

CHAPTER 6

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

PART I : GENERAL

6.1 This chapter deals with the appointment of agents at an election and their roles. Each candidate may appoint 4 types of agents, namely election agent, election expense agent, polling agent and counting agent. If a candidate intends to send the notice of appointment of polling agents and counting agents by hand, by electronic mail, by facsimile transmission or by post, the notice must be delivered to the RO or the CEO at least 7 days before the polling day so as to enable timely delivery of the information to the relevant PRO. After the said deadline, the candidate or his/her election agent must deliver in person the notice to the relevant PRO on the polling day. The REO will remind all candidates of the deadline for the appointment of agents about 10 days before the polling day and will also provide all candidates with name lists of election agents, polling agents and counting agents received by the REO for their reference 3 days before the polling day. *[Amended in September 2019]*

6.2 The aggregate amount of election expenses incurred by a candidate and his/her election expense agents must not exceed the maximum amount as prescribed by the law. An election expense agent must not incur election expenses in excess of the maximum amount specified by the candidate in the agent's authorisation. *[Added in September 2019]*

6.3 A candidate should think carefully before selecting any of his/her agents. He/She should choose persons suitable for the task. They will be

viewed as his/her representatives and their conduct may affect the public's perception of him/her and his/her election.

PART II : TYPES AND NUMBERS OF AGENTS

6.4 A candidate may appoint the following agents to assist him/her in an election:

- (a) **1** election agent [s 26(1) of the EAC (EP) (DC) Reg];
- (b) **any number** of election expense agents [s 28(1) of the EAC (EP) (DC) Reg];
- (c) a maximum of **2** polling agents for **each polling station** in respect of his/her constituency other than a dedicated polling station situated in a prison [s 45(3) of the EAC (EP) (DC) Reg];
- (d) **1** polling agent for **each dedicated polling station** situated in a prison other than a maximum security prison [s 45(5A) of the EAC (EP) (DC) Reg]; and

(Only candidates themselves may enter a maximum security prison (see para. 6.26 below). For arrangements regarding the admission of election agents or polling agents to dedicated polling stations situated in prisons, please refer to paras. 6.13 to 6.16 and paras. 6.25 to 6.27 below.)

- (e) a maximum of **2** counting agents for **each counting station** in respect of his/her constituency [s 66(2) of the EAC (EP) (DC) Reg].

[Amended in January 2010 and September 2019]

PART III : QUALIFICATIONS OF AGENTS

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

PART IV : CIVIL SERVANTS ACTING AS AGENTS

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

PART V : ELECTION AGENT

Appointment

6.7 A candidate may appoint **1** election agent to assist him/her and to act on his/her behalf in an election [s 26(1) of the EAC (EP) (DC) Reg]. The appointment may be made at any time after a candidate hands in his/her own nomination form.

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

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

Revocation

6.10 The appointment of an election agent may be revoked by the candidate at any time. The candidate must give notice of the revocation in writing in the specified form and deliver the signed notice by hand, by electronic mail, by facsimile transmission or by post to the RO. If the notice of revocation is given on the polling day, it should not be delivered to the RO by post. A revocation of appointment of an election agent will not be effective until such notice is received by the RO. [S 26(8), (9), (10) and (13) of the EAC (EP) (DC) Reg] *[Amended in September 2011 and September 2015]*

6.11 If an election agent dies or his/her appointment is revoked, the candidate may appoint another election agent. In such a case, the candidate must give notice of the replacement appointment in the specified form to the RO in accordance with para. 6.8 above [s 26(11), (12) and (13) of the EAC (EP) (DC) Reg]. Like other election agents, the new election agent has to follow the arrangements set out in paras. 6.13 to 6.17 below, including the need to submit an application to the CEO if he/she wishes to observe the poll at a dedicated polling station situated in a prison (other than a maximum security prison). *[Amended in January 2010 and September 2019]*

Notification

6.12 Not later than 10 days after the end of the nomination period, and thereafter as required, each validly nominated candidate or his/her election agent will receive from the RO a notice containing the particulars of all the election agents (such as names and correspondence addresses) appointed by all candidates for the constituency concerned [s 27(1), (3) and (7) of the EAC (EP) (DC) Reg]. The RO must also display outside his/her office a notice of the particulars of the election agents [s 27(5) of the EAC (EP) (DC) Reg]. *[Amended in September 2011]*

Role of an Election Agent

6.13 A duly appointed election agent ranks in the **most important position** amongst all kinds of agents of a candidate. He/She has the **authority to do everything a candidate is authorised to do** under the EAC (EP) (DC) Reg for the purposes of the election, **except:**

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

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

IMPORTANT :

An election agent is, along with the candidate, responsible for the management of the election campaign. A candidate is responsible for all the acts of his/her election agent. If the election agent fails in his/her duties, he/she may contravene the law, in particular, the ECICO, and may commit criminal offences

for which the candidate may also be liable, with serious consequences. An election agent will need to be authorised as an election expense agent by a candidate to incur election expenses. If so authorised, the election agent becomes also an election expense agent. (See Part VI of this chapter)
[Amended in September 2012]

6.14 Candidates and their election agents are entitled to be present at the counting of the votes and are normally allowed admission to polling stations in respect of the constituency concerned. Due to security reasons, only candidates may enter dedicated polling stations situated in maximum security prisons to observe the poll. An election agent, who wishes to observe the poll at a dedicated polling station situated in a prison other than a maximum security prison, must deliver an application in the specified form to the CEO by hand, by electronic mail, by facsimile transmission or by post at least 1 week before the polling day. The election agent may not be present at that dedicated polling station unless the Commissioner of Correctional Services has given consent to his/her presence. If the Commissioner of Correctional Services refuses to give consent to the application received, he/she will notify the candidate or his/her election agent as soon as practicable. [S 26(15) and (18) of the EAC (EP) (DC) Reg] *[Amended in January 2010 and September 2015]*

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

imprisoned or held in custody in individual prisons daily from Monday to Friday (other than a general holiday) starting from 3 weeks before the polling day and on the Saturday immediately before the polling day for candidates' reference. *[Added in January 2010, amended in September 2012 and September 2015]*

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

6.17 The PRO of a polling station may regulate the number of candidates and their agents to be admitted to the polling station at any one time, for the purpose of maintaining order in the polling station and ensuring that the polling is conducted smoothly [s 47(2) of the EAC (EP) (DC) Reg]. **Whilst inside a polling station, a counting station or a ballot paper sorting station, the provisions to be observed by polling agents and counting agents are also applicable to candidates and their election agents.** They are therefore advised to familiarise themselves also with the guidelines set out in Parts VII and VIII of this chapter. *[Amended in January 2010]*

PART VI : ELECTION EXPENSE AGENTS

Authorisation

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

ECICO]. *[Amended in September 2007]*

6.19 The authorisation shall be in writing in the specified form and state the name, identity document number and residential address of the election expense agent, and must specify the maximum amount of election expenses the agent may incur. It should be signed by both the candidate and the election expense agent. [S 28(3), (4) and (5) of the EAC (EP) (DC) Reg] A copy of the authorisation must be delivered by hand, by electronic mail, by facsimile transmission or by post to the relevant RO, or the CEO if the RO has not been appointed [s 28(6) and (7) of the EAC (EP) (DC) Reg]. *[Amended in September 2007 and September 2015]*

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

Revocation

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

will still be counted as election expenses of the candidate. *[Amended in September 2007 and September 2015]*

Role of Election Expense Agents

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

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

6.23 Every candidate, whether elected or not, or who was returned uncontested, or who has withdrawn the candidature before the close of nominations, or has been decided by the RO as not validly nominated, or has not incurred any election expenses, is under a **duty**, subject to criminal penalty for breach, to submit to the CEO a return and declaration of his/her election expenses and election donations (hereinafter referred to as "election return") with supporting invoices and receipts issued by recipients of the payments. The candidate must ensure that the election return is lodged before the expiry of the period of 30 days after the election is settled in relation to the constituency concerned (and in relation to all the constituencies concerned if the election is held for 2 or more constituencies) or within such extended period as may be allowed by the CFI under the relevant law. An election is settled in relation to a constituency on the date on which any of the following events occurs:

- (a) the result of the election is notified in the Gazette;
- (b) the proceedings for the election are declared to have been terminated;

- (c) the election is declared to have failed.

[S 37(1), (1F), (1G) and (1N) of the ECICO and Part V of Chapter 15]

For the efficient and effective discharge of his/her duty, the candidate should **make sure** that his/her election expense agents will keep account of all election expenses incurred on his/her behalf and will provide to him/her, as soon as practicable but not later than the same period, a detailed statement of expenditure in which each item of expenditure of \$100²⁶ or above has to be supported by an invoice and a receipt. If any item of expenditure incurred by the election expense agents is paid or defrayed or contributed to by a donation, the candidate should **make sure** that they will provide him/her with a statement stating the expenses. If an item is not explicit in monetary terms, it should be assessed at a reasonable value; and if any item of donation is more than \$1,000, it should be supported by a copy of the receipt for the donation issued to the donor (in a standard form signed by the candidate). Without such statements, invoices and receipts issued by recipients of the payments or to donor(s), as the case may be, provided by the election expense agents, the candidate will no doubt have difficulty in discharging his/her duty to file the election return, which **may render him/her liable for a criminal offence** under s 38 of the ECICO. *[Amended in September 2007, September 2011 and September 2019]*

Public Inspection of Authorisation of Election Expense Agents

6.24 The RO will make available for public inspection all copies of authorisations of election expense agents submitted by candidates until the expiration of the period for which copies of the election return lodged by the candidates are available for inspection, i.e. the period ending with the 30th day

²⁶ The Government introduced to the LegCo the Electoral Legislation (Miscellaneous Amendments) Bill 2019 in March 2019 to, among others, raise the amount from \$100 to \$500. When the Guidelines are published, the Bill is still subject to the passage by the LegCo. Candidates and their campaigners should pay attention to the relevant development.

before the first anniversary of the date of the deadline for lodging the relevant election return (disregarding any order made by the CFI under s 40 of the ECICO allowing a candidate to lodge an election return within a further period as specified by the CFI) [s 41(6) of the ECICO]. This offers the public and other candidates an opportunity to scrutinise the maximum amount of election expenses that could be incurred by the election expense agents on behalf of the candidates. [S 29 of the EAC (EP) (DC) Reg] *[Amended in September 2011 and September 2019]*

PART VII : POLLING AGENTS

Appointment

6.25 A candidate may appoint a **maximum of 2 polling agents** for each polling station, other than a dedicated polling station situated in a prison, in respect of the constituency for which he/she is nominated [s 45(3) of the EAC (EP) (DC) Reg]. The notice of appointment must be in writing, in the specified form, signed by the candidate and delivered by hand, by electronic mail, by facsimile transmission or by post to the relevant RO, at least **7 days** before the polling day [s 45(5), (5D) and (8) of the EAC (EP) (DC) Reg]. Where a candidate wishes to appoint a polling agent after the above deadline, he/she is required to give notice of the appointment to the PRO of the polling station for which that agent has been appointed. Such a notice must be given by the candidate or the election agent **in person** by delivering the notice of appointment to the PRO at the relevant polling station on the polling day [s 45(6) of the EAC (EP) (DC) Reg]. The appointment will not be effective until the notice of appointment is received by the relevant RO or PRO, as the case may be [s 45(7) of the EAC (EP) (DC) Reg]. *[Amended in January 2010 and September 2015]*

6.26 In respect of the appointment of polling agent to be admitted to a dedicated polling station situated in prison, the following provisions would apply:

- (a) only the candidate is allowed to be present at a dedicated polling station situated in a maximum security prison [s 45(5A)(c) of the EAC (EP) (DC) Reg];
- (b) only 1 polling agent may be appointed for a dedicated polling station situated in a prison which is not a maximum security prison. The appointment is effective only when an application made in the specified form is delivered to the CEO by hand, by electronic mail, by facsimile transmission or by post at least 7 days before the polling day, and the Commissioner of Correctional Services has given consent to the presence of the agent [s 45(5A) and (5D) of the EAC (EP) (DC) Reg]; and
- (c) for a dedicated polling station situated in a prison which is not a maximum security prison, no polling agent may be appointed if the Commissioner of Correctional Services has already given consent to the presence of the election agent of the same candidate at that polling station [s 45(5A)(b) of the EAC (EP) (DC) Reg].

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

6.27 If the Commissioner of Correctional Services refuses to give consent to the application received, he/she will notify the candidate or the election agent as soon as practicable [s 45(5C) of the EAC (EP) (DC) Reg]. The Commissioner of Correctional Services may, upon receipt of a notice of appointment given during the week before the polling day, still give consent if

he/she is satisfied that a person imprisoned or held in custody by the CSD, who is entitled to vote for the relevant constituency at the polling station concerned, is admitted or transferred to the prison concerned during that week and that the notice of appointment is given without undue delay after the admission or transfer [s 45(5B) of the EAC (EP) (DC) Reg]. The REO will post and update on its website the number of registered electors in custody in individual prisons daily from Monday to Friday (other than a general holiday) starting from 3 weeks before the polling day and on the Saturday immediately before the polling day for candidates' reference. *[Added in January 2010, amended in September 2015 and September 2019]*

Revocation

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

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

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

6.29 A revocation of an appointment of a polling agent is not effective until the notice thereof is received by the relevant RO or PRO, as the case may be [s 45(12) of the EAC (EP) (DC) Reg]. If a replacement of polling agent is appointed and he/she wishes to observe the poll at a dedicated polling station in a prison (other than a maximum security prison), he/she is required to follow the arrangements set out in paras. 6.25 to 6.27 above. *[Amended in January 2010 and September 2015]*

Role of Polling Agents

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

Provisions which Polling Agents should be Aware of

6.31 On behalf of each candidate, only 1 polling agent may be admitted at any one time to the polling station for which he/she has been appointed [s 47(6) of the EAC (EP) (DC) Reg]. Inside the polling station, he/she is required to stay within the area designated for observation of the poll and not outside. Where a candidate or his/her election agent is present within a polling station, a polling agent of that candidate will not be allowed to be present at the same time within the polling station [s 47(7) and (8) of the EAC (EP) (DC) Reg]. (See also Part V of Chapter 4 regarding the admission of candidates, election agents and polling agents to the polling station) *[Amended in January 2010]*

6.32 Before entering a polling station, every person, other than 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, must make and sign a Declaration of Secrecy on a specified form and observe the provisions

governing the secrecy of voting [s 93 of the EAC (EP) (DC) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a polling station will observe the secrecy of the vote of the elector and, in particular, not to divulge which elector has voted for which candidate.
[Amended in January 2010]

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

6.34 The following procedures shall apply on the polling day:

(a) Before the poll

(i) About 30 minutes before the commencement of the poll, the PRO will inform the candidates or their agents (either election agent or polling agent) if they are present, of the number of ballot papers in the PRO's possession, opening the sealed packets of ballot papers and showing them the books of ballot papers not yet issued to any elector ("**UNISSUED ballot papers**").

(ii) About 15 minutes before the commencement of the poll, the PRO will show the empty ballot boxes to such persons before proceeding to lock and seal them.

(b) During the poll

(i) 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 under the name of such an elector, the PRO may issue a tendered ballot paper to the latter 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 will 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 votes. [Ss 60 and 78 of the EAC (EP) (DC) Reg]

- (ii) Any elector who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him/her may ask the PRO to exchange it for another ballot paper. If the PRO considers the request reasonable, he/she will issue a new ballot paper to the elector in exchange for the spoilt one. The PRO shall endorse on the front of such spoilt ballot paper with the words “**SPOILT**” and “損壞” and keep it in his/her own custody. The spoilt ballot paper will not be put into a ballot box and will not be counted at the counting of votes. [Ss 62 and 78 of the EAC (EP) (DC) Reg]
- (iii) The PRO shall endorse on the front of any abandoned ballot papers that have been issued or any torn pieces of such ballot papers found lying anywhere in the polling station with the words “**UNUSED**” and “未用” and keep them in his/her own custody. Such ballot papers shall not be put into a ballot box and will not be counted at the

counting of votes. [Ss 61 and 78 of the EAC (EP) (DC) Reg] Under these circumstances, the PRO will show to each candidate or his/her election agent or polling agent, who is present at the relevant time, such ballot papers.

(c) After the poll

The PRO shall, in the presence of persons at the polling station lock the flap of the inserting slot of the ballot box and seal it. He/She will also inform each candidate or his/her agent, if present, of the number of the following types of ballot papers in his/her possession: unissued ballot papers, unused ballot papers, and spoilt ballot papers. [S 63A(1) of EAC (EP) (DC) Reg]. Candidates, their election agents, polling agents and counting agents, if present, may stay inside the polling station to observe the conversion of the venue into a counting station. The count will commence upon the completion of the conversion.
[Amended in August 2008]

[Amended in September 2015 and September 2019]

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

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

NOTE :

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

- (b) leave the polling station at any time within the 1-hour slot after he/she is admitted to the polling station in which case his/her place may be taken by the relevant candidate, election agent or another polling agent (representing the same candidate) appointed to attend at the polling station (see para. 6.31 above);
- (c) subject to para. 6.36(b) below, observe the issue of ballot papers to electors and the crossing out of entries from the copy of the register of electors, subject to the condition that they cannot interfere with the work of the polling staff;
- (d) where there is reasonable ground for questioning the bona fides of an elector, ask the PRO to put the following prescribed questions (subject to necessary modifications) to that person at the time of his/her application for a ballot paper (but not afterwards):
 - (i) Are you the person registered in the final register now in effect for this constituency, as follows (reads the whole entry as it is recorded in the register)?
 - (ii) Have you already voted for this or any other constituency in this election?

NOTE :

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

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

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

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

- (a) interfere with or attempt to influence any elector;
- (b) speak to or communicate with any elector, or interfere with or attempt to interfere with any ballot boxes, ballot papers, the marked copy of the register of electors or other relevant election materials. In this regard, a polling agent should station within the designated area demarcated by red adhesive tape, and must not enter, or move close to, the restricted zone delineated with yellow tapes about 1 metre, or 2 metres (depending on the configuration), around the voting compartments. Moreover, it is most improper for a polling agent to ask an elector about his/her identity card number, let alone check an elector's identity card;

- (c) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of any elector. A polling agent should read and observe carefully the provisions governing the secrecy of voting issued with the form of Declaration of Secrecy;
- (d) exhibit or leave or distribute any campaign material;
- (e) 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
- (f) use a mobile telephone or any telephone or paging machine or any other form of electronic communication device.

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

6.37 A polling agent must not misconduct himself/herself at or in the vicinity of a polling station or fail to obey any lawful direction of the RO or the PRO; otherwise he/she commits an offence and will be liable to a fine and to imprisonment and may be ordered by such officer to leave the area. If he/she fails to leave immediately, he/she may be removed by:

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

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

Other Useful Information for Polling Agents

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

6.39 Electors with mobility difficulty may be permitted to vote at a special polling station designated for the constituency. Candidates or their agents can make inquiries with the RO for information.

6.40 Only the PRO, the DPRO or an APRO may, in the presence of one of the polling officers as a witness, help an elector to mark a ballot paper if he/she claims that he/she is unable to read or incapacitated from casting his/her vote due to visual impairment or other physical cause [s 59 of the EAC (EP) (DC) Reg]. The responsible officer should inform the candidates or their

agents who are present when such a request for assistance is received. A candidate or his/her polling agent at the polling station may suggest the PRO, the DPRO or an APRO to choose a particular polling officer who is not working at the issuing counter as the witness, but the final decision as to which polling officer should be the witness remains with the PRO, DPRO or APRO. An elector's relative, friend or any other person is in no circumstances allowed to accompany the elector in the course of voting. *[Amended in September 2012 and September 2015]*

6.41 At each polling station designated for an election, subject to practicability of production, a number of **braille templates** are made available for the use of electors with visual impairment, if they so choose, to facilitate their marking of votes on the ballot papers [s 59(3) of the EAC (EP) (DC) Reg]. The basic features of the template are as follows:

- (a) the template for each constituency is of the same width and length as the ballot paper;
- (b) the template contains numbers in braille starting with the first numeral in a sequence assigned to the candidates of the constituency from the top downwards and on the right hand side against each of the number is a round hole;
- (c) the **top left hand corner** of the ballot paper and the template is cut so as to guide the elector to place the template on top of the face of the ballot paper in the proper direction; and
- (d) when the template is placed properly over the ballot paper, each braille number corresponds with the candidate number in the constituency; and each of the holes on the template corresponds with the circle on the ballot paper against the candidate number.

The number of holes equals the number of candidates in the constituency.

An elector with visual impairment should affix the chop to give a single “✓” in the circle through the holes on the templates against the candidate’s number.
[Amended in September 2015 and September 2019]

6.42 No person may canvass, display or wear any election propaganda material relating to any candidate or the election within a polling station. Candidates and their agents should not bring electioneering materials into the polling station or leave them there, and should remove any promotional badges, emblems, clothing or head-dress before entering. No person is allowed to use a sound amplifying system or device for any purpose within the NCZ; nor should he/she use such system or device for canvassing or any activities (e.g. lion dance), so that the sound emitted by it can be heard within the NCZ. [S 43(13) of the EAC (EP) (DC) Reg] However, an officer of the CSD may use a sound amplifying system or device in the NCZ of a dedicated polling station situated in a prison for the performance of his/her duties on the polling day [s 43(13A) of the EAC (EP) (DC) Reg]. Also, a person must not stay or loiter in the NSZ without the express permission of the PRO [s 43(13)(d) of the EAC (EP) (DC) Reg]. Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of the PRO, the RO for the constituency, or a member of the EAC, commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 48(2) and (9) of the EAC (EP) (DC) Reg]. Normally such permission is only granted to government photographers for publicity purposes. Polling agents should also read Parts II to VII of Chapter 4 on all matters relating to polling and in particular, paras. 4.50 to 4.53 for activities that are prohibited, and the consequences of conducting such activities, in a polling station. *[Amended in September 2007, September 2011, September 2012 and September 2019]*

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

PART VIII : COUNTING AGENTS

Appointment

6.44 A candidate may appoint **not more than 2 counting agents** to attend at a counting station to observe the counting of votes and to observe the sorting of ballot papers received from dedicated polling stations at a ballot paper sorting station [ss 2(3), 66(1) and (2) of the EAC (EP) (DC) Reg]. The same persons may, but need not, be appointed also as polling agents. *[Amended in January 2010 and September 2019]*

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

Revocation

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

Role of Counting Agents

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

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

Provisions which Counting Agents should be Aware of

6.48 Before the counting of votes or sorting of ballot papers commences, every person authorised to be present at a counting station or 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 form and observe the provisions governing the secrecy of voting [s 93 of the EAC (EP) (DC) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a counting station or a ballot paper sorting station will observe the secrecy of the vote of the elector and, in particular, not to divulge which elector has voted for which candidate. Members of the public present within the area designated by the PRO will not be required to make a Declaration of Secrecy. *[Amended in January 2010 and September 2011]*

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

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

- (a) observe the breaking of the seals on the ballot boxes and the opening of the ballot boxes and where applicable, envelope(s) containing cast ballot paper(s), for the relevant constituency by the PRO; *[Amended in September 2012]*

- (b) inspect any papers other than ballot papers taken from the ballot boxes before they are disposed of;
- (c) observe the conduct of the count by counting officers including how individual votes are counted;
- (d) observe the determination of questionable ballot papers by the PRO and make representations on behalf of the candidate concerned [s 79(1) of the EAC (EP) (DC) Reg]; and
- (e) observe, where he/she wishes, the packing of ballot papers by the counting officers and the PRO at the conclusion of the count.

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

6.51 A counting agent at a ballot paper sorting station **may**:

- (a) observe the opening of the ballot boxes received from dedicated polling stations;
- (b) inspect any papers other than the envelopes, which contain cast ballot papers, taken from the ballot boxes before they are disposed of;
- (c) observe the counting of the envelopes, which contain cast ballot papers, in each ballot box;
- (d) observe the sorting of the aforesaid envelopes according to each constituency; and

- (e) observe the sealing of the receptacles containing the sorted envelopes before they are delivered to the PRO of the respective main counting stations of the relevant constituencies.

[Added in January 2010]

6.52 A counting agent **must not**:

- (a) touch, handle, separate or arrange ballot papers or envelopes; and
- (b) misconduct himself/herself at or in the vicinity of a counting station or a ballot paper sorting station, or fail to obey any lawful order of the PRO, as the case may be; otherwise he/she commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months and may be ordered by the PRO to leave the area [s 69(2) and (3) of the EAC (EP) (DC) Reg]. If he/she fails to leave immediately, he/she may be removed by a police officer or by any other person authorised in writing by the PRO to remove him/her. The person so removed may not re-enter the counting station or the ballot paper sorting station during that day except with the permission of the PRO, as the case may be. [Ss 2(3) and 70 of the EAC (EP) (DC) Reg]

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

6.53 Counting agents should read Parts VIII and IX of Chapter 4 on all matters relating to sorting of ballot papers and counting of votes, and in particular, paras. 4.60 to 4.64 and paras. 4.68 to 4.71 for activities that are prohibited, and the consequences of conducting such activities, within the ballot paper sorting station and counting station. *[Amended in September 2007 and January 2010]*