

CHAPTER 3

COMPOSITION, REGISTRATION OF ELECTORS AND VOTING SYSTEM FOR FUNCTIONAL CONSTITUENCIES

PART I : COMPOSITION OF FUNCTIONAL CONSTITUENCIES

3.1 In a LegCo general election, except the Labour FC that is to return three members, the other 27 FCs will return one member each. The 28 FCs are to return 30 members in total. Details of each FC and its electors are provided in **Appendix 3**. [S 21 of the LCO]

PART II : REGISTRATION OF ELECTORS

3.2 Only a registered individual elector or a corporate elector⁸ for an FC is entitled to vote at an election for the respective FC. [S 48(1) of the LCO]

Qualifications for Registration

⁸ A registered elector refers to an individual elector or an AR of a corporate elector whose name is listed in the FR of FC that is in force at the time of the election. The FR also indicates the FC to which the registered elector belongs. ⁹ Except for the condition stipulated in this paragraph, the law imposes no restrictions on the rights to vote for persons who are incapacitated from voting due to other physical conditions, provided that each elector must cast the vote on his own. If an elector is unable to mark the ballot paper on his own, the elector may 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 (see Part X of Chapter 6).

3.3 Pursuant to ss 25 and 26 of the LCO, an individual elector must be a registered elector for a GC, or be eligible to be registered as an elector for a GC and has made an application to be so registered, and he will only be qualified for registration as an FC elector if he:

- (a) meets the eligibility requirements for registration in the relevant FC as specified in the LCO; and
- (b) is not disqualified from being registered as an elector under s 31 of the LCO.

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

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

3.6 Any person/body can only be registered as an elector in one FC. If a person or a body is eligible to be registered in two or more FCs, he/it can only choose to be registered in any one of the FCs, **unless** he/it is eligible to be registered in the following FCs as an elector:

Individuals

If a person is at the same time eligible to be registered in the following FCs:

- (a) the Heung Yee Kuk FC as well as other FCs, he can only be registered in the former and not in the other FCs; or
- (b) the “Hong Kong Special Administrative Region deputies to the National People’s Congress (“NPC deputies”), Hong Kong Special Administrative Region members of the National Committee of the Chinese People’s Political Consultative Conference (“CPPCC members”) and Representatives of Relevant National Organisations FC” , as well as other FCs (except the Heung Yee Kuk FC), he can only be registered in the former and not in the other FCs.

Bodies

If a body is at the same time eligible to be registered in one of the following seven FCs as well as other FCs, the body can only be registered in one of the seven FCs specified below and not in the other FCs:

- (a) Agriculture and Fisheries FC;
- (b) Insurance FC;
- (c) Transport FC;

- (d) Finance FC;
- (e) Sports, Performing Arts, Culture, and Publication FC;
- (f) Technology and Innovation FC; and
- (g) Catering FC.

[Ss 25(2) and (3) of the LCO]

Authorised Representatives of Corporate Electors

3.7 Every corporate elector is required to appoint an eligible individual to be its authorised representative (“AR”) for the purpose of casting its vote at an election; otherwise, the corporate elector cannot vote. The AR of a corporate elector must be registered, or eligible to be and has applied to be registered, as an elector for a GC, and also meets the following conditions:

- (a) has a substantial connection with the corporate elector;
- (b) is not registered, and has not applied to be registered, as an elector for the same FC of the corporate elector;
- (c) is not disqualified from being registered or voting under ss 31 or 53 of the LCO (see para. 3.15 of this chapter); and

(d) is not appointed as the AR of another corporate elector.

[Ss 26(1), (2), and (3) of the LCO]

3.8 A corporate elector must register its AR with the ERO. **The corporate elector must notify the ERO the appointment of its AR in its application form for registration as a corporate elector.** A decision to appoint, replace, or substitute an AR of a corporate elector may only be made by the governing authority (by whatever name called) of the corporate elector. Corporate electors may from time to time replace its AR by submitting a specified form, which must reach the ERO at least 14 days before the polling day of the FC election. This 14-day deadline may be relaxed to not later than 3 working days before the relevant polling day if the ERO is satisfied that the original AR has died, has suffered a serious illness, or has suffered physical or mental incapacity.

3.9 Any person must provide true and accurate information when submitting an application for new registration or report on change of particulars. It is an offence for any person to make any statement which the person knows to be false in a material particular, or recklessly make any statement which is incorrect in a material particular, or knowingly omit any material particular from the application, and is liable to a fine at level 3 (\$10,000) and to imprisonment for 2 years. If that person does vote at an election, he may also contravene s 16 of the ECICO and could be liable to a more serious penalty. [Ss 19, 26A, and 42 of the EAC (ROE) (FCSEC) Reg]

Key Dates in Voter Registration

3.10 The registration of FC electors is carried out in accordance with the provisions of the EAC (ROE) (FCSEC) Reg. Any individual or body may, at any time, submit a completed specified form to the ERO to apply for voter registration. However, if they wish to have their names and addresses to be included in the register of electors for a particular year, the form must be submitted on or before the statutory deadline of that year (i.e. 2 June of that year). For applications received by the REO after the statutory deadline, their names and addresses will be registered in the publication of register of electors for the following year.

3.11 The law sets out clear registration procedures and deadlines for the annual publication of the FR for FC, with key dates as follows:

Voter Registration Procedures	Statutory Deadline
Submission of application for change of registration particulars	2 June
Application for de-registration	
Submission of application for new registration	
Electors to respond to inquiry letters to retain their voter registration	

Voter Registration Procedures	Statutory Deadline
Publication of the PR of electors for FCs and OL	1 August
Claims and objections period	1 August to 25 August
Publication of the FR for electors of FCs	25 September

3.12 Upon the ERO received application forms for registration, in case of incomplete or incorrect information on an application, the ERO will send written requests to the applicants for further particulars or proof. An applicant that qualifies for registration as an elector will be allocated to an FC based on his/its qualification and choice (if applicable), and the REO will notify him/it of the result by post. Applicants not qualified for registration will also be informed by the REO of the result accordingly. [S 21 of the EAC (ROE) (FCSEC) Reg]

3.13 Registered electors (an individual/a body) and ARs may log on to the OVIES (www.voterinfo.gov.hk) to check their/their bodies' registration particulars, including their registered addresses and respective FCs, and find out whether they are included in the statutory inquiry procedure. Individual electors and ARs may also check their registration status and particulars via "iAM Smart".

3.14 Registered electors (an individual/a body) and ARs should notify the ERO in a specified form if they have changed their particulars or information such as name, address, or phone number.

Disqualifications

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

- (a) is registered as a GC elector but is no longer eligible to be registered as an elector for that GC (see para. 2.3 of Chapter 2);
- (b) has ceased to be eligible to be registered as an elector for the FC (this does not apply to an AR or a GC elector);
- (c) is found by the Court to be incapable, by reason of mental incapacity, of managing and administering his property and affairs under the Mental Health Ordinance⁹; or
- (d) is a member of any armed forces.

[Ss 31(1)(d) and (e), 53(1), (4), 53(5)(d), and (e) of the LCO]

⁹ Except for the condition stipulated in this paragraph, the law imposes no restrictions on the rights to vote for persons who are incapacitated from voting due to other physical conditions, provided that each elector must cast the vote on his own. If an elector is unable to mark the ballot paper on his own, the elector may 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 (see Part X of Chapter 6).

De-registration

3.16 For de-registration as an FC elector, the elector may make an application in person at the REO or submit a written request. The REO has not prescribed a specified form for de-registration. If an elector prefers to apply for de-registration in writing, he must submit a written notice containing the elector's particulars including name and respective FC, and signed by the individual elector or the responsible person of the corporate elector. The elector's name will be included in the OL for the relevant FC only after the REO receives and verifies the relevant request for de-registration. The elector so included in the OL for the FC may inspect his/its voter registration particulars starting from the day of publication of the PR and OL till the end of the inspection period. If necessary, the elector can lodge a claim, and provide supporting proof to request for reinstatement of his/its elector status. If the REO is unable to complete the verification process of request for de-registration, the name of the elector will remain on the FR of the relevant FC in that year. The REO will continue to process the relevant request in the next voter registration cycle.

Inquiry Procedures

3.17 **If it comes to the knowledge of the ERO or the ERO is satisfied on reasonable grounds that an elector is no longer eligible to be registered in the relevant FC**, the ERO will initiate the statutory inquiry procedure to ascertain whether the elector is still eligible to be registered as an elector of the relevant FC. If the elector fails to provide the information requested by the ERO in response to the inquiry, or if the ERO, based on the information so received

or otherwise obtained, is satisfied on reasonable grounds that the elector is no longer eligible to be registered, **then the elector's name will be entered on the OL for the relevant FC and may be removed from the next register of electors.** Before the publication of the next register, a person whose name is recorded in the existing register of electors is still a registered elector for the relevant FC. [Ss 22(1) and (2), 24(1) and (3) of the EAC (ROE) (FCSEC) Reg and s 33 of the LCO]

Provisional Register and Omissions List

3.18 The content of the PR for FCs shall include:

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

3.19 A copy of the PR for the 28 FCs is **available for inspection by specified persons** during ordinary business hours at specified offices of the REO (see **Appendix 2**). Only the first character/word of the name of an individual elector (whether in Chinese or English) and his registered residential address will be shown on the registers for inspection. The public may inspect the copy of the register of electors concerning the entries of corporate electors as mentioned in paras. 3.18(b) and (c) of this chapter. [Ss 27 and 29 of the EAC (ROE) (FCSEC) Reg]

3.20 When publishing the PR for FCs, the ERO will also publish a copy of the OL for inspection by specified persons. The OL includes individual electors and ARs who are disqualified from or no longer qualified for registration (such as persons who have died, individuals/bodies that have applied for de-registration as electors, individuals do not inform the ERO of their new addresses, or individuals/bodies that are no longer an eligible member of a listed body in the relevant FC). However, inclusion of an elector in the OL does not mean that the elector status is invalidated with immediate effect. If the elector lodges a claim to the ERO and the Revising Officer accepts his grounds submitted and approves the claim, the elector status will be retained. [Ss 24(1) and (3) of the EAC (ROE) (FCSEC) Reg and ss 32(4)(a) and (b) of the LCO]

3.21 The REO will issue reminding letters to electors on the OL. A message in red that reads “Immediate action required – Your voting right is at stake” will be printed on the envelope, so as to draw the electors’ attention to the requirement that they must submit a notice of claim or provide valid documentary proof by the specified deadline to confirm the concerned

persons'/bodies' are still eligible for registration in the relevant FC. Additionally, when an elector logs on to the OVIES (www.voterinfo.gov.hk) to inspect his registration particulars, the system will prompt the elector to respond to the reminding letter from the REO as soon as possible.

Inquiry of Voter Information

3.22 Registered individual electors, corporate electors, and ARs of corporate electors may inspect their/their bodies' latest registration particulars, including registered addresses and respective FCs, and find out whether they are included in the statutory inquiry procedure via "iAM Smart", the OVIES (www.voterinfo.gov.hk), or by calling the REO hotline (2891 1001).

Appeals – Claims and Objections

3.23 Within the claims or objection period, members of the public may deliver in person¹⁰ at the office of the ERO a claim/notice of objection in the specified form to lodge a claim in respect of his own entry or an objection in respect of another elector's entry in the PR. Detailed procedures for lodging claims or objections are provided on the REO website (www.reo.gov.hk) during the inspection period. Claimable matters include:

¹⁰ Imprisoned persons or persons held in custody by law enforcement agencies may deliver a notice of objection or claim to the ERO by post. [Ss 30(2A) and 31(8A) of the EAC (ROE) (FCSEC) Reg]

- (a) an applicant who claims that he/the relevant body is entitled to be registered as an elector/AR and has applied for registration but his name and/or the body's name has not been listed in the PR; or
- (b) an applicant's name and/or the relevant body's name has been included in the OL; or
- (c) an individual and/or a body whose particulars have not been correctly recorded in the PR.

Any person may lodge an objection on the following matter if he:

- (d) believes that a registered elector/AR is not eligible to be registered as an elector, or that a person registered as an AR has been wrongly registered.

[Ss 30(1) and (2), 31(1), (2), (3), and (8) of the EAC (ROE) (FCSEC) Reg]

3.24 Cases of claim and objection will be referred to the Revising Officer for consideration. The Revising Officer will deliberate on each claim or objection and make a ruling on whether there should be an inclusion, exclusion or revision of the entry concerned in the relevant FR. The appellant must provide sufficient information so that the Revising Officer is aware of the

grounds of the claim or objection. The appellant should attend the hearing¹¹, otherwise the Revising Officer may dismiss the claim or objection. [Part VI of EAC (ROE) (FCSEC) Reg, ss 34 and 77 of the LCO, and s 2 of the Registration of Electors (Appeals) Regulation]

Final Register

3.25 The FR for FCs consists of entries shown in the relevant PR, including for the relevant year, all the names and principal residential addresses/business addresses of electors based on new registration applications and reports on change of registration particulars, as well as those updated and corrected in accordance with the Revising Officer's decisions on claims or objections. The ERO will also take the opportunity to delete entries of electors who are known to have died y and to revise any incorrect information in the PR. The FR may also contain notations to show if a person registered for a GC is also registered in an FC. The FR for FCs shall remain in force until the publication of the next FR in the following year. [S 35(1) of the EAC (ROE) (FCSEC) Reg]

3.26 The times and place(s) for inspection of the copy of the FR for FCs will be published in a notice in the Gazette and newspapers. Publication of the notice is to be treated as the publication of the register. [S 38 of the EAC (ROE) (FCSEC) Reg]

¹¹ The Revising Officer has the authority to direct that the claim or objection be determined without a hearing on the basis of written submissions only. [S 34 of the LCO and s 2A of the Registration of Electors (Appeals) Regulation (Cap. 542B)]

PART III : THE VOTING AND COUNTING SYSTEMS FOR FUNCTIONAL CONSTITUENCIES

3.27 The “first past the post” voting system is adopted in FC elections. An elector may vote for as many candidates as there are vacancies and no more. The candidate who obtains the greatest number of votes shall be deemed elected, followed by the candidate with the next greatest number of votes, and so on, until all vacancies are filled. Among the 28 FCs, only the Labour FC has three seats and electors of that FC can therefore vote for up to three candidates. In each of the remaining 27 FCs, there is only one seat and thus the elector can only vote for one candidate. [Ss 51(2), (3), and (4) of the LCO]

3.28 The LCO stipulates corresponding arrangements for the following situations in FC elections:

Number of Validly Nominated Candidates	Corresponding Arrangement(s)
Exceeds the number of members to be returned for an FC	<ul style="list-style-type: none"> • A poll will be held for that FC.
Equals the number of members to be returned for an FC	<ul style="list-style-type: none"> • The RO declares the candidate(s) elected and a poll will no longer be necessary for that FC.

Number of Validly Nominated Candidates	Corresponding Arrangement(s)
Less than the number of members to be returned for an FC	<ul style="list-style-type: none"> • The RO declares the candidate(s) elected and further declares the election for that FC has failed to the extent that the number of candidates validly nominated was less than the number of members to be returned; and • A by-election will be held for that FC.
No validly nominated candidates for an FC	<ul style="list-style-type: none"> • The RO declares that the election for that FC has failed; and • A by-election will be held for that FC.

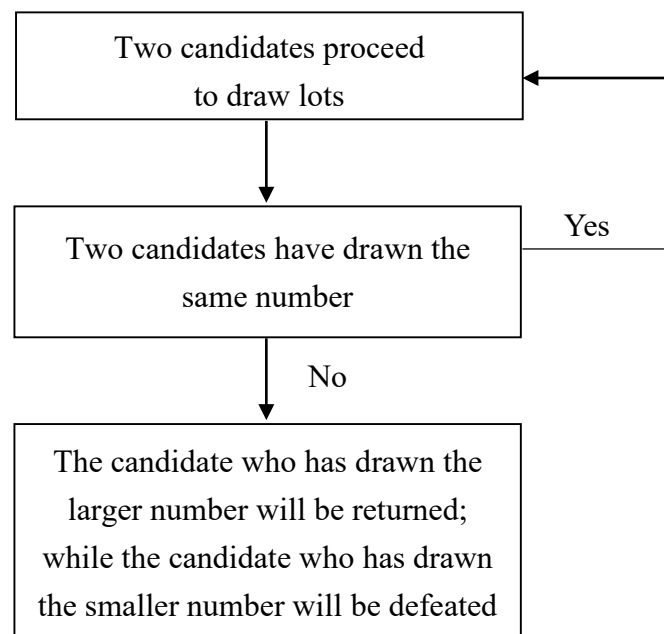
[S 46 of the LCO]

3.29 After the counting is finished at an election for an FC, if the number of candidates having an equal greatest number of votes exceeds the number of members to be returned for the FC, the RO must determine the result of the election by drawing lots and the candidate(s) on whom the lot falls is/are to be returned. [S 51(6) of the LCO]

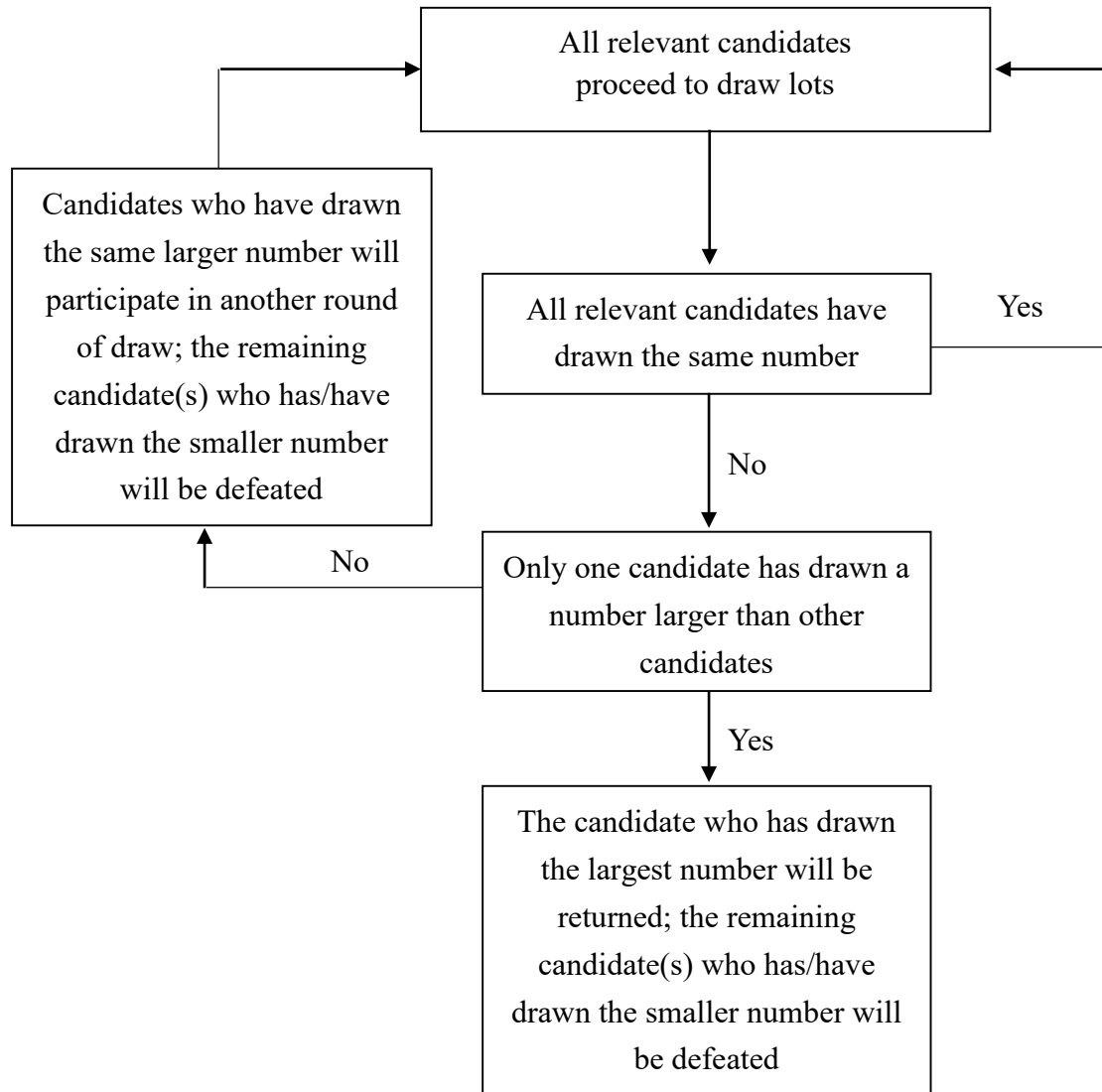
3.30 When the election result has to be determined by the drawing of lots, the RO will provide 10 table-tennis balls each marked with a number from 1 to 10 (1 being the smallest and 10 the largest), and then put all table-tennis balls

into an empty opaque bag. One of the candidates will first draw one ball from the bag, and then give the ball to the RO to note the relevant number. The ball should be put back into the bag. The procedures are repeated for the other candidates with an equal number of votes until all candidates have drawn the table-tennis ball. The RO will draw the lot on behalf of the candidate if the candidate is absent at the time of the draw. The arrangements for the result of the draw are as follows:

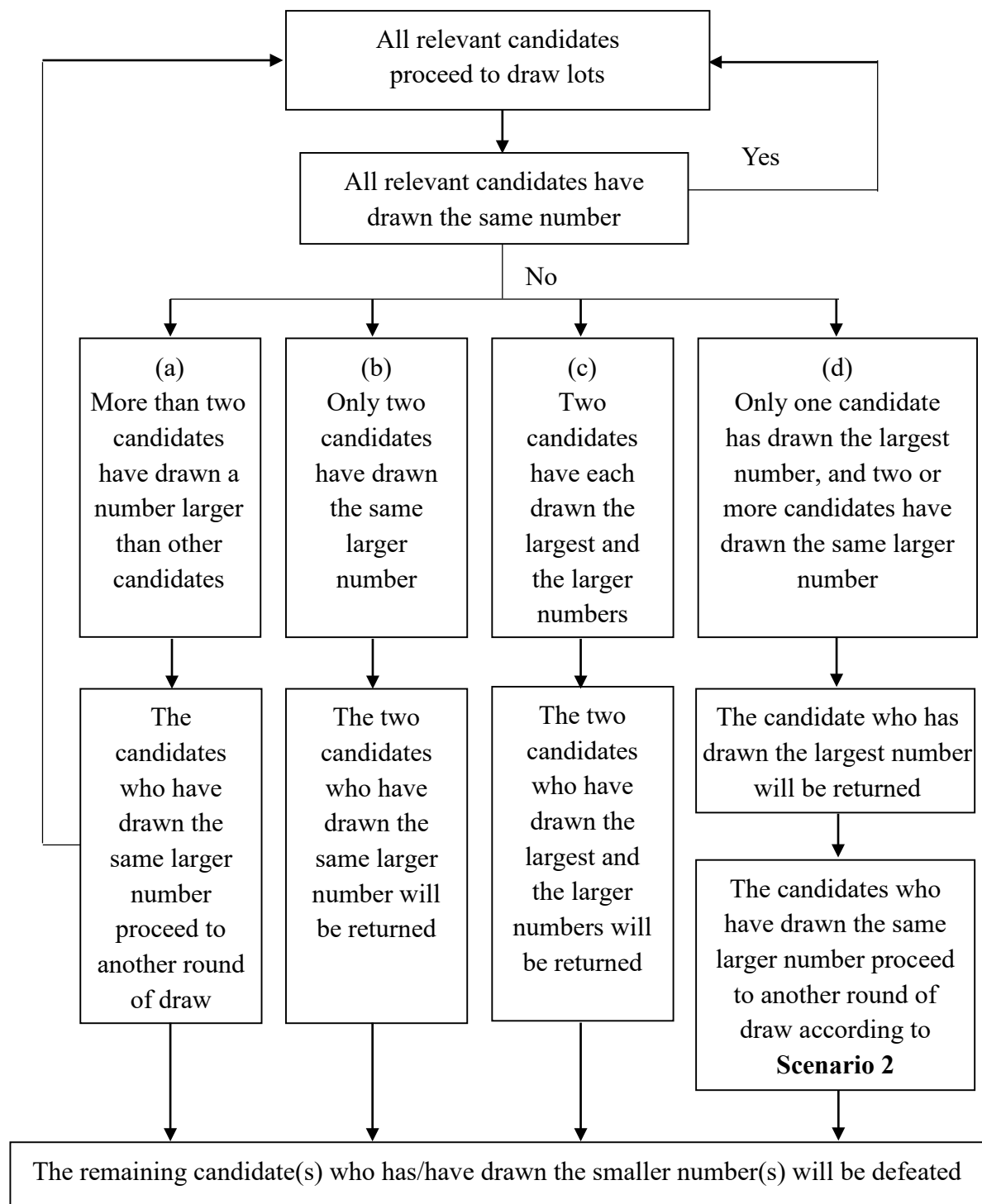
Scenario 1: Where there is only one vacancy to be filled but there are two candidates with equal number of votes



Scenario 2: Where there is only one vacancy to be filled but there are more than two candidates with equal number of votes



Scenario 3: Where there are two vacancies to be filled but there are three or more candidates with equal number of votes



Note: The same drawing principle applies to scenarios where “N” number of candidates have the same largest number of votes, and the number of vacancies to be filled is less than N.

3.31 After the result of the elections has been determined, the RO must, as soon as practicable, publicly declare the successful candidates as elected.

Death or Disqualification of a Candidate for Functional Constituency

3.32 The subsisting electoral legislation stipulates corresponding arrangements for the following situations:

	Death of a Candidate	Disqualification of a validly nominated candidate from being nominated
After the CERC has decided that a candidate is validly nominated and the polling day not yet arrived	<ul style="list-style-type: none"> The RO must give notice of the death of the candidate. <p>Where the notice of validly nominated candidates has already been published by the CERC:</p> <ul style="list-style-type: none"> the RO must publicly declare that the candidate has died and further declare which candidate(s) 	<ul style="list-style-type: none"> The CERC must vary its decision to the effect that the candidate is not validly nominated; and The RO should issue a notice to the CEO and each candidate who remains validly nominated for the relevant FC election. <p>Where the notice of validly nominated candidates has</p>

	Death of a Candidate	Disqualification of a validly nominated candidate from being nominated
	is/are validly nominated for the relevant FC election.	<p>already been published by the CERC:</p> <ul style="list-style-type: none"> the CERC must publicly declare to vary the notice and further declare a list of validly nominated candidates.
On the polling day but before the election result is declared	<ul style="list-style-type: none"> The proceedings for the FC election shall continue; and After the counting of votes is finished, if the candidate concerned is found to be successful at the election, the RO should not declare that candidate as elected and must publicly declare that the election for that constituency has failed or has failed to the extent that the number of candidates returned at the election for that FC is less than the number of members to be returned for that FC. 	

[Ss 42B, 46A, 51(8), and (9) of the LCO, and ss 22A, 22B, 83(2), 83(3), and 97A of the EAC (EP) (LC) Reg]