

CHAPTER 6

POLLING AND COUNTING ARRANGEMENTS

PART I : GENERAL

6.1 An elector can only vote at the polling station allocated to him. In general, the REO will assign electors to vote at the polling station within their constituency and close to their registered residential addresses. For LegCo elections, a polling station for a GC²⁸ is normally situated within the boundaries of the constituency.

6.2 If electors with mobility difficulty are allocated to a polling station that is not accessible for them, the electors may apply to the REO for re-allocating to a barrier-free special polling station to cast their votes.

6.3 To ensure that electors can access polling stations without interference, a **No Canvassing Zone (“NCZ”)** will be designated for each polling station. No canvassing activities are allowed within the NCZ. Please refer to **Part V of this chapter** for details. In addition, to avoid any obstruction of entrance/exit of the polling station, a **No Staying Zone (“NSZ”)** will be designated

²⁸ The retention of previously used polling stations is subject to various factors, such as the willingness of the venue owners or management to provide the location and whether other more suitable venues are identified by the REO.

immediately adjacent to the entrance/exit, where no person is allowed to stay or loiter without the express permission of the Presiding Officer (“PRO”).

6.4 Only electors and designated or authorised persons are allowed admitting to a polling station. If electors need assistance from others for entering a polling station, they may make a request to the PRO, who will exercise discretion.

6.5 Depending on the circumstances of individual polling stations, polling staff will issue ballot papers through the Electronic Poll Register (“EPR”) System or the printed copy of the FR of electors/EC members. Upon entry to a polling station, electors should follow the instructions on site to collect ballot papers at any of the ballot paper issuing desks. Please refer to **Parts VII and VIII of this chapter** for details.

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

6.7 After collecting the ballot paper, an elector should immediately proceed to a voting compartment to mark his vote on the ballot paper. Each voting compartment can only be used by one elector at any one time. Based on the principle of the autonomous and secret ballot, it is prohibited by the law to have anyone (not even the relative or friend of the elector) to accompany or assist the elector to vote. If an elector is unable to mark the ballot paper on his own,

he may, as stipulated under the law, request the PRO or the PRO's deputy to mark the ballot paper on his behalf according to his voting preference, in the presence of one polling staff as a witness. Please refer to paras. 6.39 to 6.43 of this chapter for details.

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

PART II : TYPES AND ALLOCATION OF POLLING STATIONS

6.9 The CEO must by notice in the Gazette specify the polling hours and designate places as polling stations, ballot paper sorting stations²⁹ or counting stations at least ten days before the polling day. The same may be designated to serve as both a polling station and a counting station.

²⁹ A ballot paper sorting station may be set up by the REO to sort GC ballot papers received from dedicated polling stations or the ECC polling station according to GCs before the ballot papers are delivered to the respective main counting stations for counting of votes.

6.10 There are five types of polling stations:

- (a) **Ordinary Polling Stations** – for use by general electors to cast their votes. The ordinary polling stations will be converted to counting stations immediately after the close of poll for counting the GC ballot papers. The FC ballot papers will be delivered to the central counting station for counting³⁰;
- (b) **ECC Polling Station** – for use by ECC electors (i.e. EC members) to cast their votes. The GC ballot papers cast in the polling station will be delivered to the designated main counting stations for the GC for counting, while the ECC ballot papers and FC ballot papers will be delivered to the central counting station for counting;
- (c) **Dedicated Polling Stations** – set up inside penal institutions or other suitable places (e.g. police stations) for registered electors who are imprisoned or held in custody by the law enforcement agencies on the polling day to cast their votes. Vote counting will not be carried out at dedicated polling stations. GC ballot papers cast therein will be delivered to the ballot paper sorting stations after the close of poll. After sorting, the GC ballot papers will be delivered to the designated main counting stations for the GC for counting. The ECC ballot

³⁰ Ordinary polling stations include Near Boundary Polling Stations (“NBPSs”). NBPSs are ordinary stations set up near the boundary to facilitate voting by GC and FC electors who live in the Mainland or need to travel to and from the Mainland on the polling day. The NBPSs will also be converted to counting stations immediately after the close of poll for counting the GC ballot papers (For a GC in which less than 500 electors are allocated to vote, the counting proceedings for Small Polling Stations shall apply). The FC ballot papers will be delivered to the central counting station for counting.

papers and FC ballot papers will be delivered to the central counting station for counting. Please see **Part XIV of this chapter** for details;

- (d) **Special Polling Stations** – If electors with mobility difficulty are allocated to a polling station that is not accessible for them, they may apply for re-allocating to a barrier-free special polling station within the same GC to cast their votes. The votes cast by electors allocated to a special polling station will be counted together with the ballot papers of the same constituency in the ballot boxes; and
- (e) **Small Polling Stations** – referring to polling stations at which less than 500 electors are allocated to vote. The small polling stations are only designated for polling and no counting of votes will be conducted. After the close of poll, GC ballot boxes of a small polling station will be delivered to the designated main counting station and the GC ballot papers inside will be mixed with ballot papers in that main counting station before counting together. FC ballot papers will be delivered to the central counting station for counting.

6.11 Due to security reasons, there is a need for the penal institutions to separate some persons imprisoned or held in custody from others therein. The Commissioner of Correctional Services shall assign a time slot within the polling hours of a dedicated polling station situated in a penal institution to an elector allocated to that polling station to vote, and inform the elector of the time slot assigned. The Commissioner of Correctional Services must assign time slots

to electors so as to give them a reasonable opportunity to vote. An elector to whom a time slot is assigned may only cast his vote during that time slot.

6.12 The combined polling arrangements are adopted for the convenience of the electors. Whether an elector is entitled to vote only in a GC, FC or ECC election, or entitled to vote in GC, FC and ECC elections, he only needs to go to one polling station to cast all his votes. For details of the combined polling arrangements, please refer to **Appendix 5**.

PART III : POLL CARDS

6.13 At least 10 days before the polling day, poll cards will be sent to electors of contested constituencies at their registered addresses or correspondence address (if applicable) to notify them of the poll date, time and location of the polling station. Electors may also log in to the OVIES (www.voterinfo.gov.hk) by themselves to check the allocated polling station and related polling information. If the CEO decides to change any polling station, the CEO must as early as practicable inform the electors, RO and PRO concerned in a manner he deemed appropriate. To allow electors serving a sentence of imprisonment on the polling day to receive the poll cards as early as possible, the REO will mail the poll cards to the penal institutions where the electors are serving their sentences insofar as practicable. [Ss 31(1), (3A) and (6) of the EAC (EP) (LC) Reg]

PART IV : HANDLING OF BALLOT BOXES

6.14 About 30 minutes before the commencement of the poll (or 15 minutes for dedicated polling stations situated in penal institutions), the PRO will allow the candidates, their election agents and polling agents present to enter the polling station to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. For each candidate, among the candidate, election agents and polling agents, only one person, i.e. the candidate or his election agent or polling agent, may be present to observe the aforesaid procedures. Similarly, after the close of poll, the PRO will lock and seal the ballot boxes in the presence of the candidates and their agents (if any). The count will commence when polling at all polling stations of the same constituency has closed.

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

- (a) only a maximum of two candidates may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes at a dedicated polling station situated inside a maximum security prison; and
- (b) only a maximum of any two of the candidates, their election agents or polling agents may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes at a dedicated polling station situated in a penal institution if it is not a maximum security prison.

PART V: NO CANVASSING ZONE AND NO STAYING ZONE

6.16 To ensure that electors can access polling stations without interference, the RO will designate an area outside the polling station for the constituency concerned as an NCZ according to the electoral legislation. **Electioneering activities are strictly prohibited within the NCZ. Otherwise, it will constitute an offence which may result in a fine and imprisonment.** A notice of the determination of an NCZ and a map or plan showing the boundary of the area will be displayed at or near the polling station. Please refer to **Chapter 15** for details.

6.17 To ensure that electors could enter and exit polling stations safely in an unobstructed manner, the RO will set up an NSZ adjacent to the entrance/exit (sometimes the exit is the same as the entrance) of each polling station inside the NCZ. **No person is allowed to stay or loiter inside the NSZ, except where a person has been expressly permitted to do so by the PRO. Otherwise, it will constitute an offence which may result in a fine and imprisonment.** Please refer to **Chapter 15** for details.

PART VI : PERSONS TO BE ADMITTED TO THE POLLING STATION

6.18 In addition to electors, only the following persons may be admitted to a polling station:

- (a) the PRO and polling staff;
- (b) members of the EAC;
- (c) the Chief Returning Officer (“CRO”);
- (d) the ROs and Assistant Returning Officers (“AROs”) for the relevant constituencies;
- (e) public officers on duty at the polling station, including police officers, members of the Civil Aid Service (“CAS”), etc.;
- (f) officers of the CSD and other law enforcement agencies on duty at dedicated polling stations;
- (g) the CEO;
- (h) candidates and election agents of the relevant constituencies and polling agents appointed for the polling station (not applicable to dedicated polling stations situated in maximum security prisons) in accordance with para. 6.19 of this chapter;
- (i) public officers authorised in writing by the CEO;
- (j) any person authorised in writing by a member of the EAC;

- (k) a person authorised in writing by the RO for liaison duties; and
- (l) children accompanying an elector who enters the polling station for the purpose of voting (if the PRO considers that the children should not be left unattended while the elector is in the polling station and that the children will not disturb or cause inconvenience to any person in the polling station).

[Ss 44(4), (5) and (13) of the EAC (EP) (LC) Reg]

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

6.19 For the purpose of maintaining order in the polling station, the PRO may regulate the number of electors, candidates, election agents and polling agents allowed to enter the polling station at any one time. Details are as follows:

- (a) for each candidate, only one person among the candidate, election agent or polling agents may enter and be present in the polling station at any one time;
- (b) a notice will be displayed outside each polling station specifying the capacity of the designated area inside the polling station for candidates, election agents and polling agents. The PRO will arrange them to

enter the polling station on a **first-come-first-served basis**;

- (c) any candidate, election agent or polling agent who is allowed to enter the polling station may only stay for one hour each time. He must then leave the polling station on time unless there is no other candidate or his agents waiting for admission. He may apply for admission into the polling station again on a **first-come-first-served basis**;
- (d) if no one among a candidate or any of his agent has earlier entered the polling station to observe the poll on polling day, the PRO concerned will endeavour to give the candidate or his agent an opportunity to enter the polling station to observe the poll before the close of poll under a special arrangement. Under this special arrangement, if a candidate or any of his agent who has been allocated the last waiting slot for admission to the polling station has already observed the poll in that polling station, the person will have to yield his slot to the candidate or his agent who has not observed the poll in that polling station;
- (e) anyone who is allowed to enter a polling station has to sign and register his time of entry on a log sheet. A candidate, election agent or polling agent who has to queue outside the polling station for his turn to observe the poll at the designated area will be given a number chit that indicates the order of admission. A person who has lost his place due

to his absence will have to obtain a new number chit when he returns;
and

- (f) for security reasons, only a maximum of two candidates may be present at any one time to observe the poll at a dedicated polling station situated inside a maximum security prison, and a maximum of two persons among the candidates, election agents or polling agents may enter a dedicated polling station situated in a penal institution other than a maximum security prison at any one time. Observers will have to take turn in case more than two candidates or their agents intend to observe the poll at the same time. Please see **Chapter 8** for details.

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

6.20 Except for electors, and those police officers, officers of the CSD, officers of any law enforcement agencies and members of the CAS who are on duty, all other persons permitted to enter a polling station are required to make a **Declaration of Secrecy**³¹ on a specified form before entering the polling station and need to observe the regulations on the secrecy of voting. [S 95 of the EAC (EP) (LC) Reg]

³¹ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/the CEO (or a person whose official designation is that of a deputy to the CEO)/a Justice of the Peace/a solicitor with a practicing certificate.

PART VII : HOW TO ISSUE BALLOT PAPERS

6.21 Polling staff will follow one of the procedures below when issuing ballot papers, depending on whether the EPR System or a printed copy of FR of electors/EC members is used in the polling station concerned:

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

The polling staff will scan the HKID presented by the elector with a tablet, or, with the PRO's authorisation, manually input the elector's HKID number into the EPR System to verify whether the person is a registered and eligible elector allocated to the polling station concerned, so as to ascertain the number and types of ballot paper(s) to be issued.

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

(b) **Use of Printed Copy of Final Register of Electors/Election Committee Members in Issuing Ballot Papers**

The polling staff will check the elector's identity document against the entry in the printed copy of FR of electors/EC members to verify whether the person is a registered and eligible elector allocated to the polling station concerned, so as to ascertain the number and types of ballot paper(s) to be issued.

Upon confirmation, the polling staff will softly read out the name of the elector as stated in the entry in the printed copy of FR of electors/EC members, and, under observation of the elector, draw a line across the name and the identity document number therein to indicate that the ballot paper(s) has/have been issued. The polling staff will then show and issue the unmarked ballot paper(s) to the elector, but will not record which particular ballot paper. To safeguard the personal data privacy of the other electors, the polling staff will conduct the line-drawing under observation of the elector, while at the same time covering up the entries of other electors in the printed copy of FR of electors/EC members.

(c) **Use of Printed Copy of Final Register of Electors/Election Committee Members in the Event of Electronic Poll Register System Failure**

In case of the EPR System failure while in use on the polling day and

cannot continue to operate, the fallback arrangement will come into operation in polling stations and the polling staff will use the printed copy of the FR of electors/EC Members (as stated in (b) of this paragraph) to issue ballot papers to electors until close of poll. The polling staff should activate the fallback mode of the EPR System at the same time, and crosscheck against the “local storage device” inside the polling station before issuing the ballot paper(s), so as to confirm that the electors concerned have not collected any ballot papers when the EPR System was in use. The “local storage device” will only record in an encrypted form the HKID numbers of electors who have collected their ballot papers, but will not record their names and other personal particulars.

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

6.22 To facilitate the verification of the total number of ballot papers issued, the counterfoil of each ballot paper bears a serial number on its front. However, the serial number will not appear on the ballot paper. Neither the polling staff nor the EPR System will record the serial number of the ballot paper issued to an elector. Only the quantity of ballot papers issued at the ballot paper issuing desks will be counted to estimate the voter turnout. Statistics of the hourly voter turnout and cumulative voter turnout will be posted outside the polling stations for the public’s reference. [Ss 49(15) and 53(8) of the EAC (EP) (LC) Reg]

6.23 In general, ballot papers are issued at the ballot paper issuing desks. However, “TENDERED” ballot papers and ballot papers issued to electors in

replacement of “SPOILT” ballot papers must be issued by the PRO at the PRO desk. Please see paras. 6.50 and 6.51 of this chapter for the arrangement.

PART VIII : QUEUING ARRANGEMENTS

6.24 If electors have to queue up to enter the polling station, the PRO may make special queuing arrangements for electors with special needs, including:

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

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

6.25 The PRO may, having regard to the actual situation, set up two queues outside the polling station, one for electors with special needs and the other for ordinary electors. Seats may also be provided in the polling station for electors in need to rest while waiting to join the special queue later for collecting ballot papers.

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

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

The PRO will assign a number of ballot paper issuing desks as special ballot paper issuing desks for use by electors with special needs (see para. 6.24 of this chapter) while other ballot paper issuing desks are available for use by ordinary electors.

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

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

(b) **Queuing Arrangement When Printed Copy of Final Register of Electors/Election Committee Members is Used**

To avoid duplicate issuance of ballot papers, the printed copy of FR of electors/EC members will be split into parts and distributed to the ballot paper issuing desks according to the alphabetical prefixes of HKID number. The PRO may, having regard to the actual situation, set up a special queue for each ballot paper issuing desk to shorten the waiting time of the persons with special needs.

(c) **Queuing Arrangement When Printed Copy of Final Register of electors/Election Committee Members is Used in the Event of Electronic Poll Register System Failure**

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

6.26 If polling staff need to go to vote, the PRO will arrange for them to leave their posts briefly. To enable polling staff to return to work as soon as possible, they may present to the staff of the allocated polling station their polling staff identification for priority queuing to collect ballot papers and cast their votes.

PART IX : COLLECTING BALLOT PAPERS

6.27 An elector should show to the polling staff at the ballot paper issuing desk the original of any of the following documents, to the satisfaction of the PRO or polling staff, before he can be issued with the ballot paper(s):

- (a) the original of the elector's valid HKID;
- (b) alternative documents:

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

[Ss 13, 14, and 25 of the Registration of Persons Regulations (Cap. 177A), the Hong Kong SAR Passport Ordinance (Cap. 539), s 3 of the Immigration Regulations (Cap. 115A), and s 50 of the EAC (EP) (LC) Reg]

6.28 If there are reasonable grounds to doubt the true identity and eligibility of an elector, the PRO shall ask him the following questions when the elector apply for a ballot paper (but not after the ballot paper has been issued):

- (a) “Are you the person registered in the final register now in effect for this geographical constituency/the final register now in effect for this functional constituency/the Election Committee final register (as appropriate), as follows (the PRO to read out the whole entry as it is recorded in the register)?”
- (b) “Have you already voted for this or any other geographical constituency/this functional constituency/the Election Committee constituency (as appropriate) in this election?”

The elector will not be issued with any ballot paper unless he has answered the questions to the satisfaction of the PRO. [Ss 51(3) and (5) of the EAC (EP) (LC) Reg]

6.29 An elector applying for a ballot paper at a dedicated polling station situated in a penal institution is required to produce a document issued by the Commissioner of Correctional Services showing the elector’s name, photo and prisoner registration number allocated by the Commissioner to the elector for identification purpose.

6.30 Where there is reasonable cause to believe that a person has engaged in corrupt conduct by impersonating an elector, the PRO may request the police

to arrest that person. If the polling station is a dedicated polling station, the PRO may request the officer of the CSD or the law enforcement agency to remove the person concerned from the polling station and report the case to the police. [Ss 52(1), (2), and (2A) of the EAC (EP) (LC) Reg]

6.31 Polling stations are designated to serve simultaneously GCs, FCs and/or the ECC for the convenience of electors. A notice will be displayed inside each polling station to inform electors that polling for the relevant GC, all the FCs and/or the ECC is being held there concurrently and that an elector will be issued with one to four different ballot paper(s), depending on his entitlement.

PART X : VOTING METHODS

6.32 There are two types of ballot boxes for GC votes and FC votes respectively in an ordinary polling station. There are three types of ballot boxes for the ECC votes, GC votes and FC votes respectively in the ECC polling station and the dedicated polling stations.

6.33 When issued with the ballot paper(s) for their respective constituencies, electors will be issued with one to two cardboard(s), depending on the number and type(s) of ballot paper(s) received. This arrangement helps the polling staff to ensure that an elector has cast all his votes before leaving the polling station, and that no elector will leave the polling station with any ballot paper. After inserting his ballot paper(s) into the ballot box(es), the elector must return all the cardboard(s) to the polling staff before leaving the polling station.

6.34 After collected the ballot paper(s) and the cardboard(s), the elector should immediately proceed to a voting compartment to mark the ballot paper(s). Different types of ballot papers, for the GC, FCs or the ECC, should be marked in the respective ways according to their respective voting systems. An elector should read carefully the instructions given on the ballot paper(s) and follow the instructions in marking the ballot paper(s). One compartment can only be used by one elector at one time.

6.35 The ballot papers for the GC, FCs and the ECC should be marked in the following manner:

- (a) the GC election adopts the “double seats and single vote” voting system. Each elector can only cast one vote to choose one candidate. On the ballot paper, the elector must affix the chop provided by the polling station to mark a single “✓” in the circle opposite the name of that candidate;
- (b) the FCs election adopts the “first past the post” voting system. Except for the Labour FC, which has three seats, allowing electors to vote for up to three candidates, the electors of other FCs are only entitled to cast one vote. Unless otherwise instructed by the EAC, electors must use the black pen provided by the polling station to fill the ovals on the ballot paper opposite the name(s) of the candidate(s) of his choice. Also, the EAC may instruct the electors to affix the chop provided by the polling station to mark a single “✓” in each of the circle(s) opposite the name(s) of the candidate of his choice; and

- (c) the ECC election adopts the “block vote” voting system. Each elector must vote for a number of candidates that is equal to the number of members to be returned for the ECC.
- (i) in the case of a LegCo general election, the elector must use the black pen provided by the polling station to fill the ovals on the ballot paper opposite the names of the candidates of his choice;
or
- (ii) in the case of an ECC by-election, the elector must affix the chop provided by the polling station to mark a single “✓” in each of the circle(s) opposite the name(s) of the candidate(s) of his choice, or follow the manner as described in (c)(i) of this paragraph (if applicable).

[Ss 55, 57 and 58A of the EAC (EP) (LC) Reg]

6.36 An elector should mark the ballot paper in the manner as described in para. 6.35 of this chapter and **there is no need to fold the ballot paper**. The elector should follow the instruction of polling staff, inserting the ballot paper(s) with the marked side facing down into the respective ballot box(es).

6.37 For ECC election, before putting the ballot paper into the ballot box, an elector may choose to use the ballot paper checking machine in the polling station to check whether the ballot paper was marked in accordance with the relevant electoral law, e.g. whether the number of candidates marked is equal to

the number of members to be returned with a view to avoiding invalidating the ballot paper if the number of candidates marked on it by the elector is less than or more than the number of members to be returned. The ballot paper checking machine shall not record or count electors' choices marked on their ballot papers, and whether or not an elector uses the machine is entirely voluntary.

6.38 The elector should leave the polling station without undue delay after putting his marked ballot paper(s) into the ballot box(es) and returning the cardboard(s) to the polling staff.

NOTE :

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

If the PRO has reason to believe that an elector deliberately makes an error in marking the ballot paper and asks the PRO to issue a new ballot paper to him repeatedly, the PRO may reject the request. If the PRO has reason to believe that a person impersonates an elector to apply for or having applied for a ballot paper, the PRO may request the police to arrest that person.

A person engages in corrupt conduct if he directly or indirectly, by a deception, induces another person not to vote at the election, or wilfully

(whether or not deception is involved) obstructs or prevents another person from voting at the election.

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

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

Candidates or their agents and electors should lodge a complaint to PROs, ROs, law enforcement agencies or the EAC about any possible contraventions of the electoral law. All complaints will be treated in strict confidence. Any complaints of suspected violation of the law will be referred to the law enforcement agencies for follow-up action.

[Ss 45, 46(2) and (3), 52(2) and (2A), 54 of the EAC (EP) (LC) Reg, and ss 14, 17(1)(c), (d), and (e) of the ECICO]

Electors Claiming That He Is Unable to Read or Is Incapacitated from Marking His Vote by Himself due to Visual Impairment or Other Physical Causes

6.39 In general, an elector must mark his vote **by himself** as described in para. 6.35 of this chapter and **must not** ask other person to mark the vote for him. If an elector claims that he is unable to read or is incapacitated from casting his vote by himself due to visual impairment or other physical conditions, only the PRO, the Deputy PRO or an Assistant PRO may, in the presence of one of the polling staff as a witness, help marking the ballot paper. The responsible officer should inform the candidates or their agents who are present when such a request for assistance is received. A candidate or his agent in the polling station may suggest the PRO, the Deputy PRO or an Assistant PRO to choose a particular polling staff who is not working at the ballot paper issuing desk as the witness, but the final choice should be determined by the PRO, Deputy PRO or Assistant PRO. Other than the children accompanying an elector admitted by the PRO, an elector's relative, friend or any other person is in no circumstances allowed to accompany the elector in the course of voting. [S 59(1) and (2) of the EAC (EP) (LC) Reg]

6.40 An elector with visual impairment who so requests will be provided with a **braille template** to facilitate his marking of the ballot paper(s) by himself. The template should be returned to the polling staff after use. The features of the template are as follows:

- (a) the template is of the same width and length as the ballot paper for the relevant constituency;
- (b) the template contains numbers in braille and Arabic numerals printed in relief starting with the first numeral which represent the candidate numbers assigned to the candidates of the constituency and are arranged from the top downwards in ascending order; on the left hand side against each of the number is a round hole;
- (c) the **top left hand corner** of the ballot paper as well as that of the template are cut so as to guide the person with visual impairment to place the template on top of the front side of the ballot paper in the proper direction; and
- (d) when the template is placed properly over the ballot paper, each braille number corresponds with the candidate number in the constituency; and each of the holes on the template corresponds with the circle or the oval on the ballot paper against the candidate. The number of holes equals the number of candidates in the constituency.

[S 59(3) of the EAC (EP) (LC) Reg]

6.41 In the case of a GC election which adopts the “double seats and single vote” voting system, a person with visual impairment should affix the chop provided at the polling station to give a single “✓” in the circle through the holes of the braille template against the number of the candidate of his choice.

6.42 For an FC election which adopts the “first past the post” voting system or a ECC by-election which adopts the “block vote” voting system, a person with visual impairment may use the circular holes on the braille template to fill in the oval next to the number of the candidate of his choice with a black pen³², or if instructed otherwise by the EAC, affix the chop provided at the polling station to give a single “✓” in the circle against the candidate number of the candidate of his choice.

6.43 For the ECC which adopts the “block vote” voting system, due to the considerable number of candidates, it is not practical to produce braille templates due to the size and design of the ballot papers. As such, a person with visual impairment may request the PRO, the Deputy PRO or an Assistant PRO to mark the ballot paper of his choice on his behalf in the presence of a polling staff as witness.

6.44 **The ballot is secret. No one can use force or duress, or threaten to use force or duress, against a person to vote or not to vote for any particular candidate at an election. Also no one is required to tell which candidate he has voted for or is going to vote for.** A person who, without lawful authority, requires or purports to require an elector to disclose the candidate, or any particular relating to the candidate for whom the elector has voted commits an offence and will be liable to a fine at level 2 (\$5,000). The law also prohibits acts which may infringe the secrecy of the vote during the

³² A maximum of 30 candidate numbers can be embossed in a braille template. It is not practical to produce braille templates if there are more than 30 candidates in a constituency. A person with visual impairment may request the PRO, Deputy PRO or Assistant PRO to mark the ballot paper of his choice on his behalf in the presence of a polling staff as witness.

polling and counting process. If a person contravenes any of the acts prohibited under this section, he commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. [S 13 of the ECICO, ss 60 and 96 of the LCO]

6.45 To protect voting secrecy of elector, no one may, at any time, disclose whether an elector has received a ballot paper or voted, or disclose the identity of an elector at a dedicated polling station. Anyone who makes such disclosure, unless otherwise permitted by the law, commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. [Ss 96(1), (1A), (2), and (10) of the EAC (EP) (LC) Reg]

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

6.46 An elector who has been issued with a ballot paper but has left the polling station without casting his vote is not allowed to return to the polling station to cast the vote. The following situations are exceptions:

- (a) if the PRO considered that there is a justified reason for an elector not to mark the ballot paper(s) immediately, or has become incapacitated from completing the voting by physical illness, with the permission of the PRO, the elector should hand back the unmarked ballot paper(s) to the PRO and could return to the polling station later to cast his vote(s);
or

- (b) at dedicated polling stations situated in penal institutions, an elector who has become incapacitated from completing the voting by physical illness should hand back the unmarked ballot paper(s) to the PRO and should return to the polling station within the existing or any newly assigned time slot to cast his vote(s).

[Ss 53A(1), (5) and (5B) of the EAC (EP) (LC) Reg]

6.47 If the above situations arise in a polling station other than a dedicated polling station, the PRO should follow the following procedures:

- (a) the PRO must keep the ballot paper(s) in his custody and, when the elector returns to the polling station to vote before the close of poll, the PRO should return such ballot paper(s) to the elector in the presence of a police officer; and
- (b) where the elector has not returned to the polling station at the close of poll, the PRO must endorse the ballot paper(s) with the words “**UNUSED**” and “**未用**” and show it/them to each candidate or his election agent or polling agent who is present at the time. Ballot papers endorsed as such must not be put into the ballot box and must be excluded from the counting of votes.

[Ss 53A(3), 61, and 80 of the EAC (EP) (LC) Reg]

6.48 For a dedicated polling station, the PRO and/or the Commissioner of Correctional Services or his officer must follow the following procedures:

- (a) the PRO must keep the ballot paper(s) in his custody and, when the elector returns to the dedicated polling station to vote before the close of poll, the PRO should return such ballot paper(s) to the elector in the presence of an officer of the CSD or any law enforcement agency;
- (b) where a dedicated polling station situated in a penal institution is concerned, the Commissioner of Correctional Services or his officer must as far as practicable assign a new time slot within the polling hours to the elector, and notify the elector of the new time slot; and
- (c) where the elector has not returned to the dedicated polling station at the close of poll, the PRO must endorse the ballot paper(s) with the words “**UNUSED**” and “**未用**” and show it/them to each candidate or his election agent or polling agent who is present at the time. Ballot papers endorsed as such must not be put into the ballot box and must be excluded from the counting of votes.

[Ss 53A(2A), (3), (5A), (6), 61 and 80(1)(d) of the EAC (EP) (LC) Reg]

6.49 If any issued ballot paper (whether marked or unmarked) is found abandoned or left behind in a voting compartment or any areas inside the polling station, it must be handed in to the PRO. The PRO should endorse the ballot

paper with the words “**UNUSED**” and “**未用**” on the front and the ballot paper should be kept by the PRO. Ballot papers endorsed as such must not be put into the ballot box and must be excluded from the counting of votes. [Ss 61 and 80(1)(d) of the EAC (EP) (LC) Reg]

6.50 Any elector who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him may ask the PRO to exchange it for a new ballot paper. If the PRO considers the request reasonable, he will issue a new ballot paper in exchange for the spoiled ballot paper. The spoiled ballot paper will be endorsed with the words “**SPOILT**” and “**損壞**” on the front and be kept by the PRO. Spoiled ballot papers will be excluded from the counting of votes. [Ss 62 and 80(1)(c) of the EAC (EP) (LC) Reg]

6.51 If a person, claiming to be a particular elector on the FR of electors/EC members, applies for a ballot paper after a person has already been issued with a ballot paper as such an elector, the PRO may issue a tendered ballot paper to the elector **only if** the PRO is not certain that the latter person is the former person who has been issued with a ballot paper earlier, and the latter person has answered the questions set out in para. 6.28 of this chapter to the satisfaction of the PRO. The PRO may in such circumstances issue a ballot paper with the words “**TENDERED**” and “**重複**” endorsed on the front. Ballot papers endorsed as such will be excluded from the counting of votes. [Ss 60(1) and 80(1)(b) of the EAC (EP) (LC) Reg]

PART XI : ACTS PROHIBITED INSIDE THE POLLING STATION

6.52 Inside a polling station, no person is allowed to interfere with or attempt to influence other electors. In particular, no one is allowed to:

- (a) communicate with any elector in contravention of the direction of the RO, ARO, PRO or any polling staff;
- (b) attempt to obtain or disclose information on the vote of electors;
- (c) display or distribute any canvassing material;
- (d) display or wear any promotional material, e.g. any badge, emblem, clothing, or head-dress, which:
 - (i) may promote or prejudice the election of a candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or to a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or
- (e) use a mobile phone, paging machine or any other form of electronic communication device in contravention of the direction of the RO, ARO, PRO or any polling staff.

Any person who contravenes the above regulations commits an offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 or 6 months (as the case may be). [Ss 45 and 96 of the EAC (EP) (LC) Reg]

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

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

- (h) any person authorised in writing by a member of the EAC.

[Ss 45(1) and (6) of the EAC (EP) (LC) Reg]

6.54 The RO or the PRO should not exercise the power conferred to them to order an elector to leave or remove an elector from the polling station for the purpose of preventing the elector from voting at the polling station allocated to him. However, any person who misconducts himself in or in the vicinity of a polling station (including disrupting the voting process or disturbing or causing inconvenience to other persons in the polling station), or votes with undue delay, or fails to obey the lawful orders of the RO or the PRO, commits an offence. He may be ordered by such officers to leave the polling station or the vicinity of the polling station. Any person who fails to leave the polling station immediately as ordered by the RO or the PRO may be removed by:

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

The person so removed is not allowed to re-enter the polling station on that day except with the permission of the RO or the PRO. [Ss 46(2), (2A), (3), (4) and (5) of the EAC (EP) (LC) Reg]

6.55 A person commits an offence if he takes photos, films or makes any video or audio recording within a polling station without the express permission of the PRO, the relevant RO or a member of the EAC. Offenders are liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. Generally speaking, such permission is only granted to government photographers for performing publicity duties. [Ss 45(2) and (7)(a) of the EAC (EP) (LC) Reg]

PART XII : CLOSE OF THE POLL AND PREPARATIONS FOR COUNTING

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

6.57 In short, all electors who have arrived and queued up outside the polling station before the close of the poll may enter the polling station to cast their votes. However, some polling stations are located at a place inside a

building. If an elector has arrived at the building by the close of the poll but has not arrived at the entrance of the polling station or has not queued up outside the entrance, he will not be allowed to enter the polling station to vote.

A Polling Station which is also a Counting Station

6.58 Except for small polling stations, dedicated polling stations and the ECC polling station, all other polling stations will be designated as counting stations for the counting of GC votes. At the close of the poll, the PRO will display a notice in a prominent place outside the polling stations as soon as practicable to inform the public that the poll has been closed and the polling station is being converted as counting station. Also, if the EPR System is used in the polling station, the PRO must also confirm the close of the poll through the system. The candidates, their election agents, counting agents and polling agents may stay inside the station to observe the process of locking and sealing of ballot boxes for the preparation of converting the polling station into a counting station. The ballot boxes will be locked and sealed by the PRO in the presence of the candidates or their agents (if any). The PRO will also inform them of the numbers of un-issued ballot papers, spoilt ballot papers and unused ballot papers in his possession. All such ballot papers will then be packed into separate sealed packets for according to the respective constituencies, and the marked printed copies of FR (if used) will also be packed into a separate sealed packet. The PRO will prepare a ballot paper account to show the total number of ballot papers issued by the polling station, the number of unused ballot papers, the number of spoilt ballot papers and the number of tendered ballot papers.

The counting station will be opened to the public when the preparations are completed. [Ss 63(1), (1A), (2), (3), and 64 of the EAC (EP) (LC) Reg]

6.59 The locked and sealed GC ballot boxes mentioned in para. 6.58 of this chapter will be kept by the PRO until the counting of the GC votes begins. At that time, the polling staff will open all GC ballot boxes (if necessary, ballot papers from at least one ballot box will be retained to mix with ballot papers from small polling stations, ballot paper sorting stations or dedicated polling stations) and all ballot papers inside will be put on the counting table. With regard to the GC electoral documents, they will be kept by the PRO and delivered to the district collection centre after the close of count.

6.60 For the counting of the FC votes, the ballot paper account prepared according to para. 6.58 of this chapter, sealed FC ballot boxes, and any misplaced FC ballot papers found in GC ballot boxes (see para. 6.81 of this chapter), will be delivered to the central counting station by the Assistant PRO under police escort. Up to two persons among the FC candidates, their election agents and polling agents may accompany in the delivery if they so wish. If more than two such persons are interested in accompanying the delivery, the PRO will draw lots to determine the accompanying persons. FC candidates and their agents are allowed to stay in the polling station until the arrival of police officers for escorting the delivery. Thereafter, FC candidates and their agents must leave the polling station, but they may enter the public area in the counting station to observe the counting of the GC votes. Regarding the sealed FC packets prepared according to para. 6.58 of this chapter, they will be processed after the PRO has handled the ballot paper account and the sealed FC ballot boxes. The

sealed FC packets, together with the GC ballot papers and the GC electoral documents prepared according to para. 6.59 of this chapter, will be delivered to the designated district collection centre, and eventually be delivered to the central counting station by the Assistant PRO (District Collection Centre).

A Polling Station which is not a Counting Station

6.61 **Small polling stations, dedicated polling stations and the ECC polling station will not be converted to counting stations after the close of poll.** The PROs of small polling stations and the ECC polling station will, as soon as practicable, display a notice in a prominent place outside the polling station to inform members of the public that the poll has been closed.

6.62 After the close of poll, candidates, their election agents and polling agents may stay in the polling stations to observe the process of locking and sealing ballot boxes. As for dedicated polling stations, persons who meet the following requirement may stay behind to observe the process:

- (a) a candidate, his election agent and polling agent may stay in a dedicated polling station not situated in a penal institution;
- (b) a maximum of only two persons among the candidates, their election agents or polling agents may stay in a dedicated polling station situated in a penal institution (other than a maximum security prison); and

- (c) a maximum of only two candidates may stay in a dedicated polling station situated in a maximum security prison.

[Ss 63A(2) and (2A) of the EAC (EP) (LC) Reg]

6.63 The PRO will lock and seal the ballot boxes in the presence of the candidates, their election agents and polling agents (if any). The PRO will also inform them of the numbers of un-issued ballot papers, spoilt ballot papers and unused ballot papers in his possession. All such ballot papers and the marked printed copies of FR of electors/EC members (if used) will then be packed into separate sealed packets. [S 63A(1) of the EAC (EP) (LC) Reg]

NOTE :

Under the principle of secrecy of the ballot, votes cast at the small polling stations and dedicated polling stations will not be counted therein. After the close of poll, the GC ballot box (locked and sealed) in a small polling station will be delivered to the designated main counting station. The GC ballot papers from the small polling station will then be mixed with the GC ballot papers at the main counting station before counting. For the ECC polling station and a dedicated polling station, the GC ballot boxes will be delivered to the designated ballot paper sorting station. In the ballot paper sorting station, the staff will open the GC ballot box, and placing the ballot papers from the same GC into the same receptacle. The ballot papers will be delivered to a designated main counting station and mixed with the GC

ballot papers there before counting. The ECC and FC ballot boxes will, on the other hand, be delivered to the central counting station for counting.

6.64 The PRO of a dedicated polling station will deliver the locked and sealed GC, FC and ECC ballot boxes, sealed packets of relevant electoral documents (if any) and ballot paper accounts under police escort to:

- (a) the PRO of the relevant ballot paper sorting station (in the case of a LegCo general election, or by-election in which a ballot paper sorting station has been set up);
- (b) the PRO of the relevant main counting station (in the case of a LegCo general election, or a by-election in respect of a GC in which no ballot paper sorting station has been set up); or
- (c) the RO of the relevant counting station (in the case of a LegCo by-election in respect of FCs or ECC).

The FC or ECC ballot boxes at main counting stations and ballot paper sorting stations, together with any misplaced FC or ECC ballot papers found in GC ballot boxes, will then be delivered to the central counting station for counting. For details, see paras. 6.81, 6.96 and 6.104 of this chapter.

6.65 Only not more than two persons among the candidates, election agents or counting agents may accompany the PRO in the delivery of the locked and

sealed ballot boxes and ballot paper accounts prepared by the PRO from the polling station to the relevant ballot paper sorting station/main counting station/central counting station (as the case may be) under the police escort. If more than two such persons are interested in accompanying the delivery, the PRO will draw lots to determine which persons can join the delivery. Candidates and their agents are allowed to stay in the polling station until the arrival of police officers for escorting the delivery. Thereafter, all other persons must leave the polling station.

PART XIII : SORTING OF BALLOT PAPERS

Conduct at the Ballot Paper Sorting Station

6.66 In a LegCo general election or, where the CEO considers it appropriate, in a LegCo by-election, REO will set up ballot paper sorting stations for sorting by GCs the GC ballot papers received from dedicated polling stations or the ECC polling station. Thereafter, the GC ballot papers are delivered to the respective main counting stations for counting. The PRO of a ballot paper sorting station may determine the time at which the sorting of ballot papers is to begin, which must be a time after the poll has closed at all the dedicated polling stations situated in penal institutions but may be a time before the poll has closed at all the other polling stations. Before the polling day, candidates will be informed of the expected time of the commencement of the sorting of ballot papers at the ballot paper sorting station. [Ss 2(6), 28(1)(c), 63A(4) and 65(2A) of the EAC (EP) (LC) Reg]

6.67 Only the following persons may be present during the sorting of ballot papers:

- (a) the ROs, AROs, PROs, Deputy PROs, Assistant PROs and counting staff for the relevant GCs;
- (b) the CRO;
- (c) members of the EAC;
- (d) the CEO;
- (e) candidates and their election agents and counting agents for the relevant GCs;
- (f) police officers and members of the CAS on duty at the ballot paper sorting station;
- (g) public officers authorised in writing by the CEO;
- (h) any person authorised by the CRO, the RO or the PRO; and
- (i) any person authorised in writing by a member of the EAC.

The PRO will designate an area of restricted zone for the staff of the ballot paper sorting station to sort the ballot papers. Candidates and their agents are

prohibited from entering the restricted zone. Members of the public may observe the sorting of ballot papers from the public area designated by the PRO, unless the PRO considers that the presence of a person may cause disorder or disturbance in the ballot paper sorting station or prejudice the secrecy of individual votes. [Ss 2(6), 68(1) and (2) of the EAC (EP) (LC) Reg]

6.68 Except for police officers and members of the CAS on duty, every person permitted to stay in a ballot paper sorting station must make a **Declaration of Secrecy**³³ on a specified form before entering the ballot paper sorting station and observe the regulations on the secrecy of voting. Members of the public staying in the public area are not required to make a Declaration of Secrecy. [Ss 2(6) and 95 of the EAC (EP) (LC) Reg]

6.69 Except with the express permission of the PRO, the CRO, the ROs for the GCs for which the ballot paper sorting station is used or a member of the EAC (as the case may be), it is an offence for anyone to take photos, films or make any video or audio recording inside a ballot paper sorting station during the period commencing from the time at which the sorting of GC ballot papers is to begin and ending upon the completion of the sorting. [Ss 2(6), 68A(1) and (2) of the EAC (EP) (LC) Reg].

6.70 Any person who misconducts himself or fails to obey any lawful order of the PRO in or in the vicinity of a ballot paper sorting station commits an

³³ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/the CEO (or a person whose official designation is that of a deputy to the CEO)/a Justice of the Peace/a solicitor with a practising certificate.

offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months. He may be ordered by the PRO to leave the area immediately. A person misconducts himself if he disrupts the sorting of GC ballot papers or disturbs or causes inconvenience to other persons in the ballot paper sorting station. The PRO may also order a person to leave the ballot paper sorting station if the person's conduct in the venue is not in line with the purpose authorised or permitted for his entry to or presence in the ballot paper sorting station. If the person fails to leave immediately, he may be removed by a police officer or by any other person authorised in writing by the PRO. Any person so removed is not allowed to enter the relevant ballot paper sorting station again on that day except with the permission of the PRO. [Ss 2(6), 68A and 69 of the EAC (EP) (LC) Reg]

Sorting of Ballot Papers

6.71 The PRO of a ballot paper sorting station will, in the presence of the candidates, election agents or counting agents, sort the GC ballot papers received from dedicated polling stations or the ECC polling station. The PRO will check whether the GC ballot boxes and sealed packets (if any) are properly sealed. Afterwards, the PRO will break the seal on each ballot box in the presence of the candidates and their agents, and then open the ballot box immediately, dumping all the contents in the ballot box onto a sorting table. After the ballot box is opened by the PRO, the candidates and their agents may request to inspect any paper other than the ballot papers taken out from the ballot box before it is disposed of by the PRO. **At no time should a candidate and his agent touch any of the ballot papers.**

6.72 The PRO of a ballot paper sorting station shall:

- (a) open the GC ballot boxes received from dedicated polling stations or the ECC polling station;
- (b) for each ballot box, sort the GC ballot papers inside according to each GC;
- (c) count and record the number of GC ballot papers for each GC;
- (d) verify the ballot paper account by comparing it with the number of GC ballot papers recorded under item (c) of this paragraph;
- (e) prepare a statement in writing as to the result of the verification;
- (f) prepare a statement in writing as to the number of GC ballot papers recorded under (c) of this paragraph;
- (g) make into separate bundles the sorted GC ballot papers together with the statement prepared under (f) of this paragraph;
- (h) place each bundle in a separate receptacle and seal it in the presence of those present at the counting zone;
- (i) arrange for each of the receptacles to be delivered to the PRO of the main counting station for the corresponding GC;

- (j) send to the CEO the ballot paper accounts, the verification of number of ballot papers and the GC sealed packets received from dedicated polling stations or the ECC polling station; and
- (k) arrange for the FC and ECC ballot boxes, the sealed packets containing un-issued FC and ECC ballot papers (if any) etc. and the relevant ballot paper accounts received from dedicated polling stations to be delivered to the central counting station

[Ss 70 and 73E(1) of the EAC (EP) (LC) Reg]

6.73 If the PRO of a ballot paper sorting station finds any FC ballot papers or ECC ballot papers in a GC ballot box, he must:

- (a) sort the FC ballot papers according to each FC;
- (b) count and record the number of ballot papers for each FC and the ECC found in the GC ballot box from the dedicated polling station or the ECC polling station;
- (c) prepare a statement in writing as to the number of ballot papers recorded for each FC and the ECC under (b) of this paragraph;
- (d) make into separate bundles the sorted FC and ECC ballot papers together with the relevant statement prepared under (c) of this paragraph;

- (e) place each bundle in a separate receptacle and seal it in the presence of those present at the counting zone of the ballot paper sorting station; and
- (f) pass the receptacles to an Assistant PRO on duty at the counting zone of the ballot paper sorting station. The Assistant PRO shall deliver the receptacles to the central counting station and hand over each of them to the RO(s) for the relevant FC or the ECC.

[S 73E of the EAC (EP) (LC) Reg]

PART XIV : COUNTING ARRANGEMENTS

Conduct at the Counting Station and the Central Counting Station

6.74 Only the following persons may be present during the counting of votes at the counting zone of a counting station or the central counting station:

- (a) the ROs, AROs, PROs, Deputy PROs, Assistant PROs and counting staff for the relevant GCs, FCs or ECC;
- (b) the CRO;
- (c) members of the EAC;

- (d) the CEO;
- (e) police officers and members of the CAS on duty at the counting station;
- (f) candidates and their election agents and counting agents of the relevant GCs, FCs or ECC;
- (g) public officers authorised in writing by the CEO;
- (h) any person permitted by the CRO, the RO or the PRO; and
- (i) any person authorised in writing by a member of the EAC.

The PRO, the CRO or the RO (as the case may be) will designate a restricted zone inside the counting zone for the counting staff to count the votes. Candidates and their agents are prohibited from entering the restricted zone. The PRO, the CRO or the RO will also designate an area (“the public area”) at the counting station for members of the public to observe the counting of votes, unless the PRO, the CRO or the RO considers that the presence of a person may cause disorder or disturbance in the counting station or prejudice the secrecy of individual votes. [S 68 of the EAC (EP) (LC) Reg]

6.75 Members of the public and the media are allowed to observe the counting of votes inside the public area but not allowed to enter the counting zone. In order to maintain order inside the counting station, the PRO, the CRO or the RO will also set a maximum capacity of the public area and display a

notice setting out such capacity outside the counting station. When the public area reaches the maximum capacity, the PRO, the CRO or the RO will reject further entrants.

6.76 Besides, members of the public, including the media, can take photos and/or shoot videos inside the public area (but not inside the counting zone). For record purposes, video recording systems will be installed in each counting station (including inside the counting zone) to record the actual situation of the counting station (including the public area).

6.77 Except with the express permission of the relevant PRO, the CRO, the RO or a member of the EAC (as the case may be), a person commits an offence if he takes photos, films or makes any audio or video recording within a counting zone during the period commencing from the time at which the counting of votes is to begin at the zone and ending upon the completion of the counting and re-count, if any, at the zone. [Ss 68A(1) and (2) of the EAC (EP) (LC) Reg]

6.78 Except for police officers and members of the CAS on duty, every person permitted to enter a counting zone must make a **Declaration of Secrecy**³⁴ on the specified form before entering the zone, and observe the regulations on the secrecy of voting. Members of the public and the media inside the public area are not required to make a Declaration of Secrecy. [S 95 of the EAC (EP) (LC) Reg]

³⁴ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/the CEO (or a person whose official designation is that of a deputy to the CEO)/a Justice of the Peace/a solicitor with a practising certificate.

6.79 Any person who misconducts himself or fails to obey any lawful order of the PRO (for a counting station other than the central counting station) or the CRO/RO (for the central counting station) in or in the vicinity of a counting station commits an offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months. He may be ordered by the PRO, the CRO or the RO (as the case may be) to leave the area immediately. A person misconducts himself if he disrupts the counting of votes or disturbs or causes inconvenience to other persons in the counting station. The PRO, the CRO or the RO may also order a person to leave the counting station immediately if the person's conduct in the venue is not in line with the purpose authorised or permitted for the entry to or presence in the counting station. If the person fails to leave immediately, he may be removed by a police officer or by a person authorised in writing by the PRO, the CRO or the RO. Any person so removed is not allowed to enter the relevant counting station again on that day except with the permission of the PRO, the CRO or the RO. [Ss 68A and 69 of the EAC (EP) (LC) Reg]

Counting of Geographical Constituency Votes

6.80 After the poll, polling stations (except for small polling stations, dedicated polling stations and the ECC polling station) will be converted to counting stations immediately where the GC votes will be counted and the counting results will be announced to the candidates, their election agents and counting agents present. If the same place is designated as both a polling station and a counting station, the PRO of the polling station is to be regarded as the PRO of the counting station. The PRO, assisted by the staff at the polling station, is responsible for converting the polling station to a counting station and

conducting the count. Before the counting of votes begins, a notice will be displayed outside the counting station specifying at what time the counting station is expected to be open to members of the public to observe the counting. The phone number of the counting station should be provided on the notice, so that the candidates or their agents will be able to contact the counting staff. [Ss 34(4) and 65(5A) of the EAC (EP) (LC) Reg]

6.81 The PRO of a counting station will conduct the counting of the GC votes in the presence of the candidates, their election agents or counting agents. The PRO will first check whether all the ballot boxes and sealed packets are properly sealed. Then, the PRO will, in the presence of the candidates, their agents (if present), break the seal on each GC ballot box one by one, and open all the GC ballot boxes, dumping the contents in the ballot box onto the counting table. After a ballot box is opened by the PRO, the candidates and their agents may request to inspect any paper other than ballot papers taken out from the ballot box before the paper is disposed of by the PRO. If the PRO identifies any FC ballot papers misplaced inside the GC ballot boxes, the PRO should seal and deliver the misplaced FC ballot papers to the relevant RO at the central counting station for counting in accordance with the delivery arrangements for FC ballot boxes (see para. 6.60 of this chapter). **At no time should a candidate or his agents touch any of the ballot papers.** [S 73(A) of the EAC (EP) (LC) Reg]

6.82 The PRO of a counting station shall:

- (a) **[Main counting stations only]** count the number of GC ballot papers in the ballot boxes received from designated small polling stations, or in the receptacles received from ballot paper sorting stations or the ECC polling station, and verify the number of ballot papers by comparing with the ballot paper accounts sent along with it;
- (b) **[Main counting stations only]** mix the ballot papers in at least one of the GC ballot boxes from the main counting station with the ballot papers from the small polling stations, ballot paper sorting stations or the ECC polling station;
- (c) separate and put aside the invalid and questionable ballot papers (if any);
- (d) sort the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate transparent plastic boxes on the counting table;
- (e) determine the validity of questionable ballot papers;
- (f) count the valid votes obtained by each candidate;

- (g) upon completing the counting of votes, verify the number of all ballot papers (including valid, invalid and questionable ballot papers) taken from the ballot boxes of the polling station concerned by comparing with the ballot paper accounts prepared by the PRO as referred to in para. 6.58 of this chapter. Please note: For main counting stations, the total number of ballot papers should first deduct the number of ballot papers received from small polling stations, ballot paper sorting stations or the ECC polling station mentioned in item (a) of this paragraph, in order to calculate the number of ballot papers taken from the ballot boxes of the polling station concerned; and
- (h) compile the final counting results.

[Ss 73D and 75 of the EAC (EP) (LC) Reg]

6.83 The cumulative voter turnout announced on the polling day is an estimate based on the statistics on ballot papers issued to electors by polling staff at the ballot paper issuing desks (see para. 6.22 of this chapter). The cumulative voter turnout may not tally with the number of ballot papers in the ballot boxes due to different reasons, for instance, it does not take into account the numbers of ballot papers endorsed as “TENDERED”³⁵ issued at the PRO desk, the “UNUSED”³⁶ ones which were found abandoned in the polling station instead

³⁵ “TENDERED” ballot papers are issued at the PRO desk. They are not counted in the cumulative voter turnout, but were put into the ballot box and included in the number of ballot papers actually counted from the ballot box.

³⁶ Ballot papers are occasionally found abandoned or left behind in the polling station. The PRO will endorse such ballot papers with the word “UNUSED”, and keep them in his custody. These ballot papers have been counted in the cumulative voter turnout although they were not put in the ballot box.

of being put into the ballot boxes (see paras. 6.49 and 6.51 of this chapter), etc. After adding the number of “TENDERED” ballot papers and deducting the number of “UNUSED” ballot papers, the cumulative voter turnout should, in principle, tally with the number of ballot papers in the ballot boxes³⁷. In addition, a discrepancy may also occur between the two numbers if any ballot paper was misplaced. In any event, the counting results shall be based on the number of ballot papers actually in the ballot boxes, while the cumulative voter turnout is for reference only.

Invalid Ballot Papers

6.84 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is not marked with the chop provided by the polling station;
- (c) it is endorsed on the front with the words “**TENDERED**” and “**重複**”;
- (d) it is endorsed on the front with the words “**SPOILT**” and “**損壞**”;

³⁷ See para. 6.23 of this chapter. Ballot papers issued to electors in replacement of “SPOILT” ballot papers are also issued at the PRO desk. The “SPOILT” ballot papers to be kept by the PRO were issued at the ballot paper issuing desks, so they have been counted in the cumulative voter turnout. On the other hand, ballot papers issued to electors by the PRO in replacement of “SPOILT” ballot papers were put into the ballot box and hence subsequently included in the number of ballot papers actually counted from the ballot box.

- (e) it is endorsed on the front with the words “**UNUSED**” and “**未用**”;
- (f) the vote recorded on it is for a deceased or disqualified candidate whose name and other information on the ballot paper are crossed out;
or
- (g) votes are given for more than one candidate (e.g. by marking a “✓” each against two candidates).

These ballot papers will not be counted and will not be treated as questionable ballot papers. A candidate, an election agent or a counting agent may inspect these ballot papers but is not entitled to make representations to the PRO concerning these ballot papers. [Ss 37(2) and 80(1) and (4) of the EAC (EP) (LC) Reg]

Questionable Ballot Papers

6.85 Ballot papers which appear to fall under the following categories are considered as questionable ballot papers, and must be separated and forwarded to the RO or the PRO (as appropriate, referred to by the abbreviation “the PRO” in paras. 6.86 to 6.88 of this chapter) to decide whether the votes are to be considered as valid and to be counted. A questionable ballot paper will be decided as invalid if in the opinion of the PRO:

- (a) it has any writing or mark by which the identity of the elector can possibly be identified;
- (b) it is not marked by affixing the chop to give a single “✓” in the circle opposite the name of the candidate of the elector’s choice on the ballot paper, and the elector’s intention is unclear. However, the PRO may count the vote on that ballot paper if he is satisfied that the elector’s intention is clear even though the “✓” mark is not placed inside the circle;
- (c) it is substantially mutilated; or
- (d) it is void for uncertainty.

[Ss 55(2), 75(7), 80(1)(g), (2) and 81(3) of the EAC (EP) (LC) Reg]

6.86 The validity of all questionable ballot papers shall be decided by the PRO. The PRO will invite the candidates, election agents or counting agents present to participate in the determination process of questionable ballot papers. If GC ballot papers are found to have been misplaced in FC ballot boxes, the misplaced ballot papers will be counted by the RO at the central counting station, who will also determine the validity of any questionable ballot papers with the participation of the candidates, election agents or counting agents present. [Ss 81(1) and (2) of the EAC (EP) (LC) Reg]

6.87 When deciding on the validity of the ballot papers as mentioned in item (a) of this paragraph, the PRO should make reference to the judgment made by the Court on an election petition case (HCAL 127/2003). In that case, the Court ruled that the handwritten tick (“✓”) found on the ballot paper in question in the said election petition was considered a mark by which the identity of the elector could possibly be identified. The validity of ballot papers with any other writings or marks will remain to be determined by the PRO on a case-by-case basis. The specific determination process will be conducted in the following manner:

- (a) the PRO will inform the candidates, election agents or counting agents of his initial decision on the validity of a questionable ballot paper. The candidates and their agents (if present at the counting zone) may inspect and make representations concerning the questionable ballot paper;
- (b) the PRO will then consider their representations and make a final decision on the validity of the questionable ballot paper (see para. 6.88 in this chapter);
- (c) if the PRO decides that a questionable ballot paper is invalid and therefore not to be counted, he must endorse the words “不獲接納” and “rejected” on the front of it. In that case, if any candidate or his agent objects to the PRO’s final decision, the PRO must also endorse the words “反對此選票不獲接納” and “rejection objected to” on that ballot paper;

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

[Ss 81(1), (2), (4), (5), and (6) of the EAC (EP) (LC) Reg]

6.88 The decision of the PRO or RO (as may be appropriate) in regard to any question arising in respect of any ballot paper **shall be final**, subject to an election petition lodged by the candidate. See Part II of Chapter 7. [S 82 of the EAC (EP) (LC) Reg and s 61 of the LCO]

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

Request for a Re-count

6.90 After the vote counting at an individual counting station for a GC is completed, the PRO of the counting station will make known the counting results to the relevant candidates, election agents or counting agents (if present). Candidates and their agents may request the PRO to re-count the votes, and the PRO shall comply with such request unless in his opinion the request is unreasonable. If there is no request for a re-count, or the request for a re-count

is rejected, or the re-count is completed and there is no request for a further re-count, or the request for a further re-count is rejected by the PRO, then the PRO shall report the counting results to the ARO for the relevant constituency at the central counting station. [Ss 79A and 82 of the EAC (EP) (LC) Reg]

6.91 After the ARO has been notified of the results of the counting of votes and re-count (if any) of all counting stations for the GC in his charge, he shall inform the RO for the constituency of the results. The RO shall inform the candidates, election agents or counting agents who are present at the central counting station of the results. If a candidate or his agent at the central counting station requests the RO to re-count the votes of all the counting stations for the constituency, the RO will decide whether the request should be acceded to. If the RO decides that such a re-count is reasonable in the circumstances, he will inform the PROs of all the counting stations for the constituency of the decision so that a re-count at the respective counting stations can be conducted. [Ss 79A(5) and (6) of the EAC (EP) (LC) Reg]

6.92 When the RO makes known to the candidates, their election agents or counting agents the counting results of all the counting stations for the GC, he must also make known to them the estimated number of GC ballot papers misplaced in FC/ECC ballot boxes (the estimated number will be based on the information in the ballot paper account). Candidates and their agents may at that point request a re-count of the votes of all counting stations for the GC without having to wait for the counting results of any misplaced GC ballot papers (see para. 6.91 of this chapter). Alternatively, they may at that point request a re-count of the votes of all the counting stations for the GC together with the

votes of the misplaced GC ballot papers after the latter votes are counted. The RO will not entertain the alternative request if the estimated number of misplaced GC ballot papers is **less than** the difference between the numbers of remaining votes cast for any two candidates (in which case the counting results of the misplaced GC ballot papers will not affect the overall election results of the GC in question). [Ss 79A(7) and (14) of the EAC (EP) (LC) Reg]

6.93 The PRO of each of the counting stations must make known the result of the re-count at his counting station to the candidates, their election agents or counting agents present at that counting station, and report the same to the ARO for the GC at the central counting station. The ARO shall inform the RO for the GC of the results of the re-count of all the counting stations in his charge. The RO shall add together such results and the result of the counting of the votes recorded on the misplaced GC ballot papers found in FC/ECC ballot boxes, and make known the aggregate result to the candidates or their election agents or counting agents present at the central counting station. If a candidate or his agent makes a request to the RO for a re-count of the votes of the misplaced GC ballot papers, the RO shall comply with the request unless in his opinion the request is unreasonable. [Ss 79A(10) and (12) of the EAC (EP) (LC) Reg]

Transfer to Another Counting Station

6.94 If at any time it appears to the EAC that a counting station (“first counting station”) assigned for the counting of votes cast at a polling station (“polling station concerned”) in respect of a GC is no longer suitable for the counting to take place or continue to take place for reasons other than those

referred to in s 2(3) of Schedule 2 to the EAC (EP) (LC) Reg (i.e. the occurrences of a typhoon or other climatic condition of a serious nature; riot, open violence or any danger to public health or safety; or an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or count), then the EAC may direct that the counting is to take place or continue to take place at another counting station (“new counting station”) specified by the CEO. The RO must give notice to each candidate for the constituency of the time and place for such counting. Where such direction is given by the EAC, the PRO of the first counting station must arrange the ballot boxes (whether opened or unopened) and receptacles, if any, together with the ballot papers (whether counted or not), any un-issued ballot papers, tendered ballot papers, ballot paper accounts, verification of number of ballot papers and any other relevant election materials to be transferred to the new counting station. Any person who is entitled to be present at the first counting station or the polling station concerned may also be present when the PRO makes any of the aforesaid arrangement. [Ss 65(7A), 75A(1), (3), and (4) of the EAC (EP) (LC) Reg]

Counting Functional Constituency Votes

6.95 A central counting station will be set up to conduct the count of FC votes and announce the election results.

6.96 The FC ballot boxes, and any misplaced FC ballot papers found in GC/ECC ballot boxes, will be delivered to the central counting station and given to the relevant RO. The RO will break the seal on the ballot box in the presence of the candidates, election agents or counting agents, if any, will open all the ballot boxes. The candidates or their agents may request to inspect any paper other than ballot papers taken out from the ballot boxes before the paper is disposed of. **At no time should a candidate and his agent touch any of the ballot papers.** [Ss 70(1), 72(1) and 73 of the EAC (EP) (LC) Reg]

6.97 The EAC will, depending on the circumstances³⁸, indicate whether the counting of FC votes is to be conducted by an electronic counting system or manually. If electronic counting is adopted, the counting staff will count the total number of FC ballot papers in the ballot boxes collected from each polling station after they have been opened, and compare and verify the total number of FC ballot papers with the ballot paper account. The FC ballot papers from not less than two polling stations will be mixed. Without the need to first sort the ballot papers into respective FCs, the counting staff will put the mixed ballot papers into the electronic counting machines for counting. The RO will then examine the clearly invalid ballot papers and determine the validity of the questionable ballot papers (see paras. 6.99 and 6.100 of this chapter). With the assistance of the counting staff, the RO will count the valid votes obtained by each candidate in accordance with the “first past the post” voting system and compile the final counting results. In case the system fails to operate normally,

³⁸ For example, electronic vote counting may not be adopted, considering that there is relatively small number of voters in a FC by-election.

the counting staff will activate the contingency plan, using either a backup electronic counting system or a manual method (as the case may be) to conduct the count. The counting of the votes will proceed continuously, as far as possible, until the counting of all the votes is completed.

6.98 If manual counting is adopted, after opening the ballot boxes collected from each polling station, the counting staff will sort the ballot papers by constituencies, count and record the number of ballot papers for each constituency, and then compare and verify the total number of ballot papers recorded with the ballot paper account. The counting staff will then transfer the ballot papers to the counting zones of the respective FCs for the ROs to conduct the counting. Ballot papers from not less than two polling stations of the same FC will be mixed before counting. Similar to electronic counting, the RO will examine the invalid ballot papers and determine the validity of the questionable ballot papers.

Invalid Ballot Papers

6.99 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is endorsed on the front with the words “**TENDERED**” and “**重複**”;

- (c) it is endorsed on the front with the words “**SPOILT**” and “**損壞**”;
- (d) it is endorsed on the front with the words “**UNUSED**” and “**未用**”;
- (e) in the case where the EAC has given further directions, the vote is not marked with the chop provided by the polling station;
- (f) the vote recorded on it is for a deceased or disqualified candidate whose name and other information on the ballot paper are crossed out, or endorsed with a marking as directed by the EAC; or
- (g) votes are marked for more than the number of vacancies to be filled (in respect of the Labour FC, a ballot paper is invalid if more than three votes are marked on it; in respect of the other 27 FCs, a ballot paper is invalid if more than one vote is marked on it).

These ballot papers will be set aside as invalid on the spot. They will not be counted and will not be treated as questionable ballot papers. A candidate, an election agent or a counting agent may inspect these ballot papers but is not entitled to make representations to the RO regarding these ballot papers. [Ss 37(2), 80(1) and (4) of the EAC (EP) (LC) Reg]

Questionable Ballot Papers

6.100 Ballot papers in the following categories will be treated as questionable ballot papers, which will be separated and forwarded to the RO to decide whether the votes are valid and should be counted. The RO will decide the ballot paper is invalid if the questionable ballot paper falls into one of the following categories:

- (a) the ballot paper has any writing or mark by which the elector can possibly be identified;
- (b) the ballot paper is not marked by filling the ovals on it opposite the name(s) of the candidate(s) of the elector's choice with the black pen or in the case where the EAC has given further directions, the ballot paper is not marked by affixing the chop to give a single "✓" in the circle opposite the name(s) of the candidate(s) of the elector's choice, and the intention of the elector is unclear. However, the RO may count the vote(s) on that ballot paper if he is satisfied that the intention of the elector is clear even though the way in which the ballot paper is marked deviates from the aforesaid requirements;
- (c) the ballot paper is substantially mutilated; or
- (d) the ballot paper is void for uncertainty.

The validity of all questionable ballot papers shall be decided by the RO. The RO will invite the candidates, election agents or counting agents present to participate in the determination process of questionable ballot papers.

[Ss 57(2), 77(7), 80(1)(g), (2), 81(1), (2), and (3) of the EAC (EP) (LC) Reg]

6.101 For the process of determining the validity of questionable ballot papers, see para. 6.87 of this chapter.

6.102 The decision of the RO in regard to any question arising in respect of any ballot paper shall be final, subject to an election petition lodged by a candidate. Please see Part II of Chapter 7. [S 82 of the EAC (EP) (LC) Reg and s 61 of the LCO]

6.103 After the vote counting for a particular FC is completed, the RO for the relevant counting zone will make known the counting result to the candidates, election agents or counting agents present. Candidates or their election agents may request the RO to re-count the votes, and the RO shall comply with such request unless in his opinion the request is unreasonable. If there is no request for a re-count, or the request for a re-count is rejected, or the re-count is completed and there is no request for a further re-count, or the request for a further re-count is rejected by the RO, then the RO shall inform the candidates or their agents of the counting results. [S 79 of the EAC (EP) (LC) Reg]

Counting of Election Committee Constituency Votes

6.104 The ECC ballot boxes, and any misplaced ECC ballot papers found in GC or FC ballot boxes, will be delivered to the central counting station and given into the charge of relevant RO. The RO will break the seal on the ballot box in the presence of the candidates, election agents or counting agents, if any, and open all the ballot boxes. The candidates and their agents may request to inspect any paper other than ballot papers taken out from the ballot boxes before the paper is disposed of. **At no time should a candidate and his agent touch any of the ballot papers.** [Ss 70(4), 72(2) and 73 of the EAC (EP) (LC) Reg]

6.105 Unless otherwise directed by the EAC³⁹, ECC ballot papers will be automatically counted using the electronic counting system. After opening all the ballot boxes collected from the ECC polling station, the counting staff will count the total number of ballot papers and compare and verify them with the ballot paper account. The counting staff will then put the ballot papers into the electronic counting machine for counting (the ballot papers from the dedicated polling stations will be mixed first, if any). The RO will eventually examine the clearly invalid ballot papers and determine the validity of the questionable ballot papers (see paras. 6.106 and 6.107 of this chapter). With the assistance of the counting staff, the RO will count the valid votes received by each candidate under the “block vote” system and the “first past the post” voting system, and compile the final counting results. In the case the system fails to operate normally, the counting staff will activate the contingency plan and use a backup

³⁹ For example, in an ECC by-election, electronic counting may not be used if the number of vacancies to be filled is relatively small.

electronic counting system for automatic counting of votes or input the votes on each ballot paper manually into an independent computer system for vote counting (as the case may be). If the votes are input manually, the counting staff will work in pairs and perform “double entry” to ensure data accuracy.

Invalid Ballot Papers

6.106 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is endorsed on the front with the words “**TENDERED**” and “重複”;
- (c) it is endorsed on the front with the words “**SPOILT**” and “損壞”;
- (d) it is endorsed on the front with the words “**UNUSED**” and “未用”;
- (e) in the case where the EAC has given further directions, the vote is not marked with the chop provided by the polling station;
- (f) the vote recorded on it is for a deceased or disqualified candidate whose name and other information on the ballot paper are crossed out or endorsed with a marking as directed by the EAC; or

- (g) the number of votes marked on the ballot paper is not equal to the number of members to be returned.

These ballot papers will be set aside as invalid on the spot. They will not be counted and will not be treated as questionable ballot papers. A candidate, an election agent or a counting agent may inspect these ballot papers but is not entitled to make representations to the RO concerning these ballot papers. [Ss 37(2), 80(1), and (4) of the EAC (EP) (LC) Reg]

Questionable Ballot Papers

6.107 If a ballot paper appears to fall under any of the following circumstances, it shall be handled as a questionable ballot paper, and shall be separated, and referred to the RO for determination on whether it should be considered valid and counted. The RO will decide the ballot paper is invalid if the questionable ballot paper falls into one of the following categories:

- (a) the ballot paper has any writing or mark by which the elector can possibly be identified;
- (b) the ballot paper is not marked by filling in black the ovals on it opposite the name(s) of the candidate(s) of the elector's choice; or, in the case where the EAC has given further directions, the ballot paper is not marked by affixing the chop to give a single "✓" in the circle opposite the name(s) of the candidate(s) of the elector's choice, and the intention of the elector is unclear. However, the RO may count the votes on

that ballot paper if he is satisfied that the intention of the elector is clear, even though the way in which the ballot paper is marked deviates from the aforesaid requirements;

(c) the ballot paper is substantially mutilated; or

(d) the ballot paper is void for uncertainty.

[Ss 58A(1), (2), (3), 78A(5), 80(1)(g), (2), and 81(3) of the EAC (EP) (LC) Reg]

6.108 The RO shall decide the validity of all questionable ballot papers, and will invite the candidates, their election agents or counting agents present to participate in the determination process of questionable ballot papers. [Ss 81(1) and (2) of the EAC (EP) (LC) Reg]

6.109 The procedures for determining the validity of questionable ballot papers is detailed in para. 6.87 of this chapter.

6.110 The decision of the RO in regard to any question arising in respect of any ballot paper at the counting of votes shall be final, which may be questioned by an election petition. Please see Part II of Chapter 7. [S 82 of the EAC (EP) (LC) Reg and s 61 of the LCO]

6.111 After the vote counting for the ECC is completed, the RO for the constituency will make known the counting result to the relevant candidates, their election agents or counting agents present. Candidates or their agents may

request the RO to re-count the votes, and the RO shall comply with such request unless in his opinion the request is unreasonable. If there is no request for a re-count, or the request for a re-count is rejected, or the re-count is completed and there is no request for a further recount, or the request for a further re-count is rejected by the RO, the RO must inform the candidates and their agents of the counting results. [S 79 of the EAC (EP) (LC) Reg]

PART XV : DECLARATION OF RESULT

For Geographical Constituencies

6.112 When the counting of votes and re-counts, if any, are completed and a result is obtained, the PRO of each of the counting stations shall report to an ARO for the relevant GC the final counting or re-count result of his counting station. After tallying the total of the final counting or re-count results with all the final counting or re-count results reported from individual counting stations/counting zones for the GC, the RO for the GC shall declare the successful candidate(s) elected for the GC. In the event that one or two vacancies are still to be filled for a GC and the number of the most successful candidates having an equal number of votes is more than the number of vacancies, the RO will determine the result of the election by drawing lots at the central counting station (see **Part III of Chapter 2** of these Guidelines for details about the drawing of lots). The candidate(s) on whom the lot fall(s) is/are to be returned at the election. The RO shall display a notice of the result of the GC election at a prominent place outside the central counting station. The result of

the election shall also be published in the Gazette within 10 days of the declaration of the result. [Ss 83 and 84 of the EAC (EP) (LC) Reg]

For Functional Constituencies and the Election Committee Constituency

6.113 When the counting of votes and re-counts, if any, are completed and a result is obtained, the RO for the relevant FC/the ECC shall declare the successful candidate(s) elected for the constituency. In the event that one or more than one vacancies are still to be filled for a constituency and the number of the most successful candidates having an equal number of votes is more than the number of vacancies, the RO will determine the result of the election by drawing lots at the central counting station (see **Part III of Chapter 3 and Part III of Chapter 4** of these Guidelines respectively for details about the drawing of lots for the FCs and the ECC). The candidate(s) on whom the lot fall(s) is/are to be returned at the election. The RO of the relevant FC/the ECC shall display a notice of the result of the FC/the ECC election at a prominent place outside the central counting station. The result of the election shall also be published in the Gazette within 10 days of the declaration of the result. [Ss 83 and 84 of the EAC (EP) (LC) Reg]

PART XVI : DISPOSAL OF DOCUMENTS AND BALLOT PAPERS

6.114 After ascertained the result of the poll, the RO/PRO shall pack all the relevant documents and ballot papers into sealed packets as soon as possible. Candidates and their agents may be present to observe the relevant process.

These sealed packets and other documents including nomination forms, notices of appointment of agents, etc. will then be deposited with the CEO for safe custody for at least six months from the date of the LegCo election to which they relate before destruction. **Except pursuant to a court order** in relation to an election petition or criminal proceedings, **no person may inspect any ballot paper in the custody of the CEO.** [Ss 85(1) and (3), 86(1), 87, and 88 of the EAC (EP) (LC) Reg]

PART XVII : POSTPONEMENT OR ADJOURNMENT OF THE ELECTION, THE POLL OR THE COUNT

6.115 The LCO and the EAC (EP) (LC) Reg provide for the postponement or adjournment of the election, the poll or the count for a LegCo general election as well as such cases in respect of an individual constituency or an individual polling/counting station.

6.116 Regarding the postponement or adjournment of a **general election as a whole and the poll at all polling stations and/or the count at all counting stations**, if, before the holding of a general election or during the poll or the count in respect of a general election, the CE is of the opinion that the election, the poll or the count is likely to be or is being obstructed, disrupted, undermined or seriously affected by riot, open violence or any danger to public health or safety, then the CE may, by order, direct the postponement or adjournment of the election, the poll or the count. Besides, if it appears to the EAC that the election, the poll or the count is likely to be obstructed, disrupted, undermined

or seriously affected by (a) a typhoon or other climate condition of a serious nature; or (b) an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or the count, then the EAC may postpone or adjourn the election, the poll or the count. [Ss 44(1) and (2) of the LCO and s 1 of Schedule 2 of the EAC (EP) (LC) Reg]

6.117 Regarding **an individual constituency**, if, during or before a general election or by-election or at any time during the poll or the count in respect of the election, it appears to the EAC that the election, the poll at all the polling stations or the count at all the counting stations for a particular constituency is likely to be obstructed, disrupted, undermined or seriously affected by any of the prescribed occurrences including (a) a typhoon or other climate condition of a serious nature, (b) riot, open violence or any danger to public health or safety; or (c) an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or the count, then the EAC may postpone or adjourn the election or by-election, the poll at the polling stations or the count at all the counting stations for that constituency. [S 2 of Schedule 2 of the EAC (EP) (LC) Reg]

6.118 Regarding the **poll or the count at an individual polling/counting station**, if, at any time during the poll or the count of a general election or by-election, it appears to the PRO that the poll at the polling station or the count at the counting station is likely to be obstructed, disrupted, undermined or seriously affected by any of the prescribed occurrences mentioned in para. 6.117 of this chapter, then the PRO may adjourn the poll at that polling station or the count at that counting station. [S 3 of Schedule 2 of the EAC (EP) (LC) Reg]

6.119 If a general election or by-election or the poll or count has to be postponed or adjourned, the CE or the EAC must appoint a date for holding the election, the poll or the count as soon as practicable after the postponement or adjournment. The date appointed must not be later than 14 days after the date originally scheduled. Pursuant to the established contingency measures of the EAC, the election, the poll or the count will usually be postponed or adjourned to the fallback polling day (i.e. the following Sunday). There is no provision in the relevant electoral law and regulations regarding further postponement or adjournment of an already postponed or adjourned election, poll or count. [S 44(4) of the LCO and s 7 of Schedule 2 of the EAC (EP) (LC) Reg]

PART XVIII : LEGISLATIVE COUNCIL BY-ELECTION TO BE HELD

6.120 In respect of LegCo by-elections, the EAC must, in accordance with regulations in force under the LCO, arrange for a by-election to be held in the following circumstances and not otherwise:

- (a) on the making of a declaration by the Clerk to the LegCo as to the existence of a vacancy in the membership of the LegCo;
- (b) on the making of a declaration by an RO that the election for a constituency has failed;
- (c) on the Court of First Instance's ("CFI's") making of a determination that a person whose election is questioned was not duly elected and

that no other person was duly elected instead; or

- (d) if an appeal against the CFI's determination is lodged to the Court of Final Appeal ("CFA"), on the CFA's determination that a person whose election is questioned was not duly elected and that no other person was duly elected instead, or on the termination of the appeal proceedings in other circumstances.

[S 36 of the LCO]

6.121 There is no provision in the subsisting law regarding the holding of any by-election to cater for the event that a LegCo general election, poll or count has to be postponed or adjourned due to the circumstances mentioned in paras. 6.116 to 6.118 of this chapter but cannot be held within the 14 days after the scheduled date as stipulated in the law.