

CHAPTER 4

POLLING AND COUNTING ARRANGEMENTS

PART I : GENERAL

4.1 An elector can only vote at the polling station allocated to him/her by the DHA. In general, the polling station allocated to an elector of a particular Rural Area will be close to his/her Rural Area as far as practicable. However, previously used polling stations may or may not be re-used in the current election because it is subject to venue owners/management's decision whether the venues are available for use again, and it also depends on whether other more suitable venues can be identified by the HAD.

4.2 If an elector with mobility difficulty is assigned to a polling station that is not accessible for him/her, the elector may apply to the HAD for re-assigning to an alternative polling station with barrier-free access. Please refer to para. 4.20 below for details.

4.3 A No Canvassing Zone ("NCZ") will be designated outside each polling station to ensure that electors can gain access to the polling station without interference. In addition, a No Staying Zone ("NSZ") in which no one is allowed to stay or loiter will also be designated immediately outside the entrance/exit of a polling station to avoid any obstruction of the entry/exit.

4.4 No canvassing activities are allowed within the NCZ. Regarding buildings within the NCZ, all canvassing activities by candidates and their campaigners are prohibited in the entire building where a polling station is located as well as on the ground floor of other buildings, regardless of whether they are government or private premises, and even if approval from the

building management concerned is obtained. Please refer to Part III of this chapter for details.

4.5 The poll for Villages starts at 12 noon and ends at 7:00 pm and the poll for MTs starts at 8:30 am and ends at 9:30 pm. The actual polling hours shall be designated by the DHA by notice in the Gazette prior to the polling day. For security reasons, dedicated polling stations situated in penal institutions open from 1:00 pm to 4:00 pm. About 30 minutes before the commencement of the poll (or 15 minutes for dedicated polling stations situated in penal institutions), the Presiding Officer (“PRO”) will admit the candidates, their election agents or polling agents into the polling station to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. After the close of the poll, the PRO will lock and seal the ballot boxes in the presence of the candidates and their agents, if any. The count will only commence when polling at all polling stations of the same Rural Area has closed.

4.6 Only electors and designated/authorised persons are allowed entry to a polling station. Electors requiring assistance from others for entering a polling station may make a request to the PRO for discretionary arrangements as appropriate.

4.7 In order to be more flexible, efficient and accurate in the issuance of ballot papers, the HAD may, having regard to the actual circumstances, adopt an electronic poll register (“EPR”) system for issuing ballot papers at polling stations (except for dedicated polling stations). Upon entry to a polling station, electors should follow the instructions on site and collect ballot papers at any of the ballot paper issuing desks. Please refer to Parts VI and VII of this chapter for details.

4.8 The ballot is autonomous and secret. No one may use any force or threaten to use force against a person to make him/her vote or not vote for any particular candidate at an election. Also, no one is obligated to disclose which candidate he/she has voted for or is going to vote for.

4.9 After collecting the ballot paper, an elector should immediately proceed to a voting compartment to mark his/her 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 a relative or friend of the elector) to accompany or assist the elector to vote. If an elector has difficulty in marking his/her vote, he/she may, as stipulated under the law, ask the PRO or the PRO's deputy to mark the ballot paper on his/her behalf according to his/her voting preference, in the presence of 1 polling staff member as a witness. Please refer to para. 4.49 below for details.

4.10 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/her 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.

4.11 Under no circumstances is anyone allowed to induce an elector to vote or not to vote for a particular candidate or particular candidates by offering advantages, food, drink or entertainment, by using force or duress against a person, or by a deception, and to wilfully obstruct or prevent an elector from voting at the election. Such acts violate the ECICO. There are occasions when electors may require assistance from others or transportation service in

accessing the polling station. However, in the course of the assistance and service, it must not involve the aforesaid unlawful acts under any pretext to induce an elector to vote or not to vote for a particular candidate or particular candidates. For details about corrupt conduct to wilfully obstruct or prevent another person from voting at an election, please refer to para. 16.27 of Chapter 16.

4.12 Exit polls may be conducted within the NCZ outside polling stations by organisations approved by the HAD. Participation in any exit poll is entirely voluntary. Electors need not disclose to the organisations concerned which candidates they have voted for unless they wish to do so. Please see Chapter 14 for matters relating to exit polls.

4.13 Polling stations (except for certain polling stations and dedicated polling stations) will be converted to counting stations after the close of the poll where the votes for the Rural Areas concerned will be counted and the counting results will be announced to the candidates and their agents present. For other polling stations which are not dedicated polling stations, after the close of the poll, the ballot boxes (locked and sealed) will be delivered to the respective designated counting stations. In the case of a dedicated polling station, the ballot boxes (locked and sealed) will first be delivered to the ballot paper sorting station for sorting. The sorted ballot papers for each Rural Area will then be transported to a corresponding counting station and mixed with the ballot papers there before counting. Please refer to paras. 4.65 to 4.69 below for details.

PART II : BEFORE THE POLL

Gazettal of Notice

4.14 One or more polling stations to be used for polling in respect of each Rural Area are designated by the DHA. Polling stations (except for certain polling stations and dedicated polling stations) will be converted to counting stations after the close of poll.

4.15 The DHA shall designate by notice in the Gazette places as polling stations, dedicated polling stations, ballot paper sorting stations¹⁵ or counting stations at least 10 days before the polling day. A single place may be designated to serve as both a polling station and a counting station. [S 28(1) and (1AA) of the EP (RRE) Reg] The RO must, at least 10 days before the polling day, give written notice to each candidate of the addresses of the counting stations at which the counting of the votes is to take place and, where applicable, the addresses at which the sorting of ballot papers received from dedicated polling stations is to take place for the Rural Area contested by the candidates [s 55(3) and (4) of the EP (RRE) Reg].

4.16 Where premises occupied by any school or organisation/association/body receiving grant from the Government's general revenue are concerned, the DHA may require by written notice the owner or occupier to allow an authorised person to carry out site visits. If the DHA considers the premises suitable for use as a polling station or a counting station, the DHA may require by written notice the owner or occupier to make available the premises for use as a polling station or a counting station in the election for the Rural Area and allow an authorised person to carry out preparatory work and store materials at the premises. Anyone who fails to comply with the

¹⁵ HAD may set up a ballot paper sorting station to sort ballot papers received from dedicated polling stations according to Rural Areas before the ballot papers are delivered to the respective counting stations for counting of votes.

above requirements is liable to a fine of \$50,000. [Ss 28 and 28AA of the EP (RRE) Reg]

Allocation of Polling Stations

4.17 The DHA may set up a cluster of polling stations for various Rural Areas in the same premises. Where circumstances require, temporary structures may be designated as polling stations. The polling stations set up for the Rural Areas are in the vicinity in the sense that an elector of a particular Rural Area will be assigned to a polling station close to his/her Rural Area as far as practicable. The HAD may also set up dedicated polling stations inside penal institutions or other suitable places. Registered electors imprisoned or held in custody by law enforcement agencies on the polling day will cast their votes at dedicated polling stations allocated to them as appropriate [s 28A(1) of the EP (RRE) Reg].

Polling Notice

4.18 At least 10 days before the polling day, polling notices will be sent to electors of contested Rural Areas at their registered addresses or correspondence addresses (if applicable) to notify them of the date, time and place of the poll. If the DHA decides to change any polling station, the DHA must as early as practicable notify the electors, RO and PRO concerned in a manner deemed appropriate. To allow electors serving a sentence of imprisonment on the polling day to receive the polling notices as early as possible, the HAD will send the polling notices to the penal institutions where the electors are serving their sentences insofar as practicable. [S 29(2), (2A) and (4) of the EP (RRE) Reg]

Uncontested Election

4.19 If the number of validly nominated candidates for a Rural Area is no more than the number of RRs to be elected for that Rural Area at the election, the candidate(s) will be declared as duly elected [s 29(1) of the RREO]. Electors of that Rural Area do not need to vote, and will be issued a notice to that effect.

Polling Station with Barrier-free Access

4.20 An elector **may vote only at the polling station allocated to him/her by the DHA** [s 30 of the EP (RRE) Reg]. The HAD will as far as practicable provide access for people with mobility difficulty at the polling stations. Electors with mobility difficulty or other difficulties who find it difficult to access the polling station allocated to them may **at least 5 days before** the polling day apply to the HAD for re-assigning them to another polling station with barrier-free access. Accessibility of the polling station to persons with mobility difficulty will be specified clearly in the location map attached to the polling notices sent to each elector, together with a note indicating that if any elector allocated to this polling station has any difficulty of access, he/she may apply to the HAD for re-allocation to vote at an alternative polling station with barrier-free access. When an alternative polling station has been allocated as such to the elector, then he/she may vote only at that designated alternative polling station. If circumstances permit, free Rehabus service may also be arranged to take those electors to and from the special polling station. For enquiries on the arrangement, the electors concerned may contact the HAD by telephone or in writing.

Dedicated Polling Station

4.21 Due to security reasons, the Commissioner of Correctional Services (“CCS”) is required to separate some persons imprisoned or held in custody from others inside the penal institutions. The CCS 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 CCS must assign time slots for the electors so as to give them a reasonable opportunity to vote. An elector to whom a time slot is assigned may only cast his/her vote during that time slot (see para. 4.52(c)). [S 27(1B), (1C), (1D) and (2A) of the EP (RRE) Reg]

PART III: OUTSIDE THE POLLING STATION

4.22 The DHA will arrange for a map or plan showing the delineation of the polling station to be displayed outside the polling station (or inside if it is a dedicated polling station) [s 28(7) of the EP (RRE) Reg]. An NCZ will be designated outside each polling station to ensure that electors can gain access to the polling station without interference. In addition, an NSZ in which no one is allowed to stay or loiter will be designated immediately outside the entrance/exit of a polling station to avoid obstruction to electors who enter or exit. Canvassing activities within an NCZ are prohibited (except for the static display of EAs authorised by the RO, such as EAs mounted at designated spots). A notice of the determination of the NCZ and a map or plan showing the boundary of the area will be put up at or near the polling station [s 34(6) of the EP (RRE) Reg]. (See Chapter 13)

4.23 On the polling day, a person must not:

- (a) engage in canvassing votes (including suggesting not voting for

any candidate) within the NCZ, except for the door-to-door canvassing activities stated in para. 4.24 below; [*Amended in September 2005*]

- (b) use a sound amplifying system or device for any purpose in the NCZ, without lawful authority or the express permission of the RO or PRO;
- (c) use a sound amplifying system or device, or conduct any activity (e.g. lion dance) for canvassing votes, so that the sound emitted by it can be heard in the NCZ;
- (d) display in the NCZ any propaganda material relating to any candidate or his/her candidate number, a body any member of which is standing as a candidate in the election concerned or a political body, or the RR election itself; or
- (e) stay or loiter in the NSZ without the express permission of the RO or the PRO;

otherwise he/she commits an offence and is liable to the maximum penalty of a fine at level 2 (\$5,000) and to imprisonment for 3 months. [Ss 35(2) and 89(1) of the EP (RRE) Reg]

4.24 Door-to-door canvassing may be allowed on the storeys above or below street level in a building within an NCZ other than a building in which there is a polling station, provided that permission has been obtained for entry into the building for canvassing votes, that no sound amplifying device is used, and that obstruction is not posed to electors and the public. For the purpose of such door-to-door canvassing, it is permitted to display or wear propaganda materials, e.g. any badge, emblem, clothing or head-dress, which may promote

or prejudice the election of any candidate or candidates at the election, but under no circumstances are such materials allowed to appear on the street level within the NCZ. [S 35(3) of the EP (RRE) Reg]

4.25 For dedicated polling stations situated in penal institutions, officers of the CSD can use the sound amplifying system or device for the performance of duties within an NCZ of the dedicated polling stations situated in penal institutions on the polling day. [S 35(2A) of the EP (RRE) Reg]

PART IV: POLLING HOURS

4.26 The poll for Villages starts at 12 noon and ends at 7:00 pm and the poll for MTs starts at 8:30 am and ends at 9:30 pm. For security reasons, polling hours for dedicated polling stations situated in penal institutions are from 1:00 pm to 4:00 pm. About 30 minutes before the commencement of the poll (or 15 minutes for dedicated polling stations situated in penal institutions), the PRO at a polling station will admit the candidates, their election agents or polling agents into the polling station to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. In front of these observers, the PRO will show that the sealed packets of ballot papers are not tampered with before opening the packets and that the ballot boxes are empty before locking and sealing the boxes. [S 40 of the EP (RRE) Reg] The PRO will also inform and show to such persons the number of ballot papers of the Rural Area in his/her possession. For each candidate, only 1 person (i.e. either the candidate or his/her election agent or polling agent) may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of the ballot boxes.

4.27 For dedicated polling stations situated in penal institutions, the following restrictions are imposed due to security reasons:

- (a) only a maximum of 2 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;
- (b) only a maximum of any 2 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.

Admission of candidates, election agents or polling agents to the aforesaid dedicated polling stations to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes will be on a **first-come-first-served basis**. (The procedures for election agents or polling agents to apply for admission to dedicated polling stations situated in penal institutions are set out in Chapter 6)

4.28 Where no candidates or none of their agents are present at the polling station, the above process of opening the sealed packets of ballot papers and the locking and sealing of ballot boxes will be conducted in the presence of any 2 of the following persons inside the polling station: police officers, members of the Civil Aid Service (“CAS”), officers of the CSD or polling staff (as the case may be).

4.29 The PRO will display a notice providing information of the voting procedure, the counting station and the ballot paper sorting station (if any) outside the polling station, or inside if it is a dedicated polling station for easy reference by electors.

PART V: PERSONS TO BE ADMITTED TO THE POLLING STATION

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

- (a) the PRO and other polling staff;
- (b) members of the EAC;
- (c) the DHA;
- (d) the Chief Electoral Officer (“CEO”);
- (e) the RO and Assistant Returning Officers (“AROs”) for the relevant Rural Area;
- (f) public officers on duty at the polling station, including police officers, members of the CAS, etc.;
- (g) officers of the CSD and other law enforcement agencies on duty at dedicated polling stations;
- (h) candidates and election agents of the relevant Rural Areas subject to para. 4.31 below;
- (i) polling agents appointed for the polling station (not applicable to dedicated polling stations situated in maximum security prisons) according to para. 4.31 below;
- (j) public officers authorised in writing by the RO;

- (k) any person authorised in writing by any member of the EAC or the RO, subject to the conditions as imposed in the authorisation; and
- (l) children accompanying an elector who enter the polling station for the purpose of voting.

[S 37(1) of the EP (RRE) Reg]

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

4.31 For the purpose of maintaining order in the polling station, the PRO may regulate the number of electors, candidates, election agents and polling agents to be admitted to the polling station at any one time [s 37(2) of the EP (RRE) Reg]:

- (a) for each candidate, only 1 person among the candidate, his/her election agent and polling agents may enter and be present in the polling station at any one time [s 37(3), (4), (5) and (6) of the EP (RRE) Reg];
- (b) a notice will be displayed outside each polling station specifying the capacity of the designated area inside the polling station for candidates, their election agents or polling agents to observe the poll;
- (c) admission of candidates, election agents and polling agents will be on a **first-come-first-served basis**. In order that as many candidates, election agents and polling agents as possible may

have the chance to observe the poll in the polling station, any candidate, election agent or polling agent who has been admitted to the polling station may only stay for 1 hour. He/She must then leave the polling station unless there is no other candidate, election agent or polling agent waiting for admission. He/She may apply for admission into the polling station again on a first-come-first-served basis;

- (d) as stated in (c) above, to ensure fairness, waiting slots for entering a polling station are all allocated on a first-come-first-served basis. If a candidate or his/her agent seeks admission to a polling station but all the waiting slots are full until the close of poll, no vacant slot can be allocated to the candidate or his/her agent. However, if no one among this candidate and his/her agents has earlier entered the polling station to observe the poll on the polling day, the PRO concerned will endeavor to give the candidate/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, the person concerned will replace a candidate or his/her agent who has been allocated the last waiting slot for admission to the polling station if this last candidate or any of his/her agents has already been given an earlier slot to observe the poll in that polling station;
- (e) anyone upon admission into a polling station has to sign and register his/her time of entry on a log sheet. A candidate, an election agent or a polling agent who has to queue outside the polling station for his/her turn to observe the poll at the designated area will be given a number chit that indicates the order of admission. The polling staff will call out the number to admit the holder of the number chit concerned. If the holder

concerned is not present at the time, his/her place will be taken over by the person next in line. He/She who has lost his/her place due to his/her absence will have to obtain a new number chit when he/she returns; and

- (f) for security reasons, only a maximum of 2 candidates may be present at any one time to observe the poll at dedicated polling stations situated inside maximum security prisons, and a maximum of 2 persons among the candidates, election agents and polling agents may be admitted to 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 2 candidates/agents intend to observe the poll at the same time. The PRO may regulate the number of people entering the dedicated polling station (see also Chapter 6).

4.32 Except for electors, children accompanying an elector, 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 sign a **Declaration of Secrecy** on a specified form¹⁶ before entering the polling station and observe the regulations on the secrecy of voting. [S 81 of the EP (RRE) Reg]

PART VI : HOW TO ISSUE BALLOT PAPERS

4.33 In order to be more flexible, efficient and accurate in the issuance of ballot papers, the HAD may adopt an EPR system for issuing ballot papers at polling stations having regard to the actual circumstances. The printed copy

¹⁶ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/a Justice of the Peace/a solicitor with a practicing certificate.

of FR of electors will be used in issuing ballot papers where the EPR system cannot be adopted (i.e. at dedicated polling stations or polling stations lacking network coverage) or in the event of system failure.

4.34 Prior to issuance of any ballot papers to electors, the polling staff must, depending on whether an EPR system or a printed copy of FR is used in the polling station concerned, follow one of the following procedures for issuing ballot papers:

(a) **Use of EPR System in Issuing Ballot Papers**

Upon entry to the polling station, an elector will be directed to one of the ballot paper issuing desks to collect the ballot paper. The polling staff will request the elector to present his/her identity document. The polling staff will then check the elector's identity document, and scan it with a tablet so as to verify whether the person has been registered as an elector of the Rural Area. If a specified identity document other than the Hong Kong Permanent Identity Card ("HKID") is presented by the elector, the PRO's authorisation is to be obtained for the manual input of the elector's identity document number into the EPR system for verification purpose.

The polling staff will softly call out the name of the elector as stated in the entry in the EPR system. Then the polling staff will issue to the elector either 1 or 2 ballot papers according to his/her entitlement. The polling staff will show the ballot papers to the elector to confirm that each ballot paper given to him/her is unmarked, and request the elector to acknowledge the number of ballot papers so received to ensure the ballot papers issued are

correct. The EPR system will record the number and types of ballot papers issued to the elector and the time of issuance, but **no record will be made** as to which particular ballot paper is given to the elector. To ensure accurate record-keeping, the elector may check his/her name, partial identity document number and types of ballot papers issued to him/her as shown on the screen of the EPR system during the issuance process.

(b) Use of Printed Copy of FR in Issuing Ballot Papers

If the printed copy of FR is in used in issuing ballot papers in the polling station concerned, the polling staff will check the elector's identity document against the entry in the printed copy of FR to verify whether the person has been registered as an elector of the Rural Area concerned. Thereafter, the polling staff will softly call out the name of the elector as stated in the entry in the printed copy of the FR and follow either one or both of the following steps to denote that the ballot paper(s) has/have been issued to the elector:

- (i) marking the printed copy of FR by drawing a line across the name and the identity document number of the elector; and/or
- (ii) marking the printed copy of FR in any other way directed by the DHA.

The polling staff will conduct the line-drawing under observation of the elector to ensure accuracy, while at the same time covering up the entries of other electors in the printed copy of FR to safeguard the personal data privacy of the other electors.

Afterwards, the polling staff will issue to the elector either 1 or 2 ballot papers according to his/her entitlement. The polling staff will show the ballot papers to the elector to confirm that each ballot paper given to him/her is unmarked. The elector may be asked to verify the entry relating to him/her in the relevant printed copy of FR to ensure that he/she has been given the correct ballot paper(s). No record will be made as to which particular ballot paper is given to the elector.

(c) **Use of Printed Copy of FR in the Event of EPR System Failure**

In case the EPR system breaks down while in use on the polling day rendering the system inoperable, the fallback arrangement will come into operation and the polling staff will use the printed copy of FR (as stated in (b) above) to issue ballot papers to electors until the close of the poll. At the same time, the fallback mode of the EPR system has to be activated to retrieve the information from the local storage device of the system inside the polling station. With this fallback device, the polling staff can, prior to issuance of any ballot papers, check to confirm that an elector applying for ballot papers has not collected any ballot papers at the polling station when the EPR system was in use. The HKID numbers of electors who have collected their ballot papers are captured in the storage device in an encrypted form, but the personal particulars of the electors, such as their names, will not be recorded.

[S 45(4), (5), (6), (8) and (9) of the EP (RRE) Reg]

4.35 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 and neither the

polling staff nor the EPR system will record the serial number of the ballot paper issued to an elector. [Ss 41(5) and 45(9) of EP (RRE) Reg] The polling staff and the EPR system will only register the quantity of ballot papers issued to electors at the ballot paper issuing desks for calculating the hourly voter turnout and cumulative voter turnout. While the voter turnout statistics will be posted outside the polling stations for the public's information, they are for reference only.

4.36 According to the established procedures, all ballot papers are issued at the ballot paper issuing desks and counted towards the cumulative voter turnout. "TENDERED" ballot papers and ballot papers issued to electors in replacement of "SPOILT" ballot papers must be handled and issued by the PRO at the PRO desk (please refer to paras. 4.57 and 4.58 below for details).

PART VII : QUEUING ARRANGEMENT

4.37 Electors have to queue up to enter the polling station. As stipulated in s 42A of the EP (RRE) Reg, the PRO may make special queuing arrangements for persons with special needs including, by definition:

- (1) persons who are not less than 70 years of age;
- (2) pregnant women; or
- (3) 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.

The PRO may, having regard to the actual situation, set up two queues outside

the polling station, one for persons with special needs and the other for the ordinary public. The actual arrangement for collecting ballot papers at ballot paper issuing desks may vary depending on the methods for issuing ballot papers. Seats may also be provided in the polling station for persons with special needs to take rest before joining the special queue for collecting ballot papers.

(a) **Queuing Arrangement When the EPR System is Used**

When ballot papers are issued via the EPR system, all ballot paper issuing desks installed with the tablets of the EPR system are able to serve any elector. Given such flexibility, the ballot paper issuing desks are no longer individually confined to a group of HKID prefixes allocated according to the printed copy of FR, which would otherwise be split and distributed to them.

As a caring initiative for persons with special needs (see para. 4.37 above), the PRO will assign a number of ballot paper issuing desks (special ballot paper issuing desks) for their use while other ballot paper issuing desks are available for use by the ordinary public. Electors may collect their ballot papers at the respective ballot paper issuing desks as directed by the polling staff.

When there is a relatively long queue of persons with special needs, the PRO may, having regard to the actual situation, assign more special ballot paper issuing desks so as to shorten the waiting time in that queue. The PRO may also, having regard to the actual situation, direct people in the ordinary queue to use special ballot paper issuing desks when the desks are free or when few people are in the special queue.

Having regard to the order and the overall situation of the polling station, the PRO may flexibly deploy the ballot paper issuing desks and make other special arrangements as appropriate to give priority to persons with special needs and shorten their waiting time.

[S 42A of the EP (RRE) Reg]

(b) Queuing Arrangement When Printed Copy of FR is Used

Polling stations which cannot use the EPR system due to their locations or other circumstances will use the printed copy of FR instead for issuing ballot papers. To avoid duplicate issuance of ballot papers, the printed copy of FR will be split into parts, by the alphabetical prefixes of HKID number, in a number that matches the number of the ballot paper issuing desks, and then distributed to the issuing desks accordingly. A line will be drawn across the entry of the elector in the printed copy of FR when that elector has collected the ballot papers.

Under this situation, the PRO may also set up two queues outside the polling station, one for persons with special needs and the other for the ordinary public.

Regarding the collection of ballot papers, past experience has shown that most holders of HKID numbers prefixed with A, B, C and so forth are senior citizens. More ballot paper issuing desks will therefore be assigned by the PRO for these HKID number alphabetical prefixes to shorten the waiting time of this group of persons with special needs. Meanwhile, considering that the holders of other HKID number alphabetical prefixes may also have special needs due to age or physical conditions, the PRO may likewise, having regard to the actual situation, set up a special queue for each ballot paper issuing desk to shorten their waiting time.

(c) **Queuing Arrangement When Switch to Printed Copy of FR is Required due to EPR System Failure**

In case the EPR system breaks down while in use rendering it inoperable, the polling station should activate the fallback mode and switch to use the printed copy of FR for issuing ballot papers. The aforementioned procedures regarding the use of the printed copy of FR for issuing ballot papers will be adopted at ballot paper issuing desks. In particular, before an elector is given any ballot paper, the polling staff must first check the record in the encrypted local storage device and confirm that the elector has not obtained any ballot paper prior to activation of the fallback mode so as to avoid duplicate issuance of ballot papers. The special queuing arrangement regarding the use of the printed copy of FR for issuing ballot papers also applies to this scenario.

**PART VIII : PRESENTATION OF DOCUMENT FOR
COLLECTING BALLOT PAPER**

4.38 Upon arrival at a polling station, 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/she can be issued with the ballot paper(s):

- (a) the original of the elector's identity document, typically an HKID¹⁷ ;
- (b) alternative documents:

¹⁷ For ReR and KFR electors, the elector's identity document is typically an original HKID. For IIR electors, the elector's identity document also refers to any other original document issued to the elector that is acceptable to the ERO apart from an HKID according to s 2(1) of the RREO.

- (i) a document issued by the Commissioner of Registration acknowledging that the elector has applied:
 - (1) to be registered under the Registration of Persons Ordinance (Cap. 177); or
 - (2) for a new HKID issued under regulation 13 or 14 of the Registration of Persons Regulations (Cap. 177A) but is awaiting its issuance;
 - (ii) a valid HKSAR Passport issued to the elector under the Hong Kong Special Administrative Region Passports Ordinance (Cap. 539);
 - (iii) a valid HKSAR seamen's identity book issued to the elector under regulation 3 of the Immigration Regulations (Cap. 115A);
 - (iv) a valid document of identity issued to the elector under regulation 3 of the Immigration Regulations; or
- (c) a document evidencing the elector's report to a police officer of the loss or destruction of the document referred to in para. 4.38(a) or (b)(i) above, together with the original of a valid passport or similar travel document (not being one referred to in para. 4.38 (a), (b)(i) to (iv) above) issued to him/her showing his/her name and photograph.

[S 45(1), (2) and (2A) of the EP (RRE) Reg]

4.39 An elector applying for a ballot paper at a dedicated polling station situated in a penal institution of the CSD is required to produce a document issued by the CCS showing the elector's name, photograph and prisoner registration number allocated by the Commissioner to the elector for identification purposes. [S 45(2B) of the EP (RRE) Reg]

4.40 If there are reasonable grounds to question the bona fides of an elector, the PRO shall ask him/her the following questions at the time of his/her application for a ballot paper (but not afterwards):

- (a) "Are you the person registered in the final register for this Rural Area (the Presiding Officer to read the name and the type of the Rural Area), as follows (the Presiding Officer to read the whole entry as it is recorded in the final register)?"
- (b) "Have you already voted in this election to elect a Rural Representative (the Presiding Officer to read the type of the Rural Representative) for this Rural Area (the Presiding Officer to read the name and type of the Rural Area)?"

The elector will not be issued with any ballot paper unless he/she has answered the questions to the satisfaction of the PRO. [S 43 of the EP (RRE) Reg]

4.41 Where there is a reasonable cause to believe that a person has engaged in corrupt conduct by impersonating an elector, the PRO may request police officers to arrest that person. If the polling station is a dedicated polling station, the PRO may request officers of the CSD or the law enforcement agency to remove the person concerned from the polling station and report the case to the Police. [S 44(1), (2), (3) and (3A) of the EP (RRE) Reg]

PART IX : VOTING METHODS

4.42 When issued with the ballot paper(s), an elector will also be provided with a colour cardboard attached with a chop of the tick “✓” sign:

- (a) persons issued with 1 ballot paper for the ReR elections will be given a **white** cardboard;
- (b) persons issued with 1 ballot paper for the IIR elections will be given a **red** cardboard;
- (c) persons issued with 1 ballot paper for KFR elections will be given an **orange** cardboard; and
- (d) persons issued with 1 ballot paper for the IIR elections and 1 ballot paper for the ReR/KFR elections will be given a cardboard with **red and white stripes**.

This arrangement helps the polling staff manning the ballot boxes to ensure that an elector has cast all his/her votes (1 or 2 votes) before leaving the polling station, and that no elector will leave the polling station with any ballot paper. The cardboard will be collected by the polling staff after the elector has inserted his/her ballot paper(s) into the ballot box(es) and before he/she leaves the polling station.

4.43 One or more envelopes each bearing the name and the code of the relevant Rural Area as well as the name of the district, will be provided to an elector of a dedicated polling station serving the poll for 2 or more Rural Areas to facilitate sorting of ballot papers. 1 envelope will be provided if 1 ballot paper is issued to the elector; 2 envelopes will be provided if 2 ballot papers are issued to the elector.

4.44 Having collected the ballot paper(s) and the cardboard attached with the chop of the tick “✓” sign, the elector should immediately proceed to a voting compartment to mark the ballot paper(s) to indicate his/her choice of candidate(s). The number of candidates an elector may vote for depends on the number of RRs to be returned for the Rural Area concerned. If only 1 RR is to be returned for the Rural Area, the elector should affix the chop issued by the polling station to give a single “✓” in the circle opposite the name of the candidate of his/her choice on the ballot paper. If more than 1 RR are to be returned for that Rural Area, he/she should affix the chop issued by the polling station to give a single “✓” in each of the circles opposite the names of the candidates of his/her choice on the ballot paper but the number of candidate(s) chosen should not be more than the total number of RRs to be returned for that Rural Area. The ballot paper should only be marked with the “✓” chop issued and no other mode of marking is allowed. The elector should then **fold the ballot paper to conceal the choice thereon after voting.** [Ss 47 and 48 of the EP (RRE) Reg]

4.45 An elector of a dedicated polling station serving the poll for 2 or more Rural Areas should fold the ballot paper so that the marked side is inside and put it into the envelope issued to him/her together with the ballot paper. If issued with 2 ballot papers, the elector should put each of the folded ballot papers separately into the corresponding envelopes for the relevant Rural Areas. [S 47(4)(c) of the EP (RRE) Reg]

4.46 If computer counting¹⁸ is used, after marking the ballot paper, the elector should cast his/her vote in the manner as directed by the DHA. The elector should fold the ballot paper so that the marked side is inside and put the folded ballot paper into the correct ballot box **or** fold the ballot paper so that the marked side is inside, put the folded ballot paper into the envelope

¹⁸ Computer counting refers to the use of a computerised system for efficient vote counting and consolidation of election results through manual “double entry” of the votes on ballot papers into the computer system by counting staff in pairs.

provided by the polling station, and put the ballot paper contained in the envelope into the correct ballot box as directed by the DHA. [S 47(4) of the EP (RRE) Reg]

4.47 Upon leaving the voting compartment, the elector should immediately put his/her marked ballot papers, whether folded and/or contained in the envelopes, into the ballot box as directed by the polling staff. Afterwards, the cardboard attached with the chop should be returned to the polling staff. Then the elector should leave the polling station without undue delay. [S 47(4) and (6) of the EP (RRE) Reg]

NOTE :

An elector who has collected the ballot paper must proceed to a voting compartment to mark the ballot paper immediately and, after casting his/her vote, leave the polling station without undue delay. A person who fails to obey any order of the PRO or misconducts himself/herself commits an offence. The PRO may seek assistance from police officers and order the person to leave the polling station immediately [s 38(7), (8) and (10) of the EP (RRE) Reg].

If an elector deliberately makes an error in marking the ballot paper and asks the PRO to issue a new ballot paper to him/her repeatedly, the PRO may reject the request. If there is a reasonable cause to believe that a person impersonates an elector to apply for a ballot paper, the PRO may request police officers to arrest that person [s 44 of the EP (RRE) Reg]. A person engages in corrupt conduct if he/she 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 [s 14 of the ECICO].

Concerning offence in relation to ballot papers, it is an offence under s 47(8) of the EP (RRE) Reg for a person to remove a ballot paper from a polling station. According to the ECICO, any person who removes a ballot paper from a polling station with intent to deceive also commits an offence. It will also be 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 [s 17 of the ECICO].

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

4.48 An elector with visual impairment who so requests will be provided with a **braille template** to facilitate his/her marking of the ballot paper by himself/herself [s 49(2) and (3) of the EP (RRE) Reg]. The template should be returned to the polling staff after use. (For details about the template, see para. 6.40 of Chapter 6.)

4.49 An elector must mark his/her vote on the ballot paper by himself/herself and cannot request other electors to do it on his/her behalf. If the elector is unable to mark a ballot paper by himself/herself (e.g. being unable to read or is incapacitated because of impaired eyesight or other physical cause) to indicate the choice of candidate(s), he/she may ask the PRO, Deputy PRO or

Assistant PRO to mark the ballot paper on his/her behalf. The marking of the ballot paper as such must be made in the presence of 1 polling officer as a witness. [S 49(1) of the EP (RRE) Reg]

4.50 **The ballot is secret. No one is allowed to use force or duress, or threaten to use force or duress, against a person to make him/her vote or not vote for a particular candidate or particular candidates at an election [s 13 of the ECICO]. Also, no one is required to disclose which candidate he/she has voted for or is going to vote for.** It is an offence for anyone to, without lawful authority, require or purport to require an elector to disclose the name of or any particulars relating to the candidate whom the elector has voted for and offenders will be liable to a fine at level 2 (\$5,000) [s 38 of the RREO]. Some other prohibited acts which may infringe the secrecy of the vote during the polling and counting process are also specified under s 82 of the EP (RRE) Reg.

4.51 To safeguard the secrecy of the ballot by electors, no one shall, at any time, disclose whether an elector has or has not applied for 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 will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. [Ss 82(1) and 89(2) of the EP (RRE) Reg]

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

4.52 An elector who has collected 1 or 2 ballot papers, depending on his/her entitlement, but leaves the polling station without casting his/her vote or any of his/her votes is not allowed to return to the polling station later to cast the vote(s) not yet cast, except under the following circumstances:

- (a) if, after having been issued with 1 or 2 ballot paper(s), for a reason considered justified by the PRO, the elector who has not marked the ballot paper(s) issued to him/her may, with the permission of the PRO, hand back the ballot paper(s) to the PRO and return later to vote [s 46(1) of the EP (RRE) Reg]; or
- (b) if, after having been issued with the ballot paper(s), the elector has become incapacitated from voting or completing the voting by physical illness and needs to leave the polling station without marking any one of or all of the ballot papers, he/she may return to the polling station to vote before the close of poll provided that prior to his/her leaving the polling station, the unmarked ballot paper(s) has/have been handed back to the PRO [s 46(5) of the EP (RRE) Reg]; and
- (c) in the case of a dedicated polling station situated in a penal institution, the elector concerned is allowed to return to vote within the existing or any newly assigned time slot [s 46(2A) of the EP (RRE) Reg].

4.53 If the above situations arise in a polling station other than a dedicated polling station, the following procedures must be taken by the PRO:

- (a) the PRO must keep that ballot paper(s) in his/her custody and, when the elector returns to the polling station to vote before the close of poll, return such ballot paper(s) to the elector in the presence of a police officer [s 46(3) and (6) of the EP (RRE) Reg]; 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” . Ballot papers endorsed as such shall not be put into the ballot box and shall not be counted at the counting of votes [ss 51 and 62 of the EP (RRE) Reg].

4.54 If the above situations arise in a dedicated polling station, the following procedures must be taken by the PRO and/or the CCS or his/her officer:

- (a) the PRO must keep that ballot paper(s) in his/her custody and, when the elector returns to the dedicated polling station to vote before the close of poll, return such ballot paper(s) to the elector in the presence of an officer of the CSD or any law enforcement agency [s 46(3) and (6) of the EP (RRE) Reg];
- (b) where a dedicated polling station situated in a penal institution is concerned, the CCS or his/her officer must as far as practicable assign to the elector a new time slot within the polling hours appointed for that dedicated polling station situated in a penal institution, and notify the elector of the new time slot [s 46(2B) and (5A) of the EP (RRE) Reg]; 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”. Ballot paper(s) endorsed as such shall not be put into the ballot box and shall not be counted at the counting of votes [ss 51 and 62 of the EP (RRE) Reg].

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

endorsed with the words “**UNUSED**” and “**未用**” on the front and be kept by the PRO. In no circumstances can ballot papers endorsed as such be put into the ballot box. These ballot papers shall not be counted at the counting of votes. [Ss 51 and 62 of the EP (RRE) Reg]

4.56 The PRO is required to keep in his/her custody those ballot papers handed in under the circumstances described in para. 4.52 above only if he/she knows which electors handed over such ballot papers. Otherwise, ballot papers left behind in the polling station should be endorsed as “**UNUSED**” and “**未用**” and shall not be counted at the counting of votes. [Ss 51 and 62 of the EP (RRE) Reg]

4.57 Any elector who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him/her may ask the PRO to exchange it for another unmarked ballot paper. If the PRO considers the request reasonable, he/she will issue 1 new ballot paper to the elector in exchange for the spoiled ballot paper. The spoiled ballot paper will be endorsed of with the words “**SPOILT**” and “**損壞**” on the front and be kept by the PRO. Spoilt ballot papers shall not be counted at the counting of votes. [Ss 52 and 62 of the EP (RRE) Reg]

4.58 If a person, claiming to be a particular elector on the FR, applies for a ballot paper after an earlier 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 by the law (para. 4.40 above) 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 shall not be counted at the counting of votes. [Ss 50 and 62 of the EP (RRE) Reg]

PART X: CONDUCT INSIDE THE POLLING STATION

4.59 Subject to para. 4.60 below, no person (including electors) is allowed to interfere with or attempt to influence any electors. In particular, no one shall:

- (a) speak to or communicate with any electors contrary to a direction of the RO or the PRO not to do so;
- (b) attempt to obtain or disclose information on the vote of other electors;
- (c) engage in canvassing for votes or without reasonable excuse, display any propaganda material, e.g. any badge, emblem, clothing or headwear, which makes direct reference to the current election, a body any member of which is standing as a candidate in the election, a political body, a candidate or the number allocated to a candidate; or
- (d) use a mobile telephone, paging machine or any other communication device contrary to a direction of the RO or the PRO not to do so.

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 months. [Ss 38(2), (3) and (5) and 89(1) of the EP (RRE) Reg]

4.60 Inside a polling station, only the following persons may speak to or communicate with electors, and use a mobile telephone, paging machine or any other communication device:

- (a) members of the EAC;
- (b) the DHA;
- (c) the RO and AROs;
- (d) the CEO;
- (e) the PRO and other polling staff;
- (f) public officers on duty at the polling station;
- (g) members of the CAS on duty at the polling station; and
- (h) any person authorised in writing by the RO or a member of the EAC.

[S 38(2) and (3) of the EP (RRE) Reg]

4.61 Any person who misconducts himself/herself or fails to obey the lawful order of the RO or the PRO at a polling station or its vicinity commits an offence, and is liable to a fine and imprisonment. He/She may be ordered by such officers to leave the polling station or the vicinity of the polling station. A person misconducts himself/herself if he/she disrupts the poll or disturbs or causes inconvenience to other persons in the polling station. An elector must cast his/her vote without undue delay, otherwise he/she may be ordered by the RO or the PRO to leave the polling station immediately. 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 the law enforcement agencies (if the polling station is a dedicated polling station); or
- (c) a 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 or its vicinity on the polling day except with the permission of the RO or the PRO. Nevertheless, the powers conferred on the RO and the PRO are not to be exercised 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/her. [S 38(7), (8), (9A), (10), (11) and (12) of the EP (RRE) Reg]

4.62 A person commits an offence if he/she takes photographs, films or makes any video or audio recording within a polling station without the express permission of a member of the EAC, the RO or the PRO. Offenders shall be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [ss 38(4) and 89(2) of the EP (RRE) Reg]. Generally speaking, such permission is only granted to government photographers for performing publicity duties.

PART XI: CLOSE OF POLL

4.63 An elector who intends to vote but is not already at the designated entrance of the polling station by the close of the poll will not be

allowed in afterwards. When the close of the 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, if practicable, let electors already in the queue enter the polling station and close the entrance of the polling station. If there are too many such electors and arrangement cannot be made for all of them to enter the polling station, polling staff will stand at the end of the queue and hold up a signboard to show that no latecomers will be allowed to join the queue.

4.64 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 but has not reached the entrance of the place where the polling station is located or has not queued up outside the entrance by the close of poll, he/she will not be allowed to enter the polling station or join the queue for entry to the polling station to vote. The PRO will close the entrance of the polling station only when all electors having arrived at the entrance of the polling station or queued up outside the entrance of the polling station before the close of poll have entered the polling station.

A Polling Station which is also a Counting Station

4.65 Polling stations (except for certain polling stations and dedicated polling stations) will be designated as counting stations for the counting of votes for Rural Areas. At the close of the poll, a notice will be displayed by the PRO at a prominent place outside the polling station as soon as practicable to inform the public that the poll has ended and the polling station is being prepared for vote counting. If the EPR system is used in the polling station,

the PRO must also confirm the close of the poll through the system. The counting station will be opened to the public when the preparations are completed. While it is closed in preparation for vote counting, candidates and their election agents, counting agents and polling agents may stay in the polling station to observe the locking and sealing of ballot boxes. The ballot boxes will be locked and sealed by the PRO in the presence of the candidates and/or their agents (if any). The PRO will also inform them of the numbers of unissued ballot papers, spoilt ballot papers and unused ballot papers in his/her possession. All such ballot papers and the counterfoils of issued ballot papers will be packed into separated sealed packets for each Rural Area. The printed copies of FR (if used) recording collection of ballot papers by electors will also be made up into separate sealed packets. The PRO will prepare a ballot paper account to estimate the number of ballot papers in the ballot boxes. [S 53 of the EP (RRE) Reg]

4.66 The locked and sealed ballot boxes, the sealed packets and the ballot paper account referred to in para. 4.65 above will be kept under the control of the PRO who presides at the counting station (if a RO is to preside at the counting station, the PRO must hand over these items to the RO as soon as practicable and the items will be kept under the RO's control) until the counting of the votes begins. [S 53(6) of the EP (RRE) Reg]

A Polling Station which is not a Counting Station

4.67 **Certain polling stations and dedicated polling stations will not be converted to counting stations after the close of the poll.** The PRO will, as soon as practicable, display a notice at a prominent place outside the polling station to inform the public that the poll has ended, and of the details regarding the name and location of the ballot paper sorting station for sorting the ballot papers received from that polling station (**relevant sorting station**) (if applicable); and the name and location of the counting station for counting the

votes cast at that polling station (**relevant counting station**). If the EPR system is used in the polling station, the PRO must also confirm the close of the poll through the system. After the close of the poll, candidates and their election agents and polling agents may stay in the polling station to observe the process of locking and sealing ballot boxes. For dedicated polling stations, the following persons may stay to observe the process:

- (a) a candidate, his/her election agent and polling agent may stay in a dedicated polling station not situated in a penal institution;
- (b) a maximum of only 2 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 2 candidates may stay in a dedicated polling station situated in a maximum security prison.

In the presence of the candidates and/or their agents (if any), the ballot boxes will be locked and sealed by the PRO. The PRO will also inform them of the numbers of unissued ballot papers, spoilt ballot papers and unused ballot papers in his/her possession. All such ballot papers and the counterfoils of issued ballot papers will be packed into separate sealed packets for each Rural Area. The printed copies of FR (if used) recording collection of ballot papers by electors will also be made up into separate sealed packets. The PRO will prepare a ballot paper account to estimate the number of ballot papers in the ballot boxes.

NOTE :

After the close of poll, the ballot boxes (locked and sealed) from a polling station which is not a dedicated polling station will be

delivered to the **relevant counting station**. In the case of a dedicated polling station, the ballot boxes (locked and sealed) will either be delivered to the **relevant sorting station** for ballot paper sorting so that the ballot papers of each Rural Area can be sent to a corresponding counting station, or directly be delivered to a corresponding counting station as the case may be; and the ballot papers will be mixed with the ballot papers at the counting station before vote counting. Please refer to paras. 4.70 to 4.76 below for the ballot paper sorting and delivery arrangements regarding the ballot paper sorting stations.

[S 53A of the EP (RRE) Reg]

4.68 If the polling station is not a dedicated polling station, the PRO will deliver the locked and sealed ballot boxes, sealed packets, ballot paper accounts, etc. (see para. 4.67 above) under police escort to the Officer-in-charge of the relevant counting station. For a dedicated polling station, the PRO will deliver the sealed ballot boxes, sealed packets, ballot paper accounts, etc. (see para. 4.67 above) to the Officer-in-charge of the relevant sorting station, or to the Officer-in-charge of the relevant counting station directly, as the case may be, under police escort. [S 53A(6), (7) and (8) of the EP (RRE) Reg]

4.69 Not more than 2 persons among the candidates and their agents of the Rural Area, if they so wish, may accompany in the delivery mentioned in para. 4.68 above. If more than 2 such persons are interested, the PRO will draw lots to determine which 2 persons can join the delivery. Candidates and their agents are allowed to stay in the polling station until they see the arrival of police officers for escorting the delivery. Thereafter, all persons other than those 2 who are allowed to accompany in the delivery must leave the polling station.

PART XII : SORTING OF BALLOT PAPERS

Conduct at the Ballot Paper Sorting Station

4.70 In a rural ordinary election, or a rural by-election where the DHA considers it appropriate, ballot paper sorting stations will be set up for sorting ballot papers received from dedicated polling stations according to each Rural Area before the ballot papers are delivered to the relevant counting stations for counting of votes. The EAC may appoint an ARO to preside at a ballot paper sorting station. The ARO presiding at the 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 for the Rural Area concerned 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 commencement of the sorting of ballot papers at the ballot paper sorting station. [Ss 28(1)(c), 55(1) and (2A) and 57(1A) of the EP (RRE) Reg]

4.71 Only the following persons may be present at the sorting of ballot papers:

- (a) members of the EAC;
- (b) the DHA;
- (c) the RO;
- (d) the AROs and counting staff;
- (e) the PRO of the ballot paper sorting station;
- (f) the CEO;

- (g) candidates and their election agents;
- (h) counting agents;
- (i) public officers (including police officers) and members of the CAS on duty at the ballot paper sorting station; and
- (j) any person authorised in writing by the RO or a member of the EAC.

[S 58(3) of the EP (RRE) Reg]

4.72 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** on a specified form¹⁹ before entering the sorting station and observe the regulations on the secrecy of voting [s 81 of the EP (RRE) Reg]. Members of the public staying in the public area are not required to make a Declaration of Secrecy.

4.73 The Officer-in-charge of a ballot paper sorting station may designate an area at the ballot paper sorting station for the public to observe the sorting of ballot papers at a distance. Persons present within that designated area will not be required to sign a Declaration of Secrecy. Except with the express permission of a member of the EAC, the DHA or the ARO in charge of the ballot paper sorting station, it is an offence for anyone to take photographs, films or make any video or audio recording within the counting zone during the sorting process. [Ss 58(1) and 59(2) of the EP (RRE) Reg]

4.74 Any person who misconducts himself/herself or fails to obey any lawful order of the ARO who presides at the ballot paper sorting station in or in

¹⁹ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/a Justice of the Peace/a solicitor with a practicing certificate.

the vicinity of a ballot paper sorting station commits an offence, and is liable to a fine and to imprisonment. He/She may be ordered by the ARO to leave the area immediately. A person misconducts himself/herself if he/she disrupts the sorting of ballot papers or disturbs or causes inconvenience to other persons in the ballot paper sorting station. The ARO 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 the entry to or presence in the ballot paper sorting station. If the person fails to leave immediately, he/she may be removed by a police officer or by any other person authorised in writing by the ARO. Any person so removed is not allowed to re-enter the relevant ballot paper sorting station before the sorting of the ballot papers at the station is finished without the express permission of the ARO. [S 59 of the EP (RRE) Reg]

Sorting of Ballot Papers

4.75 The ARO presiding at the ballot paper sorting station will check whether the ballot boxes and sealed packets are properly sealed. The seal on each ballot box will be broken by the ARO in the presence of the candidates, their election agents or counting agents, if any. The ARO will then open the ballot box and empty the contents onto the sorting table. After the ballot box is opened by the ARO, if any paper other than the envelopes which contain the marked ballot papers is found and taken out from the ballot box, the candidates, their election agents or counting agents may request to inspect such paper before it is disposed of by the ARO. **At no time should a candidate, his/her election agent or counting agent touch any envelopes or ballot papers.**

4.76 The ARO presiding at the ballot paper sorting station will:

- (a) open the ballot boxes received from dedicated polling stations;

- (b) sort the ballot papers in each ballot box according to each Rural Area;
- (c) count and record the number of ballot papers for each Rural Area;
- (d) verify the number of ballot papers recorded for each Rural Area under para. 4.76(c) above by comparing it with the ballot paper account for that Rural Area;
- (e) prepare a statement in writing as to the result of the verification;
- (f) prepare a statement in writing as to the number of ballot papers recorded for each Rural Area under para. 4.76(c) above;
- (g) make into separate bundles the sorted ballot papers together with the relevant statement prepared under para. 4.76(f) above;
- (h) place each bundle in a separate receptacle and seal it in the presence of those present at the counting zone;
- (i) arrange the receptacles to be delivered to the officers-in-charge of the respective counting stations of relevant Rural Areas²⁰; and
- (j) send to the DHA the ballot paper accounts, the statements prepared under para. 4.76(e) and the sealed packets made up under para. 4.67.

[S 60A of the EP (RRE) Reg]

²⁰ After opening the ballot boxes delivered from dedicated polling stations and sorting the ballot papers therein according to each Rural Area, if the ARO presiding at the ballot paper sorting station has ascertained that no elector of a certain Rural Area has cast any vote in the dedicated polling stations, he/she will arrange to inform the Officer-in-charge of the counting station that no ballot paper of the Rural Area concerned will be delivered to that counting station.

PART XIII : THE COUNT

Conversion of Polling Station into Counting Station

4.77 Polling stations (except for certain polling stations and dedicated polling stations) will be converted to counting stations where the votes of the Rural Areas will be counted and the counting results will be announced to the candidates and their agents present [ss 65 and 65A of the EP (RRE) Reg]. The DHA may appoint the PRO in charge of the polling station as the PRO for the counting station for counting the votes cast at that polling station [s 57(1B) of the EP (RRE) Reg]. The PRO, assisted by Deputy PROs, Assistant PROs, polling staff and counting staff, is responsible for converting the polling station into 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 the public to observe the counting of votes [s 53(2)(b) of the EP (RRE) Reg]. The telephone number of the counting station should be provided on the notice, so that the candidates/agents will be able to contact the counting staff.

Conduct at the Counting Station

4.78 Only the following persons may be admitted to a counting zone:

- (a) members of the EAC;
- (b) the DHA;
- (c) the RO;
- (d) the AROs;

- (e) the PRO and counting staff of the counting station
- (f) the CEO;
- (g) candidates and their election agents;
- (h) counting agents;
- (i) public officers (including police officers) and members of the CAS on duty at the counting stations; and
- (j) any person authorised in writing by the RO or a member of the EAC.

[S 58(3) of the EP (RRE) Reg]

4.79 Except for police officers and members of the CAS on duty, every person permitted to stay in a counting zone must make a **Declaration of Secrecy** on a specified form²¹ before entering the zone, and observe the regulations on the secrecy of voting. [S 81 of the EP (RRE) Reg] Members of the public and the media staying in the public area and the media zone are not required to make a Declaration of Secrecy.

4.80 Members of the public and the media have the rights to observe the count in a counting station. That said, as an established practice to maintain order inside the counting station, the Officer-in-charge of the counting station can reject further entrants when the area designated for the public reaches the maximum capacity. After the close of the poll, electors may observe the counting of votes at the counting station and wait for the counting

²¹ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/a Justice of the Peace/a solicitor with a practicing certificate.

result, but they must not enter or stay in a counting zone. The Officer-in-charge of the counting station may designate an area at the counting station for the public to observe the count at a distance [s 58(5) of the EP (RRE) Reg]. Members of the public and the media inside the designated area and the media zone are not required to make a Declaration of Secrecy.

4.81 Besides, photo-taking and video-recording are allowed inside a counting station. Members of the public, including the media, can take photographs and/or videos inside the public area (but not inside the counting zone). For record purposes, closed-circuit televisions 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). Without the express permission of a member of the EAC, the DHA or the Officer-in-charge of the counting station, no person shall take photographs, films or make any video or audio recording in a counting zone during the counting process [s 59(2) of the EP (RRE) Reg].

4.82 Any person who misconducts himself/herself or fails to obey any lawful order of the Officer-in-charge of a counting station at 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/She may be ordered by the Officer-in-charge of the counting station to leave the area immediately. A person misconducts himself/herself if he/she disrupts the counting of votes or disturbs or causes inconvenience to other persons in the counting station. The Officer-in-charge of the counting station may also order a person to leave the counting station 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/she may be removed by a police officer or by any other person authorised in writing by the Officer-in-charge. Any person so removed is not allowed to re-enter the counting station or its vicinity before the counting of votes at the counting

station is finished, without the express permission of the Officer-in-charge who ordered him/her to leave. [S 59 and 89(1) of the EP (RRE) Reg]

Counting of Votes

4.83 The Officer-in-charge of the counting station will conduct the counting of votes in the presence of the candidates, their election agents or counting agents, if any. The Officer-in-charge will check whether all the ballot boxes or receptacles and sealed packets are properly sealed. The seal on each ballot box or receptacle will be broken by the Officer-in-charge. All the ballot boxes or receptacles will then be opened by the Officer-in-charge and the contents will be emptied onto the counting table. [S 60(1) of the EP (RRE) Reg]

4.84 The candidates, their election agents or counting agents may request to inspect any paper other than ballot papers taken out from the ballot boxes or receptacles before the paper is disposed of. **At no time should a candidate, his/her election agent or counting agent touch any ballot papers.** [S 60(2) of the EP (RRE) Reg]

4.85 The Officer-in-charge of the counting station will open the ballot boxes or receptacles of the Rural Area and:

- (a) after opening the ballot boxes and receptacles from a dedicated polling station, take out the ballot papers from the envelopes if envelopes for containing ballot papers are used in the election, count and record the number of ballot papers from the dedicated polling station's ballot boxes and receptacles and verify the number of ballot papers by comparing it with the ballot paper account from the dedicated polling station;

- (b) after opening the envelopes in the receptacles from a ballot paper sorting station, count and record the number of ballot papers in the receptacles and verify the number of ballot papers by comparing it with the statement prepared by the ARO presiding at the ballot paper sorting station;
- (c) prepare a statement in writing as to the result of the verification under paras. 4.85(a) and (b) above;
- (d) arrange to mix the ballot papers in paras. 4.85(a) and (b) above with other ballot papers in at least one of the ballot boxes from a polling station other than a dedicated polling station;
- (e) decide which of the following methods is to be used for the counting of votes:
 - (i) Method I: Ballot papers will be separated with reference to the candidate for whom the vote has been recorded and placed into the relevant box, and then the valid ballot papers will be counted.
 - (ii) Method II: All valid ballot papers will firstly be separated from other ballot papers and then be counted with the use of a computer.
 - (iii) Method III: The choice(s) marked on each valid ballot paper will be recorded in a form or forms.
- (f) in the course of counting of votes under para. 4.85(e), the invalid ballot papers and questionable ballot papers will be handled in accordance with paras. 4.86 to 4.89; and the valid votes on the

questionable ballot papers as determined by the Officer-in-charge will count towards the final counting results; and

- (g) after counting the votes in accordance with the methods mentioned in para. 4.85(e), verify the number of ballot papers cast at the polling station other than a dedicated polling station by comparing it with the ballot paper account for that station; and prepare a statement in writing as to the verification result.

[Ss 60, 60B and 61 of the EP (RRE) Reg]

Invalid Ballot Papers

4.86 A ballot paper is invalid if:

- (a) it is unmarked;
- (b) it is not marked with the chop issued by the polling station;
- (c) it has the words “ **TENDERED** ” and “重複” endorsed on it;
- (d) it has the words “ **UNUSED** ” and “未用” endorsed on it;
- (e) it has the words “ **SPOILT** ” and “損壞” endorsed on it; or
- (f) it contains votes for a number of candidates exceeding the number of RR or RRs to be returned for the Rural Area at the election concerned.

[S 62 of the EP (RRE) Reg]

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.

Questionable Ballot Papers

4.87 Ballot papers with doubtful validity in the following categories are set aside as questionable ballot papers. A questionable ballot paper will be decided as invalid if in the opinion of the Officer-in-charge of the counting station:

- (a) it is void for uncertainty;
- (b) it has any writing or mark by which the elector can possibly be identified;
- (c) it is not marked in accordance with s 48(1)(b), (2)(b), (3)(b) or (4)(b) of the EP (RRE) Reg (as the case may be), i.e. not marked by affixing the chop to give a single “✓” in the circle/each of the circles opposite the name(s) of the candidate(s) of the elector’s choice on the ballot paper. However, the Officer-in-charge may count the vote on that ballot paper as valid if he/she is satisfied that the intention of the elector is clear even though the “✓” mark is not placed inside the circle [s 63(3) of the EP (RRE) Reg]; or
- (d) it is substantially mutilated.

Questionable ballot papers must be separated and forwarded to the Officer-in-charge to decide whether the votes are to be counted. When deciding on the validity of the ballot papers in (b) above, the Officer-in-charge shall make reference to the judgment made by the Court on the election petition case of HCAL 127/2003, in which 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 elector could possibly be identified. The validity of ballot papers with any other writing or mark will be determined by the Officer-in-charge on a case-by-case basis. [Ss 48, 61(2)(a), 62, 63(2) and (3) of the EP (RRE) Reg]

4.88 The Officer-in-charge of the counting station will invite the candidates, their election agents or counting agents present to participate in the determination process of questionable ballot papers.

4.89 The determination process will be conducted in the following manner:

- (a) the Officer-in-charge of the counting station will inform the candidates and their election agents or counting agents of his/her initial decision on the validity of each questionable ballot paper. The candidates or election agents (if present at the counting zone) may inspect and make representations concerning any questionable ballot paper [s 63(1) of the EP (RRE) Reg];
- (b) the Officer-in-charge will then consider their representations and make a final decision on the validity of the questionable ballot paper (see para. 4.89(c) and (d) below) [s 63(2) of the EP (RRE) Reg];
- (c) if the Officer-in-charge decides that a questionable ballot paper is invalid and, therefore, not to be counted, he/she must endorse the words “rejected” and “不予接納” on the front of the ballot paper. In that case, if a candidate or an election agent objects to the determination, the Officer-in-charge must also endorse the words “rejection objected to” and “不予接納的決定遭反對” on the

front of the ballot paper [s 63(5) of the EP (RRE) Reg];

- (d) if a candidate or an election agent objects to the decision of the Officer-in-charge to count a questionable ballot paper, the Officer-in-charge must endorse the words “acceptance objected to” and “予以接納的決定遭反對” on the front of the ballot paper [s 63(4) of the EP (RRE) Reg]; and
- (e) the Officer-in-charge shall prepare a statement to record his/her decisions made in respect of all questionable ballot papers [s 63(6) of the EP (RRE) Reg].

4.90 The decision of the Officer-in-charge of the counting station in regard to any question arising in respect of any ballot paper shall be **final** [s 63(8) of the EP (RRE) Reg], and may be questioned only by an election petition [s 39 of the RREO] (see Part II of Chapter 5).

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

4.92 After a count, when there is only 1 counting station for a Rural Area, the Officer-in-charge of the counting station will make known the result of the counting of votes to the candidates, their election agents or counting agents present. These candidates or their election agents may request the Officer-in-charge of the counting station to re-count the votes, and the Officer-in-charge shall comply with any such request unless the Officer-in-charge is of the opinion that the request is unreasonable. If the Officer-in-charge is a PRO, the PRO must report to the RO appointed for the Rural Area concerned the result of the counting of votes and re-count (if any). [S 65 of the EP (RRE) Reg] The above also applies when there are 2 or more counting stations for a Rural Area. If there are 2 or more counting stations for

a Rural Area, the RO will make known the result to the candidates, their election agents or counting agents present at the place specified by the RO after the RO has obtained the results of all counting and re-count, if any. These candidates or their election agents may request the RO for a re-count of votes of all the counting stations for the Rural Area, and the RO shall comply with any such request and inform the PROs of all the counting stations for the Rural Area to conduct a re-count at their respective stations at the same time unless the RO is of the opinion that the request is unreasonable. If the RO presides at one of the counting stations for the Rural Area, the RO shall conduct a re-count at the station and inform the PRO of the other counting stations for the Rural Area to conduct a re-count at their respective stations at the same time. [S 65A of the EP (RRE) Reg]

PART XIV: DECLARATION OF RESULT

4.93 When the counting of votes and re-count, if any, are completed and a result is obtained, the RO shall declare the result in accordance with the principles set out in para. 2.52. If, after the counting of votes in respect of an election for a Rural Area is finished, an RR is still to be returned for the Rural Area at the election and the most successful candidates or the most successful candidates remaining (as the case may be) have an equal number of votes, the RO for the Rural Area shall determine the result of the election by drawing lots. The person on whom the lot falls shall be returned for the Rural Area at the election (see para. 2.52(c) for detailed procedures for drawing lots) [s 31(6) of the RREO]. The RO shall publicly declare the candidate on whom the lot falls as elected, and shall display a notice of the result of the election in a prominent place immediately outside each of the counting stations for the Rural Area concerned. The result of the election will also be published in the Gazette within 10 days of the declaration of the result. [Ss 66 and 67 of the EP (RRE) Reg]

PART XV : DISPOSAL OF DOCUMENTS

4.94 As soon as practicable after ascertaining the result of the poll in an election, the Officer-in-charge of the counting station will make up all the relevant documents and ballot papers into sealed packets. Candidates and their agents may be present to observe the packing. [S 68 of the EP (RRE) Reg]

4.95 These sealed packets and other documents including nomination forms, notices of appointment of agents, etc. will then be sent to the DHA for safe custody for 6 months after the date on which the result of the related rural election is declared before they are destroyed. [Ss 69 and 71 of the EP (RRE) Reg]

4.96 **Except pursuant to a court order** in relation to an election petition or a criminal proceeding, **no person may inspect any ballot paper in the custody of the DHA.** [S 70 of the EP (RRE) Reg]

PART XVI : POSTPONEMENT OR ADJOURNMENT OF THE POLL OR THE COUNT

4.97 The EP (RRE) Reg provides for the postponement or adjournment of the polling or counting of votes for all or particular polling/counting stations of an RR election.

4.98 Regarding the postponement or adjournment of **polling at all polling stations and/or counting of votes at all counting stations**, if, during or before the poll or the count in respect of the RR election, the EAC is of the opinion that the poll or the count is likely to be or is being obstructed,

disrupted, undermined or seriously affected by (a) a typhoon or other climatic condition of a serious nature; (b) riot or 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 poll or the count, then the EAC may postpone or adjourn the poll or the count. [S 72(1) and (2) of the EP (RRE) Reg]

4.99 Regarding the **polling at a particular polling station or the counting of votes at a particular counting station**, if, at any time during the polling or counting of votes of an RR election, the PRO for the polling station or the Officer-in-charge of the counting station is of the opinion that the poll at the polling station or the count at the counting station is likely to be or is being obstructed, disrupted, undermined or seriously affected by (a) a typhoon or other climatic condition of a serious nature; (b) riot or open violence or any danger to public health or safety; or (c) an occurrence which appears to the PRO/Officer-in-charge to be a material irregularity relating to the poll or the count concerned, then the PRO of the polling station/Officer-in-charge of the counting station may, after consulting the RO, adjourn the poll at that polling station or the count at that counting station. [S 73 of the EP (RRE) Reg]

4.100 If the poll or count of votes has to be postponed or adjourned in accordance with ss 72 or 73 of the EP (RRE) Reg, the EAC must appoint a date for holding the polling or counting 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 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 laws and regulations regarding further postponement or adjournment of an already postponed or adjourned poll or count. [S 77 of the EP (RRE) Reg]

PART XVII : RURAL BY-ELECTION TO BE HELD

4.101 In respect of rural by-elections, the EAC shall, in accordance with regulations in force under the RREO, arrange for a rural by-election for a Rural Area to be held in the following circumstances and not otherwise:

- (a) on the making of a declaration by the DHA as to the existence of a vacancy in the office of RR for the Rural Area;
- (b) on the making of a declaration by the RO that the election for the Rural Area has failed; and
- (c) on the making of a declaration by the RO that the proceedings for an election for the Rural Area have been terminated.

[S 21 of the RREO]

4.102 There is no provision in the subsisting law regarding the holding of any by-election to cater for the event that a poll or count of an RR election has to be postponed or adjourned due to the circumstances mentioned in paras. 4.98 to 4.99 above but cannot be held within the 14 days after the scheduled date as stipulated in the law.