup>21</sup> are allowed, for election-related purposes, to inspect subsector FRs that show the linked information of individual voters. Regarding those parts of subsector FRs not showing individual voters' linked information, inspection by the general public is not affected. In accordance with the above court judgment and order, the REO has put in place interim measures for the inspection of registers. *[Added in July 2021]*

3.47 The Government has amended the relevant legislation relating to the inspection of the registers of voters. Starting from the 2022 voter registration cycle, only specified persons (detailed at **Appendix 4**) are allowed to inspect the copy of subsector registers (including the OL, PR and FR) containing entries of individual voters. Only the first character/word of the name of an individual voter (whether in Chinese or English) and his/her registered residential address will be shown on the subsector registers for inspection. A copy of the subsector registers which contains only the entries of corporate voters will be made available for inspection by the general public. [Ss 25, 29, 38 and 39 of the EAC (ROE) (FCSEC) Reg] (As specified in the Gazette, the relevant legislative provisions come into operation on 1 May 2022) The inspection of subsector registers shall comply with the above court judgment and order before the legislative amendments take effect. *[Added in July 2021]*

3.48 Upon request by a person imprisoned or held in custody by a law enforcement agency and if the ERO considers it appropriate to do so, the ERO may make available at a penal institution or premise of a law enforcement

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<sup>20</sup> While there is no official definition of “political party” in the subsisting law, reference can be made to s 31 of the CEEO, under which a political party means:

- (a) a political body or organisation (whether operating in Hong Kong or elsewhere) which purports to be a political party; or
- (b) a body or organisation the principal function or main object of which is to promote or prepare a candidate for election as a member of LegCo or any DC.

<sup>21</sup> As regards members of the press, the Court of Appeal accepts the practice of the REO in adopting the list of subscribers to the Government News and Media Information System.

agency, as the case may be, a copy of the PR and OL for that person's inspection subject to paras. 3.46 and 3.47 above. [Ss 25 and 39 of the EAC (ROE) (FCSEC) Reg] (As specified in the Gazette, the relevant legislative provisions come into operation on 1 May 2022) [*Amended in September 2006, January 2010 and July 2021*]

3.49 The ERO may require persons who wish to inspect the copy of the PR and/or OL to produce an identity document and complete a form specified by the ERO. [Ss 25 and 29 of the EAC (ROE) (FCSEC) Reg] (As specified in the Gazette, the relevant legislative provisions come into operation on 1 May 2022) [*Amended in September 2006 and January 2010*]

### **Online Voter Information Enquiry System**

3.50 Registered voters (either an individual or a body) and ARs may log on to the OVIES ([www.voterinfo.gov.hk](http://www.voterinfo.gov.hk)) at any time to check their latest registration particulars, including their registered addresses and respective subsectors, and find out whether they are included in the statutory inquiry procedure. [*Added in September 2016 and amended in July 2021*]

### **Appeals – Objections and Claims**

3.51 Members of the public may lodge in person with the ERO a notice of objection in the specified form as regards any entries in the subsector PR within the period for making objections or claims [s 30(2) of the EAC (ROE) (FCSEC) Reg]. The procedures for making claims or objections are provided in the REO website ([www.reo.gov.hk](http://www.reo.gov.hk)) during the inspection period. An applicant who claims that he/she/the relevant body is entitled to be registered as a voter but whose name has not been recorded in the PR or has been included in the OL, or a voter/AR whose particulars have not been correctly recorded in the PR, may lodge in person with the ERO a notice of claim in the specified form in respect of the entry or any omission concerning



himself/herself/the relevant body by the deadline [s 31(1), (2) and (7) of the EAC (ROE) (FCSEC) Reg]. If a person imprisoned or held in custody by a law enforcement agency wishes to make such an objection or claim, he/she is allowed to deliver a notice of objection or claim to the ERO by post. [S 31(8A) of the EAC (ROE) (FCSEC) Reg] *[Amended in September 2006, January 2010, September 2016 and July 2021]*

3.52 The REO will issue reminding letters to voters on the OL. A message in red that reads “Immediate action required. Your voting right is at stake.” will be stamped on the envelop. Voters must observe the deadline if they wish to submit a notice of claim or if they need to respond to the reminding letter by replying and providing valid documentary proof to confirm their eligibility for registration in the relevant subsector. For a voter on the OL due to the statutory inquiry procedure, if he/she logs on to the OVIES to inspect his/her registration particulars, the OVIES will remind him/her to respond to the reminding letter issued by the REO as soon as possible to confirm his/her eligibility of registration in the relevant subsector. However, for the year of 2021, a special arrangement applies and the REO will not initiate the inquiry procedure or issue any reminding letter to voters who are listed on the OL. Please refer to para. 3.8 above for details. *[Added in July 2021]*

3.53 Cases of objections and claims will be referred to the Revising Officer for consideration. The Revising Officer will deliberate on each objection or claim and make a ruling on the inclusion, exclusion or revision of the entry concerned in the relevant FR. [Part VI of the EAC (ROE) (FCSEC) Reg] The appellant must provide sufficient information so as to inform the Revising Officer of the grounds of the objection or claim; the appellant is

required to attend the hearing (except for incontrovertible cases<sup>22</sup>), otherwise the Revising Officer may dismiss the objection or claim [ss 2(5A) and 2B of the Registration of Electors (Appeals) Regulation (Cap 542B)]. However, for compilation of the PR for the year of 2021, the Revising Officer will make a ruling on the objections and claims based on written submissions without holding a hearing. *[Added in July 2021]*

### **The Final Register**

3.54 The subsector FR consists of entries shown in the PR and incorporates, for the relevant year, all revised names and principal residential addresses/business addresses of voters based on new registration applications and reports on change of particulars, as well those updated and corrected in accordance with the Revising Officer's decisions on claims and objections [s 36(1) of the EAC (ROE) (FCSEC) Reg]. The ERO will also take the opportunity to delete entries of voters who are known to have passed away and to revise any incorrect information in the PR. The FR for the subsectors shall remain valid until the publication of the next FR in the following year. *[Amended in September 2016 and July 2021]*

3.55 The time and place for inspection of the copy of the FR will be published in a notice in the Gazette and newspapers. The publication of the notice is to be treated as the publication of the FR. The inspection of the FR shall be arranged as detailed in paras. 3.46 and 3.47 above. Upon request by a person imprisoned or held in custody by a law enforcement agency and if the ERO considers it appropriate to do so, the ERO may make available at a penal institution or the premises of a law enforcement agency, as the case may be, a copy of the FR for that person's inspection subject to paras. 3.46 and 3.47

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<sup>22</sup> In accordance with s 2A of the Registration of Electors (Appeals) Regulation, for an incontrovertible objection or claim, including cases where the person who lodges the objection or claim has not provided any ground in his/her notice, where the grounds submitted by the person are irrelevant to registration eligibilities, or where the case involves only a clerical error made in compiling or printing a PR, the Revising Officer must direct that the objection or claim be determined without a hearing on the basis of written submissions only.

above. The ERO may require persons who wish to inspect the FR to produce an identity document and complete a form specified by the ERO. [S 38(1), (2), (3), (4), (4A) and (6) of the EAC (ROE) (FCSEC) Reg] (As specified in the Gazette, s 38(2), (3), (4) and (4A) comes into operation on 1 May 2022) [Amended in September 2006, January 2010 and July 2021]

### **IMPORTANT:**

Information relating to a person contained in any register of voters or in any extract of any register of voters **can only be used for election-related purposes** prescribed by the electoral law. Any **abuse** or **misuse** of such information is an **offence** and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 42(3) of the EAC (ROE) (FCSEC) Reg].

## **PART IV : THE VOTING SYSTEM FOR SUBSECTOR ELECTIONS**

3.56 EC subsector elections adopt the voting system of simple or relative majority, commonly known as the “first past the post” system. A voter may vote for as many candidates as the number of EC members to be elected by the subsector concerned at a subsector ordinary election or the number of members to be returned at the subsector by-election. In the case of a single vacancy to be filled, the candidate who obtains the highest number of votes will be elected. In the case of 2 or more vacancies, the candidates elected will be the candidate who obtains the highest number of votes followed by the candidate with the second highest number of votes, and so on, until all vacancies have been filled. [S 29(1), (2), (3), (4) and (5) of the Schedule to the CEEO]

3.57 In the event that there is 1 vacancy to fill but there is more than 1

remaining candidate having the equal highest number of votes, the RO shall arrange the drawing of lots to determine which one of these candidates should be elected to fill the last vacancy. [S 29(6) of the Schedule to the CEEO]  
*[Amended in September 2006]*

3.58 When the election result has to be determined by the drawing of lots, 10 table-tennis balls each marked with a number from 1 to 10 will be put into an empty opaque bag, to be provided by the RO. Each candidate is to draw 1 ball from the bag. The number marked on the ball should be noted by the RO and the ball should be put back into the bag. The other candidate(s) will draw in the same way until all the candidates have eventually drawn the table-tennis ball. The RO would draw the lot on behalf of the candidate if the candidate is absent at the time of drawing lots. The candidate on whom the lot falls is to be returned at the election as follows:

- (a) Where there is only 1 vacancy to be filled and there are 2 candidates, the candidate who draws the larger number from 1 to 10 will be the winner. If both candidates have drawn the same number, further draw(s) will be held until a candidate eventually wins. 1 is the smallest number and 10 is the largest number.
- (b) Where there is only 1 vacancy to be filled and there are more than 2 candidates, if in the first draw, the numbers drawn by the candidates are different, then the candidate who draws the largest number will win. If, on the other hand, 2 or more of the candidates have drawn the same larger number and the remaining candidate(s) has/have drawn a smaller number, there must be a second draw. Only those candidates who have obtained the same larger number in the first draw will participate in the second draw.
- (c) Where there are only 2 vacancies to be filled and there are 3

candidates having the equal number of votes, if the 3 candidates have drawn respectively the largest, the larger and the smallest numbers, the 2 candidates who have drawn the largest and the larger numbers should be successful in getting the 2 vacancies, and the remaining candidate will fail. If the 3 candidates have drawn respectively 2 larger equal and 1 smaller numbers, then again the 2 candidates who have obtained the larger equal numbers will be the winners to fill the 2 vacancies. If the 3 candidates have drawn respectively a larger and 2 equal smaller numbers, the candidate who has obtained the larger number will be successful and the remaining 2 candidates will participate in a second draw. The same principle will apply where there are more than 3 candidates having an equal number of votes competing for a smaller number of vacancies. *[Amended in September 2006]*

3.59 As soon as practicable after the result of the elections has been determined, the RO must publicly declare the successful candidates as elected.

### **Death or Disqualification of a Candidate**

3.60 After the CERC has decided that a candidate is validly nominated but before the election day, if proof is given to the satisfaction of the RO that the candidate has died, the RO must give notice of the death of the candidate. If the notice of validly nominated candidates has already been published by the CERC, the RO must, publicly declare that the candidate has died and further declare which candidates are validly nominated for the relevant subsector election. Besides, if proof is given to the satisfaction of the CERC that a validly nominated candidate has been disqualified from being nominated, the CERC must vary its decision to the effect that the candidate is not validly nominated, and the relevant notice to the CEO and each candidate who remains validly nominated for the subsector election concerned should be issued by the

RO. If the notice of validly nominated candidates has already been published by the CERC, the CERC must publicly declare the decision has been varied and further declare which candidates are validly nominated for the relevant election. [S 23 of the Schedule to the CEEO and ss 20 and 21 of the EAC (EP) (EC) Reg] *[Amended in September 2016 and July 2021]*

3.61 If, on or after the election day but before the election result is declared, proof is given to the satisfaction of the RO that a validly nominated candidate has died or proof is given to the satisfaction of the CERC that a validly nominated candidate has been disqualified from being elected, the proceedings for the subsector election shall continue as if the death or disqualification had not occurred. After the counting of votes is finished, if the candidate concerned is found to be successful at the election and there is no other candidate at the relevant subsector election who can be returned in place of that candidate, then the RO shall declare that no candidate is returned at that subsector election or that the number of candidates returned at that subsector election is less than the number of members to be returned. [S 26 of the Schedule to the CEEO] *[Added in September 2016 and amended in July 2021]*