

CHAPTER 5

POLLING AND COUNTING ARRANGEMENTS

PART I : GENERAL

5.1 A voter/AR can only vote at the polling station allocated to him by the REO. In general, the REO will assign voters/ARs to vote at the polling stations close to their registered residential addresses³¹.

5.2 If voters/ARs with mobility difficulty are allocated to a polling station that is not accessible for them, the voters/ARs may apply to the REO for re-allocation to a barrier-free special polling station to cast their votes.

5.3 A **No Canvassing Zone** (“NCZ”) will be designated for each polling station, and a **No Staying Zone** (“NSZ”) will also be designated immediately adjacent to the entrance/exit so as to avoid any obstruction of entrance/exit of the polling station (see Part V of this chapter).

5.4 Only voters/ARs and designated or authorised persons are allowed admission to a polling station. If voters/ARs need assistance from others for entering a polling station, they may make a request to the PRO, who will handle it with discretion.

5.5 Depending on the circumstances of individual polling stations, polling staff will issue ballot papers through the Electronic Poll Register (“EPR”) System or the printed copy of FR of voters. Upon entry to a polling

³¹ The retention of previously used polling stations is subject to various factors, such as the willingness of the venue owners or management to provide the location and whether other more suitable venues are identified by the REO.

station, voters/ARs should follow the instructions on site to collect ballot papers at any of the ballot paper issuing desks (see Parts VII to IX of this chapter).

5.6 The ballot is autonomous and secret. No one can use force or duress, or threaten to use force or duress, against a person to make him vote or not vote for any particular candidate at an election. No one is obligated to disclose which candidate he has voted for or is going to vote for.

5.7 After collecting the ballot paper, a voter/AR should immediately proceed to a voting compartment to mark his vote on the ballot paper. Each voting compartment can only be used by one voter/AR at any one time. Based on the principle of autonomous and secret ballot, it is prohibited by the law to have anyone (not even the relative or friend of the voter/AR) accompany or assist the voter/AR to vote. If a voter/AR is unable to mark the ballot paper on his own, he may, as stipulated under the law, request the PRO or the PRO's deputy to mark the ballot paper on his behalf according to his voting preference in the presence of one polling staff as witness (see para. 5.35 of this chapter).

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

PART II : TYPES AND ALLOCATION OF POLLING STATIONS

5.9 The CEO must by notice in the Gazette specify the polling hours and designate places as polling stations or counting stations at least 10 days before the polling day. The CEO may also designate the same place to serve as both a polling station and a counting station. [Ss 27(4), 28(1) and 29(3) of the EAC (EP) (EC) Reg]

5.10 There are three types of polling stations:

- (a) **Ordinary Polling Stations:** for use by general voters/ARs to cast their votes;
- (b) **Dedicated Polling Stations:** set up inside penal institutions and other suitable places for registered voters/ARs who are imprisoned or held in custody by law enforcement agencies to cast their votes on the polling day. Due to security reasons, there is a need for the penal institutions to separate some persons imprisoned or held in custody from others therein. Therefore, the Commissioner of Correctional Services shall assign a time slot within the polling hours of a dedicated polling station situated in a penal institution to a voter/AR allocated to that polling station to vote, and inform the voter/AR of the time slot assigned. The Commissioner of Correctional Services must assign time slots to those voters/ARs so as to give them a reasonable opportunity to vote, while the voter/AR to whom a time slot is assigned may only cast his vote during the time slot; and
- (c) **Special Polling Stations:** for use by voters/ARs with mobility difficulty to cast their votes. If voters/ARs with mobility difficulty are allocated to a polling station that is not accessible for them,

they may apply five days before the polling day for re-allocation to a special polling station that is equipped with barrier-free facilities to cast their votes.

[Ss 27(2A), (2B), (3A), (4A), 28(1)(a), (1A), 29 and 33(1) of the EAC (EP) (EC) Reg]

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

PART III : POLL CARDS

5.11 At least five days before the polling day, poll cards will be sent to voters/ARs of contested subsectors at their registered addresses or correspondence addresses (if applicable) to notify them of the date, time and place of the poll. Voters/ARs may access the OVIES (www.voterinfo.gov.hk) via “iAM Smart” to check their allocated polling station and related polling information. If the CEO decides to change any polling station, the CEO must as early as practicable inform the voters/ARs, RO and PRO concerned in a manner he deems appropriate. In addition, the REO will send the poll cards to the penal institutions where the voters/ARs are serving their sentences insofar as practicable to allow voters/ARs serving a sentence of imprisonment on the polling day to receive the poll cards as early as possible. [S 31(1), (2A), (5) and (6) of the EAC (EP) (EC) Reg]

PART IV : HANDLING OF BALLOT BOXES

5.12 About 30 minutes before the commencement of the poll (or 15 minutes for dedicated polling stations situated in penal institutions), the PRO will allow the candidates, election agents and polling agents present to enter the polling station to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. For each candidate, only one person among the candidate himself, election agent(s) and polling agent(s) may be present to observe the aforesaid procedures. Similarly, after the close of poll, the PRO will lock and seal the ballot boxes in the presence of the candidates and their agents (if present). The count will commence when polling at all polling stations has closed. [Ss 48 and 61(1)(a) of the EAC (EP) (EC) Reg]

5.13 For dedicated polling stations situated in penal institutions, due to security reasons:

- (a) only a maximum of two candidates may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of the ballot boxes at a dedicated polling station situated inside a maximum security prison; and
- (b) only a maximum of two 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 the ballot boxes at a dedicated polling station situated in a penal institution (except maximum security prisons).

PART V : NO CANVASSING ZONE AND NO STAYING ZONE

5.14 To ensure that voters/ARs can access polling stations without interference/disturbance by electioneering activities, the ROs will designate an area outside the polling station as an NCZ according to the electoral legislation. **Electioneering activities are strictly prohibited within the NCZ. Otherwise, it will constitute an offence which may result in a fine and imprisonment.** Polling staff will display a notice of the designation of an NCZ and a map or plan with the boundary of the area at or near the polling station (see Chapter 14).

5.15 To ensure that voters/ARs can enter and exit polling stations safely in an unobstructed manner, the ROs will designate an area within the NCZ and adjacent to the entrance/exit (sometimes the entrance is the same as the exit) of the polling stations as an NSZ. **No person is allowed to stay or loiter inside the NSZ, except where a person has been expressly permitted to do so by the PRO. Otherwise, it will constitute an offence which may result in a fine and imprisonment** (see Chapter 14).

PART VI : PERSONS TO BE ADMITTED TO POLLING STATIONS

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

- (a) the PRO and polling staff;
- (b) members of the EAC;
- (c) the Chief Returning Officer (“CRO”) (Subsectors);

- (d) the ROs and Assistant Returning Officers (“AROs”) for the relevant subsectors;
- (e) public officers on duty at the polling station, including police officers, members of the Civil Aid Service (“CAS”), etc.;
- (f) officers of the Correctional Services Department (“CSD”) and other law enforcement agencies on duty at dedicated polling stations;
- (g) the CEO;
- (h) candidates and election agents of relevant subsectors and polling agents appointed for the polling station (not applicable to dedicated polling stations situated in maximum security prisons) in accordance with para. 5.17 of this chapter;
- (i) public officers authorised in writing by the CEO;
- (j) any person authorised in writing by a member of the EAC;
- (k) a person authorised in writing by the RO for liaison duties; and
- (l) children accompanying a voter/AR who enters the polling station for the purpose of voting (if the PRO considers that the children should not be left unattended while the voter/AR is in the polling station, and that the children will not disturb or cause inconvenience to the persons in the polling station).

[S 44(4), (5) and (13) of the EAC (EP) (EC) Reg]

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

5.17 For the purpose of keeping order at the polling station, the PRO may regulate the number of voters/ARs, candidates, election agents and polling agents allowed to enter the polling station at any one time. Details are as follows:

- (a) for each candidate, only one person among the candidate himself, election agent and polling agent may enter and be present in the polling station at any one time;
- (b) a notice will be displayed outside each polling station specifying the capacity of the designated area inside the polling station for candidates, election agents and polling agents. The PRO will arrange them to enter the polling station on a **first-come-first-served basis**;
- (c) any candidate, election agent or polling agent who is allowed to enter the polling station may only stay for a maximum of one hour each time. He must then leave the polling station on time unless there is no other candidate, election agent or polling agent waiting for admission. He may apply for admission to the polling station again on a first-come-first-served basis;
- (d) if no one among a candidate or any of his agents has earlier entered the polling station to observe the poll on the polling day, the PRO concerned will endeavour to give the candidate or his 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, if a candidate or any of his agents who has been allocated the last waiting slot for admission to the polling station has already observed the poll in that polling station, the person will have to yield his slot to a candidate or his agent who has not observed the poll in that polling station;

- (e) anyone who is allowed to enter a polling station has to sign and register his time of entry on a log sheet. A candidate, election agent or polling agent who has to queue outside the polling station for his turn to observe the poll at the designated area will be given a number chit that indicates the order of admission. A person who has lost his place due to his absence will have to obtain a new number chit when he returns; and
- (f) for security reasons, only a maximum of two 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 two candidates, election agents or polling agents may enter a dedicated polling station situated in a penal institution (except maximum security prisons) at any one time. Observers will have to take turn in case more than two candidates or their agents intend to observe the poll at the same time (see Chapter 7).

[S 44(2), (6), (7), (8) and (9) of the EAC (EP) (EC) Reg]

5.18 Except for voters/ARs, and those police officers, officers of the CSD, officers of any law enforcement agencies and members of the CAS on duty, all other persons permitted to enter a polling station are required to make a

Declaration of Secrecy³² on a specific form before entering the polling station and need to adhere to the regulations on the secrecy of voting. [S 92 of the EAC (EP) (EC) Reg]

PART VII : QUEUING ARRANGEMENTS

5.19 If voters/ARs have to queue up to enter the polling station, the PRO may make special queuing arrangements for voters/ARs with special needs, Voters/ARs with special needs include:

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

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

5.20 The PRO may, having regard to the actual situation, set up two queues at the polling station, one for voters/ARs with special needs and the other for ordinary voters/ARs. Besides, seats may be provided in the polling station for voters/ARs with special needs to rest while waiting to join the special queue later for collecting ballot papers.

³² The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/the CEO (or a person whose official designation is that of a deputy to the CEO)/a Justice of the Peace/a solicitor with a practising certificate.

(a) **Queuing Arrangement When the Electronic Poll Register System Is Used**

Each ballot paper issuing desk is installed with tablets to enable voters/ARs to flexibly collect their ballot papers at any one desk.

The PRO will assign a number of ballot paper issuing desks as special ballot paper issuing desks for use by voters/ARs with special needs (see para. 5.19 of this chapter) while other ballot paper issuing desks are available for use by ordinary voters/ARs.

Nevertheless, the PRO may adjust the number of special ballot paper issuing desks according to the actual situation to shorten the waiting time.

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

(b) **Queuing Arrangement When Printed Copy of Final Register of Voters Is Used**

If the printed copy of FR of voters is used for issuing ballot papers, the printed copy will be split and allocated to the ballot paper issuing desks according to the alphabetical prefixes of the Hong Kong Identity Card (“HKID”) numbers to avoid duplicate issuance of ballot papers. The PRO may, having regard to the actual situation, set up a special queue for each ballot paper issuing desk to shorten the waiting time of the persons with special needs.

(c) **Queuing Arrangement When Printed Copy of Final Register of Voters Is Used in the Event of Electronic Poll Register System Failure**

The special queuing arrangement is the same as that stated in (b) of this paragraph.

5.21 To facilitate the polling staff to cast their votes, the PRO will arrange for the polling staff to leave their posts briefly to visit their allocated polling stations. To ensure the polling staff return to work promptly, the polling staff who are going to cast the votes may present to the staff of the allocated polling station their polling staff identification to request priority queuing for collecting ballot papers and casting their votes.

PART VIII : COLLECTING BALLOT PAPERS

5.22 A voter/AR should present to the polling staff at the ballot paper issuing desk the original of any of the following documents, to the satisfaction of the PRO or polling staff, before he can be issued with the ballot paper(s):

- (a) the original of the voter's/AR's valid HKID;
- (b) alternative documents:
 - (i) a document issued by the Commissioner of Registration to the voter/AR certifying that the voter/AR is exempt from registration;
 - (ii) a document issued by the Commissioner of Registration acknowledging that the voter/AR has applied:

- (1) to be registered under the Registration of Persons Ordinance; or
 - (2) for a new HKID and is awaiting its issuance;
 - (iii) a valid HKSAR Passport;
 - (iv) a valid HKSAR seaman's identity book;
 - (v) a valid document of identity; or
- (c) a document evidencing that the voter/AR has reported to a police officer the loss or destruction of the document referred to in (a), (b)(i) or (ii) of this paragraph, together with the original of a valid passport or similar travel document (not being one referred to in (a), (b)(i) to (v) of this paragraph) issued to him showing his name and photo.

[Ss 13, 14, and 25 of the Registration of Persons Regulations (Cap. 177A), Hong Kong Special Administrative Region Passports Ordinance (Cap. 539), s 3 of the Immigration Regulations (Cap. 115A), and s 50 of the EAC (EP) (EC) Reg]

5.23 For a voter/AR applying for a ballot paper at a dedicated polling station situated in a penal institution, the document to be presented is a document issued by the Commissioner of Correctional Services showing the voter/AR's name, photograph and prisoner registration number allocated by the Commissioner to the voter/AR for identification purpose. [S 50(1B) of the EAC (EP) (EC) Reg]

5.24 If the PRO has reasonable grounds to doubt the true identity and eligibility of a voter/AR, he shall ask the voter/AR concerned the following

questions when that person applies for a ballot paper (but not after the ballot paper has been issued):

- (a) “Are you the person registered in the subsector final register now in effect for this subsector, as follows (the PRO to read out the whole entry as it is recorded in the register)?”
- (b) “Have you already voted for this subsector?”

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

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

PART IX : HOW TO ISSUE BALLOT PAPERS

5.26 Depending on the circumstances of individual polling stations, polling staff will issue ballot papers using the EPR System or a printed copy of FR of voters. The relevant procedures are as follows:

- (a) **Use of Electronic Poll Register System in Issuing Ballot Papers**

The polling staff will scan the HKID presented by the voter/AR with a tablet, or, with the PRO’s authorisation, manually input the

voter's/AR's HKID number into the EPR System to verify whether the person is a registered and eligible voter/AR allocated to the polling station concerned, so as to ascertain the number and type(s) of ballot paper(s) to be issued.

Upon confirmation, the polling staff will read out the name of the voter/AR as stated in the entry in the EPR System, show and issue the unmarked ballot paper(s) to the voter/AR, and record the number and type(s) of ballot paper(s) issued and the time of issuance in the EPR System, but will not record which particular ballot paper(s). The voter/AR may view his name, partial HKID number and type(s) of ballot paper(s) issued to him as shown on the screen of the EPR System during the issuance process.

(b) **Use of Printed Copy of Final Register of Voters in Issuing Ballot Papers**

The polling staff will check the voter's/AR's identity document against the entry in the printed copy of FR of voters to verify whether the person is a registered and eligible voter/AR allocated to the polling station concerned, and to ascertain the number and type(s) of ballot paper(s) to be issued.

Upon confirmation, the polling staff will softly read out the name of the voter/AR as stated in the entry in the printed copy of FR of voters, and, under the observation of the voter/AR, draw a line across the name and the HKID number therein to indicate that the ballot paper(s) has/have been issued to the voter/AR concerned. The polling staff will then show and issue the unmarked ballot paper(s) to the voter/AR, but will not record which particular ballot paper(s). To safeguard the personal data privacy of other

voters/ARs, the polling staff will cover up the entries of other voters/ARs in the printed copy of FR of voters while conducting the line-drawing under the observation of the relevant voter/AR.

(c) **Use of Printed Copy of Final Register of Voters in the Event of Electronic Poll Register System Failure**

In case the EPR System fails while in use on the polling day and cannot continue to operate, the polling staff will activate the fallback arrangement and use the printed copy of FR of voters (as stated in (b) of this paragraph) to issue ballot papers until the close of poll. When activating the fallback arrangement, the polling staff should activate the fallback mode of the EPR System, and cross-check against the “local storage device” inside the polling stations before issuing the ballot papers, so as to confirm that the voters/ARs concerned have not collected any ballot papers when the EPR System was in use. The “local storage device” will only record in an encrypted form the HKID numbers of voters/ARs who have collected their ballot papers, but will not record their names and other personal particulars.

[S 53 of the EAC (EP) (EC) Reg]

5.27 To facilitate the verification of the total number of ballot papers issued, the counterfoil of each ballot paper bears a serial number printed on its front. However, the serial number will not appear on the ballot paper. Neither the polling staff nor the EPR System will record the serial numbers of the ballot papers issued to voters/ARs. The serial numbers will only be used to count the quantity of ballot papers issued at the ballot paper issuing desks to estimate the voter turnout. Statistics of the hourly voter turnout and cumulative voter turnout

will be posted outside the polling stations for the public's reference.
[Ss 49(11) and 53(6) of the EAC (EP) (EC) Reg]

5.28 In general, ballot papers are issued at the ballot paper issuing desks. However, "TENDERED" ballot papers and ballot papers issued to voters/ARs in replacement of "SPOILT" ballot papers must be issued by the PRO at the PRO desk or the ballot paper changing desk. Please see paras. 5.42 and 5.43 of this chapter for the arrangement.

PART X : VOTING METHODS

5.29 When issued with the ballot paper(s), a voter/AR will be issued with a colour cardboard according to the number of ballot paper(s) issued to him. After inserting his ballot paper(s) into the ballot box(es), the voter/AR must return the cardboard to the polling staff before leaving the polling station. This arrangement helps the polling staff ensure that each voter/AR has cast all ballot papers issued to him before leaving the polling station, thereby preventing any ballot paper from being taken away from the polling station.

5.30 After having collected the ballot paper(s) and the cardboard, the voter/AR should immediately proceed to a voting compartment to mark the ballot paper(s) as instructed. One voting compartment can only be used by one voter/AR at one time.

5.31 The subsector elections adopt the "first past the post" voting system. Unless otherwise instructed by the EAC, the number of candidates marked by each voter/AR on the ballot paper(s) must be either equal to or less than the number of seats to be returned for that subsector. The ballot paper(s) should be marked in the following manner as appropriate:

- (a) the voter/AR must mark the ballot paper(s) by filling the ovals opposite the names of the candidates of his choice with the black pen provided by the polling station; **or**
- (b) the voter/AR must mark the ballot paper(s) by affixing the chop provided by the polling station to give a “✓” in the circles opposite the names of the candidates of his choice. Please note that only a single “✓” should appear within the circles.

[S 56 of the EAC (EP) (EC) Reg]

5.32 After marking the ballot paper in the manner as described in para. 5.31 of this chapter, voters/ARs should follow the instruction of polling staff and insert the unfolded ballot paper into the ballot box with the marked side facing down. [S 54(1A) and (1B) of the EAC (EP) (EC) Reg]

5.33 If there is a ballot paper checking machine in the polling station, before putting the ballot paper into the ballot box, voters/ARs may choose to use the ballot paper checking machine to check whether the ballot paper was marked in accordance with the relevant electoral law, e.g. whether the number of candidates marked is either less than or equal to the number of seats to be returned, so as to avoid invalidation of the ballot paper on account of the number of candidates marked exceeding the number of seats to be returned. The ballot paper checking machine will not record or count voters’/ARs’ choices marked on their ballot papers. Whether or not a voter/AR uses the machine is entirely voluntary.

5.34 The voter/AR should immediately leave the polling station without undue delay after putting his marked ballot paper(s) into the ballot box and returning the cardboard to the polling staff. [S 54(2) and (3) of the EAC (EP) (EC) Reg]

NOTE:

A person who fails to obey any order of the PRO or misconducts himself commits an offence and is liable to a fine and imprisonment. The PRO may seek assistance from the police and order the person to leave the polling station immediately.

If the PRO has reason to believe that a voter/AR deliberately makes an error in marking the ballot paper and requests the issuance of a new ballot paper repeatedly, the PRO may reject his request. If the PRO has reasonable grounds to believe that a person applies for or has applied for a ballot paper by impersonating a voter/AR, the PRO may request the police to arrest that person.

A person engages in corrupt conduct if he directly or indirectly, by a deception, induces another person not to vote at the election, or wilfully (whether or not deception is involved) obstructs or prevents another person from voting at the election.

It is an offence for a person to take away a ballot paper from a polling station.

It will be a corrupt conduct if any person, without lawful authority, destroys, defaces, takes or otherwise interferes with a ballot paper in use or having been used at the election, or without lawful authority, destroys, removes, opens or otherwise interferes with a ballot box in use at the election.

Candidates or their agents and voters/ARs should lodge a complaint to PROs, ROs, law enforcement agencies or the EAC in

the case of any possible contraventions of the electoral law. All complaints will be treated in strict confidence. Any complaints of suspected violation of the law will be referred to the law enforcement agencies for follow-up actions.

[Ss 46(2), (3), 52(2), (2A) and 54(4) of the EAC (EP) (EC) Reg, and ss 14, 17(1)(c), (d) and (e) of the ECICO]

A Voter/AR Claiming That He Is Unable to Read or Is Incapacitated from Marking His Vote by Himself due to Visual Impairment or Other Physical Conditions

5.35 In general, a voter/AR must mark the ballot paper **by himself** as described in para. 5.31 of this chapter and **must not** ask another person to do it for him. If a voter/AR claims that he is unable to read or is incapacitated from casting his vote by himself due to visual impairment or other physical conditions, only the PRO, the Deputy PRO or an Assistant PRO may, in the presence of one of the polling staff as witness, help mark the ballot paper. The polling staff should inform the candidates or their agents who are present when such a request for assistance is received. A candidate or his agent in the polling station may suggest that the PRO, the Deputy PRO or an Assistant PRO choose a polling staff not working at the ballot paper issuing desk as the witness, but the final choice should be determined by the PRO, Deputy PRO or Assistant PRO. Other than the children accompanying voters/ARs admitted by the PRO, no voters'/ARs' relatives, friends or any other persons are permitted to accompany the voters/ARs in the course of voting. [S 57(1) and (2) of the EAC (EP) (EC) Reg]

5.36 A voter/AR with visual impairment who so requests, having regard to the actual situation, will be provided with a **braille template** to

facilitate his marking of the ballot paper(s) by himself. The template should be returned to the polling staff after use. The features of the template are as follows:

- (a) the template is of the same width and length as the ballot paper for the relevant subsector;
- (b) the template contains numbers in braille and Arabic numerals printed in relief which are arranged from the top downwards in ascending order according to the candidate numbers assigned to the candidates of the relevant subsector; on the left hand side against each of the number is an oval or round hole;
- (c) the **top left hand corner** of the ballot paper as well as that of the template are cut so as to guide the person with visual impairment to place the template on top of the front side 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 relevant subsector; and each of the oval or round holes on the template corresponds with the oval or the circle on the ballot paper against the candidate.

[S 57(3) of the EAC (EP) (EC) Reg]

5.37 **The ballot is secret. No one is required to disclose which candidate he has voted for or is going to vote for.** A person who, without lawful authority, requires or purports to require a voter/AR to disclose the candidate, or any particulars relating to the candidate for whom the voter/AR has voted commits an offence and is liable to a fine at level 2 (\$5,000). The law also prohibits acts which may infringe the secrecy of vote during the polling and

counting processes. If a person contravenes any of the relevant legislation prohibited under this section, he commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. [S 13 of the ECICO, s 37 of the Schedule to the CEEO, and s 93 of the of the EAC (EP) (EC) Reg]

5.38 To protect voting secrecy of voters/ARs, no one may, at any time, divulge whether a voter/AR has or has not applied for a ballot paper or voted, or divulge the identity of a voter/AR at a dedicated polling station. Anyone who makes such divulgence, unless otherwise permitted by the law, commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. [S 93(1), (1A), (2) and (10) of the EAC (EP) (EC) Reg]

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

5.39 A voter/AR who has been issued with a ballot paper but has left the polling station without casting all his ballot paper(s) is not allowed to return to the polling station again to cast the remaining ballot paper(s). Nevertheless, if there is a justified reason for a voter/AR not to mark the ballot paper(s) immediately, or the voter/AR has become incapacitated from completing the voting by physical illness, with the permission of the PRO, the voter/AR could return to the polling station before the close of poll to cast his vote(s) after giving back the ballot paper(s) to the PRO:

- (a) the PRO, upon receiving the ballot paper(s) that is/are given back, must keep the relevant ballot paper(s) in his custody and, when the voter/AR returns to the polling station to vote before the close of poll, the PRO should return such ballot paper(s) to the voter/AR in the presence of a police officer; and
- (b) where the voter/AR has not returned to the polling station at the close of poll, the PRO must endorse on the front of the ballot

paper(s) the words “**UNUSED**” and “**未用**” and show it/them to each candidate or his election agent or polling agent who is present at the time. Such ballot paper(s) must not be put into the ballot box and will not be counted.

[Ss 55(2), (4), (6), 59 and 77(1)(c) of the EAC (EP) (EC) Reg]

5.40 For the dedicated polling stations situated in a penal institution, if there is a justified reason for a voter/AR not to mark the ballot paper(s) immediately, or the voter/AR has become incapacitated from completing the voting by physical illness, with the permission of the PRO, the voter/AR could return to the polling station before the close of poll within the existing or any newly assigned time slot to cast his vote(s) after giving back the ballot paper(s) to the PRO:

- (a) the PRO, upon receiving the ballot paper(s) that is/are given back, must keep the relevant ballot paper(s) in his custody and, when the voter/AR returns to the polling station to vote before the close of poll, the PRO should return such ballot paper(s) to the voter/AR in the presence of an officer of the CSD or any law enforcement agencies;
- (b) the Commissioner of Correctional Services or his officer(s) must as far as practicable assign a new time slot during the polling hours for the voter/AR to cast his vote(s) and notify the voter/AR; and
- (c) where the voter/AR has not returned to the polling station at the close of poll, the PRO must endorse on the front of the ballot paper(s) the words “**UNUSED**” and “**未用**” and show it/them to each candidate or his election agent or polling agent who is present

at the time. Such ballot paper(s) must not be put into the ballot box and will not be counted.

[Ss 55(2), (3A), (3B), (4), (6), (6A), 59 and 77(1)(c) of the EAC (EP) (EC) Reg]

5.41 If anyone finds an issued ballot paper (whether marked or unmarked) left behind in a voting compartment or any areas inside the polling station, he must hand it in to the PRO. The PRO must endorse on the front of the ballot paper(s) returned the words “**UNUSED**” and “**未用**” and should keep it/them in his custody. Such ballot paper(s) must not be put into the ballot box and will not be counted. [Ss 59 and 77(1)(c) of the EAC (EP) (EC) Reg]

5.42 Any voter/AR who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper may ask the PRO to exchange it for a new ballot paper. If the PRO considers the request reasonable, he will take back the ballot paper previously issued, then issue a new ballot paper. The PRO must endorse on the front of the ballot paper(s) returned the words “**SPOILT**” and “**損壞**” and keep it/them in his custody. Such ballot paper(s) will not be counted. [Ss 60 and 77(1)(d) of the EAC (EP) (EC) Reg]

5.43 If a person, claiming to be a particular voter/AR on the FR of voters, applies for a ballot paper at the polling station after a person has been issued with a ballot paper earlier with the same identity as per records, the PRO may issue to the voter/AR a ballot paper with the words “**TENDERED**” and “**重複**” endorsed on the front **only** in the circumstances that the PRO is not certain whether the person has been issued with a ballot paper earlier, and that the person has answered the questions set out in para. 5.24 of this chapter to the satisfaction of the PRO. Such ballot paper will not be counted. [Ss 58 and 77(1)(b) of the EAC (EP) (EC) Reg]

PART XI : ACTS PROHIBITED INSIDE POLLING STATIONS

5.44 Inside a polling station, no person should interfere with or attempt to influence other voters/ARs. In particular, a person must not:

- (a) communicate with any voter/AR in contravention of the direction of the RO, ARO, PRO or any polling staff;
- (b) attempt to obtain or disclose any information acquired about the vote of voters/ARs;
- (c) display or distribute any canvassing material;
- (d) display or wear any promotional 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 political body in Hong Kong or to a body any member of which is standing as a candidate in the election; or
- (e) use a mobile phone, paging machine or any other form of electronic communication device in contravention of the direction of the RO, ARO, PRO or any polling staff.

Any person who contravenes the above regulations commits an offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months or 6 months (as the case may be). [Ss 45 and 93 of the EAC (EP) (EC) Reg]

5.45 Inside a polling station, only the following persons may communicate with voters/ARs and use a mobile phone, paging machine or any other form of electronic communication device:

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

[S 45(1) and (6) of the EAC (EP) (EC) Reg]

5.46 The RO or the PRO shall not exercise his power to order a voter/AR to leave the polling station or remove a voter/AR from the polling station for the purpose of preventing the voter/AR from voting at the polling station allocated to him. However, any person who misconducts himself in or in the vicinity of a polling station (including disrupting the voting process, or disturbing or causing inconvenience to other persons in the polling station), or

votes with undue delay, or fails to obey any lawful order of the RO or the PRO, commits an offence. The relevant person may be ordered by such officers to leave the polling station or the vicinity of the polling station. If the relevant person fails to leave the polling station immediately as ordered by the RO or the PRO, he may be removed by:

- (a) a police officer (if it is not a dedicated polling station);
- (b) an officer of the CSD or other law enforcement agencies (if it is a dedicated polling station); or
- (c) a person authorised in writing by the RO or the PRO to order the relevant person to leave.

The person who is removed may not enter the relevant polling station again on that day, unless the RO or the PRO permits him to do so.

[S 46(2), (2A), (3), (4) and (5) of the EAC (EP) (EC) Reg]

5.47 A person commits an offence if he takes photos, films or makes any video or audio recording within a polling station without the express permission of the PRO, the relevant RO or a member of the EAC and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. Generally speaking, the relevant permission is only granted to government photographers for performing publicity duties. [S 45(2) and (8) of the EAC (EP) (EC) Reg]

PART XII : CLOSE OF POLL AND PREPARATIONS FOR COUNTING

5.48 If a voter/AR has not arrived at the designated entrance of the polling station by the close of poll, he will not be allowed to enter the polling station. When the close of poll approaches but there is a long queue of voters/ARs outside the polling station waiting to vote, the PRO will arrange for polling staff to hold up a signboard to direct voters/ARs to proceed to the end of the queue to wait for their turn to vote. If there are still voters/ARs queuing outside the entrance of the polling station at the close of poll, polling staff will stand at the end of the queue to stop latecomers from joining the queue and, as far as practicable, let voters/ARs already in the queue enter the polling station to queue so as to close the entrance of the polling station. The PRO will close the entrance of the polling station when all the relevant voters/ARs have entered the polling station.

5.49 In short, all voters/ARs who have arrived and queued up outside the polling station before the close of poll may enter the polling station to cast their votes. However, some polling stations are located at a place inside a building. If a voter/AR has arrived at the building by the close of poll but has neither arrived at the entrance of the polling station nor queued up outside the entrance, he will not be allowed to enter the polling station to vote. At the close of poll, the PRO will display a notice at a prominent place outside the polling stations as soon as practicable (except for dedicated polling stations) to inform the public that the poll has been closed. Moreover, if EPR System is used at the polling station, the PRO must confirm the close of poll through the system. Candidates, election agents and polling agents may stay in the polling station to observe the process of locking and sealing the ballot boxes. The PRO will lock and seal the ballot boxes in the presence of the candidates or their agents (if present) and will also inform them of the numbers of unissued, spoilt and unused ballot papers in his possession. In addition, all such ballot papers and the marked

printed copies of the FR (if having been used) will be packed into separate sealed packets. The PRO must also prepare a ballot paper account to show the total number of ballot papers issued by the polling station, as well as the numbers of unused, spoilt and tendered ballot papers. [Ss 61(1), (3) and 62 of the EAC (EP) (EC) Reg]

5.50 Only not more than two persons among the candidates, election agents or counting agents may be allowed to accompany the polling staff in the delivery of the sealed ballot boxes and the ballot paper account from the polling station to the central counting station under police escort. If more than two of them wish to accompany in the delivery, the PRO will draw lots to determine the accompanying persons. Other candidates and their agents are allowed to remain in the polling station only until the arrival of police officers for escorting the delivery of sealed ballot boxes and ballot paper account. Thereafter, all other persons must leave the polling station. The PRO will arrange for the delivery of the sealed packets to the central counting station separately after the sealed ballot boxes and ballot paper account have been properly dispatched.

PART XIII : COUNTING ARRANGEMENTS

5.51 The REO will set up a central counting station to count the ballot papers for the subsectors and announce the election results. The RO for each subsector must, at least 10 days before the polling day, give notice of the time and place of counting of votes to the candidates. The CRO (Subsectors) is to keep order at the central counting station. ROs for the respective subsectors are in charge of the count for the relevant subsector, with the assistance of their AROs and counting staff. [S 63(4) of the EAC (EP) (EC) Reg]

5.52 All ballot boxes and ballot paper accounts delivered to the central counting station from the polling stations will be transferred to the relevant RO

in charge. The staff will first check whether each ballot box is properly sealed and the relevant RO will, in the presence of the candidates, election agents or counting agents (if present), break the seal on the ballot boxes, then immediately open the ballot boxes and empty all contents in the ballot boxes onto a counting table. After the RO has opened the ballot boxes, the candidates and their agents may request to inspect any paper other than the ballot papers taken out from the boxes before the paper is disposed of by the RO. **At no time should a candidate or his agent touch any of the ballot papers.** [S 72 of the EAC (EP) (EC) Reg]

5.53 The EAC will, depending on the circumstances³³, indicate whether the counting of votes of the subsectors is to be conducted by an electronic counting system or manually. If electronic counting is adopted, counting staff will count the total number of ballot papers for all subsectors in the ballot boxes after opening the ballot boxes collected from each polling station, and compare and verify the total number of ballot papers for all subsectors against the ballot paper accounts. The ballot papers from not less than two polling stations will then be mixed. The counting staff will put the mixed ballot papers, without sorting them by subsector beforehand, into the electronic counting machines for counting. The RO will eventually examine the clearly invalid ballot papers and determine the validity of the questionable ballot papers (see paras. 5.62 and 5.63 of this chapter). With the assistance of the counting staff, the RO will count the valid votes obtained by each candidate under the “first past the post” system and compile the final counting results. If the electronic counting system fails to operate normally, the counting staff will either activate the contingency plan to continue with automatic counting, or input the votes on each ballot paper manually into another independent computer system for counting (as the case may be). If manual input is adopted, counting staff will work in pairs to ensure data accuracy by performing “double entry”.

³³ For example, electronic counting is not adopted in subsector by-elections considering that the number of vacancies to be filled/number of voters is relatively small.

5.54 Moreover, if the count is conducted manually, the relevant RO, assisted by the counting staff, will:

- (a) arrange for the ballot papers to be sorted by subsector;
- (b) count and record the number of the ballot papers of each subsector, verify the relevant total number of ballot papers by comparing it with the ballot paper account for that relevant polling station, and prepare a statement in writing as to the result of the verification;
- (c) hand over ballot papers for subsectors for which he is not appointed, together with the relevant record prepared under (b) (i.e. the record on the number of ballot papers for the respective subsectors) to the ROs who are appointed for those subsectors;
- (d) count the votes recorded on the ballot papers for the subsector for which he is appointed;
- (e) count the votes recorded on the ballot papers for the subsector (for which he is also appointed) handed over to him from other ROs;
- (f) determine the validity of questionable ballot papers; and
- (g) compile the final counting results.

[Ss 73 and 74 of the EAC (EP) (EC) Reg]

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

- (a) the CRO (Subsectors);
- (b) the ROs, AROs and counting staff for the relevant subsectors;
- (c) candidates, their election agents and counting agents for the relevant subsectors;
- (d) members of the EAC;
- (e) the CEO;
- (f) police officers and members of the CAS on duty at the counting station;
- (g) public officers authorised in writing by the CEO;
- (h) any person authorised in writing by any member of the EAC; and
- (i) any person permitted by the CRO (Subsectors) or the ROs in charge of the counting zone of the central counting station.

The CRO (Subsectors) or the RO (as the case may be) will designate a restricted zone inside the counting zone for the counting staff to count the votes. Candidates and their agents are prohibited from entering. The CRO (Subsectors) or the RO will also designate an area inside the counting station where members of the public may observe the counting of votes (“the public area”), unless the CRO (Subsectors) or the RO considers that the presence of a person may cause

disorder or disturbance in the counting station, or prejudice the secrecy of individual votes. [S 66(1), (2) and (6) of the EAC (EP) (EC) Reg]

5.56 Members of the public and the media may enter the public area of the counting station to observe the counting of votes but are not allowed to enter the counting zone. In order to keep order at the counting station, the CRO (Subsectors) or RO will set a maximum capacity of the public area and display a notice setting out such capacity outside the counting station. Once the maximum capacity is reached, the CRO (Subsectors) or the RO shall cease to admit any further members of the public.

5.57 Besides, members of the public (including the media) may take photos and/or videos inside the public area of the counting stations (excluding the counting zone). On the other hand, video recording systems will be installed at counting stations (including the counting zone) to record the actual situation of the counting stations (including the public area) for record purposes.

5.58 Except with the express permission of the CRO (Subsectors), the relevant RO or a member of the EAC (as the case may be), a person commits an offence if he takes photos, films or makes any audio or video recording within the counting zone during the period from the commencement of the count until the completion of the count and re-count (if any) taking place in that counting zone. [S 67(1) and (2) of the EAC (EP) (EC) Reg]

5.59 Except for police officers, officers of the CSD or any law enforcement agencies and members of the CAS on duty, every person permitted to stay in a counting zone must make a **Declaration of Secrecy** on the specified form before entering the counting zone, and comply with the regulations on the secrecy of voting. Members of the public and the media inside the public area are not required to make a Declaration of Secrecy. [S 92 of the EAC (EP) (EC) Reg]

5.60 Any person who misconducts himself or fails to obey the lawful orders of the CRO (Subsectors) or the RO in or in the vicinity of a counting station commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months. He may be ordered by the CRO (Subsectors) or the RO (as the case may be) to leave the area immediately. A person misconducts himself if he disrupts the counting of votes, or disturbs or causes inconvenience to other persons in the counting station. The CRO (Subsectors) or the RO may also order a person to leave the counting station immediately if a person's conduct at the counting station is not in line with the purpose authorised or permitted for his entry to or stay at the counting station. If the person fails to leave immediately, he may be removed by a police officer or by a person authorised in writing by the CRO (Subsectors) or the RO. The person who is removed may not enter that counting station again on that day, unless the CRO (Subsectors) or the RO permits him to do so. [Ss 67(3), (4) and 68 of the EAC (EP) (EC) Reg]

5.61 The cumulative voter turnout announced on polling day is an estimated figure based on the statistics on ballot papers issued to voters/ARs by polling staff at the ballot paper issuing desks (see para. 5.27 of this chapter). The relevant number may not tally with the number of ballot papers in the ballot boxes for different reasons. For instance, it does not take into account the numbers of ballot papers endorsed as "TENDERED"³⁴ issued at the PRO desks, the "UNUSED"³⁵ ones which were left behind and not put into the ballot boxes (see paras. 5.41 and 5.43 of this chapter), etc. After adding the number of "TENDERED" ballot papers and deducting the number of "UNUSED" ballot papers, the cumulative voter turnout should, in principle, tally with the number

³⁴ "TENDERED" ballot papers are issued at the PRO desks. They are not counted in the cumulative voter turnout, but are put into the ballot box and included in the number of ballot papers actually counted from the ballot box.

³⁵ Ballot papers may occasionally be left behind in the polling stations. The PRO will endorse such ballot papers the words "UNUSED" and "未用", and keep them in his custody. These ballot papers have been counted in the cumulative voter turnout although they will not be put into the ballot boxes.

of ballot papers in the ballot boxes³⁶. However, a discrepancy may occur between the two numbers if any ballot paper was taken away without authorisation and consequently not put into a ballot box. In any event, the counting results will only be based on the actual number of ballot papers in the ballot boxes, while the cumulative voter turnout is for reference only.

Invalid Ballot Papers

5.62 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is endorsed on the front the words “**TENDERED**” and “重複”;
- (c) it is endorsed on the front the words “**SPOILT**” and “損壞”;
- (d) it is endorsed on the front the words “**UNUSED**” and “未用”; or
- (e) votes on it are recorded for a number of candidates exceeding the number of EC members to be returned by the subsector concerned.

The above-mentioned ballot papers will be set aside and will neither be counted nor 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

³⁶ See para. 5.28 of this chapter. Ballot papers issued to voters/ARs in replacement of “SPOILT” ballot papers are also issued at the PRO desk. Since the “SPOILT” ballot papers to be kept in PRO’s custody were issued at the ballot paper issuing desks, and therefore they have been counted in the cumulative voter turnout. As for the ballot papers issued to voters/ARs by the PRO in replacement of “SPOILT” ballot papers, they will be put into the ballot box and hence subsequently be included in the number of ballot papers actually counted from the ballot boxes.

representations to the RO concerning these ballot papers. [Ss 74A(b) and 77 of the EAC (EP) (EC) Reg]

Questionable Ballot Papers

5.63 Ballot papers which appear to fall under the following categories will be considered as questionable ballot papers, and must be separated and forwarded to the RO to determine whether the votes are to be considered as valid and to be counted. A questionable ballot paper will be decided as invalid if in the opinion of the RO:

- (a) it has any writing or mark by which the voter/AR can possibly be identified;
- (b) it is not marked by filling in black the oval(s) on it opposite the name(s) of the candidate(s) of the voter/AR's choice;
- (c) for subsector by-elections, it is not marked by affixing the chop provided by the polling station, or by giving a single "✓" in the circle(s) on the ballot paper opposite the name(s) of the candidate(s) of the voter/AR's choice as instructed by the EAC. However, the RO may count the vote on these ballot papers if he is satisfied that the intention of the voter/AR is clear, notwithstanding that the way in which the chop is affixed deviates from the requirements above;
- (d) it is substantially mutilated; or
- (e) it is void for uncertainty.

[Ss 56(1), (2), 74A(a), 77(1), (2) and 78(4) of the EAC (EP) (EC) Reg]

5.64 The validity of all questionable ballot papers shall be determined by the RO. The RO will invite the candidates, election agents or counting agents present to participate in the determination process of questionable ballot papers. [S 78(3) and (4) of the EAC (EP) (EC) Reg]

5.65 When deciding on the validity of the ballot papers as mentioned in para. 5.63(a) of this chapter, the RO should 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 on the ballot paper in the said election petition was considered a mark by which the identity of the elector could possibly be identified. However, the validity of ballot papers with any other writings or marks will remain to be determined by the RO on a case-by-case basis. The specific determination process will be conducted in the following manner:

- (a) the RO will inform the candidates, election agents or counting agents of his initial decision on the validity of each questionable ballot paper. The candidates and their agents (if present in the counting zone) may inspect and make representations concerning the questionable ballot papers;
- (b) the RO will consider their representations and make a final decision on the validity of these questionable ballot papers (see para. 5.66 of this chapter);
- (c) if the RO decides that a particular questionable ballot paper is invalid and therefore not to be counted, he must endorse on the front of the ballot paper the words “不獲接納” and “rejected”. In that case, if any candidate or his agent objects to the RO’s final decision, the RO must also endorse the words “反對此選票不獲接納” and “rejection objected to” on that ballot paper;

- (d) if any candidate, election agent or counting agent objects to the decision of the RO to count a questionable ballot paper, the RO must endorse the words “反對此選票獲接納” and “acceptance objected to” on that ballot paper; and
- (e) the RO shall prepare a statement to record his decisions made in respect of all questionable ballot papers.

[Ss 78(3), (4), (5), (6) and 78A of the EAC (EP) (EC) Reg]

5.66 The decision of the RO for a particular subsector in regard to any question arising in respect of any ballot paper relating to that subsector shall be **final**, but the relevant persons may lodge an appeal against that decision to the Revising Officer³⁷ (see Part I of Chapter 6). [S 79 of the EAC (EP) (EC) Reg and s 39 of the Schedule to the CEEO]

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

Request for a Re-count

5.68 After vote counting is completed for a particular subsector, the RO for the relevant subsector will make known the counting results to the candidates, election agents or counting agents (if present). The candidates or election agents may request the RO to re-count the votes. The RO shall comply with such request unless in his opinion that request is unreasonable. [S 76 of the EAC (EP) (EC) Reg]

³⁷ The Revising Officer may be any magistrate, former magistrate, retired magistrate or any legal officer as defined by the Legal Officers Ordinance appointed by the Chief Justice. [S 46 of the Schedule to the CEEO]

PART XIV : DECLARATION OF RESULTS

5.69 When the counting of votes and re-counts (if any) are completed and the results are obtained, the RO for the relevant subsector shall declare the candidate(s) elected for the relevant subsector. In the event that a vacancy is still to be filled for a subsector and the number of the most successful candidates having an equal number of votes is more than the number of vacancies, the RO will determine the result of the election by drawing lots at the counting station (see para. 3.37 of Chapter 3 for procedures for the drawing of lots). The candidate(s) on whom the lot fall(s) is/are to be returned at the election. The relevant RO shall display a notice of result of the election of that subsector at a prominent place outside the counting station and publish the result of the election in the Gazette within seven days of the declaration of the result. [Ss 80 and 81 of the EAC (EP) (EC) Reg]

PART XV : DISPOSAL OF DOCUMENTS AND BALLOT PAPERS

5.70 After ascertaining the result of the poll, the RO shall pack all the relevant documents and ballot papers into sealed packets as soon as practicable. Candidates and their agents may be present to observe the relevant process. These sealed packets and other documents including nomination forms, notices of appointment of agents, etc. will then be delivered to the CEO for his safe custody for at least six months from the date of the subsector election to which they relate before destruction. Except **pursuant to an order made by a Revising Officer in an appeal under s 39 of the Schedule to the CEEO or an order of court** made in criminal proceedings, **no person may inspect any ballot paper in the custody of the CEO.** [Ss 82(1), (4), 83, 84 and 85 of the EAC (EP) (EC) Reg]

PART XVI : POSTPONEMENT OR ADJOURNMENT OF THE ELECTION, THE POLL OR THE COUNT OF VOTES

5.71 The Schedule to the CEEO and the EAC (EP) (EC) Reg provide for the postponement or adjournment of the subsector election, or the election, the poll or the count for an individual polling station.

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

5.73 For the **poll** at a particular polling station, if, at any time during the poll of a subsector election, it appears to the PRO that the poll at the polling station is likely to be obstructed, disrupted, undermined or seriously affected by any of the prescribed occurrences mentioned in para. 5.72 of this chapter, the PRO may announce the adjournment of the poll at that polling station. [S 2 of Schedule 1 to the EAC (EP) (EC) Reg]

5.74 If a subsector election or by-election, or the poll or count has to be postponed or adjourned, the EAC must appoint a date for holding the election,

the poll or the count as soon as practicable after the postponement or adjournment. The date appointed must not be later than 14 days after the date originally scheduled. Pursuant to the established contingency measures of the EAC, the election, the poll or the count will usually be postponed or adjourned to the fallback polling day on the following Sunday. There is no provision in the relevant electoral law and regulations regarding further postponement or adjournment of an already postponed or adjourned election, poll or count. [S 24(4) of the Schedule to the CEEO and s 6 of Schedule 1 to the EAC (EP) (EC) Reg]

PART XVII : SUPPLEMENTARY NOMINATIONS OR SUBSECTOR BY-ELECTIONS TO BE HELD

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

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

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

[S 5 of the Schedule to the CEEO]

5.76 There is no provision in the subsisting law regarding the holding of any subsector by-election to cater for the event that a subsector election, poll or count has to be postponed or adjourned due to the circumstances mentioned in paras. 5.72 to 5.73 of this chapter but cannot be held within 14 days after the scheduled date as stipulated in the law.