

CHAPTER 6

APPOINTMENT AND ROLES OF ELECTION AGENT, ELECTION EXPENSE AGENTS, POLLING AGENTS AND COUNTING AGENTS

PART I : GENERAL

6.1 This chapter deals with the appointment of agents at an election and their roles. Each candidate may appoint 4 types of agents, namely election agent, election expense agent, polling agent and counting agent. If a candidate intends to send the notice of appointment of polling agents and counting agents by hand, by post, by electronic mail or by facsimile transmission, the notice must be delivered to the relevant RO before the specified deadline so as to enable timely delivery of the information to the relevant PRO or the Officer-in-charge²² of a counting station (as the case may be). After the said deadline, the candidate or his/her election agent must deliver in person the notice to the relevant PRO or the Officer-in-charge of a counting station, as the case may be, on the polling day.

6.2 The aggregate amount of election expenses incurred by a candidate and his/her election expense agents must not exceed the maximum amount as prescribed by the law. An election expense agent must not incur election expenses in excess of the maximum amount specified by the candidate in the agent's appointment.

²² "Officer-in-charge" in this chapter refers to the officer in charge of a station in relation to the counting of votes, who may be the RO, the PRO of a counting station (if appointed) or the ARO of a ballot paper sorting station (as the case may be).

6.3 A candidate should think carefully before selecting any of his/her agents. He/She should choose persons suitable for the task. The agents will be viewed as his/her representatives and their conduct may affect the public's perception of him/her and his/her election.

PART II : TYPES AND NUMBERS OF AGENTS

6.4 A candidate may appoint the following agents to assist him/her in the RR election:

- (a) **1** election agent [s 22(1) of the EP (RRE) Reg];
- (b) **any number** of election expense agents [s 23(1) of the EP (RRE) Reg];
- (c) a maximum of **2** polling agents for **each polling station** other than a dedicated polling station situated in a penal institution in respect of the Rural Area for which he/she is nominated [s 36(1) and (1A) of the EP (RRE) Reg];
- (d) **1** polling agent for **each dedicated polling station** situated in a penal institution other than a maximum security prison [s 36(1A) of the EP(RRE) Reg]; and

(Only candidates themselves may enter maximum security prisons (see para. 6.25(a) below). For arrangements regarding the admission of election agents or polling agents to dedicated polling stations situated in penal institutions, please refer to paras. 6.14 to 6.17 and paras. 6.24 to 6.26 below.)

- (e) not more than the number of counting agents to be specified by the RO²³ [s 56(2) of the EP (RRE) Reg].

PART III : QUALIFICATIONS OF AGENTS

6.5 The election, polling and counting agents should be holders of a HKID and have attained the age of 18 years [ss 22(2), 36(3) and 56(3) of the EP (RRE) Reg] while an election expense agent needs to be a person who has attained the age of 18 years [s 23(2) of the EP (RRE) Reg].

PART IV : CIVIL SERVANTS ACTING AS AGENTS

6.6 Civil servants, other than directorate officers, Administrative Officers, Information Officers and Police Officers and those officers acting in the above grades or ranks with a view to substantive appointment thereto (i.e. other than acting for temporary relief purpose), may act as agents or assist in electioneering activities **provided that** they are not already appointed as ROs, AROs, PROs, polling or counting staff, that there is no conflict of interest with their official duties, that no use of public resources is involved, and that no government uniform is worn when participating in electioneering activities. To avoid any unfairness or appearance of unfairness or conflict of interest, civil servants who work in a Rural Area or have extensive contacts with the public in a Rural Area, particularly staff members of the HAD and DOs of the New Territories, are strongly advised not to accept appointment by a candidate in the relevant Rural Area to be his/her agent and/or participate in electioneering activities in the Rural Area concerned. Civil servants who participate in electioneering activities, including the seeking of election donations, for any

²³ The number of counting agents to be specified by the RO will be stated in the specified form for notice of appointment of counting agents.

candidates should not use or give the impression of using any public resources in such activities. The guidelines set out in this paragraph are equally applicable to the non-civil service government staff²⁴.

PART V : ELECTION AGENT

Appointment

6.7 A candidate may appoint **1** election agent to assist him/her and to act on his/her behalf in an election. The appointment may be made at any time after the candidate submits his/her nomination form. [S 22(1) of the EP (RRE) Reg]

6.8 The candidate must give notice of the appointment of his/her election agent to the RO for the Rural Area to which the candidate belongs [s 24(2) of the EP (RRE) Reg]. The notice must be in the specified form, signed by both the candidate and the election agent, and delivered by hand, by post, by electronic mail or by facsimile transmission to the RO. If the notice of appointment is given on the polling day, it should not be delivered to the RO by post [s 24(3) of the EP (RRE) Reg]. The appointment will not be effective until the notice of appointment is received by the RO [s 24(7) of the EP (RRE) Reg].

6.9 An election agent must not incur election expenses for or on behalf of a candidate unless he/she has been appointed in writing by the

²⁴ For the purpose of this set of Guidelines, non-civil service government staff refer to the staff employed on non-civil service terms by the HKSAR Government, including:

- (a) those employed under the Non-Civil Service Contract Staff Scheme pursuant to Civil Service Bureau (“CSB”) Circular No. 2/2001;
- (b) those employed under the Post-retirement Service Contract Scheme pursuant to CSB Circular No. 13/2015; and
- (c) other government staff employed on non-civil service terms that do not fall under the categories of (a) or (b) above.

candidate as an election expense agent. Expenses incurred by an election agent purporting to be appointed as an election expense agent before the notice of appointment is duly received by the RO for promoting the election of the candidate or for prejudicing the election of another candidate or other candidates may, depending on the circumstances, still be treated as the election expenses incurred in respect of the candidate. It is **important** to note that it is **illegal conduct** for any person other than a candidate or a candidate's election expense agent to **incur election expenses at or in connection with an election** [s 23(1) of the ECICO].

Revocation

6.10 The appointment of an election agent may be revoked by the candidate at any time. The candidate must give notice of the revocation in writing in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the RO. If the notice of revocation is given on the polling day, it should not be delivered to the RO by post. A revocation of an appointment of an election agent will not be effective until such notice is received by the RO. [S 24(4), (5) and (7) of the EP (RRE) Reg]

6.11 If an election agent dies or has his/her appointment revoked, the candidate may appoint another election agent. In such a case, the candidate must give notice of the replacement appointment in the specified form to the RO in accordance with para. 6.8 above [s 24(3), (6) and (7) of the EP (RRE) Reg]. Like other election agents, the new election agent has to follow the arrangements set out in paras. 6.13 to 6.17 below, including the requirement to submit an application to the RO if he/she wishes to observe the poll at a dedicated polling station situated in a penal institution (other than a maximum security prison).

Notification

6.12 As soon as practicable after the receipt of a notice of appointment of an election agent by a candidate, the RO will send a notice containing the name and address of the election agent to every other candidate (including a person who is being or has been nominated to stand for the election concerned) [s 25 of the EP (RRE) Reg]. The RO must also display outside his/her office a notice of the particulars of the election agents [s 24(8) of the EP (RRE) Reg].

Role of an Election Agent

6.13 A duly appointed election agent ranks in the **most important position** amongst all kinds of agents of a candidate. He/She has the **authority to do everything a candidate is authorised to do** under the EP (RRE) Reg for the purposes of the election **except**:

- (a) to sign the nomination form or make any requisite declaration in relation to a candidate's nomination;
- (b) to withdraw the candidate's candidature;
- (c) to appoint an election agent;
- (d) to appoint an election expense agent;
- (e) to incur election expenses save where he/she has been appointed as an election expense agent by the candidate;
- (f) to revoke the appointment of an election agent or election expense agent; and

- (g) to enter a dedicated polling station situated in a maximum security prison.

[S 22(3) of the EP (RRE) Reg]

IMPORTANT :

An election agent is, along with the candidate, responsible for the management of the election campaign. A candidate is responsible for all the acts of his/her election agent. If the election agent fails in his/her duties, he/she may contravene the law, in particular the ECICO, and may commit criminal offences for which the candidate may also be liable, with serious consequences. An election agent will need to be appointed as an election expense agent by a candidate to incur election expenses. If so appointed, the election agent will also become an election expense agent. (See Part VI of this chapter)

6.14 Candidates and their election agents are normally allowed admission to polling stations of the Rural Areas for which the candidates are nominated and are entitled to be present at the counting of the votes. However, they should observe the rules applicable to the polling agents and counting agents (see Parts VII and VIII of this chapter). Due to security reasons, only candidates may enter dedicated polling stations situated in maximum security prisons to observe the poll. An election agent who wishes to observe the poll at a dedicated polling station situated in a penal institution other than a maximum security prison must deliver an application in the specified form to the RO by hand, by post, by electronic mail or by facsimile transmission at least 1 week before the polling day. The election agent may not be admitted to that dedicated polling station unless the CCS has given consent to his/her admission. If the CCS refuses to give consent to the

application received, he/she will notify the candidate or the election agent as soon as practicable. [S 22(3) and (3C) of the EP (RRE) Reg]

6.15 The CCS may, upon an application delivered to the RO during the week before the polling day, give consent if he/she is satisfied that a person imprisoned or held in custody by the CSD, who is entitled to vote for the relevant Rural Area at the relevant dedicated polling station, is admitted or transferred to the penal institution concerned during that week and that the application is made without undue delay after the admission or transfer [s 22(3B) of the EP (RRE) Reg]. The HAD will post and update on its website the number of registered electors who are imprisoned or held in custody in individual penal institutions daily from Monday to Friday (other than a general holiday) starting from 3 weeks before the polling day and on the Saturday immediately before the polling day for candidates' reference.

6.16 No election agent may enter a dedicated polling station situated in a penal institution if a polling agent has already been appointed by the same candidate for that polling station. [S 22(3A) of the EP (RRE) Reg]

6.17 The PRO of a polling station may regulate the number of candidates and their agents to be admitted to the polling station at any one time, for the purpose of maintaining order in the polling station and ensuring that the polling is conducted smoothly [s 37(2) of the EP (RRE) Reg]. **Whilst inside a polling station, a counting station or a ballot paper sorting station, the provisions to be observed by polling agents and counting agents are also applicable to candidates and their election agents.** They are therefore advised to familiarise themselves also with the guidelines set out in Parts VII and VIII of this chapter.

PART VI : ELECTION EXPENSE AGENTS

Appointment

6.18 A candidate may appoint **any number** of election expense agents to incur election expenses on his/her behalf in the RR election. The appointment shall be in writing in the specified form and state the name, identity document number and address of the election expense agent, and must specify the maximum amount of election expenses the agent may incur [ss 23 and 26 of the EP (RRE) Reg]. It should be signed by both the candidate and the election expense agent [s 24(3) of the EP (RRE) Reg]. A notice of appointment must be delivered by hand, by post, by electronic mail or by facsimile transmission to the relevant RO, or the DHA if the relevant RO has not been appointed. If the notice of appointment is given on the polling day, it should not be delivered to the RO by post. [S 24(1) and (3)(ab) of the EP (RRE) Reg]

6.19 The appointment is not effective until it has been received by the relevant RO or the DHA, as the case may be. Before the notice of appointment is received, no election expenses should be incurred by a person purporting to be appointed as an election expense agent. It is also important to note that it is **illegal conduct** for any person other than a candidate or his/her election expense agent to **incur election expenses** [s 23(1) of the ECICO]. The expenses so incurred may also be counted as the candidate's election expenses.

Revocation

6.20 The appointment of an election expense agent may be revoked by a candidate at any time. The candidate must give notice of the revocation as soon as possible in writing in the specified form and deliver the signed notice

by hand, by post, by electronic mail or by facsimile transmission to the relevant RO, or the DHA if the relevant RO has not been appointed. If the notice of revocation is given on the polling day, it should not be delivered to the RO by post. The revocation will only be effective when the RO or the DHA, as the case may be, receives the notice [s 24(4), (5) and (7) of the EP (RRE) Reg]. The election expenses already incurred before the RO or the DHA receives the notice will still be counted as election expenses of the candidate.

Role of Election Expense Agents

6.21 An election expense agent is authorised **to incur election expenses on behalf of a candidate**. He/She must not incur election expenses in excess of the amount specified in the notice of appointment; otherwise he/she commits a criminal offence. [S 23(4) of the ECICO]

Candidate's Duty to Know the Details of Election Expenses Incurred by his/her Election Expense Agents

6.22 Every candidate (whether elected or not or returned uncontested, or having withdrawn the candidature before the close of nominations or been decided as not validly nominated, or not having incurred any election expenses) is under a **duty**, subject to criminal penalty for breach, to submit to the DHA, through the relevant RO, a return and declaration of all his/her election expenses and election donations (hereafter referred to as "election return") with supporting invoices and receipts issued by the goods or service providers . According to s 2 of the ECICO, "candidate" means a person who stands nominated as a candidate at an election and also means a person who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate at the election. The candidate must ensure that the election return is lodged before the expiry of the period of 30 days after

the date on which the last of the following events occurs in all RR elections in relation to the same Rural Committee to be held on the same date:

- (a) the result of the election is published in the Gazette;
- (b) the proceedings for the election are declared to have been terminated;
- (c) the election is declared to have failed,

or lodged within such extended period as may be allowed by the CFI under the relevant law [s 37 (1), (1L), (1M) and (1N) of the ECICO and Part V of Chapter 15].

For the efficient and effective discharge of his/her duty, the candidate should **make sure** that his/her election expense agents will keep account of all election expenses incurred on his/her behalf and will provide to him/her, as soon as practicable but not later than the period mentioned above, a detailed statement of expenditure in which each item of expenditure of \$500 or above has to be supported by an invoice and a receipt. If any item of expenditure incurred by the election expense agents is paid or defrayed or contributed to by a donation, the candidate should **make sure** that they will provide him/her with a statement stating the expenses. If any item is not explicit in monetary terms, it should be assessed at a reasonable value. If any item of donation is more than \$1,000, it should be supported by a copy of the receipt for the donation issued to the donor (in a standard form signed by the candidate). Should any election expense agents fail to provide such statements together with the invoices and receipts issued by goods or service providers or to donors, as the case may be, the candidate will have difficulty in discharging his/her duty to file the election return, which **may render him/her liable for a criminal offence** under s 38 of the ECICO.

Public Inspection of Notices of Appointment of Election Expense Agents

6.23 The RO or the DHA, as the case may be, will make available for public inspection all notices of appointment of election expense agents submitted by candidates until the expiration of the period during which copies of the election returns lodged by the candidates are available for inspection, i.e. the period ending with the 30th day before the first anniversary of the date of the deadline for lodging the relevant election returns (disregarding any order made by the CFI under s 40 of the ECICO allowing a candidate to lodge an election return within a further period as specified by the CFI) [s 41(6) of the ECICO]. This offers the public and other candidates an opportunity to scrutinise the maximum amount of election expenses that could be incurred by the election expense agents on behalf of the candidates [s 24(9) of the EP (RRE) Reg].

PART VII : POLLING AGENTS

Appointment

6.24 A candidate may appoint **a maximum of 2 polling agents** for each polling station, other than a dedicated polling station situated in a penal institution, in respect of the Rural Area for which he/she is nominated. [S 36(1), (1A) and (2) of the EP (RRE) Reg] The notice of appointment must be in writing, in the specified form, signed by the candidate and the polling agent and delivered by hand, by post, by electronic mail or by facsimile transmission to the relevant RO, at least **7 days** before the polling day [s 36(4) and (5) of the EP (RRE) Reg]. Where a candidate wishes to appoint a polling agent after the above deadline, he/she is required to give notice of the appointment to the PRO of the polling station in respect of the Rural Area concerned. Such a notice must be given by the candidate or the election agent **in person** by delivering

the notice of appointment to the PRO of the relevant polling station on the polling day [s 36(4)(b) of the EP (RRE) Reg]. The appointment will not be effective until the notice of appointment is received by the relevant RO or PRO, as the case may be [s 36(9) of the EP (RRE) Reg].

6.25 In respect of the appointment of a polling agent to be admitted to a dedicated polling station situated in a penal institution, the following provisions apply:

- (a) only the candidate is allowed to be present in a dedicated polling station situated at a maximum security prison [s 37(6B) of the EP (RRE) Reg];
- (b) only 1 polling agent may be appointed for a dedicated polling station situated in a penal institution which is not a maximum security prison, and the CCS's consent to the presence of the agent there must be given. The appointment is effective only when a notice of the appointment made in the specified form is delivered to the DHA by hand, by post, by electronic mail or by facsimile transmission at least **7 days** before the polling day [s 37(1A) of the EP (RRE) Reg]; and
- (c) for a dedicated polling station situated in a penal institution which is not a maximum security prison, no polling agent may be appointed if the CCS has already given consent to the presence of the election agent of the same candidate at that polling station [s 37(1B) of the EP (RRE) Reg].

6.26 If the CCS refuses to give consent to the appointment, he/she will notify the candidate or the election agent as soon as practicable [s 37(1D) of the EP (RRE) Reg]. The CCS may, upon receipt of a notice of appointment given

during the week before the polling day, still give consent if he/she is satisfied that a person imprisoned or held in custody by the CSD, who is entitled to vote for the relevant Rural Area at the relevant dedicated polling station, is admitted or transferred to the penal institution concerned during that week and that the notice of appointment is given without undue delay after the admission or transfer [s 37(1C) of the EP (RRE) Reg]. The HAD will post and update on its website the number of registered electors who are imprisoned or held in custody in individual penal institutions daily from Monday to Friday (other than a general holiday) starting from 3 weeks before the polling day and on the Saturday immediately before the polling day for candidates' reference.

Revocation

6.27 The appointment of a polling agent may be revoked by the candidate at any time. The candidate must give notice of revocation in writing in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the RO (other than on the polling day). If the notice of revocation is given on the polling day:

- (a) for a polling agent appointed for a polling station other than a dedicated polling station situated in a penal institution, such notice must be delivered to the relevant RO by hand, by electronic mail or by facsimile transmission; or to the relevant PRO by either the candidate or the election agent **in person**;
- (b) for a polling agent appointed for a dedicated polling station situated in a penal institution, such notice must be delivered to the relevant RO by hand, by electronic mail or by facsimile transmission.

[S 36(6), (7), (7A) and (7B) of the EP (RRE) Reg]

6.28 A revocation of appointment of a polling agent is not effective until the notice thereof is received by the relevant RO or PRO, as the case may be [s 36(9) of the EP (RRE) Reg]. If a polling agent passes away or has his/her appointment revoked, the candidate may appoint another polling agent. In such a case, the candidate must give notice of the replacement appointment in the specified form to the relevant RO or PRO [s 36(5), (8) and (9) of the EP (RRE) Reg]. If a replacement of polling agent is appointed and he/she wishes to observe the poll at a dedicated polling station in a penal institution (other than a maximum security prison), he/she is required to follow the arrangements set out in paras. 6.25 to 6.26 above.

Role of Polling Agents

6.29 Polling agents are appointed **to assist a candidate in observing the conduct of the poll**, to detect impersonation or other irregularities at the polling stations.

Provisions which the Polling Agents should be aware of

6.30 Only 1 polling agent of each candidate may be admitted at any one time to the polling station for which he/she has been appointed, on behalf of the candidate [s 37(6) of the EP (RRE) Reg]. Inside the polling station, the polling agent is required to stay and keep his/her movements within the area designated for observation of the poll and not outside. Where a candidate or his/her election agent is present within a polling station, a polling agent of that candidate will not be allowed to be present at the same time within the polling station [s 37(4), (5) and (6) of the EP (RRE) Reg]. (See also Chapter 4 regarding the admission of candidates, election agents and polling agents to the polling station)

6.31 Before entering a polling station, every person, other than an elector, a child accompanying an elector or a police officer/officer of the CSD/ officer of any law enforcement agency/member of the CAS on duty, must make a Declaration of Secrecy in the specified form and observe the provisions governing the secrecy of voting [ss 81 and 82 of the EP (RRE) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a polling station will observe the secrecy of the vote of the elector and, in particular, not to divulge which elector has voted for which candidate.

6.32 Upon arrival at the polling station for which he/she has been appointed, a polling agent shall report to the PRO and produce his/her identity card and the Declaration of Secrecy completed by him/her for inspection. [S 37(7) of the EP (RRE) Reg]

6.33 The following procedures shall apply on the polling day:

(a) Before the poll

- (i) About 30 minutes before the commencement of the poll (or 15 minutes for dedicated polling stations situated in penal institutions), the PRO will inform the candidates or their agents (either election agents or polling agents), if present, of the number of ballot papers in the PRO's possession, and open the sealed packets of ballot papers to show them the books of ballot papers not yet issued to any elector (“**UNISSUED** ballot papers”).
- (ii) About 15 minutes before the commencement of the poll, the PRO will show to the above persons the empty ballot boxes before proceeding to lock and seal them.

(b) During the poll

- (i) Where a person, claiming to be a particular elector entered on the FR, applies for a ballot paper after an earlier person has already been issued with a ballot paper under the name of such an elector, the PRO may issue a tendered ballot paper to the latter elector **only if** he/she is not certain that the latter person is the former person who was issued with a ballot paper earlier, and the latter person has answered the appropriate questions in accordance with the law as set out in para. 4.40 to the satisfaction of the PRO. The PRO will in such circumstances issue a ballot paper with the words **“TENDERED”** and **“重複”** endorsed on the front. Such a ballot paper shall not be counted at the counting of votes. [Ss 50(2) and 62(e) of the EP (RRE) Reg]
- (ii) 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 a new ballot paper to the elector in exchange for the spoilt one. The PRO shall endorse the words **“SPOILT”** and **“損壞”** on the front of the spoilt ballot paper and keep it in his/her own custody. The spoilt ballot paper will not be put into a ballot box and will not be counted at the counting of votes. [Ss 52 and 62(g) of the EP (RRE) Reg]
- (iii) For any ballot papers which have been issued and abandoned or found left behind anywhere in the polling

station, the PRO shall endorse them with the words “UNUSED” and “未用” on the front and keep them in his/her own custody. Such ballot papers shall not be put into a ballot box and will not be counted at the counting of votes. [Ss 51 and 62(f) of the EP (RRE) Reg] Under these circumstances, the PRO will show to each candidate or his/her election agent or polling agent, if present at the relevant time, such ballot papers.

(c) After the poll

- (i) The PRO shall, in the presence of persons at the polling station, lock and seal the flaps of the inserting slots of the ballot boxes. He/She will also inform each candidate or his/her agent, if present, of the number of the following types of ballot papers in his/her possession: unissued ballot papers, unused ballot papers, and spoilt ballot papers. [S 53(4) of the EP (RRE) Reg]
- (ii) The candidates and/or their agents may accompany the Officer-in-charge of the relevant counting station in the delivery of the ballot boxes from the polling station to the counting station if such delivery is required (for details, please refer to para. 4.69 of Chapter 4).
- (iii) The candidates or their agents who are present may stay in the polling station to observe the process of the conversion of the polling station into a counting station if such conversion is required. [S 53(3) of the EP (RRE) Reg]

6.34 Generally speaking, a polling agent may observe all proceedings in the polling station for which he/she has been appointed and record his/her observations but shall not do anything that may interfere with the conduct of the poll. A polling agent **may**:

- (a) observe the opening of sealed packets of ballot papers and the locking and sealing of empty ballot boxes before the poll commences, and the locking and sealing of the ballot boxes during and at the close of poll;

NOTE :

Any polling agent who signs the sealing certificate of a ballot box as witness is required to write his/her name in block letters beneath his/her signature for easy identification. The candidates are advised to keep a list of their own polling agents to facilitate checking when the sealing certificate is broken at the counting station.

- (b) leave the polling station at any time during the poll; in that case his/her place may be taken by one of the following persons: the relevant candidate, election agent or another polling agent (representing the same candidate) appointed for the polling station (see para. 6.30 above);
- (c) subject to para. 6.35(b) below, observe the issue of ballot papers to electors (either through the EPR system (if used) or the drawing of a line across the relevant entries in the printed copy of the FR of electors) provided that they will not interfere with the work of the polling staff;

- (d) where there is reasonable ground for questioning the bona fides of an elector, ask the PRO to put the following prescribed questions (subject to necessary modifications) to that person at the time of his/her application for a ballot paper (but not afterwards):
- (i) “Are you the person registered in the FR for this Rural Area (the PRO to read the name and the type of the Rural Area), as follows (the PRO to read the whole entry as it is recorded in the FR)?”
 - (ii) “Have you already voted in this election to elect an RR (the PRO to read the type of the RR) for this Rural Area (the PRO to read the name and type of the Rural Area)?”

NOTE :

The person will not be issued with any ballot paper unless he/she has answered the questions to the satisfaction of the PRO.

[S 43(2), (3) and (4) of the EP (RRE) Reg]

- (e) where there is reasonable cause to believe that a person who has applied for a ballot paper has engaged in corrupt conduct by impersonation, inform the PRO for appropriate action before that person leaves the polling station. This may possibly lead to the arrest of the person. The polling agent must however undertake in writing to give evidence to substantiate the allegation in a court of law. [S 44(1) of the EP (RRE) Reg]

6.35 Inside a polling station, a polling agent **must not:**

- (a) interfere with or attempt to influence any elector

- (b) speak to or communicate with any elector, or interfere with or attempt to interfere with any ballot boxes, ballot papers, backup storage device of the EPR system (if used), the marked copy of the FR of electors in printed form or other relevant election materials. In this regard, a polling agent should station within the designated area demarcated by red adhesive tapes, and must not enter, or move close to, the restricted zone delineated with yellow tapes which is about 1 metre or 2 metres (depending on the configuration) around the voting compartments. Moreover, it is very improper for a polling agent to ask an elector about his/her identity card number, and checking of an elector's identity card is prohibited;
- (c) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of any elector. A polling agent should read and observe carefully the provisions governing the secrecy of voting issued with the form of Declaration of Secrecy;
- (d) exhibit, leave or distribute any campaign material;
- (e) display or wear any propaganda material, e.g. any badge, emblem, clothing or head-dress which:
 - (i) may promote or prejudice the election of a candidate or candidates at the election;
 - (ii) makes direct reference to a political body in Hong Kong or to a body any member of which is standing as a candidate in the election; or

- (f) use a mobile telephone, paging machine or any other form of communication device.

[S 38 of the EP (RRE) Reg]

6.36 A polling agent must not misconduct himself/herself in or in the vicinity of a polling station or fail to obey any lawful order of the RO or the PRO; otherwise he/she commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months and may be ordered by the RO or the PRO to leave the area. If he/she fails to leave immediately, he/she 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 any law enforcement agency if the polling station is a dedicated polling station; or
- (c) any other person authorised in writing by the RO or the PRO to remove him/her.

The person so removed may not re-enter the polling station on the polling day except with the express permission of the RO or the PRO. [Ss 38 and 89 of the EP (RRE) Reg]

Other Useful Information for Polling Agents

6.37 Polling staff, candidates, their election agents and polling agents will be required to wear an identification device issued by the RO or the PRO for identification. If in doubt, a polling agent may enquire with the PRO as to the identities of the persons inside the polling station. No attempt, however,

should be made to obtain information as to the identity of any elector who is about to vote or has voted. [Ss 37 and 82 of the EP (RRE) Reg]

6.38 Electors with mobility difficulty may be permitted to vote in a special polling station designated for a particular Rural Area. Candidates or their agents can make inquiries with the RO for information.

6.39 Only the PRO, Deputy PRO or Assistant PRO may, in the presence of one polling staff member as a witness, help an elector mark a ballot paper if the elector claims that he/she is unable to read or is incapacitated from marking his/her vote by himself/herself due to visual impairment or other physical cause [s 49(1) of the EP (RRE) Reg]. The candidates or their agents present should be informed when such a request for assistance is received. Candidates or their polling agents in the polling station may suggest to the PRO, Deputy PRO or Assistant PRO a particular polling staff member not working at the ballot paper issuing desk as the witness, but the final decision as to which polling staff member should be the witness remains with the PRO, Deputy PRO or Assistant PRO. An elector's relative, friend or any other person is in no circumstances allowed to accompany the elector in the course of voting.

6.40 In each polling station, a number of **braille templates** are made available for persons with visual impairment in need to facilitate marking their vote on the ballot paper [s 49(2) and (3) of the EP (RRE) Reg]. The basic features of the template are as follows:

- (a) the template for each Rural Area is of the same width and length as the ballot paper;
- (b) the template contains numbers in braille and Arabic numerals printed in relief starting with the first numeral which represent the candidate numbers assigned to the candidates and are

arranged from the top downwards in ascending order; on the right hand side against each of the number is a round hole;

- (c) the **top left hand corner** of the ballot paper as well as that of the template are cut so as to guide the person with visual impairment to place the template on top of the front side of the ballot paper in the proper direction; and
- (d) when the template is placed properly on the ballot paper, each braille number corresponds with the candidate number of the Rural Area; and each of the holes on the template corresponds with the circle on the ballot paper against the candidate number. The number of holes equals the number of candidates of the Rural Area.

A person with visual impairment should affix the chop provided at the polling station to give a single “✓” in the circle through the holes of the template against the candidate number of the candidate of his/her choice.

6.41 No person may canvass or display any promotional material relating to any candidate or the election within a polling station. The candidates and their agents should not bring electioneering materials into the polling station or leave them there, and should remove any promotional badges, emblems, clothing or head-dress before entering. No person is allowed to use a sound amplifying system or device for any purpose within the NCZ; nor should he/she use such system or device or conduct any activities (e.g. lion dance) for canvassing so that the sound emitted by it can be heard within the NCZ. [S 35(2) of the EP (RRE) Reg] However, an officer of the CSD may use a sound amplifying system or device in the NCZ of a dedicated polling station situated in a penal institution for the performance of his/her duties on the polling day [s 35(2A) of the EP (RRE) Reg]. Also, a person must not stay

or loiter in the NSZ without the express permission of the PRO [s 35(2)(e) of the EP (RRE) Reg]. Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of the PRO, the relevant RO for the Rural Area, or a member of the EAC, commits an offence and will 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]. Normally such permission is only granted to government photographers for publicity purposes. Polling agents should also read Parts I to X of Chapter 4 on all matters relating to polling, and pay special attention to paras. 4.59 to 4.62 for activities that are prohibited and the consequences of conducting such activities in a polling station.

6.42 **The ballot is secret.** No one can force a person to vote or not to vote for any particular candidate [s 13 of the ECICO]. Also, no one is required to tell which candidate he/she has voted for or is about to vote for. A person who, without lawful authority, requires or purports to require an elector to disclose the name of, or any particulars relating to, the candidate for whom the elector voted commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [ss 82 and 89 of the EP (RRE) Reg].

6.43 If a candidate or election agent or polling agent has any complaint about whatever happens inside a polling station, he/she should follow the procedures laid down in Chapter 19 on Complaints Procedure of the Guidelines.

PART VIII : COUNTING AGENTS

Appointment

6.44 Each candidate may appoint not more than the number of counting agents specified by the RO, normally 1 counting agent, to observe the counting of votes at a counting station and the sorting of ballot papers received from dedicated polling stations at a ballot paper sorting station [s 56(1) and (2) of the EP (RRE) Reg]. A person appointed as a counting agent need not be, but may be, appointed as a polling agent at the same time.

6.45 The notice of appointment must be in writing, in the specified form signed by the candidate and the counting agent and delivered to the relevant RO by hand, by post, by electronic mail or by facsimile transmission at least **3 days** before the polling day. Where a candidate wishes to appoint a counting agent after the above deadline, the notice of the appointment must be delivered by the candidate or the election agent **in person** to the relevant Officer-in-charge of a counting station on the polling day. [S 56(4) and (5) of the EP (RRE) Reg] The appointment is only effective when the notice of such appointment is received by the RO or the relevant Officer-in-charge of a counting station [s 56(9) of the EP (RRE) Reg].

Revocation

6.46 The appointment of a counting agent may be revoked by the candidate at any time. The candidate must also give notice of revocation in writing in the specified form and deliver the signed notice by hand, by post (other than on the polling day), by electronic mail or by facsimile transmission to the RO before the close of poll, or the notice of revocation must be delivered by the candidate or his/her election agent **in person** to the relevant Officer-in-charge of a counting station before the close of poll [s 56(6) and (7)

of the EP (RRE) Reg]. If the candidate intends to revoke the appointment after the close of poll, such notice must be delivered by the candidate or his/her election agent **in person** to the relevant Officer-in-charge of a counting station [s 56(6) of the EP (RRE) Reg]. A revocation of appointment of a counting agent is not effective until notice thereof is received by the RO or the relevant Officer-in-charge of a counting station, as the case may be [s 56(9) of the EP (RRE) Reg]. If a counting agent passes away or has his/her appointment revoked, the candidate may appoint another counting agent. In such a case, the candidate must give notice of the replacement appointment in the specified form to the RO or the relevant Officer-in-charge of a counting station [s 56(5), (8) and (9) of the EP (RRE) Reg].

Role of Counting Agents

6.47 Counting agents are appointed to:

- (a) observe in the counting stations the breaking of the seals on the ballot boxes, the sorting, separation and counting of ballot papers and the counting of votes on the valid ballot papers for candidates;
or
- (b) observe in the ballot paper sorting stations the breaking of the seals on the ballot boxes received from dedicated polling stations and the sorting of the envelopes in the ballot boxes which contain ballot papers cast at the dedicated polling stations.

This arrangement ensures the transparency of the sorting and counting process and is conducive to the principle of openness and fairness (see Part XI of Chapter 4).

Provisions which the Counting Agents should be aware of

6.48 Before the counting of votes or sorting of ballot papers commences, each person authorised to be present at a counting station or a ballot paper sorting station, other than the police officers, officers of any law enforcement agency and members of the CAS on duty, must make a Declaration of Secrecy in the specified form and observe the provisions governing the secrecy of voting [ss 58(3) and 81 of the EP (RRE) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a counting station or a ballot paper sorting station will observe the secrecy of the vote of the elector and, in particular, will not divulge which elector has voted for which candidate. Members of the public present within the area designated by the Officer-in-charge of a counting station are not required to make a Declaration of Secrecy.

6.49 Upon arrival at the counting station or the ballot paper sorting station, a counting agent shall report to the relevant Officer-in-charge and produce his/her identity card and the Declaration of Secrecy completed by him/her for inspection. [S 81(1) of the EP (RRE) Reg]

6.50 Counting agents are entitled to be present throughout the count to observe the entire counting proceedings. They will be allowed by the relevant Officer-in-charge to stay close to and around the counting tables to observe the count. Nonetheless, they must not touch any ballot papers. A counting agent **may:**

- (a) observe the breaking of the seals on the ballot boxes and the opening of the ballot boxes and, where applicable, envelopes containing cast ballot papers for the relevant Rural Area by the relevant Officer-in-charge;

- (b) inspect any papers other than ballot papers taken from the ballot boxes before they are disposed of;
- (c) observe the conduct of the count by counting staff, including how votes on individual ballot papers are counted;
- (d) observe the determination of the validity of questionable ballot papers by the Officer-in-charge of a counting station [s 63(1) of the EP (RRE) Reg]; and
- (e) observe, where he/she wishes, the packing of ballot papers by the counting staff and the relevant Officer-in-charge at the conclusion of the count.

6.51 A counting agent in a ballot paper sorting station **may**:

- (a) observe the opening of the ballot boxes received from dedicated polling stations;
- (b) inspect any papers other than the envelopes containing cast ballot papers taken from the ballot boxes before they are disposed of;
- (c) observe the counting of the envelopes containing cast ballot papers in each ballot box;
- (d) observe the sorting of the aforesaid envelopes according to each Rural Area; and
- (e) observe the sealing of the receptacles containing the sorted envelopes before they are delivered to the relevant

Officer-in-charge of the respective counting stations of the relevant Rural Areas.

6.52 A counting agent **must not**:

- (a) touch, handle, separate or arrange ballot papers or envelopes; and
- (b) misconduct in the counting station or ballot paper sorting station, or fail to obey any lawful order of the relevant Officer-in-charge, otherwise he/she commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months and may be ordered by the relevant Officer-in-charge to leave the area. If he/she fails to leave immediately, he/she may be removed by a police officer or by any other person authorised in writing by the relevant Officer-in-charge to remove him/her. The person so removed may not re-enter the counting station or the ballot paper sorting station before the conclusion of the count of that counting station except with the express permission of the relevant Officer-in-charge [ss 59(7) and 89(1) of the EP (RRE) Reg].

6.53 Counting agents should read Part XII and Part XIII of Chapter 4 on all matters relating to sorting of ballot papers and counting of votes, and pay special attention to paras. 4.73 to 4.74 and 4.80 to 4.82 for activities that are prohibited and the consequences of conducting such activities in ballot paper sorting stations and counting stations.