

CHAPTER 2

COMPOSITION, REGISTRATION OF ELECTORS AND VOTING SYSTEM FOR GEOGRAPHICAL CONSTITUENCIES

PART I : GENERAL

2.1 This chapter details the voter registration and the electoral procedures of GCs.

2.2 Only registered electors for a GC whose names appear on the final register (“FR”) of electors may vote at an election for the GC. Registered electors for GCs may visit the Online Voter Information Enquiry System (“OVIES”) (www.voterinfo.gov.hk) at any time to check their registration particulars. The FR is updated in every voter registration cycle.
[Added in June 2020]

2.3 The application for change of registration particulars and application for new voter registration in 2021 were closed on 2 April 2021 and 2 May 2021 respectively, i.e. before the enactment of the Amendment Ordinance. The Amendment Ordinance subsequently provided for major changes to the composition of the EC, EC subsectors and LegCo FCs. Hence, the REO launched the “Special Voter Registration Arrangements”, which ran from 1 June 2021 to 5 July 2021, for eligible persons² to submit applications

² In accordance with s 2AA of the EAC (ROE) (GC) Reg, eligible persons include individuals who are:

- (a) eligible to be registered as an ex-officio member of the EC;
- (b) eligible to be registered as a voter for an EC subsector;
- (c) eligible to be registered as an elector in the FCs of (i) NPC deputies, CPPCC members and Representatives of Relevant National Organisations, or (ii) Medical and Health Services;
- (d) appointed by eligible corporate electors/voters or relevant corporate applicants as their authorized representatives; or
- (e) eligible to be nominated as an EC member in any of the four EC subsectors below:
 - (i) Accountancy subsector: Hong Kong Accounting Advisors appointed by the Ministry of Finance of the People’s Republic of China;
 - (ii) Chinese Medicine subsector: Hong Kong members of the Council of the World Federation of Chinese Medicine Societies;
 - (iii) Legal subsector: Hong Kong members of the Council of the China Law Society; and
 - (iv) Technology and Innovation subsector: Hong Kong academicians of the Chinese Academy of Sciences or the Chinese Academy of Engineering.

for registration as GC electors in order to be included in the 2021 registers of electors for GCs. Starting from the 2022 voter registration cycle, the regular deadlines for applications for new voter registration and report on change of registration particulars are both set at 2 June of the year. *[Added in October 2021]*

2.4 True and accurate information must be provided for registration as an elector. Giving false or misleading information knowingly or recklessly for voter registration (commonly known as “vote rigging”) is an offence under the law, no matter whether the elector has subsequently voted or not. *[Added in June 2020]*

2.5 The REO will assign a GC to each elector according to the residential address provided by him/her. Under the law, an elector must provide his/her true and only or principal residential address at the time of submitting his/her application for voter registration. If an elector has more than one residential address, the principal residence must be furnished. Electors are not required under the law to update the principal residential address with the REO after they have moved. It does not constitute an act of providing false information or an offence even if an elector does not update his/her principal residential address after moving, provided that the principal residential address supplied was true and correct at the time of application for voter registration. As long as his/her entry has not been removed from the register concerned and his/her name remains on the FR, an elector who has moved may still vote at the GC corresponding to his/her registered residential address. *[Added in June 2020]*

2.6 Nevertheless, in order to ensure the accuracy of the particulars in the register of electors, it is the registered electors’ civic responsibility to provide their updated residential addresses as soon as possible to the REO after moving residence. It is a statutory requirement to provide an address proof when submitting the application form for change of address. With effect from

1 May 2022, provision of address proof will also be mandatory for new voter registration applications. Although address proof is not required for new voter registration before 1 May 2022, the Electoral Registration Officer (“ERO”) may still request the applicant to provide address proof if the application is considered as a suspicious or unclear case. *[Added in June 2020 and amended in October 2021]*

2.7 REO has all along conducted checking along with the mechanism in place. If an elector is suspected to have moved and has not reported his/her new principal residential address, the REO will include the elector in the statutory inquiry procedure. If the elector responds to the inquiry and provides address proof to update his/her new principal residential address by the deadline, his/her name may remain on the register. Otherwise, his/her name will be included in the omissions list (“OL”). *[Added in June 2020]*

2.8 Before the FR is published, the REO will publish a copy of the provisional register (“PR”) and OL for inspection by specified persons (for details of the court judgment and court order of a related judicial review case and the relevant arrangements for the inspection of registers, please refer to paras. 2.37, 2.38 below and **Appendix 2**). The procedure for objections and claims in respect of eligibility for voter registration will also commence at the same time. Any person who queries the eligibility of an elector may make an objection and the Revising Officer³ will make a determination on the case. For persons having applied for registration as an elector, if they notice their names missing or their particulars incorrectly recorded in the PR, they may make a claim for determination by the Revising Officer. Electors whose names have been included in the OL may also make a claim with the Revising Officer, and the elector’s voter registration can be maintained if the grounds for the claim are accepted by the Revising Officer. Sufficient information about

³ The Revising Officer, appointed by the Chief Justice, may be any magistrate, former magistrate, retired magistrate or any legal officer as defined by the Legal Officers Ordinance (Cap 87) [s 77(1) of the LCO].

the objection or claim must be provided by the applicant to inform the Revising Officer of the grounds of the case. *[Added in June 2020 and amended in October 2021]*

2.9 As an established requirement by the law, the person who raises an objection or claim shall, in general, attend the hearing (except for incontrovertible cases), otherwise the Revising Officer may dismiss the objection or claim (see para. 2.44 below for details). However, under the Special Voter Registration Arrangements in 2021, all objections and claims cases in relation to the PR will be determined by the Revising Officer on the basis of written submissions only without holding a hearing. Unless the Revising Officer's approval is obtained to retain the voter registration, electors whose names are listed on the OL will be excluded from the subsequently published FR. *[Amended in October 2021]*

PART II: COMPOSITION OF GEOGRAPHICAL CONSTITUENCIES

2.10 In the general election for the seventh term of the LegCo, the following 10 GCs are to return 20 of the 90 members of the LegCo, with 2 members returned for each GC:

- (a) the Hong Kong Island East GC;
- (b) the Hong Kong Island West GC;
- (c) the Kowloon East GC;
- (d) the Kowloon West GC;
- (e) the Kowloon Central GC;

- (f) the New Territories South East GC;
- (g) the New Territories North GC;
- (h) the New Territories North West GC;
- (i) the New Territories South West GC; and
- (j) the New Territories North East GC.

[Amended in July 2008, June 2012, June 2016 and October 2021]

2.11 In view of the change in the number of GCs and the urgency of holding the 2021 LegCo General Election, s 18(5) of the EACO stipulates that the EAC is not required to submit its recommendations regarding the delineation of GCs and the demarcation of their boundaries to the CE for the general election for the seventh term of the LegCo. The boundaries of the 10 GCs for the seventh term of the LegCo have been delineated by the Government based on the constituency boundaries for the 2019 District Council (“DC”) Ordinary Election as recommended by the EAC and approved by the CE in Council, and have been passed by the LegCo. The boundaries follow the established criteria to ensure that each GC comprises a number of contiguous whole DC constituencies and that the projected population of each GC does not deviate from the resulting number (i.e. multiplying the population quota by the number of members to be returned by that GC) by more than 15%. With effect from the LegCo general election for the eighth term of the LegCo, the EAC will continue to perform its statutory functions of reviewing the GC boundaries in accordance with the existing requirements of the EACO.

[Added in October 2021]

PART III : REGISTRATION OF ELECTORS

Key Dates in Voter Registration

2.12 For the voter registration arrangements in respect of GCs, the timetable in 2021 is different from the regular one to be adopted from the 2022 voter registration cycle onwards, as detailed below:

Statutory Deadline	Ordinary Voter Registration Arrangements in 2021 (Applicable to individuals other than the eligible persons as specified in para. 2.3 above)	Special Voter Registration Arrangements in 2021 (Applicable to the eligible persons as specified in para. 2.3 above)	Regular Voter Registration Arrangements from 2022 onwards
Submission of applications for change of particulars	2 April	5 July (not applicable to change of registered address)	2 June
Electors to apply for de-registration	2 May	2 May	2 June
Submission of applications for new registration	2 May	5 July	2 June
Electors to respond to inquiry letters to retain their voter registration	2 May	19 September	2 June
Publication of the PR and OL of GCs	26 September		1 August

Statutory Deadline	Ordinary Voter Registration Arrangements in 2021 (Applicable to individuals other than the eligible persons as specified in para. 2.3 above)	Special Voter Registration Arrangements in 2021 (Applicable to the eligible persons as specified in para. 2.3 above)	Regular Voter Registration Arrangements from 2022 onwards
Claims and objections period	26 September to 9 October		1 to 25 August
Publication of the FR of GCs	29 October		25 September

[Added in October 2021]

Eligibility to Vote

2.13 Under the existing voter registration arrangements in Hong Kong, a self-declaration system is adopted to facilitate the registration of eligible persons as electors. Applicants must provide true and accurate information for voter registration. Any person who makes a false statement in his/her application for voter registration or change of registration particulars commits an offence and violates s 22 of the EAC (ROE) (GC) Reg, no matter whether he/she subsequently votes at an election or not. If that person does vote at an election, he/she contravenes s 16 of the ECICO and shall be liable to a more serious penalty. *[Added in June 2020]*

2.14 Only a registered elector has the right to vote at a LegCo election. A registered elector is a person whose name appears on the FR of GCs that is in force at the time of election as compiled and published by the ERO under the LCO. A registered elector may only vote at an election for the GC for which

he/she is registered as an elector in the FR. [S 48(1) of the LCO] *[Amended in January 2010]*

Qualifications for Registration as an Elector

2.15 To qualify for registration as an elector for a GC under the LCO, a person has to satisfy all of the following requirements:

- (a) for the 2021 voter registration cycle — he/she has to be aged 18 years or above as at 25 July 2021; starting from the 2022 voter registration cycle — he/she has to be aged 18 years or above as at 25 September next following his/her application for registration [s 29 of the LCO]; *[Amended in October 2007]*
- (b) he/she is a permanent resident of Hong Kong [s 27 of the LCO];
- (c) (i) he/she ordinarily resides in Hong Kong (for the definition of “ordinarily residing in Hong Kong”, please see paras. 2.27 to 2.30 below) and the residential address in his/her application for registration is his/her only or principal residence in Hong Kong [s 28(1) of the LCO]; or
 - (ii) if he/she is a person serving a sentence of imprisonment and at the time of the application does not have a home in Hong Kong outside the penal institution, the following prescribed address is deemed to be the person’s only or principal residence in Hong Kong for the purpose of voter registration:
 - (1) the last dwelling-place in Hong Kong at which the person resided and which constituted his/her sole or main home; or

- (2) the residential address of the person last recorded by the Immigration Department under the Registration of Persons Regulations (Cap 177A) if the person cannot provide any proof of his/her last dwelling-place in Hong Kong [s 28(1A) and (1B) of the LCO]. *[Amended in January 2010]*
- (d) he/she holds an identity document or has applied for a new identity document or a replacement of identity document [s 30 of the LCO]; and
- (e) he/she is not disqualified from being registered as an elector by virtue of s 31 of the LCO.

[Amended in June 2012 and October 2021]

2.16 A person who is **already registered** in the existing FR of GCs **need not re-apply** for registration as an elector in a GC as his/her name and residential address will appear in the next register (a PR) if he/she remains eligible to be registered [s 8(1) of the EAC (ROE) (GC) Reg]. However, he/she is not eligible to be registered as an elector in the next register of GCs if:

- (a) he/she has ceased to ordinarily reside in Hong Kong (for the definition of “ordinarily residing in Hong Kong”, please see paras. 2.27 to 2.30 below) [s 24(2)(a) of the LCO];
- (b) he/she no longer resides at the residential address recorded against his/her name in the existing register and the ERO does not know his/her new principal residential address in Hong Kong [s 24(2)(b) of the LCO and s 9(2) of the EAC (ROE) (GC) Reg] (see para. 2.31 below);

- (c) he/she is no longer a permanent resident of Hong Kong [s 27 of the LCO];
- (d) he/she was an imprisoned person who used his/her last dwelling-place in Hong Kong at which he/she resided or the address last recorded under the Registration of Persons Regulations as the address for registration as an elector, and he/she has left the penal institution after the end of the imprisonment without reporting his/her new residential address to the ERO [s 9(2A) of the EAC (ROE) (GC) Reg] [*Amended in January 2010*]; or
- (e) he/she is disqualified from being registered as an elector by virtue of s 31 of the LCO.

[Amended in June 2012]

Disqualifications

2.17 A person is disqualified from being registered as an elector and voting at an election for a GC if he/she:

- (a) has ceased to be eligible to be registered as an elector for that GC (see paras. 2.15 and 2.16 above) [ss 27, 28 and 53(1) of the LCO];
- (b) is found under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs [ss 31(1) and 53(5) of the LCO]⁴; or

⁴ Regarding persons with other mental health problems, except for the condition stipulated in para. 2.17(b) above, the law imposes no restriction on such person's right to vote, provided that each must cast the vote on his/her own. If an elector is unable to mark the ballot paper on his/her own, the elector may request the Presiding Officer ("PRO") or the PRO's deputy to mark the ballot paper on his/her behalf according to his/her voting preference in the presence of 1 polling staff as a witness (please refer to para. 6.58 of Chapter 6 for details).

(c) is a member of any armed forces [ss 31(1) and 53(5) of the LCO].

[Amended in January 2010 and June 2012]

Application for Registration and De-registration

2.18 The registration of GC electors is undertaken in accordance with the provisions of the EAC (ROE) (GC) Reg.

2.19 A person may, by completing the specified form⁵, send his/her application for voter registration to the ERO at any time of the year. A person who was previously de-registered (e.g. due to failure to respond to the inquiry letter from the REO after a move of residence) but is presently eligible for voter registration may submit an application for new registration to be registered again as an elector. Starting from 1 May 2022, when submitting an application for voter registration, the applicant is required to provide at the same time the documentary evidence of his/her residential address to prove that the address stated in the application is the applicant's principal residential address [s 4(1A) of the EAC (ROE) (GC) Reg]. (The legislative provision has been enacted and published in the Gazette to take effect from 1 May 2022.) The address proof must comply with specific requirements, such as that it must be issued within the last 3 months⁶. *[Amended in June 2020 and October 2021]*

2.20 For de-registration as an elector, the elector may make an application in person at the REO. If he/she prefers to apply in writing, no specified form is required. The elector may inform the REO of the de-registration by a written notice which must contain his/her personal particulars and be signed by him/her. De-registration will not take immediate

⁵ The form of "Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency" (REO-GC) is available at the website of the REO (www.reo.gov.hk).

⁶ For details of documents acceptable as address proof, please refer to the guidance notes on the form of "Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency" (REO-GC).

effect upon the REO's receipt of the application. After receipt of a written notice, the REO will contact the elector concerned to verify the application. Only after verification will the elector's name be included in the OL. The elector so included in the OL may inspect his/her voter registration particulars starting from the day of publication of the PR and OL till the end of the inspection period. If in need, the elector can lodge a claim with supporting proof to request for reinstatement of his/her elector status. If the REO is unable to process and complete the verification of the application for de-registration, the name of the elector will remain on the PR in that year. Given that the elector has not been de-registered, he/she may choose to vote or not on the polling day. The pending application for de-registration will be processed in the next voter registration cycle. *[Added in June 2020 and amended in October 2021]*

2.21 The applications mentioned in paras. 2.19 and 2.20 above may be submitted at any time to the REO. However, if any person wishes his/her name to be included in or excluded from the FR of GCs published in a current year, the application must reach the ERO **on or before** the deadline as specified in para. 2.12 above. Applications received by the ERO after the deadline will be regarded as requests for registration or de-registration for the FR of GCs of the next year. [Ss 4 and 9 of the EAC (ROE) (GC) Reg] *[Amended in June 2016, June 2020 and October 2021]*

2.22 All application forms for registration received will be processed by the ERO. In case of incomplete or incorrect information on an application form, the ERO will send written requests to the applicant for further particulars or proof [s 5(2) of the EAC (ROE) (GC) Reg]. An applicant who qualifies for registration as an elector will be allocated to a GC based on his/her residential address, and the REO will notify him/her of the result by post [s 5(8) of the EAC (ROE) (GC) Reg]. Applicants not qualified for registration will also be informed by the REO of the result accordingly by post [s 5(9) of the EAC (ROE) (GC) Reg]. *[Amended in January 2010 and June 2016]*

2.23 The names and principal residential addresses of all eligible electors will be entered in the registers of electors.

Change of Residential Address and Other Registered Particulars

2.24 A registered elector is not required to re-apply for registration every year. However, if a registered elector has changed his/her principal residential address in the FR, he/she should **notify the ERO of his/her new principal residential address** in Hong Kong in order to update his/her registration particulars in the register for the next year. *[Amended in January 2010 and June 2012]*

2.25 Apart from his/her principal residential address, a registered elector should also notify the ERO of any change of his/her other particulars (e.g. name, telephone numbers or email address). *[Amended in January 2010]*

2.26 An elector should notify the ERO of any change of his/her registration particulars by submitting a specified form for processing. If applying for change of principal residential address recorded in the FR⁷, the elector must provide relevant documentary evidence to prove that the address stated in the application is his/her principal residential address⁸ [s 10A(3) of the EAC (ROE) (GC) Reg]. The address proof must comply with specific requirements, such as that it is issued within the last 3 months⁹. An elector who has reported a change of particulars will be notified by the ERO about the confirmation of his/her updated electoral record [s 10A(10) of the EAC (ROE) (GC) Reg]. An elector who has yet to submit his/her application for change of

⁷ The form of “Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency” (REO-GC) is available at the website of the REO (www.reo.gov.hk).

⁸ For electors who are authorised occupants of public rental housing under the Housing Department or registered residents in the tenancy of subsidised housing under the Hong Kong Housing Society, their applications for change of registered address may be exempted from the address proof requirement provided that the reported new residential addresses match the tenancy records of the authorities concerned.

⁹ For details on documents acceptable as address proof, please refer to the guidance notes on the form of “Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency” (REO-GC).

registration particulars to the ERO to update his/her principal residential address by the statutory deadline may still vote at the GC corresponding to his/her original registered address if his/her name remains on the register of electors. *[Amended in January 2010, June 2016, June 2020 and October 2021]*

“Ordinarily Residing in Hong Kong”

2.27 One of the criteria for a person to be eligible to be registered as an elector for a GC is that he/she must “ordinarily reside in Hong Kong” [s 28 of the LCO]. The definition of “ordinarily residing in Hong Kong” is not set out in the subsisting electoral law. In assessing whether a person “ordinarily resides in Hong Kong”, one needs to take into account a host of factors and the specific situation of each case, and determine according to the relevant judgments of the Court, and the conclusion cannot be generalised. One cannot say someone does not “ordinarily reside in Hong Kong” simply because he/she has a place of residence abroad. According to a court precedent¹⁰, a person is considered ordinarily residing in a place if he/she remains in that place legally, voluntarily and for a settlement purpose (such as for education, employment or residence), regardless of the duration, and even if he/she is temporarily absent from that place for some reasons. The Court also pointed out that a person may ordinarily reside in two places at the same time. *[Added in October 2021]*

2.28 Generally speaking, for a Hong Kong permanent resident who used to reside in Hong Kong all along, if he/she has now set up for personal reasons another residence elsewhere but still returns to live in Hong Kong from time to time (such as for handling personal matters, social gatherings or family reunion), then he/she can still be regarded as maintaining a reasonable connection with Hong Kong. A condition which must be considered in

¹⁰ *Lau San Ching v Liu, Apollonia* [1995] 5 HKPLR 23 citing *R. v. Barnet London Borough Council, ex parte Shah* [1983] 2 AC 309

parallel is that in accordance with the electoral law, that person must provide, for the purpose of registration as an elector, a residential address which is his/her only or principal residence in Hong Kong (i.e. not a correspondence address but a residential address where he/she habitually resides when he/she is in Hong Kong). Under such circumstances, whether the person still satisfies the statutory requirement of “ordinarily residing in Hong Kong” must be determined according to the actual circumstances of individual case. *[Added in October 2021]*

2.29 On the other hand, if a Hong Kong permanent resident has left Hong Kong to reside in another place without maintaining connections with Hong Kong or any intention to reside in Hong Kong again, or no longer having an only or principal residence in Hong Kong, then he/she no longer meets the statutory eligibility requirements for registration. *[Added in October 2021]*

2.30 To sum up, the individual circumstances of the person must be considered when determining whether that person is “ordinarily residing in Hong Kong”, and it is not a matter which could be summarily determined. If it encounters relevant cases in the course of voter registration work, the REO will examine the details and actual circumstances surrounding the cases carefully, and seek legal advice where necessary. *[Added in October 2021]*

Inquiry Procedures

2.31 While it is not a mandatory requirement under the law, the REO has been appealing to registered electors to fulfil their civic duty by notifying the ERO of any change in their principal residential address in Hong Kong in a timely manner and submitting the specified address proof at the same time. To enhance the accuracy of the register of electors, the REO has put in place suitable checking measures. **If it comes to the knowledge of the ERO that an elector’s registered address may no longer be his/her principal residential address**, the ERO will initiate the statutory inquiry procedure to

ascertain whether the address recorded in the existing register is still the elector's only or principal residential address in Hong Kong [s 7(1) of the EAC (ROE) (GC) Reg]. If the elector fails to respond to the inquiry; or fails to provide the information requested by the ERO; or if the ERO, based on the information so received or otherwise obtained, is satisfied on reasonable grounds that the elector is no longer eligible to be registered, then **the elector's name and other registration particulars will be entered on the OL and may be removed from the next register of electors** [s 9 of the EAC (ROE) (GC) Reg]. A person whose name is recorded in the existing register of electors is still a registered elector for the relevant GC at any election held before the publication of the next register [s 33 of the LCO]. In voter registration, it is of utmost importance to provide the ERO with information that is true, accurate and updated. It is an offence for a person to knowingly or recklessly give false or misleading information for voter registration no matter whether he/she subsequently votes at an election. Offenders are liable to a fine at level 3 (\$10,000) and to imprisonment for 2 years. [S 22 of the EAC (ROE) (GC) Reg] *[Added in January 2010, and amended in June 2016, June 2020 and October 2021]*

Provisional Register and Omissions List

- 2.32 The content of the PR for GCs shall include:
- (a) the names and principal residential addresses of those eligible electors whose names appear in the FR for GCs in force at the time, with appropriate updates or correction by the ERO based on information reported or otherwise received (if applicable); and
 - (b) the names and principal residential addresses of the eligible new applicants who have applied for registration in the constituency concerned on or before the statutory deadline for new registration in the year of compiling the register.

A copy of the PR is **available for inspection by specified persons** during ordinary business hours at specified offices of the REO (please refer to paras. 2.37, 2.38 below and **Appendix 2** for details). [Ss 12 and 13 of the EAC (ROE) (GC) Reg] (S 13 has been enacted and published in the Gazette to take effect from 1 May 2022.) *[Amended in January 2010, June 2016, June 2020 and October 2021]*

2.33 At the same time when the PR for GCs is published, the ERO will also publish a copy of the OL for inspection by specified persons (please refer to paras. 2.37, 2.38 below and **Appendix 2** for details). The OL contains the names and principal residential addresses of persons who were formerly registered as GC electors but are struck out of the PR and proposed to be omitted from the next FR, because the ERO, based on the information obtained, is satisfied on reasonable grounds that they are disqualified from or no longer qualified for registration (such as persons who have passed away, persons who have informed the ERO that they do not wish to be registered anymore, or persons who have changed their principal residential addresses without the ERO's knowing the new addresses) [s 32(4)(a) and (b) of the LCO and s 9(1) and (2) of the EAC (ROE) (GC) Reg]. *[Amended in June 2020 and October 2021]*

2.34 For an elector who was an imprisoned person using the address of his/her last dwelling-place in Hong Kong or the address last recorded under the Registration of Persons Regulations as his/her address for registration as an elector, if the ERO is satisfied on reasonable grounds that he/she has served the sentence of imprisonment and left the penal institution without informing the ERO of his/her new residential address, the ERO shall enter the name and principal residential address of the elector in the OL according to the procedures prescribed in the relevant legislation. [S 9(2A) of the EAC (ROE) (GC) Reg] *[Amended in January 2010 and June 2016]*

2.35 The names and principal residential addresses of persons

included in the OL will be excluded from the PR [s 32(4)(a) and (b) of the LCO and s 9 of the EAC (ROE) (GC) Reg]. However, the inclusion of an elector in the OL does not mean that the elector status is invalidated with immediate effect. If the elector lodges a claim to the ERO and the Revising Officer accepts the grounds submitted and approves the claim, the elector status will be retained (see paras. 2.42 to 2.44 below). *[Added in January 2010, and amended in June 2016 and June 2020]*

2.36 The time and place(s) for inspection of the copy of the PR and the OL will be published in a notice in the Gazette and newspapers. Publication of the notice is to be treated as the publication of the PR. [Ss 10 and 13 of the EAC (ROE) (GC) Reg] *[Added in June 2020]*

2.37 On 15 October 2019, the Junior Police Officers' Association ("JPOA") of the Hong Kong Police Force applied to the Court of First Instance ("CFI") of the High Court for grant of judicial review (HCAL 3042/2019), seeking to prohibit the release by the ERO of any extract of FR containing the names and principal residential addresses (referred to as "linked information") of registered electors for public inspection or to candidates. The JPOA also applied to the court for an urgent interim injunction to stop the ERO from making the FR containing the linked information available for public inspection or providing such electors' information to any person. After the trial was concluded in the CFI, an appeal was brought to the Court of Appeal for review. The Court of Appeal handed down the judgment on 21 May 2020 and made an order at the hearing on 27 May 2020 (CACV 73/2020). Pursuant to the judgment and order handed down in that judicial review case, only validly nominated candidates, political parties¹¹ and members of the press¹²

¹¹ There is no official definition of "political party" in the subsisting law related to voter registration (i.e. the EAC (ROE) (GC) Reg and the EAC (ROE) (FCSEC) Reg). The REO has put in place practical arrangements to make the registers of electors available for inspection by relevant political parties for election-related purposes. Generally speaking, for the purpose of the inspection of the registers of electors, a body is regarded as a political party if it-

- (a) was represented by a candidate at a relevant previous election;
- (b) was provided an extract of the registers for a purpose related to a relevant previous election; or
- (c) has publicly declared an intention to arrange for any person (including a person yet to be specified) to stand as a candidate at a relevant coming election.

¹² As regards members of the press, the Court of Appeal accepts the practice of the REO in adopting the list of subscribers to the Government News and Media Information System.

are allowed, for election-related purposes, to inspect FRs that show the linked information of individual electors. In response to the above court judgment and order, the REO has put in place interim measures for the inspection of registers. *[Added in October 2021]*

2.38 The Government has amended the relevant legislation relating to the inspection of the registers of electors. Starting from the 2022 voter registration cycle, only specified persons (i.e. validly nominated candidates, political parties and members of the press) (detailed at **Appendix 2**) are allowed to inspect the copy of registers for GCs (including the OL, PR and FR). Only the first character/word of the elector's name (whether in Chinese or English) and his/her registered residential address will be shown on the registers for inspection. [Ss 10, 13 and 20 of the EAC (ROE) (GC) Reg] (The relevant legislative provisions have been enacted and published in the Gazette to take effect from 1 May 2022.) Before the legislative amendments take effect, the inspection of registers shall be conducted in compliance with the above court judgment and order. *[Added in October 2021]*

2.39 Upon request by a person imprisoned or held in custody by a law enforcement agency and if the ERO considers it appropriate to do so, the ERO may make available at a penal institution or the premises of a law enforcement agency, as the case may be, a copy of a part of the PR and OL for that person's inspection subject to paras. 2.37 and 2.38 above. *[Added in June 2020 and amended in October 2021]*

2.40 The ERO may require persons who wish to inspect the copy of the PR and/or OL to produce an identity document and complete a form specified by the ERO. [Ss 10(4) and 13(5) of the EAC (ROE) (GC) Reg] *[Added in June 2020]*

Online Voter Information Enquiry System

2.41 Registered electors may log on to the OVIES (www.voterinfo.gov.hk) at any time to check their latest registration particulars including their registered addresses and respective constituencies, and find out whether they are included in the statutory inquiry procedure. *[Added in June 2016]*

Appeals – Objections and Claims

2.42 Members of the public may deliver in person at the office of the ERO a notice of objection in the specified form as regards any entries in the relevant PR within the period for making objections or claims [s 14(2) of the EAC (ROE) (GC) Reg]. The procedures for making claims or objections are provided in the REO website (www.reo.gov.hk) during the inspection period. An applicant who claims that he/she is entitled to be registered as an elector and has applied for registration but whose name has not been listed in the PR or has been included in the OL, or an elector whose particulars have not been correctly recorded in the PR, may deliver in person at the office of the ERO a notice of claim in the specified form within a specified period in respect of the entry or any omission concerning himself/herself [s 15(1), (2) and (7) of the EAC (ROE) (GC) Reg]. If a person imprisoned or held in custody by a law enforcement agency wishes to make such an objection or claim, he/she is allowed to deliver a notice of objection or claim to the ERO by post [s 15(7A) of the EAC (ROE) (GC) Reg]. *[Amended in June 2020 and October 2021]*

2.43 The REO will issue reminding letters to electors on the OL. A message in red that reads “Immediate action required Your voting right is at stake” will be printed on the envelope, so as to draw the electors’ attention to the requirement that they must submit a notice of claim or send back the reply slip by the specified deadline to confirm the validity of the existing registered addresses or to update their registered addresses (submission of address proof is

required for the update of registered address). If an elector is listed on the OL due to the statutory inquiry procedure, when he/she logs on to the OVIES to inspect his/her registration particulars, a system-generated reminder will prompt the elector to respond to the reminding letter from the REO as soon as possible to confirm his/her current residential address or to update his/her residential address. *[Added in June 2020]*

2.44 Cases of objections and claims will be referred to the Revising Officer for consideration. The Revising Officer will deliberate on each objection or claim and make a ruling on the inclusion, exclusion or revision of the entry concerned in the relevant FR. [Ss 34 and 77 of the LCO and Part 3 of the EAC (ROE) (GC) Reg] The appellant must provide sufficient information so as to inform the Revising Officer of the grounds of the objection or claim, and attend the hearing (except for incontrovertible cases¹³), otherwise the Revising Officer may dismiss the objection or claim. However, under the Special Voter Registration Arrangements in 2021, objections and claims cases will be determined by the Revising Officer on the basis of written submissions only without holding a hearing. [Ss 2(5A), 2A and 2B of the Registration of Electors (Appeals) Regulation (Cap 542B)] *[Amended in January 2010, June 2016, June 2020 and October 2021]*

Final Register

2.45 The FR for GCs consists of entries shown in the PR and incorporates, for the relevant year, all revised names and principal residential addresses of electors based on new registration applications and reports on change of registration particulars, as well as those updated or corrected in accordance with the Revising Officer's decisions on claims and objections

¹³ In accordance with s 2A of the Registration of Electors (Appeals) Regulation, for an incontrovertible objection or claim, including cases where the person who lodges the objection or claim has not provided any ground in his/her notice, where the grounds submitted by the person are irrelevant to registration eligibilities, or where the case involves only a clerical error made in compiling or printing a PR, the Revising Officer must direct that the objection or claim be determined without a hearing on the basis of written submissions only.

[s 19(1) of the EAC (ROE) (GC) Reg]. The ERO will also take the opportunity to delete entries of electors who are known to have passed away and to revise any incorrect information in the relevant PR. The FR shall remain in force until the publication of the next FR in the following year. *[Amended in June 2020 and October 2021]*

2.46 The time and place(s) for inspection of the copy of the FR will be published in a notice in the Gazette and newspapers. Publication of the notice is to be treated as the publication of the FR. The inspection of the FR shall be arranged as detailed in paras. 2.37 and 2.38 above. Upon request by a person imprisoned or held in custody by a law enforcement agency and if the ERO considers it appropriate to do so, the ERO may make available at a penal institution or the premises of a law enforcement agency, as the case may be, a copy of a part of the FR for that person's inspection subject to paras. 2.37 and 2.38 above. The ERO may require persons who wish to inspect the FR to produce an identity document and complete a form specified by the ERO. [S 20 of the EAC (ROE) (GC) Reg] *[Amended in January 2010, June 2016, June 2020 and October 2021]*

IMPORTANT :

Information relating to a person contained in any register of electors or in any extract of any register of electors **can only be used for election-related purposes** prescribed by the electoral law. Any **abuse** or **misuse** of such information is an **offence** and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 22(3) of the EAC (ROE) (GC) Reg].

PART IV : THE VOTING SYSTEM FOR GEOGRAPHICAL CONSTITUENCIES

2.47 The “double seats and single vote” voting system is adopted in GC elections. Each GC will return 2 members, and each elector of a GC may vote for 1 candidate. The 2 candidates who obtain the greatest and the next greatest numbers of votes shall be returned as members for the respective GC. [S 49(1) and (2) of the LCO] *[Amended in October 2021]*

2.48 When the number of validly nominated candidates contesting in the election is more than the number of members to be returned for a GC, a poll will be held for that GC. Where no more candidates have been validly nominated than the number of members to be returned for the constituency, the validly nominated candidates will be declared elected by the RO [s 46(1) of the LCO]. In such a case, the poll will no longer be necessary and electors of the constituency need not go to the relevant polling stations to vote. If no candidates were validly nominated or the number of candidates validly nominated was less than the number of members to be returned for the constituency, the RO must declare the election to have failed or, as the case may be, to have failed to the extent that the number of candidates validly nominated was less than the number of members to be returned [s 46(2) of the LCO]. A by-election will then be held.

2.49 If, after the counting is finished at an election for a GC, the number of the most successful candidates having an equal number of votes exceeds the number of members to be returned for the constituency, the RO must determine the result of the election by drawing lots and the candidate(s) on whom the lot falls is/are to be returned. [S 49(4) of the LCO] *[Amended in October 2021]*

2.50 When the election result has to be determined by the drawing of lots, 10 table-tennis balls each marked with a number from 1 to 10 will be put

into an empty opaque bag, to be provided by the RO. Firstly, one of the candidates is to draw 1 ball from the bag. The number marked on the ball should be noted by the RO and the ball should be put back into the bag. The procedures are repeated for the other candidates until all candidates have drawn the table-tennis ball. The RO will draw the lot on behalf of the candidate if he/she is absent at the time of the draw. The candidate on whom the lot falls, as specified below, is to be returned at the election:

- (a) Where there is only 1 vacancy to be filled and there are 2 candidates, the candidate who draws the larger number from 1 to 10 will be the winner. If both candidates have drawn the same number, further round(s) of draw will be held until a candidate eventually wins. 1 is the smallest number and 10 is the largest number.
- (b) Where there is only 1 vacancy to be filled and there are more than 2 candidates, if in the first draw, the numbers drawn by the candidates are different, then the candidate who draws the largest number wins. If, on the other hand, 2 or more candidates have drawn the same larger number and the remaining candidate(s) has/have drawn a smaller number, a second round of draw will be held. Only those candidates who have drawn the same larger number in the first round will participate in the second round of draw.
- (c) Where there are 2 vacancies to be filled and there are 3 or more candidates having the equal number of votes, if each candidate has drawn different numbers respectively in the first round of draw, the 2 candidates who have drawn the largest and the larger numbers will get the 2 vacancies, and the remaining candidate(s) will be declared defeated. Similarly, if 2 of the candidates have drawn 2 larger equal numbers and the remaining candidate(s)

has/have drawn smaller number(s), then those 2 candidates will be declared elected. If 1 candidate has drawn a larger number and the remaining candidates have drawn equal smaller numbers, the candidate who has drawn the larger number will be declared elected and the remaining candidates will participate in a second round of draw.

[Amended in June 2020 and October 2021]

2.51 As soon as practicable after the result of the elections has been obtained, the RO must publicly declare the successful candidates as elected.

Death or Disqualification of a Candidate for GC

2.52 After the CERC has decided that a candidate is validly nominated but before the polling day, if proof is given to the satisfaction of the RO that the candidate has died, the RO must give notice of the death of the candidate. Where the notice of validly nominated candidates has already been published by the CERC, the RO must publicly declare that the candidate has died and further declare which candidate(s) is/are validly nominated for the relevant GC election. Besides, if proof is given to the satisfaction of the CERC that a validly nominated candidate is disqualified from being nominated, the CERC must vary its decision to the effect that the candidate is not validly nominated, and the RO should issue such a notice to the CEO and each candidate who remains validly nominated for the relevant GC election. Where the notice of validly nominated candidates has already been published by the CERC, the CERC must publicly declare that the decision has been varied and further declare which candidate(s) is/are validly nominated for the relevant GC election. [S 42B of the LCO and ss 22A and 22B of the EAC (EP) (LC) Reg]

[Added in June 2016 and amended in October 2021]

2.53 If, on the polling day but before the election result is declared, proof is given to the satisfaction of the RO that a validly nominated candidate has died or proof is given to the satisfaction of the CERC that a validly nominated candidate is disqualified from being elected, the proceedings for the GC election shall continue as if the death or disqualification had not occurred. After the counting of votes is finished, if the candidate concerned is found to be successful at the election, the RO should not declare that candidate as elected and must publicly declare that the election for that constituency has failed or has failed to the extent that the number of candidates returned at the election for the constituency is less than the number of members to be returned for the constituency. [Ss 46A, 49(6) and (7) of the LCO and ss 83(2), (3) and 97A of the EAC (EP) (LC) Reg] *[Amended in June 2016 and October 2021]*