

## CHAPTER 5

### POLLING AND COUNTING ARRANGEMENTS

#### PART I : GENERAL

5.1 A voter/AR can only vote at the polling station allocated to him/her by the REO. In general, the polling station allocated will be close to his/her registered residential address. However, it is subject to venue owners or management's decision whether the venues previously used as polling stations are available for use in the current election. *[Added in July 2021]*

5.2 If a voter/AR with mobility difficulty is assigned to a polling station that is not accessible for him/her, the voter/AR may apply to the REO for re-assigning a barrier-free special polling station. Please refer to para. 5.21 below for details. *[Added in July 2021]*

5.3 A No Canvassing Zone ("NCZ") will be designated outside each polling station to ensure that voters/ARs can gain access to the polling station without interference. In addition, a No Staying Zone ("NSZ") in which no one is allowed to stay or loiter will also be designated immediately outside the entrance/exit of a polling station to avoid any obstruction of entry/exit. *[Added in July 2021]*

5.4 No canvassing activities are allowed within the NCZ. Regarding buildings within the NCZ, all canvassing activities by candidates and their campaigners are prohibited in the entire building where a polling station is located as well as on the ground floor of other buildings, regardless of whether they are government or private premises, and even if approval from the building

management concerned is obtained. Please refer to Part III of this chapter for details. *[Added in July 2021]*

5.5 The poll starts at 9:00 am and ends at 6:00 pm. For security reasons, polling hours for dedicated polling stations situated in penal institutions are from 9:00 am to 4:00 pm. About 30 minutes before the commencement of poll (or 15 minutes for dedicated polling stations situated in penal institutions), the Presiding Officer (“PRO”) will admit the candidates, their election agents or polling agents into the polling station to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. After the close of poll, ballot boxes will be locked and sealed in the presence of the candidates and their agents, if any. *[Added in July 2021]*

5.6 Only voters/ARs and designated/authorised persons are allowed entry to a polling station. Voters/ARs requiring assistance from others for entering a polling station may make a request to the PRO for discretionary arrangements as appropriate. *[Added in July 2021]*

5.7 In order to be more flexible, efficient and accurate in the issuance of ballot papers, an electronic poll register (“EPR”) system will generally be adopted for issuing ballot papers at polling stations (except for dedicated polling stations). Upon entry to a polling station, voters/ARs should follow the instructions on site and collect ballot papers at any of the ballot paper issuing desks. Please refer to Parts VI and VII of this chapter for details. *[Added in July 2021]*

5.8 The ballot is autonomous and secret. No one may use any force or threaten to use force against a person to make him/her vote or not vote for any particular candidate at an election. Also, no one is obligated to disclose which candidate he/she has voted for or is going to vote for. *[Added in July 2021]*

5.9 After collecting the ballot paper, a voter/AR should immediately proceed to a voting compartment to mark his/her vote on the ballot paper. Each voting compartment can only be used by one voter/AR at any one time. Based on the principle of autonomous and secret ballot, it is prohibited by the law to have anyone (not even the relative or friend of the voter/AR) to accompany or assist the voter/AR to vote. If a voter/AR has difficulty in marking his/her vote, he/she may, as stipulated under the law, ask the PRO or the PRO's deputy to mark the ballot paper on his/her behalf according to his/her voting preference in the presence of 1 polling staff as a witness. Please refer to para. 5.47 below for details. *[Added in July 2021]*

5.10 No one is allowed to display, circulate, share or discuss with others any material containing the name and/or number of a candidate inside the polling station or the NCZ. Such acts are against the law. Nevertheless, it is not prohibited by the law for a voter/AR to enter the polling station with a memorandum containing the name or number of the candidate of his/her choice (such as a leaflet bearing the information of the candidate or a reminder note commonly known as “thunder in the palm (掌心雷)”) for that voter/AR's own reference to mark the ballot paper inside the voting compartment. *[Added in July 2021]*

5.11 Under no circumstances is anyone allowed to induce a voter/AR to vote or not to vote for a particular candidate or candidates by offering advantages, food, drink or entertainment, by using force or duress against a person, or by a deception and obstruction. Such acts violate the ECICO. There are occasions when voters/ARs may require assistance from others or transportation service in accessing the polling station. However, in the course of the assistance and service, it must not involve the aforesaid unlawful acts under any pretext to induce a voter/AR to vote or not to vote for a particular candidate or candidates. For details about corrupt conduct to wilfully obstruct or prevent

another person from voting at an election, please refer to para.17.26 of Chapter 17. *[Added in July 2021]*

5.12 Exit polls may be conducted within the NCZ outside polling stations by organisations approved by the REO. Participation in any exit poll is entirely voluntary. Voters/ARs need not disclose to the organisations concerned which candidate they have voted for unless they wish to do so. Please see Chapter 15 for matters relating to exit polls. *[Added in July 2021]*

5.13 Polling stations are classified into three types:

- (a) **Ordinary Polling Stations** – for use by general voters/ARs to cast their votes.
- (b) **Dedicated Polling Stations** – set up inside penal institutions or other suitable places (e.g. police stations) for registered voters/ARs who are imprisoned or held in custody by law enforcement agencies on the polling day to cast their votes.
- (c) **Special Polling Stations** – for voters/ARs with mobility difficulty who have applied for re-assigning a barrier-free polling station because the originally assigned one is not accessible by wheelchairs. For EC subsector elections, a special polling station will be set up in a barrier-free ordinary polling station within the same area. Voters/ARs allocated a special polling station so located will cast their votes into the same ballot boxes used by the ordinary polling station.

Central counting will be adopted for all EC subsector elections. Ballot papers cast at all polling stations will be delivered to the central counting station for counting after the close of poll.

*[Added in July 2021]*

## **PART II : BEFORE THE POLL**

### Gazettal of Notice

5.14 As mentioned in para. 2.3 of Chapter 2, EC members are returned by 3 methods, namely ex-officio members, nomination by designated bodies of the relevant subsectors, and election by eligible corporate voters or individual voters in the relevant subsectors. In respect of subsectors with EC members returned by election, as the number of members to be elected in each subsector depends on the actual number of ex-officio members in the subsector (see para. 3.12 of Chapter 3), the CEO must publish before the nomination period a notice in the Gazette declaring the number of EC members to be elected for each subsector. *[Added in July 2021]*

5.15 Moreover, at least 10 days before the polling day, the CEO must designate by notice in the Gazette a place or places as polling station(s), dedicated polling station(s), special polling station(s) or counting station(s) in respect of a subsector election. Nonetheless, before the election, the CEO may designate other places in addition to or in substitution of places already designated as polling stations, if necessary [ss 28 and 29 of the EAC (EP) (EC) Reg]. *[Amended in January 2010, September 2016 and July 2021]*

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

CEO may require by written notice the owner or occupier to make available the premises for use as a polling station or counting station in the subsector election and allow an authorised person to carry out preparatory work and store materials at the premises. Anyone failing to comply with the above requirements is liable to a fine of \$50,000. [Ss 28 and 28A of the EAC (EP) (EC) Reg] *[Added in July 2021]*

### No Canvassing Zone and No Staying Zone

5.17 An area outside each polling station will be designated as the NCZ and NSZ. The boundaries will be determined by the RO. All candidates of the relevant subsector will be notified of the designation of these zones before the polling day [s 40 of the EAC (EP) (EC) Reg]. The RO may also authorise the PRO to vary the NCZ or NSZ boundary on the polling day [s 40(9A) of the EAC (EP) (EC) Reg]. (See Chapter 14) *[Added in July 2021]*

### Polling Stations

5.18 The REO may set up one central polling station or a number of polling stations as required by circumstances [s 28 of the EAC (EP) (EC) Reg]. In the latter case, each voter or AR will be allocated a polling station based on their registered residential address (except for registered voters and ARs imprisoned or held in custody by the law enforcement agencies, who will be allocated a dedicated polling station as appropriate). At least 10 days before the polling day, the RO for each subsector must give notice in writing to all candidates for the relevant subsector of the time and place for the counting of votes [s 63 of the EAC (EP) (EC) Reg]. *[Amended in September 2006, January 2010 and September 2016]*

### Poll Card

5.19 At least 5 days before the polling day, poll cards will be sent to voters/ARs of contested subsectors at their registered addresses or correspondence addresses (if applicable) to notify them of the date, time and place of the poll. If the CEO decides to change the location of any polling station, the CEO must as early as practicable inform the relevant voters/ARs, RO and PRO in a manner deemed appropriate. To allow voters/ARs serving a sentence of imprisonment on the polling day to receive the poll cards as early as possible, the REO will send the poll cards to the penal institutions where the voters/ARs are serving their sentences insofar as practicable. [S 31(1), (2A), (5) and (6) of the EAC (EP) (EC) Reg] *[Amended in January 2010, September 2016 and July 2021]*

### Uncontested Election

5.20 If the number of validly nominated candidates for a subsector does not exceed the number of EC members to be elected by that subsector, the RO concerned will declare the candidate(s) as duly elected [s 19(2) of the EAC (EP) (EC) Reg]. Voters/ARs of that subsector do not need to vote, and will be issued a notice to that effect.

### Special Polling Station

5.21 A voter/AR **may vote only at the polling station allocated to him/her** by the CEO [s 32 of the EAC (EP) (EC) Reg]. Most of the polling stations are accessible to persons with mobility difficulty. Accessibility of the polling station to persons who are wheelchair users or have difficulty in walking will be specified clearly in the location map attached to the poll card sent to each voter/AR. If a voter/AR with mobility difficulty is allocated a polling station not accessible to him/her, he/she may **at least 3 days** before the polling day apply to

the CEO for re-assigning a special polling station [s 33(2) of the EAC (EP) (EC) Reg]. If a special polling station is allocated as such to the voter/AR, then he/she may vote only at that polling station [s 32(2) of the EAC (EP) (EC) Reg]. Subject to availability, free Rehabus service may also be arranged to take those voters/ARs to and from the special polling station. In case special circumstances require, the CEO may allocate to a voter/AR an alternative polling station in addition to or in substitution of the one originally allocated to him/her [s 30(4) of the EAC (EP) (EC) Reg]. Voters/ARs concerned may make enquiries with the REO on this subject by telephone or in writing. *[Amended in September 2006 and September 2016]*

### Dedicated Polling Station

5.22 Due to security reasons, there is a need to separate some persons imprisoned or held in custody from others inside penal institutions. The Commissioner of Correctional Services shall assign a time slot during the polling hours of a dedicated polling station situated in a penal institution to a voter/AR allocated to that polling station to vote, and inform the voter/AR of the time slot assigned. The Commissioner of Correctional Services must assign time slots for the voters/ARs so as to give them a reasonable opportunity to vote. A voter/AR to whom a time slot is assigned may only cast his/her vote during that time slot (see para. 5.50 below). [S 27(2A), (2B), (3A) and (4A) of the EAC (EP) (EC) Reg] *[Added in January 2010]*

## **PART III : OUTSIDE THE POLLING STATION**

5.23 The PRO will arrange for the display of a copy of the relevant Introduction to Candidates produced by the REO outside the polling station (or inside if it is a dedicated polling station) for easy reference by voters/ARs, unless it is not practicable to do so. *[Amended in October 2011 and September 2016]*



5.24 The CEO will arrange for a map or plan showing the respective boundary of the polling station to be displayed outside the polling station (or inside if it is a dedicated polling station) [s 43(1A) of the EAC (EP) (EC) Reg]. An NCZ will be designated outside each polling station to ensure the undisturbed access of voters/ARs to the polling station. In addition, an NSZ in which no one is allowed to stay or loiter will be designated immediately outside the entrance/exit of a polling station to avoid obstruction to voters/ARs who enter or exit. Canvassing activities within an NCZ are prohibited (except for the static display of EAs authorised by the RO, such as EAs mounted at designated spots). A notice of the determination of the NCZ and a map or plan showing the boundary of the area will be put up at or near the polling station [s 40(8) of EAC (EP) (EC) Reg]. (See Chapter 14) *[Amended in September 2006, January 2010, October 2011, September 2016 and July 2021]*

- 5.25 On the polling day, a person must not:
- (a) engage in canvassing votes (including suggesting not voting for any candidate) within the NCZ, except for the door-to-door canvassing activities stated in para. 5.26 below;
  - (b) use a sound amplifying system or device for any purpose in the NCZ, except for the performance of duties by officers of the CSD on the polling day at dedicated polling stations in penal institutions;
  - (c) use a sound amplifying system or device or conduct any activity (e.g. lion dance) for canvassing votes so that the sound emitted by it can be heard in the NCZ;

- (d) display or wear in the NCZ any promotional material, such as any badge, emblem, clothing or head-dress (except for the static display of EAs authorised by the RO, such as EAs mounted at designated spots), which:
  - (i) may promote or prejudice the election of 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 political body in Hong Kong; or
- (e) stay or loiter in the NSZ without the express permission of the PRO;

otherwise he/she commits an offence and is liable to the maximum penalty of a fine at level 2 (\$5,000) and to imprisonment for 3 months [ss 40(14), (14A) and 45(4) and (7) of the EAC (EP) (EC) Reg]. *[Amended in September 2006, October 2011 and September 2016]*

5.26 Canvassing activities are prohibited in the entire building where a polling station is located. Besides, no canvassing is allowed on the street level (i.e. ground floor) within the NCZ. Door-to-door canvassing may be allowed on the storeys above or below the street level in any building other than the building where the polling station is located within an NCZ, provided that permission has been obtained for entry into the building for canvassing votes, that no obstruction is caused to any person, and that no sound amplifying system or device is used. For the purpose of such door-to-door canvassing, it is permitted to display or wear promotional materials (e.g. any badge, emblem, clothing or head-dress which may promote or prejudice the election of a candidate or candidates at the election) or materials making direct reference to a body a member of which is

standing as a candidate in the election or to any political body in Hong Kong, but under no circumstances are such materials allowed to appear on the street level within the NCZ. [S 40(14), (15) and (16) of the EAC (EP) (EC) Reg] (See Chapter 14). *[Added in July 2021]*

## **PART IV : POLLING HOURS**

5.27 The poll starts at 9:00 am and ends at 6:00 pm. For security reasons, polling hours for dedicated polling stations situated in penal institutions are from 9:00am to 4:00pm. About 30 minutes before the commencement of poll (or 15 minutes for dedicated polling stations situated in penal institutions), the PRO at a polling station will admit the candidates, their election agents or polling agents into the polling station to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. In front of these observers, the PRO will show that the sealed packets are not tampered with before opening the packets, and that the ballot boxes are empty before locking and sealing the boxes. [S 48 of the EAC (EP) (EC) Reg] The PRO will also inform and show to such persons of the number of ballot papers of the subsectors in his/her possession. For each candidate, only 1 person (i.e. either the candidate or his/her election agent or polling agent) may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. *[Amended in July 2021]*

5.28 For dedicated polling stations situated in penal institutions, the following restrictions are set due to security reasons:

- (a) only a maximum of 2 candidates may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of the ballot boxes at a dedicated polling station situated inside a maximum security prison;

- (b) only a maximum of 2 persons (candidates, their election agents or polling agents) may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of the ballot boxes at a dedicated polling station situated in a penal institution (except maximum security prisons).

Admission of candidates, election agents or polling agents to the aforesaid dedicated polling stations to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes will be on a **first-come-first-served basis**. (See also Chapter 7 on the application procedures for admission to dedicated polling stations situated in penal institutions by election agents or polling agents.) *[Amended in July 2021]*

5.29 Where no candidates or none of their agents are present at the polling station, the above process of opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes will be conducted in the presence of any 2 of the following persons inside the polling station: police officers, members of the Civil Aid Service (“CAS”), officers of the CSD or polling staff (as the case may be). *[Amended in January 2010, October 2011, September 2016 and July 2021]*

5.30 For easy identification of ballot papers during the polling and counting process, colour patterns and code numbers of ballot papers of each subsector are different. *[Amended in September 2016 and July 2021]*

## **PART V : PERSONS TO BE ADMITTED TO THE POLLING STATION**

5.31 In addition to voters/ARs, only the following persons may be admitted to a polling station:

- (a) the PRO and other polling staff;
- (b) the Chief Returning Officer (“CRO”) (Subsectors), the ROs and Assistant Returning Officers (“AROs”) for the relevant subsectors;
- (c) members of the EAC;
- (d) the CEO;
- (e) public officers on duty at the polling station, including police officers, members of the CAS, etc.;
- (f) officers of the CSD and other law enforcement agencies on duty at dedicated polling stations;
- (g) candidates and election agents of relevant subsectors, subject to para. 5.32 below;
- (h) polling agents appointed for the polling station (not applicable to dedicated polling stations situated in maximum security prisons), subject to para. 5.32 below;
- (i) public officers authorised in writing by the CEO;
- (j) any person authorised in writing by a member of the EAC;

- (k) a person authorised in writing by the RO for liaison duties; and
- (l) children accompanying a voter/AR who enters the polling station for the purpose of voting (if the PRO considers that the children should not be left unattended while the voter/AR is in the polling station, and that the children will not disturb or cause inconvenience to any person in the polling station).

[S 44(4), (5) and (13) of the EAC (EP) (EC) Reg] *[Amended in September 2006, January 2010 and September 2016]*

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

5.32 For the purpose of maintaining order in the polling station, the PRO may regulate the number of voters/ARs, candidates, election agents and polling agents to be admitted to the polling station at any one time [s 44(2) of the EAC (EP) (EC) Reg]:

- (a) For each candidate, only 1 person among the candidate, his/her election agent and polling agents may enter and be present in the polling station at any one time [s 44(6), (7), (8) and (9) of the EAC (EP) (EC) Reg];
- (b) A notice will be displayed outside each polling station specifying the capacity of the designated area inside the polling station for candidates, their election agents or polling agents to observe the poll;

- (c) Admission of candidates, election agents and polling agents will be on a **first-come-first-served basis**. In order that as many candidates, election agents and polling agents as possible may have the chance to observe the poll in the polling station, any candidate, election agent or polling agent who has been admitted to the polling station may only stay for 1 hour. He/She must then leave the polling station unless there is no other candidate, election agent and polling agent waiting for admission. He/She may apply for re-admission into the polling station again on a first-come-first-served basis;
- (d) As stated in (c) above, to ensure fairness, waiting slots for entering a polling station are all allocated on a first-come-first-served basis for candidates, election agents and polling agents. If a candidate or his/her agent seeks admission to a polling station but all the waiting slots are full until the close of poll, no vacant slot can be allocated to the candidate or his/her agent. However, if no one among this candidate and his/her agents has earlier entered the polling station to observe the poll on the polling day, the PRO concerned will endeavour to give the candidate/agent an opportunity to enter the polling station to observe the poll before the close of poll under a special arrangement. Under this special arrangement, the person will replace the candidate or his/her agent who has been allocated the last waiting slot for admission to the polling station if this last candidate or any of his/her agents has already been given an earlier slot to observe the poll in that polling station;
- (e) Anyone on admission into a polling station has to sign and register his/her time of entry on a log sheet. A candidate, election agent or polling agent who has to queue outside the polling station for his/her turn to observe the poll at the designated area will be given

a number chit that indicates the order of admission. The polling staff will call out the number to admit the holder of the number chit concerned. If the holder concerned is not present at the time, his/her place will be taken over by the person next in line. He/She who has lost his/her place due to his/her absence will have to obtain a new number chit when he/she returns; and

- (f) For security reasons, only a maximum of 2 candidates may be present at any one time to observe the poll at a dedicated polling station situated inside a maximum security prison, and a maximum of 2 candidates, election agents or polling agents may be admitted to a dedicated polling station situated in a penal institution other than a maximum security prison at any one time. Observers will have to take turn in case more than 2 candidates/agents intend to observe the poll at the same time. The PRO may regulate the number of people entering the dedicated polling station (see also Chapter 7).

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

5.33 Except for voters/ARs and police officers, officers of the CSD, officers of any law enforcement agencies or members of the CAS on duty, all other persons permitted to enter a polling station are required to make a **Declaration of Secrecy** on a specified form<sup>30</sup> before entering the polling station and adhere to the provisions governing the secrecy of voting [s 92 of the EAC (EP) (EC) Reg]. *[Amended in January 2010, October 2011, September 2016 and July 2021]*

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



## **PART VI : HOW TO ISSUE BALLOT PAPERS**

5.34 In accordance with s 53 of the EAC (EP) (EC) Reg, an EPR system will be adopted for issuing ballot papers at polling stations (except for dedicated polling stations) for a more flexible, efficient and accurate issuance of ballot papers. The printed copy of FR will be used in issuing ballot papers where the EPR system cannot be adopted (i.e. at dedicated polling stations or polling stations lacking network coverage) and in the event of system failure.

### **(a) Use of EPR System in Issuing Ballot Papers**

Upon entry to the polling station, a voter/AR will be directed to one of the ballot paper issuing desks to collect the ballot paper. The polling staff will check the voter/AR's identity document, and then scan his/her Hong Kong Permanent Identity Card ("HKID") with a tablet so as to verify whether the voter/AR is registered in respect of the subsector concerned and ascertain the number (either 1 or 2) and types of ballot papers to be issued. If other specified identity document is presented by the voter/AR, then the PRO's authorisation is to be obtained for the manual input of the voter/AR's HKID number into the EPR system for verification purpose.

The polling staff will softly call out the name of the voter/AR as stated in the entry in the EPR system and make a record. Then the polling staff will issue to the voter/AR either 1 or 2 ballot papers according to his/her entitlement. If the voter/AR is entitled to be issued with 2 ballot papers, all the ballot papers must be handed over to him/her at the same time. The polling staff will show the ballot papers to the voter/AR to confirm that each ballot paper given to him/her is unmarked, and request the voter/AR to acknowledge the number of ballot papers so received to ensure the correct issuance of ballot

papers. The EPR system will record the number and types of ballot papers issued to the voter/AR and the time of issuance, but **no record will be made** as to which particular ballot paper is given to the voter/AR. To ensure accurate record-keeping, the voter/AR may check his/her name, partial HKID number and types of ballot papers issued to him/her as shown on the screen of the EPR system during the issuance process.

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

The printed copy of FR will be used in issuing ballot papers where the EPR system cannot be adopted (i.e. at dedicated polling stations or polling stations lacking network coverage) or in the event of system failure. The polling staff will check the voter/AR's identity document against the entry in the printed copy of FR to verify whether the voter/AR is registered in respect of the subsector concerned. Thereafter, the polling staff will softly call out the name of the voter/AR as stated in the entry in the printed copy of FR, and draw a line across the name and the identity document number therein to indicate that the ballot papers have been issued to the voter/AR. The polling staff will conduct the line-drawing under observation of the voter/AR to ensure accuracy, while at the same time covering up the entries of other voters/ARs in the printed copy of FR to safeguard personal data privacy.

Then the polling staff will issue to the voter/AR either 1 or 2 ballot papers according to his/her entitlement. If the voter/AR is entitled to be issued with 2 ballot papers, all the ballot papers must be handed over to him/her at the same time. The polling staff will show the ballot papers to the voter/AR to confirm that each ballot paper given to him/her is unmarked, and request the voter/AR to acknowledge the

number of ballot papers so received to ensure the correct issuance of ballot papers. No record will be made as to which particular ballot paper is given to the voter/AR.

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

In case the EPR system breaks down while in use on the polling day that renders the system inoperable, the fallback mode has to be activated to retrieve the information from the local storage device of the system inside the polling station. With this fallback device the polling staff can check and ascertain that a voter/AR applying for ballot papers has not collected any ballot papers at the polling station when the EPR system was in use. The HKID numbers of voters/ARs who have collected their ballot papers are captured in the storage system in an encrypted form, but personal particulars of the voters/ARs, such as their names, will not be recorded. The polling staff will then issue ballot papers to voters/ARs using the printed copy of FR (as stated in (b) above).

[S 53 of the EAC (EP) (EC) Reg] *[Amended in September 2016 and July 2021]*

5.35 To keep track of the total number of ballot papers issued, the counterfoil of each ballot paper bears a serial number on its front. However, the serial number will not appear on the ballot paper, and neither the polling staff nor the EPR system will record the serial number of the ballot paper issued to a voter/AR. [Ss 49(11) and 53(6) of the EAC (EP) (EC) Reg] The polling staff and the EPR system will only register the quantity of ballot papers issued to voters/ARs at the ballot paper issuing desks for calculating the hourly voter turnout and cumulative voter turnout. While the voter turnout statistics will be posted outside the polling stations for the public's information, they are for reference only. *[Amended in July 2021]*

5.36 According to the established procedures, all ballot papers issued at the ballot paper issuing desks are counted towards the cumulative voter turnout. “TENDERED” ballot papers and ballot papers issued to voters/ARs in replacement of “SPOILT” ballot papers must be handled and issued by the PRO at the PRO desk (please refer to paras. 5.55 and 5.56 below for details). *[Added in July 2021]*

## **PART VII : QUEUING ARRANGEMENT**

5.37 Voters/ARs have to queue up to enter the polling station. As stipulated in s 49A of the EAC (EP) (EC) Reg, the PRO may make special queuing arrangements for persons with special needs including, by definition:

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

The PRO may set up two queues outside the polling station, one for persons with special needs and the other for the ordinary public. The actual arrangement for collecting ballot papers at ballot paper issuing desks may vary depending on the methods for issuing ballot papers. Seats may also be provided in the polling station for persons with special needs to take rest while waiting to join the special queue for collecting ballot papers.

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

When ballot papers are issued via the EPR system, all ballot paper issuing desks installed with the tablets of the EPR system are able to serve any voter/AR. Given such flexibility, the ballot paper issuing desks are no longer individually confined to a group of HKID prefixes allocated with the printed copy of FR, which would otherwise be split and distributed to them.

As a caring initiative for persons with special needs (see para. 5.37 above), the PRO will assign a number of ballot paper issuing desks (special ballot paper issuing desks) for their use. Other ballot paper issuing desks are available for use by the ordinary public. Voters/ARs may collect their ballot papers at the respective ballot paper issuing desk as directed by the polling staff.

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

Having regard to the order and the overall situation of the polling station, the PRO may flexibly deploy the use of ballot paper issuing desks and make other special arrangements as appropriate to give priority to persons with special needs and shorten their waiting time.

[S 49A of the EAC (EP) (EC) Reg]

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

Polling stations which cannot use the EPR system due to their locations or other circumstances will use the printed copy of FR instead for issuing ballot papers. To avoid duplicate issuance of ballot papers, the printed copy of FR will be split into parts, by the alphabetical prefixes of HKID number, in a number that matches the number of the ballot paper issuing desks, and then distributed to the issuing desks accordingly. A line will be drawn across the entry of the voter/AR in the printed copy of FR when that voter/AR has collected the ballot papers.

The PRO may also set up two queues outside the polling station, one for the use of persons with special needs and the other for the ordinary public.

Regarding the collection of ballot papers, past experience has shown that most holders of HKID numbers prefixed with A, B, C and so forth are senior citizens. More ballot paper issuing desks will therefore be assigned by the PRO for these HKID number alphabetical prefixes to shorten the waiting time of this group of persons with special needs. Meanwhile, holders of other HKID number alphabetical prefixes may also have special needs due to age or physical conditions. The PRO may likewise set up a special queue for each ballot paper issuing desk to shorten their waiting time.

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

In case the EPR system breaks down while in use that renders it inoperable, the polling station should activate the fallback mode and

switch to use the printed copy of FR for issuing ballot papers. The aforementioned procedures regarding the use of the printed copy of FR for issuing ballot papers will be adopted at ballot paper issuing desks, except that the polling staff must first check the record in the encrypted local storage device and ascertain that the voter/AR has not obtained any ballot papers prior to activation of the fallback mode so as to avoid duplicate issuance of ballot papers. The special queuing arrangement regarding the use of the printed copy of FR for issuing ballot papers may also apply.

*[Added in July 2021]*

5.38 Based on past experience, when polling staff request to go to vote at their assigned polling stations, the PRO will arrange as far as practicable and release them to do so usually during meal breaks or off-peak hours of the polling station. The operation of the polling station, if having heavy workload and stringent manpower, may still be affected anyhow. In this regard, to facilitate their early resumption of work to serve voters/ARs, if a polling staff goes to vote at the assigned polling station but finds a long queue waiting for admission thereto, after the polling staff presents his/her polling staff identification to the staff on duty there, he/she may be permitted to enter the polling station for priority queuing to collect ballot papers and cast his/her votes, with a view to returning to the polling station where he/she works as soon as practicable and resuming service for voters/ARs. *[Added in July 2021]*

## **PART VIII : PRESENTATION OF DOCUMENT FOR COLLECTING BALLOT PAPER**

5.39 On arrival at the polling station, a voter/AR should show to the polling staff at the ballot paper issuing desk the original of any of the following documents, to the satisfaction of the PRO or polling staff, before he/she can be issued with the ballot papers:

- (a) the original of the voter/AR's HKID;
- (b) alternative documents:
  - (i) a document issued by the Commissioner of Registration to the voter/AR certifying that the voter/AR is exempt, under regulation 25 of the Registration of Persons Regulations (Cap 177A), from being required to register under the Registration of Persons Ordinance (Cap 177);
  - (ii) a document issued by the Commissioner of Registration acknowledging that the voter/AR has applied:
    - (1) to be registered under the Registration of Persons Ordinance; or
    - (2) for a new HKID issued under regulation 13 or 14 of the Registration of Persons Regulations but is awaiting its issuance;
  - (iii) a valid HKSAR Passport issued to the voter/AR under the Hong Kong Special Administrative Region Passports Ordinance (Cap 539);



- (iv) a valid HKSAR seaman's identity book issued to the voter/AR under regulation 3 of the Immigration Regulations (Cap 115A);
- (v) a valid document of identity issued to the voter/AR under regulation 3 of the Immigration Regulations; or
- (c) a document evidencing the voter/AR's report to a police officer of the loss or destruction of document referred to in para. 5.39(a), (b)(i) or (ii) above, together with the original of a valid passport or similar travel document (not being one referred to in para. 5.39(a), (b)(i) to (v) above) issued to him/her showing his/her name and photograph.

[S 50 of the EAC (EP) (EC) Reg] [*Amended in July 2021*]

5.40 For a voter/AR applying for a ballot paper at a dedicated polling station situated in a penal institution, the document to be shown is a document issued by the Commissioner of Correctional Services showing the voter/AR's name, photograph and prisoner registration number allocated by the Commissioner to the voter/AR for identification purpose. [S 50 of the EAC (EP) (EC) Reg] [*Added in July 2021*]

5.41 If there are reasonable grounds for questioning the *bona fides* of a voter/AR, the PRO shall ask him/her the following questions at the time of his/her application for a ballot paper (but not afterwards):

- (a) "Are you the person registered in the subsector final register now in effect for this subsector, as follows (the Presiding Officer to read the whole entry as it is recorded in the register)?"

- (b) “Have you already voted for this subsector?”

The voter/AR will not be issued with any ballot paper unless he/she has answered the questions to the satisfaction of the PRO. [S 51(3) and (5) of the EAC (EP) (EC) Reg]

5.42 Where there is reasonable cause to believe that a person has engaged in corrupt conduct of by impersonating a voter/AR, the PRO may request the police to arrest that person. If the polling station is a dedicated polling station, the PRO may request the officer of the CSD or the law enforcement agency to remove the person concerned from the polling station and report the case to the police [s 52(1), (2) and (2A) of the EAC (EP) (EC) Reg]. *[Amended in January 2010 and September 2016]*

## **PART IX : VOTING METHODS**

5.43 When issued with the ballot paper(s), a voter/AR will also be provided with a colour cardboard to indicate the number of ballot papers issued (i.e. **white** for 1 ballot paper and **red** for 2 ballot papers). This arrangement helps the polling staff manning the ballot boxes to ensure that a voter/AR has cast all his/her votes (1 or 2) before leaving the polling station and that no person can take away any ballot paper from the polling station. The cardboard will be collected by the polling staff after the voter/AR has inserted his/her ballot papers into the ballot boxes and before he/she leaves the polling station.

5.44 After being issued with the ballot paper, the voter/AR should immediately proceed to one of the voting compartments to mark the ballot paper to indicate his/her choice of candidates. Each voting compartment can only be used by one voter/AR at one time. The marking of the vote should be done in the following manner, as appropriate:

- (a) when the usual type of ballot papers with **circles** against the names of the candidates and a chop with a “✓” sign (provided by the polling staff) are used, the voter/AR must use the chop supplied by the polling station to mark his/her choice of candidates in the circles up to the number of vacancies to be filled. The chop is to be affixed to give a single “✓” in the circles on the ballot paper opposite the names of the candidates of the voter/AR’s choice; **or**
- (b) when a specially designed ballot paper with **ovals** against the names of the candidates is used, the voter/AR should use the black pen supplied by the polling station to shade the ovals for his/her choice of candidates up to the number of members to be elected by the subsector concerned.

It is an offence for anyone to undertake photographing, filming or making video or audio recording within a polling station. Voters/ARs must not take photos of their marked ballot papers (please refer to para. 5.60 below). After marking the ballot paper, a voter/AR should cast his/her vote in the manner as directed by the EAC. The ways deemed fit by the EAC for casting votes are as follows:

**Envelope(s) Provided**<sup>31</sup>

- (a) (i) insert the ballot paper, unfolded, into the envelope provided by the polling station; and
- (ii) put the ballot paper contained in the envelope into the ballot box; or

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<sup>31</sup> In general, electronic counting will be adopted in subsector ordinary elections. Voters/ARs are required to insert the ballot paper into the envelope provided by the polling station and then put the ballot paper contained in the envelope into the ballot box.

- (b) (i) fold the ballot paper so that the marked side is inside;
- (ii) insert the folded ballot paper into the envelope provided by the polling station; and
- (iii) put the ballot paper contained in the envelope into the ballot box.

**Envelope(s) Not Provided**<sup>32</sup>

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

[Ss 54 and 56 of the EAC (EP) (EC) Reg] *[Amended in September 2006 and September 2016]*

5.45 Upon leaving the voting compartment, the voter/AR should immediately put his/her marked ballot paper (whether folded or enveloped as indicated in para. 5.44 above) into the ballot box as directed by the polling staff and return the cardboard to the polling staff. Afterwards the voter/AR should leave the polling station without undue delay. [S 54(1A), (1B), (2) and (3) of the EAC (EP) (EC) Reg] *[Amended in September 2006 and September 2016]*

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<sup>32</sup> Mainly applicable to by-elections.

**NOTE :**

After collecting the ballot paper, a voter/AR must proceed to a voting compartment to mark the ballot paper immediately and afterwards must leave the polling station after casting his/her vote without undue delay. A person who fails to obey any order of the PRO or misconducts himself/herself commits an offence. The PRO may seek assistance from the police and order the person to leave the polling station immediately [s 46(2) and (3) of the EAC (EP) (EC) Reg].

If a voter/AR deliberately makes an error in marking the ballot paper and asks the PRO to issue a new ballot paper to him/her repeatedly, the PRO may reject his/her request. If there is a reasonable cause to believe that a person impersonates a voter/AR to apply for a ballot paper, the PRO may request the police to arrest that person [s 52(2) and (2A) of the EAC (EP) (EC) Reg]. A person engages in corrupt conduct if he/she directly or indirectly uses a deception to induce another person not to vote at the election or obstruct or prevent another person from voting at the election [s 14 of the ECICO]. It is an offence for a person to take away a ballot paper from a polling station. It will also be a corrupt conduct if any person, without lawful authority, destroys, defaces, takes or otherwise interferes with a ballot paper in use or having been used at the election; or without lawful authority, destroys, removes, opens or otherwise interferes with a ballot box in use at the election [s 17 of the ECICO].

Candidates/their agents and voters/ARs should make a complaint to PROs, ROs, law enforcement agencies or the EAC in the case of any possible contravention of the electoral law. All complaints will

be treated in strict confidence. The EAC will refer any complaints of suspected violation of the law to the law enforcement agencies for follow-up actions.

*[Amended in July 2021]*

5.46 A voter/AR with visual impairment who so requests will be provided with a **braille template** to facilitate his/her marking of the ballot paper by himself/herself [s 57(3) of the EAC (EP) (EC) Reg]. The template should be returned to the polling staff after use. (For details about the template, see para. 7.41 of Chapter 7.) *[Amended in September 2016]*

5.47 A voter/AR must mark his/her vote on the ballot paper by himself/herself and cannot request other voters/ARs to do it on his/her behalf. If the voter/AR is unable to mark the ballot paper by himself/herself (e.g. due to inability to read or visual impairment or other physical cause) to indicate the choice of candidates, he/she may ask the PRO, Deputy PRO or Assistant PRO to mark the ballot paper on his/her behalf. The marking of the ballot paper as such must be made in the presence of 1 polling staff as a witness. [S 57(1) and (2) of the EAC (EP) (EC) Reg] *[Amended in October 2011 and September 2016]*

5.48 **The ballot is secret. No one is allowed to use force or duress, or threaten to use force or duress, against a person to make him/her vote or not to vote for any particular candidate at an election** [s 13 of the ECICO]. **Also, no one is obligated to disclose which candidate he/she has voted for or is going to vote for.** It is an offence for anyone to, without lawful authority, require or purportedly require a voter/AR to disclose the name of, or any particular relating to, the candidate whom the voter/AR has voted for [s 37 of the Schedule to the CEEO]. Some other prohibited acts which may infringe the secrecy of the vote during the polling and counting process are also specified under s 93 of the EAC (EP) (EC) Reg. It is an offence to commit any of the acts prohibited under

this section, and offenders will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. *[Amended in September 2006, September 2016 and July 2021]*

5.49 To safeguard the secret ballot by voters/ARs, no one is allowed to disclose at any time whether a voter/AR has or has not applied for a ballot paper or voted, or disclose the identity of a voter/AR at a dedicated polling station. Anyone who makes such disclosure, unless otherwise permitted by the law, commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. [S 93(1), (1A), (2) and (10) of the EAC (EP) (EC) Reg] *[Added in January 2010 and amended in September 2016]*

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

5.50 A voter/AR who has collected the ballot papers (1 or 2 in number, depending on his/her entitlement) but leaves the polling station without casting any one of or all his/her votes is not allowed to return to the polling station later to cast the votes not yet cast, except under the following circumstances:

- (a) if, after having been issued with the ballot papers (1 or 2 in number), the voter/AR has become incapacitated from voting or completing the voting by physical illness and needs to leave the polling station without marking any one of or all the ballot papers, he/she may return to the polling station to vote before the close of poll provided that prior to his/her leaving the polling station his/her ballot paper(s) has been given back to the PRO [s 55(6) of the EAC (EP) (EC) Reg]; or
- (b) for a reason considered justified by the PRO, the voter/AR who has not marked the ballot paper(s) issued to him/her may, with the

permission of the PRO, hand back the ballot paper(s) to the PRO and return later to vote [s 55(2) of the EAC (EP) (EC) Reg]; and

- (c) in the case of a dedicated polling station situated in a penal institution, the voter/AR concerned is allowed to return to vote only within the existing or any newly assigned time slot [s 55(3A) of the EAC (EP) (EC) Reg].

*[Amended in September 2006, January 2010, October 2011 and September 2016]*

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

- (a) the PRO must keep the ballot paper(s) in his/her custody and, when the voter/AR returns to the polling station to vote before the close of poll, return such ballot paper(s) to the voter/AR in the presence of a police officer [s 55(4) and (6) of the EAC (EP) (EC) Reg]; and
- (b) where the voter/AR has not returned to the polling station at the close of poll, the PRO must endorse the ballot paper(s) with the words “**UNUSED**” and “**未用**” and show them to each candidate or his/her election agent or polling agent who is present at the time. Ballot paper(s) endorsed as such must not be put into the ballot box and must be excluded from the counting of votes [ss 59 and 77(1)(c) of the EAC (EP) (EC) Reg].

*[Amended in September 2006, January 2010, October 2011, September 2016 and July 2021]*



5.52 If the situations arise in a dedicated polling station, the following procedures must be taken by the PRO and/or the Commissioner of Correctional Services or his/her officer:

- (a) the PRO must keep the ballot paper(s) in his/her custody and, when the voter/AR returns to the dedicated polling station to vote before the close of poll, return such ballot paper(s) to the voter/AR in the presence of an officer of the CSD or any law enforcement agency [s 55(4) and (6) of the EAC (EP) (EC) Reg];
- (b) where a dedicated polling station situated in a penal institution is concerned, the Commissioner of Correctional Services or his/her officer must as far as practicable assign to the voter/AR a new time slot during the polling hours appointed for that dedicated polling station, and notify the voter/AR of the new time slot [s 55(3B) and (6A) of the EAC (EP) (EC) Reg]; and
- (c) where the voter/AR has not returned to the dedicated polling station at the close of poll, the PRO must endorse the ballot paper(s) with the words “**UNUSED**” and “**未用**” and show them to each candidate or his/her election agent or polling agent who is present at the time. Ballot paper(s) endorsed as such must not be put into the ballot box and must be excluded from the counting of votes [ss 59 and 77(1)(c) of the EAC (EP) (EC) Reg].

*[Added in July 2021]*

5.53 If any issued ballot paper (whether marked or unmarked) is found abandoned or left behind in a voting compartment or other areas inside the polling station, it must be handed in to the PRO. The ballot paper will then be endorsed with the words “**UNUSED**” and “**未用**” on the front and be kept by the

PRO. In no circumstances can ballot papers endorsed as such be put into the ballot box. These ballot papers will be excluded from the counting of votes. [Ss 59 and 77(1)(c) of the EAC (EP) (EC) Reg] *[Amended in October 2011 and September 2016]*

5.54 The PRO is required to keep in his/her custody those ballot papers handed in under the circumstances described in para. 5.50 above only if he/she knows by which voters/ARs are they left behind. Otherwise, ballot papers left behind in the polling station should be endorsed as “**UNUSED**” and “**未用**” and be excluded from the counting of votes [ss 59 and 77(1)(c) of the EAC (EP) (EC) Reg]. *[Amended in September 2006 and September 2016]*

5.55 Any voter/AR 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 1 new ballot paper to the voter/AR in exchange for the spoilt ballot paper. The spoilt ballot paper will be endorsed with the words “**SPOILT**” and “**損壞**” on the front and be kept by the PRO. Spoilt ballot papers will be excluded from the counting of votes. [Ss 60 and 77(1)(d) of the EAC (EP) (EC) Reg] *[Amended in September 2016]*

5.56 Where a person, claiming to be a particular voter/AR entered on the FR, applies for a ballot paper after a person has already been issued with a ballot paper as such a voter/AR, the PRO may issue a tendered ballot paper to the voter/AR **only if** the PRO is not certain that the latter person is the former person who had been issued with a ballot paper earlier, and the latter person has answered the questions set out by the law (see para. 5.41 above) to the satisfaction of the PRO. The PRO may in such circumstances issue a ballot paper with the words “**TENDERED**” and “**重複**” endorsed on the front. Ballot papers endorsed as such will be excluded from the counting of votes. [Ss 58 and 77(1)(b) of the EAC (EP) (EC) Reg] *[Amended in September 2016]*

**PART X : CONDUCT INSIDE THE POLLING STATION**

5.57 Subject to para. 5.58 below, no person (including voters/ARs) is allowed to interfere with or attempt to influence other voters/ARs. In particular, no one is allowed to:

- (a) speak to or communicate with other voters/ARs contrary to a direction of the RO, ARO, PRO or any polling staff not to do so;
- (b) attempt to obtain or disclose any information, on the vote of other voters/ARs;
- (c) display or distribute any canvassing material;
- (d) display or wear any promotional material, e.g. 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 political body in Hong Kong or a body any member of which is standing as a candidate in the election; or
- (e) use a mobile telephone, paging machine or any other form of electronic communication device contrary to a direction of the RO, ARO, PRO or any polling staff not to do so.

Any person who contravenes the above regulations commits an offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months [s 45 of the EAC (EP) (EC) Reg]. *[Amended in September 2006, October 2011 and September 2016]*

5.58 Only the following persons may speak to or communicate with voters/ARs, and use a mobile telephone, paging machine or any other form of electronic communication device inside a polling station:

- (a) the PRO and other polling staff;
- (b) the ROs and AROs for the relevant subsectors;
- (c) members of the EAC;
- (d) the CEO;
- (e) police officers and members of the CAS on duty at the polling station;
- (f) officers of the CSD or other law enforcement agencies on duty at a dedicated polling station;
- (g) any person authorised in writing by the ROs to perform liaison duties; and
- (h) any person authorised in writing by a member of the EAC.

[S 45(1) and (6) of the EAC (EP) (EC) Reg] *[Amended in September 2006, January 2010 and September 2016]*

5.59 Any person who misconducts himself/herself or fails to obey the lawful orders of the RO or the PRO at a polling station or its vicinity commits an offence, and is liable to a fine and imprisonment. He/she may be ordered by such officers to leave the polling station or the vicinity of the polling station. A person

misconducts himself/herself if he/she disrupts the poll, or disturbs or causes inconvenience to other persons in the polling station. A voter/AR must cast his/her vote without undue delay, otherwise he/she may be ordered by the RO or the PRO to leave the polling station immediately. Any person who fails to leave the polling station immediately as ordered by the RO or the PRO 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 other law enforcement agencies (if the polling station is a dedicated polling station); or
- (c) any other person authorised in writing by the RO or the PRO to do so.

The person so removed is not allowed to re-enter the polling station on that day except with the permission of the RO or the PRO. Nevertheless, the powers conferred on the RO and the PRO are not to be exercised to order a voter/AR to leave or remove a voter/AR from the polling station for the purpose of preventing the voter/AR from voting at the polling station allocated to him/her. [S 46(2), (2A), (3), (4) and (5) of the EAC (EP) (EC) Reg] *[Amended in January 2010, September 2016 and July 2021]*

5.60 Any person who undertakes photographing, filming or making video or audio recording within a polling station without the express permission of the PRO or a member of the EAC, or the express permission, in writing, of the RO, commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 45(2) and (8) of the EAC (EP) (EC) Reg]. Generally speaking, such permission is only granted to government

photographers for performing publicity duties. *[Amended in September 2006 and September 2016]*

## **PART XI : CLOSE OF POLL**

5.61 A voter/AR who intends to vote but is not already at the door of the assigned polling station by the close of poll will not be allowed in afterwards. When the close of poll at 6:00 pm is nearing but there is a long queue of voters/ARs outside the polling station waiting to vote, the PRO will arrange for polling staff to hold up a signboard to direct voters/ARs to proceed to the end of the queue. If there are still voters/ARs queuing outside the entrance of the polling station at 6:00 pm, polling staff will stand at the end of the queue to stop latecomers from joining the queue and, if practicable, let voters/ARs already in the queue enter the polling station and close the entrance of the polling station. If there are too many such voters/ARs in the queue and arrangement cannot be made for all of them to enter the polling station, polling staff will stand at the end of the queue, holding a signboard to show that no latecomers will be allowed to join the queue. *[Amended in September 2016 and July 2021]*

5.62 In short, all voters/ARs who have arrived and queued up outside the polling station before the close of poll may enter the polling station to cast their votes. However, some polling stations are located at a place inside a building. If a voter/AR has arrived at the building but has not reached the entrance of the place where the polling station is located or has not queued up outside the entrance by the close of poll, he/she will not be allowed to enter the polling station to cast the vote. The PRO will close the entrance of the polling station only when all voters/ARs having arrived at the entrance of the polling station or queued up outside the entrance of the polling station before the close of poll have entered the polling station. *[Added in July 2021]*

5.63 At the close of poll, a notice will be displayed by the PRO outside the polling stations (except for dedicated polling stations) to inform the public that the poll has ended. Moreover, for each polling station using the EPR system, the PRO must confirm the close of poll through the system. After the close of poll, candidates and their election agents and polling agents may stay in the polling station to observe the process of locking and sealing of ballot boxes. The ballot boxes will be locked and sealed by the PRO in the presence of the candidates and/or their agents, if they are present. The PRO will also inform them of the numbers of unissued ballot papers, spoilt ballot papers and unused ballot papers in his/her possession. All such ballot papers and the marked copies of the FR, if having been used, will then be made up into separate sealed packets. The PRO will prepare a ballot paper account to estimate the number of ballot papers in the ballot boxes. [S 61(1) and (3) of the EAC (EP) (EC) Reg] *[Amended in September 2016 and July 2021]*

5.64 Not more than 2 candidates and/or their agents of the subsectors, if they so wish, will be allowed to accompany the PRO in the delivery of the locked and sealed ballot boxes, the sealed packets of relevant electoral documents and the ballot paper account prepared by the PRO, from the polling station to the counting station under police escort. Where there are more than 2 of them wishing to accompany in the delivery, the PRO will draw lots to determine which 2 persons are to do so. Candidates and their agents are allowed to remain in the polling station only until they see that the police escort for the delivery is available, and thereafter all of them, except those 2 persons who are to accompany in the delivery, must leave the polling station. *[Amended in September 2006, January 2010, September 2016 and July 2021]*

## **PART XII : THE COUNT**

5.65 A central counting station will be set up to conduct the count for each subsector and announce the election results. The RO for each subsector must, at least 10 days before the polling day, give notice of the time and place of counting of votes to the candidates [s 63(4) of the EAC (EP) (EC) Reg]. The CRO (Subsectors) is to maintain the order of the central counting station, while ROs for the respective subsectors are in charge of the counting zone for the relevant subsector. The RO for each subsector, assisted by his/her AROs and counting staff, will be responsible for the conduct of the count. *[Amended in September 2006 and September 2016]*

5.66 After the delivery of all ballot boxes from the polling stations to the central counting station and the transfer of the ballot boxes and ballot paper accounts to the RO in charge (“the relevant RO”), each ballot box will be checked to see if it is properly sealed. The seal on the ballot box will be broken by the relevant RO in the presence of the candidates or their election agents or counting agents, if any. The relevant RO will then open the ballot box and empty the contents onto a counting table. The relevant RO, assisted by the counting staff, shall:

- (a) arrange for the ballot papers to be sorted according to each subsector;
- (b) arrange for the number of the ballot papers to be counted and recorded for each subsector for verification of the number by comparing it with the ballot paper account for that subsector;
- (c) hand over ballot papers of subsectors outside he/she purview and the corresponding (verified) ballot paper accounts to the ROs for those subsectors;



- (d) count the votes recorded on the ballot papers for the subsector retained by him/her (for which he/she is appointed);
- (e) count the votes recorded on the ballot papers for the subsector (for which he/she is appointed) handed over to him/her from other ROs;
- (f) determine the validity of questionable ballot papers; and
- (g) compile the final counting results.

The above steps will be modified as appropriate if the counting process is computerised [ss 73 and 74 of the EAC (EP) (EC) Reg]. *[Amended in September 2016 and July 2021]*

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

- (a) the CRO (Subsectors);
- (b) the ROs for the relevant subsectors, their AROs and counting staff;
- (c) members of the EAC;
- (d) the CEO;
- (e) candidates and their election agents and counting agents of the relevant subsectors;

- (f) police officers and members of the CAS on duty at the counting station;
- (g) public officers authorised in writing by the CEO;
- (h) any person permitted by the CRO (Subsectors) or the ROs responsible for the counting zone of the central counting station; and
- (i) any person authorised in writing by any member of the EAC.

The CRO (Subsectors) or the RO (as the case may be) will designate a restricted zone inside the counting zone for the counting staff to count the votes. Candidates and their agents are prohibited from entering the restricted zone. Members of the public may observe the counting of votes from an area (“the public area”) at the counting station set apart for that purpose by the CRO (Subsectors) or the ROs, unless the CRO (Subsectors) or the ROs consider that the presence of a person may:

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

[S 66 of the EAC (EP) (EC) Reg] *[Amended in September 2016 and July 2021]*

5.68 Members of the public and the media have the rights to observe the count at the counting station. In order to maintain the order inside the counting station, all along the CRO (Subsectors) or ROs will not allow further entrants to the counting station when the area designated for the public reaches the maximum capacity. To enhance the transparency of the admission arrangement,

a notice setting out the maximum capacity of the public area will be displayed by the CRO (Subsectors) or ROs outside the counting station. *[Added in July 2021]*

5.69 Besides, photography and/or video-recording is allowed inside the counting station. Members of the public, including the media, can take photographs and/or videos inside the public area (excluding inside the counting zone). For record purposes, closed-circuit televisions will be installed in the counting station (including inside the counting zone) to record the actual situation of the counting station (including the public area). *[Added in July 2021]*

5.70 Except for police officers and members of the CAS on duty, every person authorised to enter a counting zone must make a **Declaration of Secrecy** on the specified form<sup>33</sup> before entering the zone, and observe the regulations on the secrecy of voting [s 92 of the EAC (EP) (EC) Reg]. Members of the public and the media at the public area and the media zone are not required to make a Declaration of Secrecy. *[Amended in September 2016 and July 2021]*

5.71 Except with the express permission of the CRO (Subsectors), the relevant RO or a member of the EAC, as the case may be, any person who takes photographs, films or makes any audio or video recording within a counting zone during the period commencing from the time at which the counting of votes is to begin at the zone and ending upon the completion of the counting and re-count, if any, at the zone, commits an offence [s 67(1) and (2) of the EAC (EP) (EC) Reg].

5.72 Any person who misconducts himself/herself or fails to obey the lawful orders of the CRO (Subsectors) or the RO at or in the vicinity of a counting station commits an offence, and will be liable to a fine at level 2

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

(\$5,000) and to imprisonment for 3 months. He/she may be ordered by the CRO (Subsectors) or the RO, as the case may be, to leave the area immediately. A person misconducts himself/herself if he/she disrupts the counting of votes, or disturbs or causes inconvenience to other persons in the counting station. The CRO (Subsectors) or the RO may also order a person to leave the counting station immediately if, having regard to the conduct of the person, his/her presence at the counting station is for a purpose other than that for which such presence is permitted or authorised. If the person fails to leave immediately, he/she may be removed by a police officer or by a person authorised in writing by the CRO (Subsectors) or the RO. Any person so removed is not allowed to enter the relevant counting station again on that day unless otherwise permitted by the CRO (Subsectors) or the RO. [Ss 67 and 68 of the EAC (EP) (EC) Reg] *[Amended in September 2016]*

5.73 The RO will conduct the count in the presence of the candidates, their election agents or counting agents, if present. After the RO has opened the ballot boxes, the candidates, their election agents or counting agents may request to inspect any paper, other than ballot papers, taken from the ballot boxes before the paper is disposed of. **At no time should a candidate, his/her election agent or counting agent touch any ballot paper.** [S 72 of the EAC (EP) (EC) Reg] *[Amended in January 2010]*

5.74 The cumulative voter turnout announced on the polling day is an estimate based on the statistics on ballot papers issued to voters/ARs by polling staff at the ballot paper issuing desks (see para. 5.36 above). Under certain circumstances, the cumulative voter turnout may not tally with the number of ballot papers in the ballot box because it does not take into account the numbers of ballot papers endorsed with the words “TENDERED”<sup>34</sup> and “重複” issued at

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

the PRO desk and ballot papers endorsed with the words “UNUSED”<sup>35</sup> and “未用” found abandoned or left behind and not put into the ballot box (see paras. 5.53 and 5.56 above). After adding the number of “TENDERED” ballot papers and deducting the number of “UNUSED” ballot papers, the cumulative voter turnout should, in principle, tally with the number of ballot papers in the ballot box<sup>36</sup>. A discrepancy may also occur between the two numbers if any ballot paper is taken away without authorisation and consequently not put into the ballot box. In any event, the counting results will base on the number of ballot papers actually counted from the ballot box, while the cumulative voter turnout is for reference only. *[Added in July 2021]*

### **Invalid Ballot Papers**

5.75 A ballot paper is invalid if:

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

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

<sup>36</sup> See para. 5.36 above. Ballot papers issued to voters/ARs in replacement of “SPOILT” ballot papers are issued at the PRO desk. The “SPOILT” ballot papers to be kept by the PRO were issued at the ballot paper issuing desks, so they have been counted in the cumulative voter turnout. As for the ballot papers issued to voters/ARs by the PRO in replacement of “SPOILT” ballot papers, they will be put into the ballot box and hence subsequently be included in the number of ballot papers actually counted from the ballot box.

- (e) votes on it are recorded for a number of candidates exceeding the number of EC members to be returned by the subsector concerned.

These ballot papers will be set aside as invalid on the spot. They will not be counted and will not be treated as questionable ballot papers. A candidate, an election agent or a counting agent may inspect these ballot papers but is not entitled to make representations to the RO concerning these ballot papers. [Ss 74A(b) and 77 of the EAC (EP) (EC) Reg] *[Amended in September 2006, October 2011 and July 2021]*

### **Questionable Ballot Papers**

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

- (a) it has any writing or mark by which the voter/AR can possibly be identified;
- (b) it is not marked in accordance with s 56 of the EAC (EP) (EC) Reg, i.e.:
  - (i) not marked by filling in black the ovals on it opposite the names of the candidates of the voter/AR's choice; or
  - (ii) in case where a chop with a "✓" is to be used:
    - (aa) not marked with the chop; or

- (bb) not marked by affixing the chop to give a single “✓” in the circles on the ballot paper opposite the names of the candidates of the voter/AR’s choice, and the voter/AR’s intention is unclear. However, the RO may count the vote on that ballot paper if he/she is satisfied that the intention of the voter/AR is clear, notwithstanding the “✓” mark is not placed inside the circle; or
- (c) it is substantially mutilated; or
- (d) it is void for uncertainty.

Questionable ballot papers must be separated and forwarded to the RO to decide whether the votes are to be counted [s 74A(a) of the EAC (EP) (EC) Reg]. When deciding on the validity of the ballot papers in (a) above, the RO will make reference to the judgment made by the Court on an election petition case (HCAL 127/2003). In that case, the Court ruled that the handwritten tick found on the ballot paper in question in the said election petition was considered a mark by which the elector could possibly be identified. The validity of ballot papers with any other writings or mark will remain to be determined by the RO on a case-by-case basis [ss 74A(a) and 78(4) of the EAC (EP) (EC) Reg]. *[Amended in September 2016 and July 2021]*

5.77 The validity of all questionable ballot papers shall be decided by the RO. The RO will invite the candidates, their election agents or counting agents present to participate in the determination process of questionable ballot paper. *[Amended in September 2016]*

5.78 The determination process will be conducted in the following manner:

- (a) the RO will inform the candidates and their agents of his/her initial decision on the validity of a questionable ballot paper. The candidate, or his/her election agent or counting agent may inspect and make representations in regard to the questionable ballot paper [s 78(3) of the EAC (EP) (EC) Reg];
- (b) the RO will then consider their representations and make a final decision on the validity of the questionable ballot paper (see para. 5.79 below) [s 78(4) of the EAC(EP) (EC) Reg];
- (c) if the RO decides that a questionable ballot paper is invalid and, therefore, not to be counted, he/she must endorse the words “不獲接納” and “rejected” on the front of it. In that case, if any candidate, election agent or counting agent objects to the RO’s final decision, the RO must also endorse the words “反對此選票不獲接納” and “rejection objected to” on that ballot paper [s 78(5) of the EAC (EP) (EC) Reg];
- (d) if any candidate, election agent or counting agent objects to the decision of the RO to count a questionable ballot paper, the RO must endorse the words “反對此選票獲接納” and “acceptance objected to” on that ballot paper [s 78(6) of the EAC (EP) (EC) Reg]; and
- (e) the RO shall prepare a statement to record his/her decisions made in respect of all questionable ballot papers [s 78A of the EAC (EP) (EC) Reg].

*[Amended in September 2016 and July 2021]*



5.79 The decision of the RO for a particular subsector in regard to any question arising in respect of any ballot paper relating to that subsector shall be **final** [s 79 of the EAC (EP) (EC) Reg], subject to an appeal lodged by the relevant person [s 39 of the Schedule to the CEEO]. The appeal is to be heard by the Revising Officer<sup>37</sup> and any application for an appeal has to be made to him/her [see Part I of Chapter 6]. *[Amended in September 2016]*

5.80 The counting of votes will proceed continuously, as far as possible, until the counting of all the votes is completed.

5.81 After vote counting is completed for a particular subsector, the RO for the subsector will make known the counting result to the relevant candidates, their election agents or counting agents present. The candidate or his/her election agent may request the RO to re-count the votes and the RO shall comply with such request unless in his/her opinion it is unreasonably made. [S 76 of the EAC (EP) (EC) Reg] *[Amended in January 2010]*

### **PART XIII : DECLARATION OF RESULT**

5.82 When the counting of votes and re-counts, if any, are completed and a result is obtained, the RO for the relevant subsector shall declare the candidate(s) elected for the relevant subsector. In the event that a vacancy is yet to be filled for that subsector and more than 1 of the remaining candidates hold the same number of votes, the relevant RO shall determine the result of the election by drawing lots at the counting station (see para. 3.58 of Chapter 3 for detailed procedures for the drawing of lots). The RO shall declare the successful

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<sup>37</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 46(5) of the Schedule to the CEEO].

candidate in the drawing of lots as elected and display a notice of result of the election of that subsector in a prominent place outside the counting station. The result of the election shall also be published in the Gazette within 7 days of the declaration of the result. [Ss 80 and 81 of the EAC (EP) (EC) Reg]

#### **PART XIV : DISPOSAL OF DOCUMENTS**

5.83 As soon as practicable after the result of the poll has been ascertained, the RO shall pack all the relevant documents and ballot papers into sealed packets. Candidates and their agents may be present to observe the packing. [S 82(1) and (4) of the EAC (EP) (EC) Reg]

5.84 These sealed packets and other documents including nomination forms, notices of appointment of agents, etc. will then be deposited with the CEO for safe custody for at least 6 months from the date of the subsector election to which they relate before destruction. [Ss 83 and 85 of the EAC (EP) (EC) Reg]  
*[Amended in September 2016]*

5.85 **Except pursuant to an order** made by a Revising Officer in an appeal under s 39 of the Schedule to the CEEO or **an order of court** made in criminal proceedings, **no person may inspect any ballot paper in the custody of the CEO.** [S 84 of the EAC (EP) (EC) Reg]

#### **PART XV : POSTPONEMENT OR ADJOURNMENT OF THE ELECTION, THE POLL OR THE COUNT OF VOTES**

5.86 The Schedule to the CEEO and the EAC (EP) (EC) Reg provide for the postponement or adjournment of the election, the poll or the count for an EC subsector election or at an individual polling station. *[Added in July 2021]*

5.87 Regarding the postponement or adjournment of a **subsector election and the poll at all polling stations and/or the count at all counting stations for the relevant subsector**, if, before or during the subsector election is held or during the poll or counting of votes in respect of a subsector election, the EAC is of the opinion that the election, the poll or the count is likely to be obstructed, disrupted, undermined or seriously affected by the occurrences of (a) a typhoon or other climatic condition of a serious nature; (b) riot, open violence or any danger to public health or safety; or (c) an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or the count, the EAC may postpone or adjourn the holding of the election, the poll or the count in respect of the election. [S 24(1) and (2) of the Schedule to the CEEO and s 1 of Schedule 1 to the EAC (EP) (EC) Reg] *[Added in July 2021]*

5.88 For the **poll at a particular polling station**, if, at any time during the poll of a subsector election, it appears to the PRO that the poll at the polling station is likely to be obstructed, disrupted, undermined or seriously affected by the occurrences of (a) a typhoon or other climatic condition of a serious nature; (b) riot, open violence or any danger to public health or safety; or (c) an occurrence which appears to the PRO to be a material irregularity relating to the election or the poll, the PRO may announce the adjournment of the poll at that polling station. [S 2 of Schedule 1 to the EAC (EP) (EC) Reg] *[Added in July 2021]*

5.89 If a subsector election or by-election, or the poll or count has to be postponed or adjourned in accordance with s 24 of the Schedule to the CEEO or Schedule 1 to the EAC (EP) (EC) Reg, the EAC is to appoint a date for holding the election, the poll or the count as soon as practicable after the postponement or adjournment. The date appointed must not be later than 14 days after the date originally scheduled. Pursuant to the established contingency measures of the EAC, the election, the poll or the count will usually be postponed or adjourned to

the fallback polling day on the following Sunday. There is no provision in the relevant electoral legislation regarding further postponement or adjournment of an already postponed or adjourned election, poll or count. [S 24(4) of the Schedule to the CEEO and s 6 of Schedule 1 to the EAC (EP) (EC) Reg] *[Added in July 2021]*

## **PART XVI : SUPPLEMENTARY NOMINATION OR SUBSECTOR BY-ELECTION TO BE HELD**

5.90 Regarding supplementary nominations and subsector by-elections, in case the number of members representing a particular subsector is confirmed to be less than the number of members allocated to the subsector concerned after the ERO has published the EC PR, the EAC will, in accordance with regulations in force under the Schedule to the CEEO:

- (a) arrange for a supplementary nomination if members of the subsector are returned by nomination; or
- (b) arrange for a subsector by-election if members of the subsector are returned by election,

to fill the vacancies of members representing the subsector concerned in EC.

[S 5 of the Schedule to the CEEO] *[Added in July 2021]*

5.91 There is no provision in the subsisting law regarding the holding of any subsector by-election to cater for the event that a subsector election, poll or count has to be postponed or adjourned due to the circumstances mentioned in paras. 5.87 to 5.88 above but cannot be held within 14 days after the scheduled date as stipulated in the law. *[Added in July 2021]*