

## CHAPTER 3

### COMPOSITION, REGISTRATION OF ELECTORS AND VOTING SYSTEM FOR FUNCTIONAL CONSTITUENCIES

#### PART I : GENERAL

3.1 This chapter details the voter registration and the electoral procedures of FCs.

3.2 Only registered electors for an FC or authorised representatives (“ARs”) whose names appear on the FR of electors may vote at an election for the FC. Registered electors for FCs may visit the OVIES ([www.voterinfo.gov.hk](http://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]*

3.3 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 individuals and bodies to submit applications for registration in order to be included in the 2021 registers of electors for FCs. The arrangements are as follows:

- (a) For electors who have been directly removed from the registers of FC electors due to the abolition of their original FCs (namely the former DC (first) FC, former DC (second) FC and former Information Technology FC), if they meet the registration

eligibilities of other FCs, they may submit applications to register in another FC for which they are eligible;

- (b) For electors who have been removed from the FCs for which they are no longer eligible, if they meet the registration eligibilities of other FCs, they may submit applications to register in another FC for which they are eligible;
- (c) For individuals and bodies who/which are eligible to be registered as electors in the 3 newly created FCs (namely the Commercial (third) FC, Technology and Innovation FC, and NPC Deputies, CPPCC Members and Representatives of Relevant National Organisations FC), they may submit applications to register in these FCs (whether or not they are currently registered as FC electors); and
- (d) For individuals and bodies eligible to be registered as electors in the 6 FCs the registration eligibilities of which have changed (namely the Agriculture and Fisheries FC, Transport FC, Tourism FC, Catering FC, Sports, Performing Arts, Culture and Publication FC, and Medical and Health Services FC), they may submit applications to register in these FCs regardless of whether or not they are currently registered as FC electors.

Starting from the 2022 voter registration cycle, the regular deadlines for applications for new voter registration and report on change of particulars are both set at 2 June of the year. *[Added in October 2021]*

3.4 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. It is also an

offence for an elector to vote despite knowing that he/she is disqualified from being registered as an elector, even if his/her name is still on the FR. *[Added in June 2020]*

3.5 A registered elector for an FC (including an individual elector or an AR of a corporate elector) must be a registered elector for a GC, or be eligible to be registered as an elector for a GC and has made an application to be so registered. Regarding the details of registration as an elector for a GC, please refer to Part III of Chapter 2. *[Added in June 2020]*

3.6 REO has all along conducted checking along with the mechanism in place. If an elector is suspected to be no longer eligible to be registered in the relevant FC, the REO will include the elector in the statutory inquiry procedure. If the elector responds to the inquiry and provides valid proof of his/her/its eligibility for voter registration by the deadline, his/her/its name may remain on the register for the relevant FC. If the elector fails to respond to the inquiry and provide the relevant proof of his/her/its eligibility for voter registration by the deadline, his/her/its name will be included in the OL for the relevant FC. *[Added in June 2020 and amended in October 2021]*

3.7 Pursuant to the major changes to the composition of FCs, under the Special Voter Registration Arrangements in 2021, electors on the 2020 FR of FCs are subject to the following arrangements:

- (a) Since the former DC (first) FC, former DC (second) FC and former Information Technology FC have been abolished, all registered electors of these FCs are directly removed from the FC register without undergoing the procedure of receiving an inquiry letter or inclusion in the OL; and
- (b) Electors who have been removed from the FCs for which they are no longer eligible are subject to the inquiry procedure and will be

included in the OL. If they meet the registration eligibilities of other FCs, they must submit an application during the period of the Special Voter Registration Arrangements (see para. 3.3 above) to register in another FC for which they are eligible in order to be included in the 2021 register of FCs.

[Ss 22(4A), 24 and 28AA of the EAC (ROE) (FCSEC) Reg] *[Added in October 2021]*

3.8 Before the FR is published, the REO will publish a copy of the 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. 3.42, 3.43 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 Officer<sup>14</sup> will make a determination on the case. For individuals/bodies 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 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]*

3.9 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

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<sup>14</sup> 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 [s 77(1) of the LCO].

objection or claim (see para. 3.49 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. *[Added in October 2021]*

## **PART II : COMPOSITION OF FUNCTIONAL CONSTITUENCIES**

3.10 In the general election for the seventh term of the LegCo, the 28 FCs are to return 30 of the 90 members of the LegCo. *[Amended in July 2008, June 2012, June 2016, June 2020 and October 2021]*

3.11 The electorates of the 28 FCs are from particular business, social, professional or other groups. Except the Labour FC that is to return 3 members to the LegCo, each of the other 27 FCs will return 1 member [s 21 of the LCO]. The FCs and their electorates are provided for in ss 20A to 20ZD of and Schedules 1 to 1D to the LCO, and are set out in **Appendix 3**. *[Amended in June 2012 and October 2021]*

## **PART III : REGISTRATION OF ELECTORS**

### **Key Dates in Voter Registration**

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

<b>Statutory Deadline</b>	<b>Ordinary Voter Registration Arrangements in 2021 (Applicable to individuals and bodies other than the eligible ones as specified in para. 3.3 above)</b>	<b>Special Voter Registration Arrangements in 2021 (Applicable to the eligible individuals and bodies as specified in para. 3.3 above)</b>	<b>Regular Voter Registration Arrangements from 2022 onwards</b>
Submission of applications for change of particulars	2 April	5 July (not applicable to change of registered residential 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 FCs	26 September		1 August
Claims and objections period	26 September to 9 October		1 to 25 August
Publication of the FR of FCs	29 October		25 September

*[Added in October 2021]*

### **Eligibility to Vote**

3.13 Under the existing voter registration arrangements in Hong Kong, a self-declaration system is adopted to facilitate the registration of eligible individuals/bodies 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 42 of the EAC (ROE) (FCSEC) 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]*

3.14 Only a registered elector has the right to vote at a LegCo election. A registered elector refers to an individual or AR of a corporate elector whose name appears on the FR of FCs that is in force at the time of the election. A registered individual elector or AR of a corporate elector may only vote at an election for the FC for which the elector is registered in the FR. [S 48 (1) of the LCO] *[Amended in June 2020]*

### **Qualifications for Registration as an Elector**

#### **Electors of the 28 FCs**

3.15 An elector who is eligible to be registered for an FC may be a natural person (i.e. an individual) or a body. A person who is one specified in column 2 of Appendix 3 opposite an FC is eligible to be registered as an elector for that FC. For the case of an individual, he/she must **also** be either registered for a GC, or eligible to be registered for a GC and has made an application to be so registered, and is not disqualified from being registered. (For qualifications for registration as an elector for a GC, please refer to para. 2.15 of Chapter 2.) [S 25(1) of the LCO]

3.16 If a person/body is **already registered** in the FR for an FC and is eligible to do so, and is not disqualified from being registered as an elector for the FC, then he/she/it **need not re-apply** for registration as an elector in that FC as his/her name and principal residential address/its name and business address will appear in the next PR for the relevant FC. [S 23(1) of the EAC (ROE) (FCSEC) Reg] *[Amended in June 2012 and June 2020]*

3.17 A body specified in item 3, 11, 20, 21(1) or 27 of Appendix 3 is eligible to be registered as a corporate elector for the relevant FC only if it has been operating as such a body for the 3 years immediately before making its application for registration as an elector. [S 25(4) of the LCO] *[Amended in October 2007 and October 2021]*

3.18 A corporate member of a body specified in item 2(1), 13 to 19, 21(2), 22(1) or (3), 23, 24(1) or (2), or 25 of Appendix 3 is eligible to be registered as a corporate elector for the relevant FC only if it has been a corporate member of the body and has been operating for the 3 years immediately before making its application for registration as an elector. [S 25(5) of the LCO] *[Amended in October 2021]*

3.19 No person/body may be registered in 2 or more FCs. If he/she/it is eligible to be registered in 2 or more FCs, he/she/it may choose to be registered in any one of the FCs **unless** he/she/it is eligible to be registered in any one of the 9 FCs specified in paras. 3.20 and 3.21 below. [S 25(2) and (3) of the LCO] *[Amended in October 2021]*

3.20 If a person is eligible to be registered in the Heung Yee Kuk FC as well as other FCs, he/she can only be registered in the former and not in the other FCs. Besides, if a person is eligible to be registered in the newly created “NPC Deputies, CPPCC Members and Representatives of Relevant National Organisations FC” as well as other FCs (except the Heung Yee Kuk FC), he/she can only be registered in the former and not in the other FCs. [S 25(3) of the LCO] *[Amended in October 2021]*



3.21 If a body is eligible to be registered in one of the following 7 FCs as well as other FCs, the body can only be registered in one of the former 7 FCs and not in the other FCs:

- (a) Agriculture and Fisheries FC;
- (b) Insurance FC;
- (c) Transport FC;
- (d) Finance FC;
- (e) Sports, Performing Arts, Culture and Publication FC;
- (f) Technology and Innovation FC; and
- (g) Catering FC.

[S 25(3) of the LCO] [*Amended in June 2012 and October 2021*]

#### Authorised Representatives of Corporate Electors

3.22 Every corporate elector is required to appoint an eligible individual to be its AR for the purpose of casting its vote at an election, otherwise it may not vote (see also s 48(8) of the LCO). An individual is eligible to be appointed as an AR of a corporate elector only if he/she:

- (a) is registered, or eligible to be and has applied to be registered, as an elector for a GC;
- (b) has a substantial connection with the corporate elector;

- (c) is not registered, and has not applied to be registered, as an elector for the same FC of the corporate elector; and
- (d) is not disqualified from being registered or voting under s 31 or 53 of the LCO (see para. 3.25 below).

[S 26(1) and (2) of the LCO]

3.23 A person who is an AR of a corporate elector is not eligible to be appointed as the AR of another corporate elector. [S 26(3) of the LCO]

3.24 An AR must be registered with the ERO. **The corporate elector, when applying for registration as a corporate elector, must notify the ERO in its application form the appointment of its AR.** A decision to appoint, replace or substitute an AR of a corporate elector may only be made by the governing authority (by whatever name called) of the corporate elector. Registered corporate electors may from time to time appoint a new AR by submitting a specified form, which must reach the ERO at least 14 days before the polling day of the FC election. [S 26(4), (5), (6) and (8) of the LCO and s 20(5) of the EAC (ROE) (FCSEC) Reg] This 14-day deadline may be relaxed to not later than 3 working days before the relevant polling day if the ERO is satisfied that the original AR has died, has suffered a serious illness, or has suffered physical or mental incapacity [s 20(6) of the EAC (ROE) (FCSEC) Reg]. [*Amended in October 2021*]

### **Disqualifications**

3.25 A natural person is disqualified from being registered as an elector and voting or voting as an AR at an FC election if he/she:

- (a) is no longer eligible to be registered as an elector for a GC (see para. 2.16 of Chapter 2);

- (b) has ceased to be eligible to be registered as an elector for the FC (this does not apply to an AR or a GC elector) [s 53(1) and (4) of the LCO];
- (c) is found by the Court to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs under the Mental Health Ordinance [ss 31(1) and 53(5) of the LCO]<sup>15</sup>; or
- (d) is a member of any armed forces [ss 31(1) and 53(5) of the LCO].

*[Amended in January 2010 and June 2020]*

3.26 A consular post to which any privilege or immunity is accorded under the Consular Relations Ordinance (Cap 557), or an organisation to which s 2 of the International Organizations and Diplomatic Privileges Ordinance (Cap 190) applies, or an international organisation defined in s 2 of the International Organizations (Privileges and Immunities) Ordinance (Cap 558) are disqualified from being registered as a corporate elector. In addition, a body which is a department or an agency of a government of a place outside the People's Republic of China, whether at national, regional or municipal level, is not eligible to be registered as a corporate elector and, for the purpose of this requirement, a body will not be regarded as a department or an agency of a government of a place unless the management of the body is appointed by the government and is answerable to the government; the principal function of the body is to advance the interest of the place; and the body is non-profit-making. [S 31(3) to (6) of the LCO] *[Added in June 2012]*

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<sup>15</sup> Regarding persons with other mental health problems, except for the condition stipulated in para. 3.25 (c) above, the law imposes no restriction on such person's rights to vote, provided that each elector 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 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).

## **Application for Registration and De-registration**

3.27 The registration of FC electors is undertaken in accordance with the provisions of the EAC (ROE) (FCSEC) Reg.

3.28 A person (either an individual or a body) may, by completing the specified form<sup>16</sup>, send his/her/its application for voter registration to the ERO at any time of the year. Starting from 1 May 2022, when submitting an application for voter registration, an individual 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 19(1D) of the EAC (ROE) (FCSEC) 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 months<sup>17</sup>. Any individual or body who/which 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 FC elector. *[Amended in June 2020 and October 2021]*

3.29 For de-registration as an FC elector, the elector may make an application in person at the REO. If the elector 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 the elector's particulars and be signed<sup>18</sup> by the elector. De-registration will not take immediate effect upon the REO's receipt of the application. After receipt of a written notice, the REO

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<sup>16</sup> The forms of "Functional Constituency Elector (Individual) Application for New Registration/Report on Change of Particulars" (REO-FC(I)) and "Functional Constituency Elector (Body) Application for New Registration/Report on Change of Particulars" (REO-FC(B)) are available at the website of the REO ([www.reo.gov.hk](http://www.reo.gov.hk)).

<sup>17</sup> 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).

<sup>18</sup> For a corporate elector, the application for de-registration from the FC must be signed by the responsible person of the body concerned.

will contact the elector concerned to verify the application. Only after verification will the elector's name be included in the OL for the relevant FC. The elector so included in the OL for the FC may inspect his/her/its voter registration particulars during the inspection period (i.e. 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/its 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 of the relevant FC in that year. Given that the elector has not been de-registered, the elector may decide whether to vote or not for the relevant FC 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]*

3.30 The applications mentioned in paras. 3.28 and 3.29 above may be submitted at any time to the REO. However, if a person (either an individual or a body) wishes to be included in or excluded from the FR of FCs published in a current year, the application must reach the ERO **on or before** the deadline as specified in para. 3.12 above. Applications received by the ERO after the deadline will be regarded as requests for registration or de-registration for the FR of FCs of the next year. [Ss 19 and 20 of the EAC (ROE) (FCSEC) Reg] *[Amended in June 2016, June 2020 and October 2021]*

3.31 All applications 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 21(2) of the EAC (ROE) (FCSEC) Reg]. An applicant who qualifies for registration as an elector will be allocated to an FC based on his/her/its qualification and choice (if so entitled), and the REO will notify him/her/it of the result by post [s 21(8) of the EAC (ROE) (FCSEC) Reg]. Applicants not qualified for registration will also be informed by the REO of the result

accordingly by post [s 21(9) of the EAC (ROE) (FCSEC) Reg]. *[Amended in January 2010, June 2016 and June 2020]*

3.32 The names and principal residential addresses (for individual electors)/business addresses (for corporate electors) of all eligible electors will be entered in the registers of electors. The ARs (if appointed) of the corporate electors will also be included in the registers of electors. *[Amended in June 2012 and June 2020]*

### **Change of Residential Address and Other Personal Particulars**

3.33 A registered elector (either an individual or a body) is not required to re-apply for registration every year. *[Amended in January 2010]*

3.34 Nevertheless, a registered individual elector is advised to take note of the following:

- (a) In the case of a change in 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.
- (b) He/She should notify the ERO of any change of circumstances that may affect his/her eligibility (e.g. his/her connection with a particular FC). Based on the information provided by the elector, the ERO will decide whether he/she is still eligible to be registered, and if so, for which constituency he/she is eligible.
- (c) 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).

- (d) He/She should notify the ERO of any change of the above registration particulars by submitting a specified form for processing. If the elector applies for a change of principal residential address recorded in the FR<sup>19</sup>, the elector must provide relevant documentary evidence to prove that the address stated in the application is his/her principal residential address<sup>20</sup> [s 26A(3) of the EAC (ROE) (FCSEC) Reg]. The address proof must comply with specific requirements, such as that it is issued within the last 3 months<sup>21</sup> [s 26A(12) of the EAC (ROE) (FCSEC) Reg]. 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 26A(10) of the EAC (ROE) (FCSEC) Reg].
- (e) If the elector has **failed to update the ERO of his/her new residential address in Hong Kong** or no longer ordinarily resides in Hong Kong (for the definition of “ordinarily residing in Hong Kong”, please see paras. 2.27 to 2.30 of Chapter 2), **his/her name and particulars may be removed from the register of electors.**

*[Amended in January 2010, June 2012, June 2016, June 2020 and October 2021]*

3.35 A registered corporate elector should also notify the ERO of any changes in its particulars (e.g. name, address or telephone numbers) by

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<sup>19</sup> The forms of “Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency” (REO-GC) and “Functional Constituency Elector (Individual) Application for New Registration/Report on Change of Particulars” (REO-FC(I)) are available at the website of the REO ([www.reo.gov.hk](http://www.reo.gov.hk)).

<sup>20</sup> 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.

<sup>21</sup> 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).

submitting the specified form<sup>22</sup>. In other words, para. 3.34 (b) and (d) above apply to a corporate elector in the same way as they apply to an individual elector. For the AR of a corporate elector, para. 3.34 (a), (b), (c) and (e) above apply to the change in his/her personal particulars. *[Added in January 2010]*

### **Inquiry Procedures**

3.36 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 or the ERO is satisfied on reasonable grounds that an elector is no longer eligible to be registered in the relevant FC**, the ERO will initiate the statutory inquiry procedure to ascertain whether the elector whose name is contained in the existing register is still eligible to be registered as an elector for the relevant FC [s 22(1) and (2) of the EAC (ROE) (FCSEC) Reg]. If the elector (either an individual or a body) 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 will be entered on the OL for the relevant FC and may be removed from the next register of electors** [s 24(1) and (3) of the EAC (ROE) (FCSEC) Reg]. Before the publication of the next register, a person whose name is recorded in the existing register of electors is still a registered elector for the relevant FC [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 42 of the EAC (ROE) (FCSEC) Reg] *[Added in June 2020 and amended in October 2021]*

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<sup>22</sup> The form of "Functional Constituency Elector (Body) Application for New Registration/Report on Change of Particulars" (REO-FC(B)) is available at the website of the REO ([www.reo.gov.hk](http://www.reo.gov.hk)).



### **Provisional Register and Omissions List**

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

A copy of the PR for the 28 FCs is **available for inspection by specified persons** during ordinary business hours at specified offices of the REO (please refer to paras. 3.42 and 3.43 below and **Appendix 2** for details). [Ss 27 and 29 of the EAC (ROE) (FCSEC) Reg] (S 29 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*]

3.38 At the same time when the PR for FCs is published, the ERO will also publish a copy of the OL for inspection by specified persons (please refer to paras. 3.42 and 3.43 below and **Appendix 2** for details). The OL contains the names and principal residential addresses/business addresses of persons (either individuals or bodies) who were formerly registered as FC 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, individuals/bodies which have informed the ERO that they do not wish to be registered anymore, individuals who have changed their principal residential address without the ERO's knowing the new addresses, or individuals/bodies which are no longer an eligible member of a listed body in the relevant FC) [s 32(4)(a) and (b) of the LCO and s 24(1) and (3) of the EAC (ROE) (FCSEC) Reg]. *[Amended in January 2010, June 2016, June 2020 and October 2021]*

3.39 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 on the OL according to the procedures prescribed in the relevant legislation. [S 9(2A) of the EAC (ROE) (GC) Reg] *[Amended in January 2010, June 2016 and June 2020]*

3.40 The names and principal residential addresses/business addresses of persons (either individuals or bodies) included in the OL of an FC will be excluded from the PR of the FC [s 32(4)(a) and (b) of the LCO and s 24(1) of the EAC (ROE) (FCSEC) 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. 3.47 to 3.49 below). *[Amended in June 2012, June 2016 and June 2020]*

3.41 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 25 and 29 of the EAC (ROE) (FCSEC) Reg] *[Added in June 2020]*

3.42 On 15 October 2019, the JPOA of the Hong Kong Police Force applied to the 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 parties<sup>23</sup> and members of the press<sup>24</sup> are allowed, for election-related purposes, to inspect FRs that show the linked information of individual electors. Regarding those parts of FRs not showing individual electors’ linked information, such as a part of a register of FCs that shows the information of corporate electors, they may be made available for inspection by the public. 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]*

3.43 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

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<sup>23</sup> 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.

<sup>24</sup> 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.

to inspect the copy of registers for FCs containing the entries of individual electors (including the OL, PR and FR). Only the first character/word of the name of an individual elector (whether in Chinese or English) and his/her registered residential address will be shown on the registers for inspection. A copy of the registers for FCs which contains only the entries of corporate electors will be made available for inspection by the public. [Ss 25, 29 and 38 of the EAC (ROE) (FCSEC) 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]*

3.44 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. 3.42 and 3.43 above. *[Added in June 2020 and amended in October 2021]*

3.45 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 25(6) and 29(5) of the EAC (ROE) (FCSEC) Reg] *[Added in June 2020]*

### **Online Voter Information Enquiry System**

3.46 Registered electors (either an individual or a body) and ARs may log on to the OVIES ([www.voterinfo.gov.hk](http://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 and amended in June 2020]*

## **Appeals – Objections and Claims**

3.47 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 30(2) of the EAC (ROE) (FCSEC) 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/the relevant body 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/AR 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 in respect of the entry or any omission concerning himself/herself/the relevant body by the deadline [s 31(1), (2) and (7) of the EAC (ROE) (FCSEC) 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 31(8A) of the EAC (ROE) (FCSEC) Reg]. *[Amended in January 2010, June 2016, June 2020 and October 2021]*

3.48 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 provide valid documentary proof to confirm their eligibility for registration in the relevant FC by the specified deadline. 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 the eligibility of registration in the relevant FC. *[Added in June 2020]*

3.49 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 VI of the EAC (ROE) (FCSEC) 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 cases<sup>25</sup>); 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] *[Added in June 2020 and amended in October 2021]*

### **Final Register**

3.50 The FR for FCs consists of entries shown in the relevant PR and incorporates, for the relevant year, all revised names and principal residential addresses/ business addresses of electors based on new registration applications and reports on change of registration particulars, as well as those updated and corrected in accordance with the Revising Officer's decisions on claims and objections [s 35(1) of the EAC (ROE) (FCSEC) 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 may also contain notations to show if a person registered for a GC is also registered in an FC. The FR for FCs shall remain in force until the publication of the next FR in the following year. *[Amended in June 2020 and October 2021]*

3.51 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

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<sup>25</sup> 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.

to be treated as the publication of the FR. The inspection of the FR shall be arranged as detailed in paras. 3.42 and 3.43 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 3.42 and 3.43 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 38 of the EAC (ROE) (FCSEC) 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 42(3) of the EAC (ROE) (FCSEC) Reg].

## **PART IV : THE VOTING SYSTEMS FOR FUNCTIONAL CONSTITUENCIES**

3.52 When the number of validly nominated candidates contesting in the election is more than the number of members to be returned for an FC, a poll will be held for that FC. Where no more candidates have been validly nominated than the number of members to be returned for the FC, 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 FC 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 FC, 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. *[Added in June 2020]*

3.53 The “first past the post” voting system is adopted in FC elections. An elector may vote for as many candidates as there are vacancies and no more. The candidate who obtains the greatest number of votes shall be deemed elected, followed by the candidate with the next greatest number of votes, and so on, until all vacancies are filled. [S 51(2), (3) and (4) of the LCO] Out of the 28 FCs, only the Labour FC has 3 seats to be filled and electors of that FC can therefore vote for up to 3 candidates. In each of the remaining 27 FCs, only 1 seat is to be filled and the elector can only vote for 1 candidate. In the event that 2 or more candidates have the equal highest number of votes, the RO shall arrange the drawing of lots to determine which one of these candidates should be elected to fill the vacancy [s 51(6) of the LCO]. *[Amended in October 2021]*

3.54 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 as follows:

- (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 only 2 vacancies to be filled and there are 3 candidates having the equal number of votes, if the 3 candidates have drawn respectively the largest, the larger and the smallest numbers, the 2 candidates who have drawn the largest and the larger numbers will get the 2 vacancies, and the remaining candidate will be declared defeated. If the 3 candidates have drawn respectively 2 larger equal and 1 smaller numbers, then the 2 candidates who have drawn the larger equal numbers will get the 2 vacancies. If the 3 candidates have drawn respectively a larger and 2 equal smaller numbers, the candidate who has drawn the larger number will get 1 of the vacancies, and the remaining 2 candidates will participate in a second round of draw to determine who will get the remaining vacancy. The same principle also applies to the situation where there are more than 3 candidates having an equal number of votes competing for 3 vacancies to be filled (such as the Labour FC).

*[Amended in June 2020]*

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

### **Death or Disqualification of a Candidate for FC**

3.56 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 FC 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 FC 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 FC election. [S 42B of the LCO and ss 22A and 22B of the EAC (EP) (LC) Reg] *[Added in June 2016 and amended in June 2020 and October 2021]*

3.57 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 relevant FC 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 the FC concerned has failed or has failed to the extent that the number of candidates returned at the election for the FC is less than the number of members to be returned. [Ss 46A, 51(8) and (9) of the LCO, and ss 83(2), (3) and 97A of the EAC (EP) (LC) Reg] *[Amended in June 2016 and October 2021]*