

CHAPTER 4

COMPOSITION AND VOTING SYSTEM FOR THE ELECTION COMMITTEE CONSTITUENCY

PART I : GENERAL

4.1 This chapter details the composition and the electoral procedures of the ECC of the LegCo. *[Added in October 2021]*

4.2 Only EC members whose names appear on the FR of EC members are entitled to vote at an election for the ECC of the LegCo. The FR will be published on the date on which the term of office of the new EC commences. For the year of 2021, the FR should be published on the date on which the EC is constituted (i.e. 22 October 2021). *[Added in October 2021]*

PART II : COMPOSITION OF THE ELECTION COMMITTEE CONSTITUENCY

4.3 At the general election for the seventh term of the LegCo, 40 out of the 90 members of the LegCo are to be returned for the ECC [s 21B of the LCO]. *[Added in October 2021]*

4.4 The electorate of the ECC is composed of all members of the EC [s 21A of the LCO]. In accordance with s 2 of the Schedule to the Chief Executive Election Ordinance (Cap 569) (“CEEEO”), the EC comprises 1 500 members from 5 sectors, or 40 subsectors in total. Each sector consists of a number of subsectors with the details set out in **Appendix 4**. *[Added in October 2021]*

PART III : CONSTITUTION OF THE ELECTION COMMITTEE

4.5 EC members are returned by the following 3 methods: registering as ex-officio members, being nominated by the designated bodies of the relevant subsectors, and being elected by eligible corporate voters or individual voters in the subsectors. Details are as follows:

(a) Ex-officio members

The ex-officio members shall consist of NPC deputies, CPPCC members, Hong Kong members of the Committee for the Basic Law of the HKSAR under the NPCSC, members of the LegCo, university vice-chancellors/presidents/chairpersons of the board of governors or the councils of universities, and responsible persons of statutory bodies, major advisory committees and other relevant bodies of certain subsectors as specified in the electoral law.

(b) Members to be returned by nomination

The members to be returned by nomination shall consist of all the members of the religious subsector and the representatives of associations of Hong Kong residents in the Mainland subsector, and some of the members of the technology and innovation subsector, the accountancy subsector, the legal subsector, the sports, performing arts, culture and publication subsector and the Chinese medicine subsector, where nominations are made by the designated bodies in the subsectors.

(c) Members to be returned by election

Other than those mentioned in paras. (a) and (b) above, the rest of the EC members shall be elected by eligible corporate voters or individual voters of the respective subsectors.

[Added in October 2021]

4.6 The term of office of the EC is 5 years. The next EC shall be constituted on 22 October 2021 and its term shall end on 21 October 2026 [s 9 of the CEEO]. *[Added in October 2021]*

4.7 Apart from returning 40 members for the ECC of the LegCo, the EC of the new term is also responsible for electing the CE of a new term (5-year). If a CE vacancy arises for a reason other than the expiry of the term of office, the current-term EC will be responsible for electing a new CE²⁶. Before a by-election is held to elect a CE, a subsector by-election and/or supplementary nomination will be held to update the register of EC members if there are vacancies in the membership of the EC. Besides, an EC subsector by-election and/or supplementary nomination to fill EC vacancies will be required for the sake of the next LegCo general election if the end of the current term of the LegCo is more than 12 months away from the constitution date of the EC or the date of publication of the EC PR for an EC by-election [ss 4 and 5 of the Schedule to the CEEO] (S 4 has been enacted and published in the Gazette to take effect from 1 May 2022). *[Added in October 2021]*

4.8 For details on the registration of EC ex-officio members, nomination of members, subsector elections and compilation of registers, please refer to the Guidelines on Election-related Activities in respect of the Election Committee Subsector Elections. *[Added in October 2021]*

PART IV : ELIGIBILITY TO VOTE

4.9 An EC member is eligible to vote at an election for the ECC of the LegCo unless he/she has become disqualified from doing so because he/she:

²⁶ If an election for a CE of a new term (5-year) is to be held within 6 months after a vacancy in the office of the CE has arisen, it will not be necessary to hold a CE by-election.

- (a) has resigned from the membership of the EC (other than an ex-officio member) by giving written notice of resignation to the ERO;
- (b) has ceased to have a substantial connection with the subsector concerned;
- (c) has ceased to be registered or eligible to be registered as an elector for a GC;
- (d) is found under the Mental Health Ordinance to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs;
- (e) is a member of the armed forces of the People's Republic of China or any other country or territory;
- (f) has breached the written oath of EC members;
- (g) has failed, or has been declared or decided in accordance with any law to have failed, to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR of the People's Republic of China; or
- (h) his/her functions as an EC member are suspended under s 43A(2) of the Schedule to the CEEO.

[S 53(3A) of the LCO] (The legislative provisions relating to items (f), (g) and (h) above have been enacted and published in the Gazette to take effect from 22 October 2021) [*Added in October 2021*]

Online Voter Information Enquiry System

4.10 EC members may visit the OVIES (www.voterinfo.gov.hk) at any time to check their registration particulars. *[Added in October 2021]*

PART V : THE VOTING SYSTEM FOR THE ELECTION COMMITTEE CONSTITUENCY

4.11 When the number of validly nominated candidates contesting in the election is more than the number of members to be returned for the ECC, a poll will be held for the constituency. 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 EC members 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 ECC, 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 October 2021]*

4.12 The “block vote” voting system is adopted in the ECC election. At a general election, each EC member shall vote for not more than and not less than 40 candidates on the ballot paper. A ballot paper marked with more than or less than 40 choices will be deemed as invalid. The 40 candidates who obtain the greatest and next 39 greatest numbers of votes shall be returned as members for the ECC. [S 52A of the LCO] *[Added in October 2021]*

4.13 At an ECC by-election, the number of candidates to be voted for by an EC member shall be the same as the number of members to be returned at the by-election, otherwise the ballot paper will be deemed as invalid. If the number of members to be returned at the by-election is N, then the N candidates

who obtain the greatest numbers of votes shall be deemed elected. If, after the counting of votes is finished, there is 1 or more than 1 vacancy to fill for the constituency but the most successful candidates remaining have an equal number of votes, then 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 52A of the LCO] *[Added in October 2021]*

4.14 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 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 N candidates having an equal number of votes competing for vacancies of which the number is smaller than N.

[Added in October 2021]

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

[Added in October 2021]

Death or Disqualification of a Candidate for ECC

4.16 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 candidates are validly nominated for the election for the constituency. 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 election for the constituency. 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 or candidates is/are validly nominated for the relevant election. [S 42B of the LCO and ss 22A and 22B of the EAC (EP) (LC) Reg] *[Added in October 2021]*

4.17 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 election for the constituency 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 constituency has failed or has failed to the extent that the number of candidates returned at the election for the constituency was less than the number of members to be returned for the constituency. [Ss 46A, 52A(9) and (10) of the LCO, and ss 83(2), (3) and 97A of the EAC (EP) (LC) Reg] *[Added in October 2021]*