

## CHAPTER 14

### EXIT POLL

#### PART I : GENERAL

14.1 This chapter sets out the guidelines for the conduct, publication and broadcast of exit polls on the polling day. The EAC respects academic freedom and freedom of expression in conducting exit polls. However, the EAC also has to ensure that elections are conducted fairly and honestly, to avoid the electors being unduly influenced and interfered with, and to maintain the order outside the polling stations. As such, a fair balance between the two ends must be maintained. *[Amended in September 2011 and September 2019]*

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

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

14.4 Exit polls approved by the EAC are not for electioneering purpose in promoting or prejudicing the election of a candidate or candidates. Organisations or persons conducting exit polls must not be affiliated with the candidates. The organisations or persons have to ensure that the results of exit polls must not be announced or disclosed to any candidate and other persons before the close of poll. The interviewers should make clear to the electors

that participation in the exit poll is entirely voluntary. *[Added in September 2019]*

14.5 To strictly regulate the exit polls, all applicants for the conduct of exit polls are required to make a statutory declaration to abide by the relevant terms and guidelines (see para. 14.12 below), in breach of which the approval may be revoked. If the person or organisation concerned deliberately makes false statutory declaration, they will be in breach of s 36 of the Crimes Ordinance and be sentenced to imprisonment for 2 years and to a fine. *[Added in September 2019]*

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

14.7 **The EAC appeals to the media to act with self-discipline, goodwill and in a spirit of voluntary cooperation in publishing and broadcasting the results of exit polls and other election-related opinion polls by refraining from announcing the said results before the close of poll so that electors' voting behaviour will not be unduly affected.** *[Amended in August 2008 and September 2019]*

## **PART II : SECRECY OF THE VOTE**

14.8 **The ballot is secret.** It is an elector's right to keep his/her vote secret. An elector does not have to disclose his/her choice of candidate if he/she does not want to. **It is a criminal offence for a person, without lawful authority, to require, or purport to require, an elector to disclose**

**the name of, or any particular relating to, the candidate for whom the elector has voted at an election** [s 48 of the DCO and s 94(7) of the EAC (EP) (DC) Reg]. **Those who conduct exit polls must respect the electors' right and wish not to be disturbed.** The interviewers should inform the electors being interviewed that their participation in the exit poll is voluntary prior to the conduct of exit poll. *[Amended in September 2007 and August 2008]*

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

### **PART III : CONDUCT OF EXIT POLLS**

14.10 Any person or organisation may apply for conducting exit polls in respect of any constituency to the REO, which is appointed to handle such applications on behalf of the EAC. Individual applicants must reach the age of 18 as they are required to make a statutory declaration (see para. 14.12 below) and the consequences of failing to abide by the relevant terms and guidelines governing the conduct of exit polls are serious and may attract criminal liability. To forestall public perception of unfairness, approval would normally not be granted in one or more of the following circumstances:

- (a) the applicant has publicly expressed support for any candidate(s)

contesting in the constituency, of which any polling stations are covered by the exit poll(s);

- (b) the applicant organisation has member(s) contesting in the constituency, of which any polling stations are covered by the exit poll(s);
- (c) the person(s) responsible for the exit poll(s) or interviewers deployed for the poll(s) are currently members of the organisation(s):
  - (i) which has candidate(s) contesting in the constituency, of which any polling stations are covered by the exit poll(s), or
  - (ii) which have publicly expressed support for any candidate(s) contesting in the constituency, of which any polling stations are covered by the exit poll(s).

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

14.11 For security reasons, no exit poll may be conducted for dedicated polling stations. For the purpose of better control of the conduct of exit poll, persons or organisations intending to conduct exit polls must provide the following to the REO at **the latest 10 days before the polling day**:

- (a) the name and address of the person or organisation intending to conduct an exit poll on the polling day;

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

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

14.12 A person or an organisation applying for the conduct of exit poll must make a statutory declaration by virtue of the Oaths and Declarations Ordinance (Cap 11) to abide by the relevant terms and the guidelines governing the conduct of exit poll. On the receipt of the application, the REO will consider the application and issue approval to the person or organisation concerned as appropriate. If a person or an organisation fails to comply with the terms of the declaration and the guidelines set out in this chapter, the approval to conduct exit poll on the polling day or during the polling hours may be revoked. The EAC may also make a reprimand or censure in a public statement which will include the name of the person or organisation who/which fails to comply with the terms of the declaration and the guidelines. A notice showing the persons or organisations allowed to conduct exit poll together with their contact telephone numbers will be released to the public prior to the polling day for the reference of the public and candidates. Such a notice will also be displayed at the respective polling stations. *[Amended in August 2008, September 2011, September 2015 and September 2019]*

14.13 Interviews are not allowed inside polling stations and the NSZ. Interviewers should note that canvassing activity is prohibited under criminal sanction within the NCZ except door-to-door canvassing activities (in both

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

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

#### **PART IV : IDENTIFICATION OF INTERVIEWERS**

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

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

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

## **PART V : USE OF EXIT POLLS AND OTHER OPINION POLLS FOR ELECTIONEERING**

14.17 As mentioned in para. 14.4, exit polls approved by the EAC are in all circumstances not for electioneering purpose. *[Added in September 2019]*

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

14.19 If persons other than candidates or the authorised election expense agents make use of the results of the exit polls or other opinion polls for the purpose of promoting or prejudicing the election of any candidate, they will commit the offence of incurring election expenses without being authorised as an election expense agent. *[Added in September 2019]*

## **PART VI : SANCTION**

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