

CHAPTER 4

POLLING AND COUNTING ARRANGEMENTS

PART I : GENERAL

4.1 An elector may vote only at the polling station allocated to him/her. In general, the REO will assign an elector to vote at a polling station within his/her constituency close to his/her registered residential address. However, as the DC constituencies are generally small in size, it is possible that there may be no suitable venue for use as a polling station in some constituencies. And even if there are suitable venues, it also depends on whether the venue can be made available for use as polling stations by the owners. Therefore, the polling station(s) in particular constituencies may not be situated within the boundary of the constituencies concerned, but in the neighbouring constituencies. *[Added in September 2019]*

4.2 If an elector with mobility difficulty is assigned to a polling station not easily accessible by him/her, he/she may apply to the REO for being re-assigned to an access-free special polling station. *[Added in September 2019]*

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

4.4 No canvassing activities are allowed within the NCZ. Regarding buildings within the NCZ, all canvassing activities by candidates and their campaigners are prohibited in the entire building where a polling station is located as well as on the ground floor of other buildings, regardless of whether they are government or private premises, and even if approval from the building management concerned is obtained. Please see Part III of this chapter for details. *[Added in September 2019]*

4.5 The poll starts at 7:30 am and ends at 10:30 pm. Before the commencement of polling (about 30 minutes), 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 present. The count will only commence when polling at all polling stations of the same constituency has closed. *[Added in September 2019]*

4.6 Only electors and designated/authorised persons are allowed entry into a polling station. Electors requiring special assistance may make a request to the PRO for discretion as appropriate. Please see Part V of this chapter for details. *[Added in September 2019]*

4.7 Upon arrival at the polling station, an elector should show to the polling staff at the ballot paper issuing desk the original of his/her Hong Kong Permanent Identity Card (“HKID”) or other identity documents permitted by the law (such as the HKSAR Passport) before a ballot paper can be issued to him/her. *[Added in September 2019]*

4.8 The ballot is secret. No one may use any force or threaten to use force against a person to vote or not to vote for any particular candidate at

an election. Also, no one is obligated to disclose which candidate he/she has voted for or is going to vote for. *[Added in September 2019]*

4.9 After collecting the ballot paper, an elector should immediately proceed to a voting compartment to cast his/her vote. Each voting compartment is to be used by one elector at a time only. An elector who has difficulty in marking the ballot paper by himself/herself may, in accordance with the law, ask the PRO or the PRO's deputy to mark the ballot paper on his/her behalf in the presence of one polling staff as a witness. However, it is prohibited under the law to have an elector's relative or friend (even if he/she is also an elector) to mark the ballot paper on the elector's behalf. *[Added in September 2019]*

4.10 An elector may enter the polling station with a memorandum (such as so-called "thunder in the palm") containing the name or candidate number of the candidate he/she is going to vote for. If this memorandum only serves as a reference for the elector to mark his/her ballot paper inside the voting compartment, it is not prohibited by the law. However, under no circumstances should any material containing the name and/or number of a candidate be displayed, circulated, shared or be discussed with other persons inside the polling station or the NCZ, otherwise it will constitute an offence. *[Added in September 2019]*

4.11 In no circumstances can the assistance provided to the electors in accessing the polling station involve any acts of promoting or prejudicing the election of any candidate or be an inducement to the electors in voting or not to vote for any particular candidate(s). Otherwise, it will be a violation of the ECICO. *[Added in September 2019]*

4.12 Exit polls may be conducted outside polling stations by organisations approved by the REO. Participation in any exit poll is entirely

voluntary. Electors need not disclose to the organisations concerned which candidates they have voted for unless they wish to do so. Please see Chapter 14 for matters relating to exit polls. *[Added in September 2019]*

PART II : BEFORE THE POLL

4.13 The CEO must designate by notice in the Gazette place(s) as polling station(s) (including small polling station(s) and special polling station(s)¹⁷), dedicated polling station(s)¹⁸, ballot paper sorting station(s)¹⁹ or counting station(s) at least 10 days before the polling day. The CEO may also designate the same place as a polling station and a counting station. If there are 2 or more counting stations for a constituency, he/she will designate the polling station at which the largest number of electors are to vote as the **dominant counting station**²⁰. He/She will also designate a polling station (other than a special polling station) at which less than 200 electors are to vote as a **small polling station**. If 2 or more polling stations have been designated for a constituency and at least 1 of them is a small polling station, a special polling station or a dedicated polling station, he/she will designate 1 polling station (other than a small polling station, a special polling station or a dedicated polling station) as a **main counting station** for the purpose of counting the votes cast at the polling station, the small polling station(s), the special polling station(s) and/or the dedicated polling station(s). [Ss 31(1), (1A), (1B), (1C), (1CA), (1D) and 32 of the EAC (EP) (DC) Reg] The RO

¹⁷ A special polling station is one accessible to electors who are wheelchair users or have difficulty in walking. Such electors will normally be small in number (see also para. 4.18 below).

¹⁸ A dedicated polling station means a place situated inside penal institutions or other suitable places at which registered electors, who are imprisoned or held in custody by the law enforcement agencies on polling day, will be allocated to vote.

¹⁹ A ballot paper sorting station may be set up to sort ballot paper received from the dedicated polling stations according to each constituency before they are delivered to the respective main counting stations for counting of votes.

²⁰ For a constituency with two or more counting stations, the counting station serving the largest number of registered electors will be designated as the dominant counting station to coordinate the results of counting of votes of all the counting stations for the constituency.

must, at least 10 days before the polling day, give notice in writing to each candidate of the place or places at which vote counting and, where applicable, at which sorting of ballot papers received from the dedicated polling stations is to take place for the constituency contested by the candidates [ss 2(3), 65(3) and (4) of the EAC (EP) (DC) Reg]. *[Amended in August 2008, January 2010, September 2012, September 2015 and September 2019]*

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

4.15 A polling station for a constituency is normally situated within the boundaries of the constituency, but where there are no suitable premises for use within the constituency, polling stations may have to be designated in nearby areas outside the constituency. Where circumstances require, temporary structures may be designated as polling stations. The polling stations designated for the constituencies will be, as far as practicable, close to the principal residential addresses of electors as shown on the FR, save for registered electors imprisoned or held in custody by the law enforcement agencies who will be assigned to vote at the appropriate dedicated polling stations [s 33(3) and (4) of the EAC (EP) (DC) Reg]. *[Amended in January 2010 and September 2015]*

4.16 At least 10 days before the polling day, poll cards notifying electors of contested constituencies of the date, time and place of the poll will be sent to their registered addresses or correspondence addresses (if applicable). To allow electors who will be 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 their prison addresses as far as practicable.

[S 34 of the EAC (EP) (DC) Reg] *[Amended in January 2010 and September 2015]*

4.17 In the case where there is only 1 validly nominated candidate for a constituency, the candidate will be declared elected [s 23 of the EAC (EP) (DC) Reg]. Electors in respect of such a constituency do not need to vote, and a notice to that effect will be sent to them. *[Amended in September 2011]*

4.18 An elector **may vote only at the polling station allocated to him/her** by the CEO [s 36(1) of the EAC (EP) (DC) Reg]. Most of the polling stations are accessible to persons with mobility difficulty. Whether the polling station allocated to an elector is accessible to persons who are wheelchair users or have difficulty in walking will be specified clearly in the location map attached to the poll card sent to each elector. If an elector with mobility difficulty is allocated to a polling station not accessible to him/her, he/she may **at least 5 days** before the polling day apply to the CEO for re-allocation to a special polling station [s 35 of the EAC (EP) (DC) Reg]. If a special polling station is re-allocated to him/her, then he/she may vote only at that polling station [s 36(2) of the EAC (EP) (DC) Reg]. Subject to availability, free Rehabus service may also be arranged to take those electors to the special polling station. In case special circumstances require, the CEO may allocate to an elector an alternative polling station, in addition to or in substitution of the one originally allocated to him/her [s 33(4) of the EAC (EP) (DC) Reg]. Electors concerned may make enquiries with the REO on this subject by telephone or in writing. *[Amended in September 2007, September 2015 and September 2019]*

4.19 Due to security reasons, there is a need to separate some persons imprisoned or held in custody from others inside the prisons. The Commissioner of Correctional Services will assign a time slot during the polling hours of a dedicated polling station situated in a prison to an elector

allocated to that polling station to vote, and inform the elector of the time slot assigned. The Commissioner of Correctional Services must assign time slots so as to give the electors a reasonable opportunity to vote. An elector to whom a time slot is assigned may only cast his/her vote during that time slot (see para. 4.36 below). [S 30(2A), (2B), (3A) and (5) of the EAC (EP) (DC) Reg] *[Added in January 2010]*

PART III : OUTSIDE THE POLLING STATION

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

4.21 The CEO will display a map or plan showing the delineation of the polling station outside the polling station, or if it is a dedicated polling station inside the polling station [s 46(1A) of the EAC (EP) (DC) Reg]. An NCZ will be designated outside each polling station to ensure the undisturbed passage of electors into the polling station. An 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. Canvassing activities within an NCZ will not be allowed (except for static display of EAs that are authorised by the RO, e.g. EAs mounted at designated spots). A notice of the determination of an NCZ and a map or plan showing the boundary of the area will be put up at or near the polling station [s 43(7) of EAC (EP) (DC) Reg]. (See Chapter 13) *[Amended in September 2007, August 2008, January 2010, September 2011, September 2012, September 2015 and September 2019]*

- 4.22 On the polling day, a person must not:
- (a) engage in canvassing votes (including suggesting not to vote for any candidate) within the NCZ other than the door-to-door canvassing activities stated in para. 4.23 below;
 - (b) use a sound amplifying system or device for any purpose within the NCZ, except for the performance of duties by officers of the CSD on the polling day at the dedicated polling stations situated in prisons;
 - (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 propaganda material, e.g. badge, emblem, clothing or head-dress (except for static display of EAs authorised by the RO, e.g. 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 prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or
 - (e) stay or loiter in the NSZ without the express permission of the PRO;

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

4.23 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 in which 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 canvassing, the display or wearing of any promotional material (e.g. badge, emblem, clothing or head-dress which may promote or prejudice the election of any candidate at the election) or any material making direct reference to any body a member of which is standing as a candidate in the election, or the registered name or emblem of a prescribed body printed on any ballot paper for the election, may be allowed but in no case to appear on the street level within the NCZ. [S 43(13), (14) and (15) of the EAC (EP) (DC) Reg] (See Chapter 13) *[Added in September 2019]*

PART IV : POLLING HOURS

4.24 The poll starts at 7:30 am and ends at 10:30 pm. For security reasons, dedicated polling stations situated in prisons open from 9:00 am to 4:00 pm. About 30 minutes (or 15 minutes for dedicated polling stations situated in prisons) before the commencement of polling, 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. He/She will show them that the sealed packets are not tampered with before opening them and the ballot boxes

are empty before proceeding to lock and seal them. The PRO will also inform and show to such persons the number of ballot papers in his/her possession. For each candidate, only 1 such person may be present to observe the opening of sealed packets of ballot papers and the locking and sealing of ballot boxes: a candidate, the election agent or a polling agent. *[Amended in September 2019]*

4.25 For dedicated polling stations situated in prisons, 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 locking and sealing of ballot boxes at a dedicated polling station situated inside a maximum security prison; and
- (b) a maximum of 2 candidates, election agents or polling agents may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes at a dedicated polling station situated in a prison other than a maximum security prison.

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**. Where no candidates or any of their agents are present at the polling station, the above process of opening of the sealed packets of ballot papers and locking and sealing of ballot boxes will be conducted in the presence of any 2 of the following persons at the polling station: police officer, member of the Civil Aid Service (“CAS”), officer of the CSD or polling staff, as the case may be. (See also Chapter 6 on the procedures for applying for the presence of election agents or polling agents in

dedicated polling stations situated in prisons) *[Amended in January 2010 and September 2019]*

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

PART V : ADMISSION TO THE POLLING STATION

4.27 Other than electors, only the following persons may be admitted to a polling station:

- (a) the PRO and other polling staff;
- (b) members of the EAC;
- (c) the CEO;
- (d) the RO and Assistant Returning Officers (“AROs”) for the relevant constituency;
- (e) public officers on duty at the polling station, including police officers and members of the CAS;
- (f) officers of the CSD and other law enforcement agencies on duty at dedicated polling stations;

- (g) candidates and election agents of the relevant constituency according to para. 4.28;
- (h) polling agents appointed for the polling station (this does not apply to dedicated polling stations situated in maximum security prisons) according to para. 4.28;
- (i) public officers authorised in writing by the CEO;
- (j) any person authorised in writing by a member of the EAC;
- (k) a person authorised in writing by the RO for liaison purposes; and
- (l) a child who accompanies an elector who enters the polling station for the purpose of voting (if the PRO considers that the child should not be left unattended while that elector is in the polling station and the child will not disturb or cause inconvenience to any person in the polling station).

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

A notice will be displayed at the entrance of the polling stations (other than dedicated polling stations²¹) to show that only electors and designated/authorised persons may be allowed to enter.

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

²¹ For a dedicated polling station, the notice will be displayed inside the polling station.

- (a) for each candidate, only 1 of the following persons may enter and be present in the polling station at any one time: the candidate, his/her election agent or polling agent [s 47(6), (7), (8) and (9) of the EAC (EP) (DC) Reg];
- (b) a notice will be displayed outside each polling station showing 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 at 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 or 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. 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 none of this candidate or his/her agent 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 concerned 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 at that polling station;

- (e) anyone on admission into a polling station has to sign and enter his/her time of entry on a log sheet. A candidate, an election agent or a polling agent who has to queue outside the polling station for his/her turn to observe the poll at the designated area will be given a number chit that indicates the order of admission. The polling staff will call out the number to admit the holder of the number chit concerned. If the holder concerned is not present at the time, his/her place will be taken over by the person next in line. The person who has lost his/her place due to his/her absence will have to obtain a new number chit when he/she returns; and
- (f) for security reasons, only a maximum of 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 prison 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 stations. (See also Chapter 6)

[Amended in January 2010 and September 2019]

4.29 Except for an elector, a police officer, an officer of the CSD, an officer of any law enforcement agency or a member of the CAS on duty, all other persons permitted to enter a polling station are required to make a **Declaration of Secrecy** on a specified form²² before entering the polling station and observe the provisions governing the secrecy of voting [s 93 of the EAC (EP) (DC) Reg]. *[Amended in January 2010, September 2011 and September 2019]*

PART VI : CONDUCT INSIDE THE POLLING STATION

4.30 On arrival at the polling station, an elector should show to the polling staff at the ballot paper issuing desk the original of any of the following documents, to the satisfaction of the PRO or polling staff, before a ballot paper can be issued to him/her:

- (a) the elector's HKID;
- (b) a document issued by the Commissioner of Registration to the elector certifying that the elector is exempt, under regulation 25 of the Registration of Persons Regulations (Cap 177A), from being required to register under the Registration of Persons Ordinance (Cap 177);
- (c) a document issued by the Commissioner of Registration acknowledging that the elector has applied:
 - (i) to be registered under the Registration of Persons Ordinance; or

²² Declaration can be made before Commissioner for Oaths/member of the EAC/RO/CEO (or a person whose official designation is that of a deputy to the CEO)/Justice of the Peace/solicitor with a practising certificate.

- (ii) for a new HKID issued under regulation 13 or 14 of the Registration of Persons Regulations but is awaiting its issuance;
- (d) a valid HKSAR Passport issued to the elector under the Hong Kong Special Administrative Region Passports Ordinance (Cap 539);
- (e) a valid HKSAR seaman's identity book issued to the elector under regulation 3 of the Immigration Regulations (Cap 115A);
- (f) a valid document of identity issued to the elector under regulation 3 of the Immigration Regulations; or
- (g) a document evidencing the elector's report to a police officer of the loss or destruction of document referred to in para. (a), (b) or (c) above, together with the original of a valid passport or similar travel document (not being one referred to in (a) - (f) above) issued to him/her showing his/her name and photograph.

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

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

4.32 The polling staff will check the elector's identity document against the entries on the copy of register of electors to ascertain if the elector is

registered in respect of the constituency. The polling staff will softly call out the name of the elector as stated in the entry on the copy of the register of electors and cross out the name and the identity document number of that entry, before issuing a ballot paper to the elector. No record will be made as to which particular ballot paper is given to an elector. [S 56 of the EAC (EP) (DC) Reg]

4.33 For control purpose regarding the total number of ballot papers issued, the counterfoil of each ballot paper bears a serial number on its front. However, the counterfoil number will not be printed/shown on the ballot paper and the polling staff will not record the counterfoil number of the ballot paper issued to the elector. [Ss 52(11) and 56(4) of the EAC (EP) (DC) Reg] *[Amended in September 2019]*

4.34 If there is reasonable ground for questioning the bona fides of an elector, the PRO shall ask him/her the following questions at the time of his/her application for a ballot paper (but not afterwards):

- (a) Are you the person registered in the final register now in effect for this constituency, as follows (reads the whole entry as it is recorded in the register)?
- (b) Have you already voted for this or any other constituency in this election?

A person will not be issued with any ballot paper unless he/she has answered the questions to the satisfaction of the PRO. [S 54 of the EAC (EP) (DC) Reg]

4.35 Where there is reasonable cause to believe that a person has engaged in corrupt conduct of impersonation of an elector, the PRO may

request the police officer on duty at the polling station 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 55 of the EAC (EP) (DC) Reg] *[Amended in January 2010]*

4.36 If an elector has been issued with a ballot paper but leaves the polling station without casting his/her vote, he/she cannot return to the polling station later to cast the vote not yet cast, except under the following circumstances:

- (a) if, after having been issued with a ballot paper, for a reason considered justified by the PRO, an elector who has not marked the ballot paper issued to him/her may, with the permission of the PRO, hand back the ballot paper to the PRO and return later to cast his/her vote [s 56A(1) of the EAC (EP) (DC) Reg]; or
- (b) if, after having been issued with a ballot paper, an elector has become incapacitated from voting or completing the voting by physical illness and has left the polling station without marking his/her ballot paper, he/she may return to the polling station to cast his/her vote before the close of poll, provided that before he/she leaves the polling station, his/her ballot paper has been returned to the PRO [s 56A(5) of the EAC (EP) (DC) Reg].

For a dedicated polling station situated in a prison, the elector concerned would also need to return to cast his/her vote within the existing or any newly assigned time slot [s 56A(5B) of the EAC (EP) (DC) Reg]. *[Amended in September 2019]*

4.37 Under the above circumstances, for a polling station other than a dedicated polling station, the following procedures must be taken by the PRO:

- (a) the PRO must keep that ballot paper in his/her custody and return such ballot paper, in the presence of a police officer to the elector in question when the latter returns before the close of poll to cast his/her vote [s 56A(3) and (6) of the EAC (EP) (DC) Reg]; and
- (b) if at the close of poll, the elector has not returned, the PRO shall endorse the ballot paper with the words “**UNUSED**” and “**未用**” and show it to each candidate or his/her election agent or polling agent who is present at the time; such ballot paper shall not be put into a ballot box and will not be counted at the counting of votes [ss 61 and 78 of the EAC (EP) (DC) Reg].

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

4.38 For a dedicated polling station situated in a prison, 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 that ballot paper in his/her custody and return such ballot paper, in the presence of an officer of the CSD or any law enforcement agency, to the elector in question when the latter returns before the close of poll to cast his/her vote [s 56A(3) and (6) of the EAC (EP) (DC) Reg];
- (b) the Commissioner of Correctional Services or his/her officer must, as far as practicable, assign to an elector of a dedicated polling station situated in a prison a new time slot during the

polling hours appointed for the polling station and notify the elector of the time slot [s 56A(2A) and (5A) of the EAC (EP) (DC) Reg]; and

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

[Amended in September 2019]

4.39 The PRO would only need to keep a ballot paper left in the polling station in his/her custody in the circumstances described in para. 4.36 above when he/she knows which elector had left the ballot paper behind. Otherwise, a ballot paper found to be left in the polling station should be endorsed as “**UNUSED**” and “**未用**” and shall not be counted [ss 61 and 78(1)(d) of the EAC (EP) (DC) Reg]. *[Amended in September 2015]*

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

4.41 After collecting the ballot paper, the elector should immediately proceed to the voting compartments to cast his/her vote. One compartment may be used only by one elector at one time. The elector should affix the chop to give a single “✓” in the circle opposite the name of the candidate of his/her choice on the ballot paper. No other mode of marking the ballot paper is allowed. The elector should then **fold the ballot paper** so that the marked side is inside. An elector of a dedicated polling station should fold the ballot paper so that the marked side is inside and put the folded ballot paper into the aforesaid envelope (if such envelope is provided) [s 57(2) and (2A) of the EAC (EP) (DC) Reg]. *[Amended in January 2010, September 2015 and September 2019]*

4.42 Immediately after an elector comes out of the voting compartment, he/she should put his/her marked ballot paper as folded or in an envelope issued together with the ballot paper, as the case may be, into the ballot box as directed by the polling staff and return the cardboard and the chop to the polling staff, after which the elector should leave the polling station without undue delay [s 57(2), (2A), (3) and (4) of the EAC (EP) (DC) Reg]. *[Amended in January 2010]*

NOTE :

Concerning offence in relation to ballot papers, it is an offence under s 57(5) of the EAC (EP) (DC) Reg for a person to bring out a ballot paper from a polling station. According to s 17(1)(c) of the ECICO, any person who removes a ballot paper from a polling station with intent to deceive also commits an offence. It will also be a corrupt conduct under s 17(1)(d) of the ECICO if any person, without lawful authority, destroys, defaces, takes or otherwise interferes with a ballot paper in use, or that has been used, at the election. *[Amended in September 2019]*

4.43 An elector with visual impairment who so requests will be provided with a **braille template** to facilitate his/her marking of the ballot paper by himself/herself [s 59(3) of the EAC (EP) (DC) Reg]. The template should be returned to the polling staff after use. (For details about the template, see para. 6.41 of Chapter 6)

4.44 An elector who is unable to mark a ballot paper by himself/herself to indicate the choice of candidate (e.g. being unable to read or incapacitated by visual deficiency or other physical cause) may ask the PRO, Deputy Presiding Officer (“DPRO”) or Assistant Presiding Officer (“APRO”) to mark the ballot paper on his/her behalf. The marking of the ballot paper will be made to show the elector’s choice in the presence of one of the polling officers as a witness. [S 59 of the EAC (EP) (DC) Reg] *[Amended in September 2015 and September 2019]*

4.45 **The ballot is secret. No one can use force or threaten to use force against a person to vote or not to vote at an election, or to vote or not to vote for any particular candidate at an election** [s 13 of the ECICO]. **Also no one is required to tell which candidate he/she has voted for or is going to vote for.** A person who, without lawful authority, requires or purports to require an elector to disclose the name of, or any particulars relating to, the candidate for whom the elector has voted commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. [S 48 of the DCO and s 94 of the EAC (EP) (DC) Reg] *[Amended in September 2007 and September 2019]*

4.46 For the protection of the secrecy of voting, no one shall, at any time, disclose whether an elector has or has not applied for a ballot paper or voted; or disclose the identity of an elector at a dedicated polling station. Anyone who makes such disclosure, unless otherwise permitted by law, commits an offence and will be liable to a fine at level 2 (\$5,000) and to

imprisonment for 6 months. [S 94(1), (1A), (2) and (10) of the EAC (EP) (DC) Reg] *[Added in January 2010 and amended in September 2019]*

4.47 Any elector who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him/her may ask the PRO to exchange it for another unmarked ballot paper. If the PRO considers the request reasonable, he/she will issue a new ballot paper to the elector in exchange for the spoiled ballot paper. Such spoiled ballot paper will be endorsed on the front of it with the words “**SPOILT**” and “**損壞**” and will be kept by the PRO. The spoiled ballot papers shall not be counted at the counting of the votes. [Ss 62 and 78 of the EAC (EP) (DC) Reg] *[Amended in September 2015 and September 2019]*

4.48 Where a person, claiming to be a particular elector entered on the register, applies for a ballot paper after a person has already been issued with a ballot paper as such an elector, the PRO may issue a tendered ballot paper to the elector **only if** he/she 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 appropriate questions in accordance with the law as set out in para. 4.34 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 of it. Such a ballot paper shall not be counted at the counting of the votes. [Ss 60 and 78 of the EAC (EP) (DC) Reg] *[Amended in September 2007, August 2008, September 2015 and September 2019]*

4.49 Any person who discovers ballot papers which have been issued (whether marked or unmarked) and may be abandoned or found left behind in the voting compartments or other areas inside the polling station is required to hand it to the PRO. Such a ballot paper will be endorsed on the front of it with the words “**UNUSED**” and “**未用**” and will be kept by the PRO. In no circumstances shall such ballot paper be put into a ballot box. Such a ballot

paper will not be counted at the counting of the votes. [Ss 61 and 78 of the EAC (EP) (DC) Reg] *[Amended in September 2019]*

4.50 Subject to para. 4.51, no person, including an elector, should interfere with or attempt to influence any other elector, specifically no one shall:

- (a) speak to or communicate with any other elector contrary to a direction of the RO, ARO, PRO or any polling officer not to do so;
- (b) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of another elector;
- (c) exhibit or distribute any campaign material;
- (d) display or wear any propaganda material, e.g. badge, emblem, clothing or head-dress, which:
 - (i) may promote or prejudice the election of a candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or to a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or
- (e) use a mobile telephone or any telephone or paging machine or any other form of electronic communication device contrary to a direction of the RO, ARO, PRO or any polling officer not to do so.

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

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

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

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

4.52 A person who misconducts himself/herself at a polling station or its vicinity or fails to obey any lawful order of the RO or the PRO commits an offence and will be liable to a fine and to imprisonment and may be ordered by such officer to leave the polling station or the vicinity of the polling station. A person misconducts himself/herself if he/she disrupts the poll or disturbs or causes inconvenience to any person in the polling station. An elector must cast his/her vote without undue delay. If an elector fails to cast his/her vote without undue delay, the RO or the PRO may order him/her to leave the polling station immediately. If a person fails to leave immediately as ordered by the RO or the PRO, he/she may be removed by: *[Amended in September 2012]*

- (a) a police officer if the polling station is not a dedicated polling station;
- (b) an officer of the CSD or the law enforcement agency if the polling station is a dedicated polling station; or
- (c) any other person authorised in writing by the RO or the PRO to remove him/her.

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

4.53 Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of the PRO, the RO for the constituency or constituencies for which the polling

station is used or a member of the EAC, commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 48(2) and (9) of the EAC (EP) (DC) Reg]. Normally such permission is only granted to government photographers for publicity purposes. *[Amended in September 2007, September 2015 and September 2019]*

PART VII : CLOSE OF POLL

4.54 Electors who intend to vote but are not already at the door of their designated polling station by the close of poll will not be allowed in afterwards.

A Polling Station which is also a Counting Station

4.55 Except for small polling stations, special polling stations and dedicated polling stations, all other polling stations will be designated as counting stations for the counting of votes. At the close of poll, a notice will be displayed by the PRO outside these polling stations to inform the public that the poll has been closed and that the station is being arranged for the counting of votes and will be open to them when such arrangements are completed. A candidate, his/her election agent, counting agent and polling agent may stay inside the polling station while it is closed for the preparation for the counting of votes. The ballot boxes will be locked and sealed by the PRO in the presence of the candidates and 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 register will then be made up into separate sealed packets. [S 63(1), (1A) and (2) of the EAC (EP) (DC) Reg] *[Amended in September 2007, January 2010 and September 2015]*

4.56 The locked and sealed ballot boxes referred to in para. 4.55 above will be kept by the PRO until the counting of votes begins (see Part VIII below).
[Amended in September 2015 and September 2019]

A Polling Station which is not a Counting Station

4.57 Small polling stations, special polling stations and dedicated polling stations will not be converted into a counting station after the close of poll. For a small polling station or a special polling station, a notice will be displayed by the PRO outside the polling station to inform the public that the poll has been closed. After the close of poll, a candidate, his/her election agent and polling agent may stay in the polling station to observe the process of locking and sealing of ballot boxes. For dedicated polling stations, the following persons may stay behind to observe the process:

- (a) a candidate, his/her election agent and a polling agent may stay in a dedicated polling station not situated in a prison;
- (b) a maximum of 2 candidates, election agents or polling agents may stay in a dedicated polling station situated in a prison other than a maximum security prison; and
- (c) a maximum of 2 candidates may stay in a dedicated polling station situated in a maximum security prison.

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

In the presence of the candidates and/or their agents, if any, the ballot boxes will be locked and sealed by the PRO. The PRO will also inform them of the numbers of unissued ballot papers, spoilt ballot papers and unused ballot papers in his/her possession. All such ballot papers and the marked copies of the

register will then be made up into separate sealed packets. [S 63A(1) and (2) of the EAC (EP) (DC) Reg] *[Amended in January 2010 and September 2015]*

4.58 As the votes cast at the small polling stations, special polling stations and dedicated polling stations will not be counted therein, the PRO (or APRO if it is a special polling station) will deliver the sealed ballot boxes, the sealed packets referred to in para. 4.57 above and the ballot paper accounts to respective counting stations for counting of votes under police escort. The ballot boxes of small polling stations and relevant special polling stations will be delivered to the designated main counting station, whereas the ballot boxes of the dedicated polling stations will be transported to the respective ballot paper sorting station(s) or the main counting station, as the case may be. [S 63A(3) and (4) of the EAC (EP) (DC) Reg] *[Amended in January 2010, September 2012, September 2015 and September 2019]*

4.59 Candidates and/or their agents (not more than a total of 2 persons), if they so wish, will be allowed to accompany the PRO in the delivery of the ballot boxes, together with the sealed packets 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 will be allowed. 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 2007, January 2010 and September 2019]*

PART VIII : SORTING OF BALLOT PAPERS

Conduct at the Ballot Paper Sorting Station

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

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

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

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

The PRO will designate a restricted area where the counting staff will sort the ballot papers. Candidates and their agents must not go into the restricted area. Any member of the public may observe the sorting of ballot papers from the public area designated by the PRO unless the PRO considers that his/her presence may:

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

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

4.62 Before entry, every person authorised to be present at a ballot paper sorting station, other than the police officers and members of the CAS on duty, must make a **Declaration of Secrecy** on a specified form²³ and observe the provisions governing the secrecy of voting [ss 2(3) and 93 of the EAC (EP) (DC) Reg]. Members of the public present within the public area will not be required to make a Declaration of Secrecy. *[Added in January 2010]*

²³ Declaration can be made before Commissioner for Oaths/member of the EAC/RO/CEO (or a person whose official designation is that of a deputy to the CEO)/Justice of the Peace/solicitor with a practising certificate.

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

4.64 A person who misconducts himself/herself at or in the vicinity of a ballot paper sorting station or fails to obey any lawful order of the PRO commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months and may be ordered by the PRO to leave the area immediately. A person misconducts himself/herself if he/she disrupts the sorting of ballot paper or disturbs or causes inconvenience to any person in the sorting station. The PRO may also order a person to leave the ballot paper sorting station if the person behaves himself/herself in such way that the purpose of his/her presence is not that for which he/she was authorised or permitted to enter or remain in the ballot paper sorting station. If he/she fails to leave immediately, he/she may be removed by a police officer or by any other person authorised in writing by the PRO to remove him/her. The person so removed may not re-enter the ballot paper sorting station on that day except with the permission of the PRO [ss 2(3), 69 and 70 of the EAC (EP) (DC) Reg].
[Added in January 2010]

Sorting of Ballot Papers

4.65 The PRO of a ballot paper sorting station will sort the envelopes containing the ballot papers, delivered from dedicated polling station(s), in the presence of the candidates, their election agents or counting agents, if they are present. The PRO will check whether ballot boxes and sealed packets are

properly sealed. The seal on the ballot box will be broken by the PRO in the presence of the candidates, their election agents or counting agents, if they are present at the time. The PRO will then open the ballot boxes and empty the contents onto a sorting table. After the PRO has opened the ballot box, the candidates, their election agents or counting agents may request to inspect any papers, other than the envelopes which contain the marked ballot papers, taken out from the ballot boxes before they are disposed of. **At no time should a candidate, his/her election agent or counting agent touch any envelopes or ballot papers.** *[Added in January 2010 and amended in September 2012]*

4.66 The PRO of a ballot paper sorting station shall:

- (a) open the ballot boxes received from the dedicated polling stations;
- (b) sort the envelopes in each ballot box according to each constituency;
- (c) count and record the number of envelopes for each constituency;
- (d) verify the ballot paper account by comparing it with the number of envelopes recorded under para. 4.66(c) above;
- (e) prepare a statement in writing as to the result of the verification;
- (f) prepare a statement in writing as to the number of envelopes recorded under para. 4.66(c) above;
- (g) make into separate bundles the sorted envelopes together with the relevant statement prepared under para. 4.66(f) above;

- (h) place each bundle in a separate receptacle and seal it in the presence of those present at the counting zone;
- (i) arrange the receptacles to be delivered to the PROs of the respective main counting stations of the relevant constituencies²⁴; and
- (j) send to the CEO the ballot paper accounts, verification of the ballot paper accounts and the sealed packets made up under para. 4.57.

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

PART IX : THE COUNT

Conversion of Polling Station into Counting Station

4.67 A polling station, other than a small polling station, a special polling station or a dedicated polling station which is not designated as a counting station, will be converted to a counting station for the purpose of conducting the count and making known the counting results to the candidates and their agents present. Where the same place is designated as both a polling station and a counting station, the PRO of the polling station is to be regarded as the PRO of the counting station [s 37(4) of the EAC (EP) (DC) Reg]. The PRO, assisted by his/her DPRO(s), APROs and counting staff, will be responsible for the conversion and the conduct of the count. Before the counting of votes begins, a notice will be displayed outside the counting station

²⁴ If no electors of a constituency have cast vote in the dedicated polling station(s), no receptacles will be delivered to the relevant main counting station. In that case, the PRO of the main counting station will be notified accordingly.

to inform the public the time that the station is expected to be opened to them to observe the counting of votes [s 65(8) of the EAC (EP) (DC) Reg]. The telephone number of the counting station should also be shown on such a notice to facilitate communication between the candidates/agents and the station staff.

[Amended in January 2010]

Conduct at the Counting Station

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

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

The PRO will designate a restricted zone inside the counting zone where the counting staff will count the votes. Candidates and their agents must not go into the restricted zone. Any member of the public may observe the counting of the votes from an area (“the public area”) at the counting station set apart for that purpose by the PRO unless the PRO considers that his/her presence may:

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

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

4.69 Before entry, every person authorised to be present at a counting zone, other than the police officers and members of the CAS on duty, must make a **Declaration of Secrecy** on a specified form²⁵ and observe the provisions governing the secrecy of voting [s 93 of the EAC (EP) (DC) Reg]. Members of the public present within the public area will not be required to make a Declaration of Secrecy.

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

²⁵ Declaration can be made before Commissioner for Oaths/member of the EAC/RO/CEO (or a person whose official designation is that of a deputy to the CEO)/Justice of the Peace/solicitor with a practising certificate.

4.71 A person who misconducts himself/herself at or in the vicinity of a counting station or fails to obey any lawful order of the PRO commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months and may be ordered by the PRO to leave the area immediately. A person misconducts himself/herself if he/she disrupts the counting of votes or disturbs or causes inconvenience to any person in the counting station. The PRO may also order a person to leave the counting station if the person conducts himself/herself in such way that the purpose of his/her presence is not that for which he/she was authorised or permitted to enter or remain in the counting station. If he/she fails to leave immediately, he/she may be removed by a police officer or by any other person authorised in writing by the PRO to remove him/her. The person so removed may not re-enter the counting station on that day except with the permission of the PRO [ss 69 and 70 of the EAC (EP) (DC) Reg]. *[Amended in September 2019]*

Counting of Votes

4.72 The PRO of a counting station will conduct the count in the presence of the candidates, their election agents or counting agents, if they are present. The PRO will check whether all the ballot boxes and sealed packets are properly sealed. The seal on each ballot box will be broken by the PRO in the presence of the candidates, their election agents or counting agents, if they are present at the time. The ballot boxes will then be opened by the PRO and the contents will be emptied onto a counting table. After the PRO has opened the ballot box, the candidates, their election agents or counting agents may request to inspect any papers other than ballot papers taken out from the ballot boxes before they are disposed of. **At no time should a candidate, his/her election agent or counting agent touch any ballot paper.** [S 74 of the EAC (EP) (DC) Reg]

4.73 The PRO who is not a PRO of a main counting station or a ballot paper sorting station shall:

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

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

4.74 The PRO of a main counting station shall:

- (a) count and record the number of ballot papers in the ballot box(es) from each small polling station, special polling station and/or dedicated polling station and verify the respective ballot paper accounts;
- (b) open the envelopes in each receptacle received from a ballot paper sorting station, count and record the number of ballot

papers in the envelopes and verify the statement on the number of envelopes in the receptacle(s) prepared by the PRO of the ballot paper sorting station where such station has been set up in a DC ordinary election or in a by-election as considered appropriate by the CEO;

- (c) prepare a statement in writing as to the respective result of the verification under (a) and (b);
- (d) mix the ballot papers in at least one of the ballot boxes at the polling station designated as the main counting station together with the ballot papers that have been delivered from the small polling stations and/or, special polling stations, and ballot paper sorting stations or dedicated polling stations as the case may be;
[Amended in September 2012]
- (e) sort all the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate plastic and transparent boxes on the table;
- (f) separate and put aside the invalid and questionable ballot papers, if any;
- (g) determine the validity of questionable ballot papers;
- (h) count the valid votes obtained by each candidate;
- (i) verify the ballot paper account in respect of the main counting station concerned and prepare a statement in writing as to the result of the verification; and

- (j) compile the final counting results.

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

Invalid Ballot Papers

4.75 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is not marked with the chop provided at the polling station;
- (c) it is endorsed on the front with the words “**SPOILT**” and “**損壞**”;
- (d) it is endorsed on the front with the words “**TENDERED**” and “**重複**”;
- (e) it is endorsed on the front with the words “**UNUSED**” and “**未用**”;
- (f) a vote for a deceased or disqualified candidate is recorded and the name of, and other information relating to, the candidate on the ballot paper are crossed out under s 40(2) of EAC (EP) (DC) Reg;
or
- (g) votes are given for more than 1 candidate.

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 PRO concerning these ballot papers. [S 78 of the EAC (EP) (DC) Reg] *[Amended in September 2007 and September 2019]*

Questionable Ballot Papers

4.76 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 PRO:

- (a) it has any writing or mark by which the elector can possibly be identified;
- (b) it is not marked in accordance with s 58(2) of the EAC (EP) (DC) Reg, i.e. not marked by affixing the chop to give a single “✓” in the circle opposite the name of the candidate of the elector’s choice on the ballot paper, and the elector’s intention is unclear. However, the PRO may count that ballot paper if he/she is satisfied that the elector’s intention is clear, notwithstanding the “✓” mark is not placed inside the circle;
- (c) it is substantially mutilated; or *[Amended in September 2007]*
- (d) it is void for uncertainty.

When deciding on the validity of the ballot papers in (a) above, the PRO will make reference to the judgment made by the Court on an election petition case (HCAL 127/2003). In that case, the Court ruled that the handwritten tick found on the ballot paper in question in the said election petition was considered a mark by which the elector could possibly be identified. The

validity of ballot papers with any other writing or mark will remain to be determined by the PRO on a case-by-case basis. [S 79(1), (2) and (3) of the EAC (EP) (DC) Reg] *[Amended in September 2019]*

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

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

- (a) the PRO will inform the candidates and their agents of his/her initial decision on the validity of each questionable ballot paper. A candidate, an election agent or a counting agent, may inspect and make representations concerning any questionable ballot papers [s 79(1) of the EAC (EP) (DC) Reg];
- (b) the PRO will then consider their representations and make his/her final decision on the validity of the questionable ballot paper (see para. 4.79 below) [s 79(2) of the EAC (EP) (DC) Reg];
- (c) if the PRO decides that a questionable ballot paper is invalid and, therefore, not to be counted, he/she must endorse the words “不獲接納” and “rejected” on the front of it. In that case, if a candidate, an election agent or a counting agent objects to the PRO’s final decision, the PRO must also endorse the words “反對此選票不獲接納” and “rejection objected to” on that ballot paper [s 79(4) of the EAC (EP) (DC) Reg];

- (d) if a candidate, an election agent or a counting agent objects to the decision of the PRO to count a questionable ballot paper, the PRO must endorse the words “反對此選票獲接納” and “acceptance objected to” on that ballot paper [s 79(5) of the EAC (EP) (DC) Reg]; and
- (e) the PRO will record his/her decisions made in respect of all questionable ballot papers.

[Amended in September 2007 and September 2015]

4.79 The decision of the PRO in regard to any question arising in respect of any ballot paper at the counting of votes shall be **final** [s 80 of the EAC (EP) (DC) Reg], which may be questioned by an election petition [s 49 of the DCO]. (See Part II of Chapter 5)

Counting Arrangements

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

Constituencies with 1 Counting Station

4.81 For a constituency with only 1 counting station, after the count, the PRO will make known the result to the relevant candidates or their election agents or counting agents present. Such a candidate or his/her election agent may request the PRO for the constituency to re-count the votes and the relevant PRO shall comply with any such request unless in his/her opinion it is unreasonably made. [S 80A of the EAC (EP) (DC) Reg]

Constituencies with 2 or More Counting Stations

4.82 For a constituency with 2 or more counting stations, the counting station serving the largest number of registered electors will be designated by the CEO as the dominant counting station [s 31(1B) of the EAC (EP) (DC) Reg]. Only the candidates and their election agents of that constituency who are present at this station can request a re-count of all the votes cast in respect of the constituency concerned [s 80B(8) of the EAP (EP) (DC) Reg].
[Amended in September 2019]

4.83 When vote counting is completed at any one of the counting stations for the constituency, the relevant PRO will inform the candidates or their election agents or counting agents present of the counting result. Any such candidate or his/her election agent or his/her counting agent may request the PRO to re-count the votes and the PRO shall comply with the request unless in his/her opinion it is unreasonably made. In the case of a counting station other than the dominant counting station, where there is no request for a re-count, or where the request for a re-count is rejected, or the re-count is completed and there is no request for a further re-count, or the request for a further re-count has been rejected by the PRO, the PRO shall report to the PRO of the dominant counting station the counting results. [S 80B(1), (2), (3), (4), (5) and (7) of the EAC (EP) (DC) Reg]

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

respective counting stations, and he/she will conduct a re-count at the dominant counting station at the same time. [S 80B(8) and (9) of the EAC (EP) (DC) Reg] *[Amended in September 2019]*

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

PART X : DECLARATION OF RESULT

4.86 For a constituency with only 1 counting station, the PRO shall report to the RO for the constituency the final counting or re-count result. The RO shall declare the candidate with the highest number of votes as elected. [Ss 80A(7) and 81 of the EAC (EP) (DC) Reg]

4.87 For a constituency with 2 or more counting stations, the PRO of each of the counting stations shall report to the RO for the constituency the final counting or re-count result of his/her counting station. If the PRO is not the PRO of the dominant counting station, he/she shall also report to the PRO of the dominant counting station the final counting or re-count result of his/her counting station. The PRO of the dominant counting station shall report to the RO the total of the final counting or re-count results of all the counting stations for the constituency. After tallying the total of the final counting or re-count results with all the final counting or re-count results reported from individual counting stations for the constituency, the RO shall declare the candidate with

the highest number of votes as elected. [Ss 80B(7), (12) and 81 of the EAC (EP) (DC) Reg]

4.88 In the event that more than 1 candidate have equal highest numbers of votes, the RO shall determine the result of the election by drawing lots. He/She shall use the means of contact of such candidates provided in their nomination forms to request them to be present at his/her office or any other place as determined by him/her for conducting the drawing of lots and such candidates shall comply as soon as possible. If the RO fails to contact such a candidate, the RO may draw lots on behalf of the candidate. (See para. 2.35 for detailed procedures for drawings of lots) He/She shall declare the candidate on whom the lot falls as elected. He/She shall display a notice of all the result of the election at a prominent place outside his/her office. The result of the election will also be published in the Gazette within 10 days of the declaration of the result. [Ss 80C and 82 of the EAC (EP) (DC) Reg]

PART XI : DISPOSAL OF DOCUMENTS

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

4.90 These sealed packets together with other documents including the nomination forms, notices of appointment of agents, etc. will then be deposited with the CEO for safe custody for at least 6 months from the date of the election to which they relate before they are destroyed. [Ss 84 and 86 of the EAC (EP) (DC) Reg] *[Amended in September 2019]*

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