CHAPTER 7

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

PART I : GENERAL

7.1 This chapter deals with the appointment of agents at an election and their roles.

7.2 The law and guidelines referred to in this chapter apply to candidates/candidates on lists of candidates in a GC/DC (second) FC election as they apply to candidates in a traditional FC election. Wherever there are special features applicable only to a list of candidates, they will be expressed in the relevant context. [Amended in June 2012]

7.3 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

7.4 A candidate/list of candidates may appoint the following agents to assist him/her/them in an election:

   (a) 1 election agent [s 23(1), (2) and (3) of the EAC (EP) (LC) Reg];
(b) **any number** of election expense agents;

(c) not more than 2 polling agents for **each polling station** other than a dedicated polling station situated in a prison in respect of the GC, the ordinary FC, the DC (second) FC or SFC for which he/she is nominated [s 42(3), (4), (5) and (8A) of the EAC (EP) (LC) Reg];  [Amended in June 2012]

(d) 1 polling agent for **each dedicated polling station** situated in a prison other than a maximum security prison [s 42(8A)(a) and (c) of the EAC (EP) (LC) Reg]; and

(Only candidates themselves may enter maximum security prison (see para. 7.26 below) For arrangements regarding admission of election agents or polling agents to dedicated polling stations situated in prisons, please refer to paras. 7.13 to 7.16 and paras. 7.25 to 7.27 below.)

(e) not more than such number of counting agents as will be specified by the EAC\textsuperscript{12} [s 66(2) of the EAC (EP) (LC) Reg].  [Amended in June 2016]

[Amended in January 2010, June 2012 and June 2016]

**PART III : QUALIFICATIONS OF AGENTS**

7.5 The election, polling and counting agents should be holders of Hong Kong identity card and have attained the age of 18 years [ss 23(5), 42(7) and 66(4) of the EAC (EP) (LC) Reg] while an election expense agent needs to

\textsuperscript{12} The number of counting agents to be specified by the EAC will be stated in the specified form for the appointment of counting agents.
be a person who has attained the age of 18 years [s 25(5) of the EAC (EP) (LC) Reg].

PART IV : CIVIL SERVANTS ACTING AS AGENTS

7.6 Civil servants, other than directorate officers, Administrative Officers, Information Officers and 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 CRO, 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 October 2007 and June 2012]

PART V : ELECTION AGENT

Appointment

7.7 A candidate/list of candidates may appoint 1 election agent to assist him/her/them and to act on his/her/their behalf in an election [s 23(1), (2)
and (3) of the EAC (EP) (LC) Reg]. The appointment may be made at any time after a candidate hands in his/her own nomination form.

7.8 The candidate must give notice of such appointment to the RO for the relevant GC or FC for which the candidate is nominated [s 23(6) of the EAC (EP) (LC) Reg]. The notice must be in the specified form, signed by both the candidate and the agent, and delivered by hand, by electronic mail, by facsimile transmission or by post to the RO (in the case of a list of candidates, the notice must be signed by all the candidates on the list and be given to the RO by any one of the candidates on the list). If the notice of appointment is given on the polling day, it should not be delivered to the RO by post. [s 23(6), (9) and (16) of the EAC (EP) (LC) Reg] The appointment will not be effective until the notice of appointment is received by the RO [s 23(7) of the EAC (EP) (LC) Reg].  

7.9 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.  

Revocation

7.10 The appointment of an election agent may be revoked by the candidate (or in the case of a list of candidates, all the candidates on the list) at any time. The candidate must also 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. In the case of a list of candidates, a notice of revocation must be signed by all the candidates on the list and be given to the RO by any one of the candidates on the list. If the notice of revocation is given on the polling day, it should not be delivered to the RO by post. A revocation of an appointment of an election agent will not be effective until such notice is received by the RO. [S 23(9), (11), (12), (13) and (16) of the EAC (EP) (LC) Reg] [Amended in June 2012 and June 2016]

7.11 If an election agent passes away or has his/her appointment 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. 7.8 above. In the case of a list of candidates, all the candidates on the list may jointly appoint a replacement. [S 23(14), (15) and (16) of the EAC (EP) (LC) Reg] Like other election agents, the new election agent has to follow the arrangements set out in paras. 7.13 to 7.16 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]

**Notification**

7.12 Not later than 10 days after the end of the nomination period, and thereafter as required, each validly nominated candidate/list of candidates or his/her/their 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. In the case of a list of candidates, the RO must send the notice to the candidate ranking first in priority on the list or the election agent of the list. [S 24(1), (2), (4), (5) and (6) of the EAC (EP) (LC) Reg] The RO must also display outside his/her office a notice of the particulars of the election agents [s 24(7) of the EAC (EP) (LC) Reg]. [Amended in June 2012]
Role of an Election Agent

7.13 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) (LC) Reg for the purposes of the election except:

(a) to sign the nomination form or make any requisite declaration or promissory oath 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 23(17) and (18) of the EAC (EP) (LC) Reg] [Amended in October 2007, January 2010 and June 2016]

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 or his/her list’s 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
7.14 Candidates and their election agents are allowed admission to all polling stations in respect of the constituency concerned and are entitled to be present at the counting of the votes. 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 post, by electronic mail or by facsimile transmission 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, any candidate on the list of candidates or the election agent as soon as practicable. [S 23(18) and (21) of the EAC (EP) (LC) Reg] [Amended in January 2010 and June 2016]

7.15 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 23(20) of the EAC (EP) (LC) 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 three weeks before the
polling day and on the Saturday immediately before the polling day for candidates’ reference. [Added in January 2010 and amended in June 2016]

7.16 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 or the same list of candidates for that polling station [s 23(19) of the EAC (EP) (LC) Reg]. [Added in January 2010]

7.17 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 polling is conducted smoothly [s 44(2) of the EAC (EP) (LC) 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

7.18 A candidate may authorise any number of election expense agents to incur election expenses on his/her behalf in an election. 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 [ss 2 and 23 of the ECICO]. All the candidates on a GC/DC (second) FC list must jointly authorise the election expense agent to incur election expenses on behalf of the list, for any expenditure incurred for promoting the election of any candidate on the GC/DC (second) FC list or for prejudicing the election of another candidate/list of candidates must necessarily be incurred for the
promotion or benefit of all candidates on the whole list [s 25(8) of the EAC (EP) (LC) Reg]. Each candidate on the GC/DC (second) FC list must mutually authorise the other fellow candidate(s) on the same GC/DC (second) FC list as his/her election expense agent(s), or otherwise none of the other fellow candidates can lawfully incur election expenses for him/her, or for the whole list which includes him/her [s 23(2) of the ECICO]. For details of the special features applicable to a list of candidates, see Part VII of Chapter 16. [Amended in October 2007 and June 2012]

7.19 The authorisation shall be in writing on a 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 [s 25(6) and (7) of the EAC (EP) (LC) Reg]. It should be signed by both the candidate (in the case of a list of candidates, by all the candidates on the list) and the agent [s 25(8) of the EAC (EP) (LC) Reg]. A copy of the authorisation must be delivered by hand, by post, by electronic mail or by facsimile transmission to the RO for the constituency, or the CEO if the RO has not been appointed [s 25(9) and (10) of the EAC (EP) (LC) Reg]. [Amended in June 2012 and June 2016]

7.20 The authorisation is not effective until it has been received by the RO or the CEO as the case may be [s 25(11) of the EAC (EP) (LC) 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**

7.21 The authorisation of an election expense agent may be revoked
by a candidate (or in the case of a list of candidates, by all the candidates on the list) 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 post, by electronic mail or by facsimile transmission to the RO, or the CEO if the RO has not been appointed. In the case of a list of candidates, the notice must be signed by all the candidates on the list and be given by any one of the candidates on the list. [S 25(14), (15) and (15A) of the EAC (EP) (LC) Reg] The revocation will only be effective when the RO or the CEO, as the case may be, receives the notice [s 25(16) of the EAC (EP) (LC) Reg]. The election expenses already incurred will still be counted as election expenses of the candidate/list of candidates. [Amended in October 2007, June 2012 and June 2016]

**Role of Election Expense Agents**

7.22 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 form of 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**

7.23 Every candidate 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 (thereafter 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 60 days after the date on which the last of the following events occurs in relation to the election –

(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,

or within such extended period as may be allowed by the CFI under the relevant law [s 37(1B), (1C) and (1N) of the ECICO and Part IV of Chapter 16].

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 $100 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 issued to a donor (in a standard form signed by the donor). 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 October 2007, June 2012 and June 2016]

Public Inspection of Authorisation of Election Expense Agents

7.24 The RO or the CEO, as the case may be, 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 60th day 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 26 of the EAC (EP) (LC) Reg] [Amended in June 2012 and June 2016]

PART VII : POLLING AGENTS

Appointment

7.25 A candidate/list of candidates may appoint not more than 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 42(3), (4), (5) and (8A) of the EAC (EP) (LC) Reg]. The notice of appointment must be in writing, in the specified form, signed by the candidate and delivered by hand, by post, by electronic mail or by facsimile transmission to the CEO, at least 7 days before the polling day. In the case of a list of candidates, the notice must be signed by all the candidates on the list and be given to the CEO by any one of the candidates on the list. [S 42(8), (8AA) and (11) of the EAC (EP) (LC) 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 in the case of a list of candidates, any one of the candidates on the list) 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 42(9) of the EAC (EP) (LC) Reg]. The appointment will not be effective until the notice of appointment is received by the CEO or the PRO, as the case may be [s 42(10) of the EAC (EP)
7.26 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 or any one of the candidates on a list of candidates is allowed to be present in a dedicated polling station situated at a maximum security prison [s 42(8A)(c) of the EAC (EP) (LC) 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 and the Commissioner of Correctional Services has given consent to the presence of the agent [s 42(8A)(a) of the EAC (EP) (LC) Reg]. The appointment is effective only when an application made in a specified form is delivered to the CEO by hand, by post, by electronic mail or by facsimile transmission at least 7 days before the polling day [s 42(8), (8AA) and (8A) of the EAC (EP) (LC) Reg]. In the case of a list of candidates, the notice must be signed by all the candidates on the list and be given to the CEO by any one of the candidates on the list [s 42(11) of the EAC (EP) (LC) 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/list of candidates at that polling station [s 42(8A)(b) of the EAC (EP) (LC) Reg].
7.27 If the Commissioner of Correctional Services refuses to give consent to the application received, he/she will notify the candidate, any candidate on the list of candidates or the election agent as soon as practicable [s 42(8C) of the EAC (EP) (LC) 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 application is given without undue delay after the admission or transfer [s 42(8B) of the EAC (EP) (LC) 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 on every 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 and amended in June 2016]

**Revocation**

7.28 The appointment of a polling agent may be revoked by the candidate (or in the case of a list of candidates, by all the candidates on the list) at any time. The candidate (or in the case of a list of candidates, any one of the candidates on the list) must give notice of revocation in writing in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the CEO (other than on the polling day). In the case of a list of candidates, the notice must be signed by all the candidates on the list. 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 either the candidate (or in the
case of a list of candidates, by any candidate on the list) 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 CEO by hand, by electronic mail or by facsimile transmission.

[S 42(13), (14) and (14A) of the EAC (EP) (LC) Reg] [Amended in June 2016]

7.29 A revocation of an appointment of a polling agent is not effective until the notice thereof is received by the CEO or the PRO, as the case may be [s 42(15) of the EAC (EP) (LC) 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. 7.25 to 7.27 above. [Amended in January 2010 and June 2012]

Role of Polling Agents

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

Provisions which the Polling Agents should be Aware of

7.31 On behalf of each candidate/list of candidates, only 1 polling agent may be admitted at any one time to the polling station for which he/she has been appointed [s 44(6) of the EAC (EP) (LC) Reg]. He/She is required to stay and keep his/her movements 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/list of candidates will not be allowed to be present at the same time within the polling
station [s 44(7) and (8) of the EAC (EP) (LC) Reg]. [See also Part IV of Chapter 5 regarding the admission of candidates, election agents and polling agents to the polling station.] [Amended in January 2010 and June 2012]

7.32 Before entering a polling station, every person, other than an elector/AR, 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 a Declaration of Secrecy on a specified form and observe the provisions governing the secrecy of voting [s 95(1), (2) and (5) of the EAC (EP) (LC) 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/AR has voted for which candidate and/or list of candidates. [Amended in January 2010 and June 2012]

7.33 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 44(10) of the EAC (EP) (LC) Reg].

7.34 The following procedures shall apply on the polling day:

(a) Before the poll

(i) About 15 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, showing them the books of ballot papers not yet issued to any elector/AR (“UNISSUED ballot papers”).

(ii) 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/AR 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/AR, the PRO may issue a tendered ballot paper to the latter elector/AR 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. 5.27 to the satisfaction of the PRO. The PRO will in such circumstances issue a ballot paper with the word “**TENDERED**” endorsed on the front. Such a ballot paper shall not be counted at the counting of the votes. [Ss 60(1) and 80(1)(b) of the EAC (EP) (LC) Reg]

(ii) Any elector/AR who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him/her may ask the PRO to exchange it for another 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 word “**SPOILT**” 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 80(1)(c) of the EAC (EP) (LC) 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 word “UNUSED” 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 80(1)(d) of the EAC (EP) (LC) 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**

(i) The PRO shall, in the presence of persons at the polling station, lock the flap on the lid of the ballot boxes 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 63(2) of the EAC (EP) (LC) Reg].

(ii) For GCs, candidates, their election agents, polling and counting agents, if present, may stay inside the polling station to observe the conversion of the venue into a counting station [s 63(1A) of the EAC (EP) (LC) Reg]. The count will commence upon the completion of the conversion. [Amended in July 2008]

(iii) For FCs, up to 2 persons being candidates competing in the FCs (or their respective agents), if they so wish, will be allowed to accompany the Deputy PRO(s)/Assistant PRO(s) in the delivery of the ballot boxes from the polling station to the central counting station under police escort. Where there are more than 2 persons with such intention
remaining at the polling station, the PRO will draw lots to
determine which 2 candidates or their respective agents
will participate in the delivery. Other FC candidates and
their agents are allowed to remain in the polling station
only until they see that the police escort for the delivery is
available. Thereafter, all of them shall leave the polling
station. They may enter the counting station to observe
the count of the GC votes in the public area.

[Amended in July 2008 and June 2016]

7.35 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 locking and sealing of empty ballot boxes before the
poll commences and the locking and sealing of the ballot boxes
during or at the close of the poll;  [Amended in June 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 during the poll in which case
his/her place may be taken by the relevant candidate, election
agent or another polling agent (representing the same
candidate/list of candidates) appointed to attend at the polling station [see para. 7.31 above];

(c) subject to para. 7.36(b) below, observe the issue of ballot papers to electors/ARs 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/AR, ask the PRO to put the following prescribed questions (subject to necessary modifications having regard to whether the ballot paper applied for is a GC ballot paper or an FC ballot paper) 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 GC and/or FC (as appropriate), as follows (reads the whole of the relevant entry in the register)? [Amended in October 2007]

(ii) Have you already voted for this or any other GC and/or FC (as appropriate) 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 51(3), (4) and (5) of the EAC (EP) (LC) Reg]

(e) where there is 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 52(1) of the EAC (EP) (LC) Reg]. [Amended in June 2012]

[Amended in October 2007, January 2010, June 2012 and June 2016]

7.36 Inside a polling station, a polling agent must not:

(a) interfere with or attempt to influence any elector/AR;

(b) speak to or communicate with any elector/AR, 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 if the configuration allows, around the voting compartments. Moreover, it is most improper for a polling agent to ask an elector/AR about his/her identity card number, let alone check an elector/AR’s identity card;

(c) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of any elector/AR. 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. any badge, emblem, clothing or head-dress which:

(i) may promote or prejudice the election of a candidate or candidates at the election; or

(ii) makes direct reference to a 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

[Amended in October 2007]

(f) use a mobile telephone or any telephone or paging machine or any other form of electronic communication device.

[Ss 45 and 96 of the EAC (EP) (LC) Reg] [Amended in October 2007 and June 2016]

7.37 A polling agent must not misconduct himself/herself in or in the vicinity of a polling station or fail to obey any lawful order 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 46(2), (3) and (4) of the EAC (EP) (LC) Reg]. [Amended in January 2010]

Other Useful Information for Polling Agents

7.38 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/AR who is about to vote or has voted [s 96(8) of the EAC (EP) (LC) Reg]. [Amended in June 2016]

7.39 Electors with a disability may be permitted to vote in a special polling station designated for that purpose. Candidates or their agents can make inquiries with the RO for information.

7.40 Only the PRO, the Deputy PRO or an Assistant PRO 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 is incapacitated from casting his/her vote due to visual impairment or other physical disabilities [s 59(1) and (2) of the EAC (EP) (LC) 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 in the polling station may suggest the PRO, the Deputy PRO or an Assistant PRO 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, Deputy PRO or Assistant PRO. 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 June 2012]

7.41 In each polling station designated for an election in respect of a GC or a FC, a number of **braille templates** are made available for the use of electors with visual impairment, if they so choose, to facilitate them to mark their vote on the ballot paper [s 59(3) of the EAC (EP) (LC) 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/list of 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 or the number of a list of candidates in the constituency; and each of the holes on the template corresponds with the circle on the ballot paper against the candidate/list number. The number of holes equals the number of candidates/lists in the constituency.

In the case of an election in respect of a GC/DC (second) FC which adopts the “list system of proportional representation” or an ordinary FC which adopts “first past the post voting system”, an elector with visual impairment should apply the chop with a “✓” sign so provided in the circle through the hole on the template against the candidate/list number. In the case of an election for one
of the 4 SFCs which adopts the “preferential elimination system”, the elector with visual impairment should mark numbers starting from 1 on the ballot paper through the hole against the candidate numbers of his/her choice, in descending order of preference. Whenever it is necessary, the polling staff will help the elector with visual impairment to identify the different ballot papers before the elector proceeds to mark his/her choice.  

[Amended in June 2012 and June 2016]

7.42 No person may canvass, display or wear any election propaganda material relating to any candidate/list of candidates 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 and head-dress before entering. A person must not use a sound amplifying system or device for any purpose within the NCZ; nor should he/she use such system or device or conduct any activities (e.g. lion dance), for canvassing, so that the sound emitted by it can be heard within the NCZ. [Ss 40(16) and 41(1) of the EAC (EP) (LC) 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 [ss 40(19) and 41 (1A) of the EAC (EP) (LC) Reg]. Also, a person must not stay or loiter in the NSZ without the express permission of the PRO [s 41(1)(d) of the EAC (EP) (LC) 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 45(2) and (7) of the EAC (EP) (LC) Reg]. Normally such permission is only granted to government photographers for publicity purposes. Polling agents should also read Parts I to VI of Chapter 5 on all matters relating to polling and in particular, paras. 5.43 to 5.46 for activities that are prohibited, and the consequences of conducting such activities, in a polling station.

[Amended in October 2007, June 2012 and June 2016]
7.43 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 20 on Complaints Procedure of these Guidelines.

PART VIII : COUNTING AGENTS

Appointment

7.44 A candidate/list of candidates may appoint not more than such number of counting agents as will be specified by the EAC to attend at the count at a counting station and to observe the sorting of ballot papers received from dedicated polling stations at a ballot paper sorting station [ss 2(6) and 66(1) and (2) of the EAC (EP) (LC) Reg]. The same persons may, but need not, be appointed also as polling agents. [Amended in January 2010, June 2012 and June 2016]

7.45 The notice of appointment must be in writing, in the specified form signed by the candidate (in the case of a list of candidates, the notice of appointment must be signed jointly by all the candidates on the list) and delivered by hand, by post, by electronic mail or by facsimile transmission to the RO at least 7 days before the polling day [ss 2(6), 66(3), (5), (5A) and (7) of the EAC (EP) (LC) 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 in the case of a candidate list, any one of the candidates on the list) or the election agent in person to the PRO for the relevant counting station (or the RO in the central counting station) on the polling day during the period from the commencement of the poll to the conclusion of the count or the completion of the sorting of ballot paper as the case may be [ss 2(6) and 66(6) of the EAC (EP) (LC) 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(6) and 66(8) of the EAC (EP) (LC) Reg]. [Amended in January 2010, June 2012 and June 2016]

**Revocation**

7.46 The appointment of a counting agent may be revoked by the candidate (or in the case of a list of candidates, all the candidates on the list) at any time. The candidate (or in the case of a list of candidates, any one of the candidates on the list) must also give notice of revocation in writing in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the RO (other than on the polling day) [ss 2(6) and 66(9), (10) and (10A) of the EAC (EP) (LC) Reg]. In the case of a list of candidates, a notice of revocation must be signed by all the candidates on the list [s 66(7) of the EAC (EP) (LC) Reg]. If the notice of revocation is given on the polling day, such notice must be delivered by the candidate (or in the case of a list of candidates, any one of the candidates on the list) or his/her election agent in person to the PRO for the relevant counting station (or the RO in the central counting station) [ss 2(6) and 66(11) of the EAC (EP) (LC) Reg]. A revocation of an appointment of a counting agent is not effective until notice thereof is received by the RO or the PRO, as the case may be [ss 2(6) and 66(12) of the EAC (EP) (LC) Reg]. [Amended in January 2010, June 2012 and June 2016]

**Role of Counting Agents**

7.47 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 GC ballot papers cast at the dedicated polling station.

This arrangement ensures the transparency of the counting and sorting process and is conducive to openness and fairness. [See Parts VII and VIII of Chapter 5.] [Amended in January 2010]

**Provisions which the Counting Agents should be aware of**

7.48 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 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 95(2) of the EAC (EP) (LC) 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 and/or list of candidates. Members of the public present within the area designated by the PRO or the CRO or the RO will not be required to make a Declaration of Secrecy. [Amended in January 2010 and June 2012]

7.49 On attending the counting station or the ballot paper sorting station, a counting agent shall report to the relevant RO or PRO, as appropriate and produce his/her identity card and the Declaration of Secrecy completed by him/her for inspection [ss 2(6) and 68(4) of the EAC (EP) (LC) Reg]. [Amended in June 2012 and June 2016]

7.50 Counting agents are entitled to be present throughout the count to observe the relevant counting proceedings. They will be allowed by the RO
or 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 for the relevant constituency by the RO/AROs/PRO; \[Amended in June 2012\]

(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 ballot papers relating to a constituency are separated from those relating to other constituencies and how individual votes are counted;

(d) observe the determination of questionable ballot papers by the PRO or the RO and make representations on behalf of the candidate/list of candidates concerned [s 81(7) of EAC (EP) (LC) Reg]; and

(e) observe, where he/she wishes, the packing of ballot papers by the counting officers and the RO or the PRO, as the case may be, at the conclusion of the count. \[Amended in January 2010, June 2012 and June 2016\]

7.51 A counting agent in a ballot paper sorting station may:

(a) observe the opening of the GC ballot boxes received from dedicated polling stations;
(b) inspect any papers other than the ballot papers taken from the ballot boxes before they are disposed of;

(c) observe the counting of the GC ballot papers in each ballot box;

(d) observe the sorting of the aforesaid GC ballot papers according to each GC; and

(e) observe the sealing of the receptacles containing the sorted GC ballot papers before they are delivered to the PRO of the respective main counting stations of the relevant GCs.

[Added in January 2010]

7.52 A counting agent must not:

(a) handle, separate or arrange ballot papers; and

(b) misconduct in or in the vicinity of a counting station or a ballot paper sorting station, or fail to obey any lawful order of the CRO/RO/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 CRO/RO/PRO to leave the area. 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 CRO/RO/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 CRO/RO/PRO, as the case may be [ss 2(6) and 69 of the EAC (EP) (LC) Reg].

[Amended in January 2010]
7.53 Counting agents should read Part VII and Part VIII of Chapter 5 on all matters relating to sorting of ballot papers and counting of votes and in particular, paras. 5.53 to 5.57 and paras. 5.62 to 5.68 for activities that are prohibited, and the consequences of conducting such activities, within the ballot paper sorting station and counting station. [Amended in October 2007 and January 2010]