CHAPTER 4

POLLING AND COUNTING ARRANGEMENTS

PART I : GENERAL

4.1 An elector can only vote at the polling station allocated to him by the DHA. In general, the polling station allocated to an elector will be close to his respective Rural Area as far as practicable.

4.2 If an elector with mobility difficulty is allocated to a polling station that is not accessible for him, the elector may apply to the HAD for re-allocation to a barrier-free alternative polling station to cast his vote.

4.3 A **No Canvassing Zone ("NCZ")** will be designated for each polling station, and a **No Staying Zone ("NSZ")** will also be designated immediately adjacent to the entrance/exit of a polling station to avoid any obstruction of the entrance/exit (see Part V of this chapter).

4.4 Only electors and designated or 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.

4.5 Depending on the actual circumstances, the HAD may instruct polling stations (except for dedicated polling stations) to adopt an Electronic Poll Register ("EPR") System for issuing ballot papers.

4.6 The ballot is autonomous and secret. No one can use force or duress, or threaten to use force or duress, against a person to make him vote or not vote

for any particular candidate at an election. No one is obligated to disclose which candidate he has voted for or is going to vote for.

4.7 After collecting the ballot paper(s), an elector should immediately proceed to a voting compartment to mark his ballot paper(s). 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 is unable to mark the ballot paper(s) on his own, he may, as stipulated under the law, request the PRO or the PRO's deputy to mark the ballot paper(s) on his behalf according to his voting preference, in the presence of one polling staff as a witness (see para. 4.38 of this chapter).

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

PART II : TYPES AND ALLOCATION OF POLLING STATIONS

4.9 The DHA must by notice in the Gazette specify the polling hours and designate places as polling stations, dedicated polling stations, ballot paper sorting stations[30] or counting stations at least ten days before the polling day.

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[30] The 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.

The DHA may also designate the same place to serve as both a polling station and a counting station. The RO must, at least ten 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. [Ss 27(3), 28(1), (1AA), 55(3) and (4) of the EP (RRE) Reg]

4.10 There are three types of polling stations:

(a) **Ordinary Polling Stations**: for use by general electors to cast their votes. The DHA may set up a cluster of polling stations for various Rural Areas in the same premises, and may, where necessary, designate temporary structures as polling stations. In general, polling stations will be converted into counting stations immediately after the close of poll for counting;

(b) **Dedicated Polling Stations**: set up inside penal institutions and other suitable places for registered electors who are imprisoned or held in custody by law enforcement agencies to cast their votes on the polling day. Due to security reasons, there is a need for the penal institutions to separate some persons imprisoned or held in custody from others. Therefore, the Commissioner of Correctional Services shall assign a time slot within the polling hours of a dedicated polling station situated in a penal institution to an elector allocated to that polling station to vote, and inform the elector of the time slot assigned. The Commissioner of Correctional Services must assign time slots to those electors so as to give them a reasonable opportunity to vote, while the elector to whom a time slot is assigned may only cast his vote during the time slot. Vote counting will not be carried out at dedicated polling stations. The ballot papers cast therein will be delivered to the

ballot paper sorting stations after the close of poll, and after sorting, will be delivered to the corresponding counting station of their respective Rural Area for counting, or delivered directly to the relevant counting station as the case may be. Please see Part XIV of this chapter for details; and

(c) **Alternative Polling Stations**: for use by electors with mobility difficulty to cast their votes. If electors with mobility difficulties are allocated to a polling station that is not accessible for them, they may apply to an alternative polling station that is equipped with barrier-free facilities to cast their votes. The votes cast by electors allocated to an alternative polling station will be counted together with the ballot papers of the same Rural Area inside the ballot boxes.

[Ss 27(1B), (1C), (1D), (2A), 28(1)(a), (1)(b), (1A), (2), (8)(a) and 28A(1) of the EP (RRE) Reg]

4.11 The combined polling arrangements are adopted for the convenience of the electors. An elector entitled to vote in both the IIR election and the ReR election of the same Rural Area only needs to go to a single polling station to cast all his votes. The KFR elections will be conducted on a separate day.

PART III : POLLING NOTICE

4.12 At least ten 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 poll date, time and location of the polling station. If the DHA decides to change any particular polling station, the DHA must, as early as practicable, inform the electors, RO and PRO concerned in a manner he deems appropriate. In addition, the HAD will send the polling

notices to the penal institutions where the electors are serving their sentences insofar as practicable, so as to allow electors who will be serving a sentence of imprisonment on the polling day to receive the polling notices as early as possible. [Ss 29(2), (2A) and (4) of the EP (RRE) Reg]

PART IV : HANDLING OF BALLOT BOXES

4.13 About 30 minutes before the commencement of the poll (or about 15 minutes before for dedicated polling stations situated in penal institutions), the PRO will allow the candidates, election agents and polling agents present to enter the polling station to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. For each candidate, only one person among the candidate himself, election agent and polling agent(s), may be present to observe the relevant process. Similarly, after the close of poll, the PRO will lock and seal the ballot boxes in the presence of the candidates and their agents (if present). The count will commence after polling at all polling stations of the relevant Rural Area has closed.

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

(a) only a maximum of two candidates may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of the ballot boxes at a dedicated polling station situated inside a maximum security prison; and

(b) a maximum of two candidates, 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 the ballot boxes at a dedicated polling station situated in a penal institution (except maximum security prisons).

PART V : NO CANVASSING ZONE AND NO STAYING ZONE

4.15 To ensure that electors can access polling stations without interference/disturbance by electioneering activities, the ROs will designate an area outside the polling station as a NCZ according to the electoral legislation. **Electioneering activities are strictly prohibited within the NCZ. Otherwise, it will constitute an offence which may result in a fine and imprisonment.** Polling staff will display a notice of the designation of a NCZ and a map or plan with the boundary of the area at or near the polling station (see Chapter 13).

4.16 To ensure that electors can enter and exit polling stations safely in an unobstructed manner, the ROs will designate an area within the NCZ and adjacent to the entrance/exit (sometimes the entrance is the same as the exit) of the polling stations as an NSZ. **No person is allowed to stay or loiter inside the NSZ, except where a person has been expressly permitted to do so by the PRO. Otherwise, it will constitute an offence which may result in a fine and imprisonment** (see Chapter 13).

PART VI : PERSONS TO BE ADMITTED TO POLLING STATIONS

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

(a) the PRO and polling staff;

(b) members of the EAC;

(c) the DHA;

(d) the RO and Assistant Returning Officers ("AROs") for the relevant Rural Area;

(e) the Chief Electoral Officer ("CEO");

(f) public officers on duty at the polling station (including police officers) and members of the Civil Aid Service ("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, and polling agents appointed for the polling station (not applicable to dedicated polling stations situated in maximum security prisons) in accordance with para. 4.18 of this chapter;

(i) any person authorised in writing by the RO or any member of the EAC, subject to the conditions as imposed in the authorisation; and

(j) 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, and inside a dedicated polling station, stating that only electors and designated/authorised persons may be allowed to enter the polling station.

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

(a) for each candidate, only one person among the candidate himself, election agent and polling agent(s) may enter and be present in the polling station at any one time;

(b) a notice will be displayed outside each polling station specifying the capacity of the designated area inside the polling station for candidates, their election agents or polling agents. The PRO will arrange for them to enter the polling station on a **first-come-first-served basis**;

(c) any candidate, election agent or polling agent who is allowed to enter the polling station may only stay for a maximum of one hour each time. He must then leave the polling station on time unless there is no other candidate, election agent or polling agent waiting for admission. He may apply for admission to the polling station again on a first-come-first-served basis;

(d) if no one among a candidate or any of his agents has earlier entered the polling station to observe the poll on the polling day, the PRO concerned will endeavour to give the candidate or his agents an opportunity to enter the polling station to observe the poll before the close of poll under a special arrangement. Under this special arrangement, if a candidate or any of his agents who has been allocated the last waiting slot for admission to the polling station has already observed the poll in that polling station, the person will have to yield his slot to a candidate or his agent who has not observed the poll in that polling station;

(e) anyone who is allowed to enter a polling station has to sign and register his time of entry on a log sheet. A candidate, election agent or polling agent who has to queue outside the polling station for his turn to observe the poll at the designated area will be given a number chit that

indicates the order of admission. A person who has lost his place for admission due to his absence will have to obtain a new number chit when he returns; and

(f) for security reasons, only a maximum of two candidates may be present at any one time to observe the poll at a dedicated polling station situated inside a maximum security prison, and a maximum of two persons among the candidates, election agents or polling agents may enter a dedicated polling station situated in a penal institution (except maximum security prisons) at any one time. Observers will have to take turns in case more than two candidates or their agents intend to observe the poll at the same time (see Chapter 6).

[S 37(2), (3), (4), (5) and (6) of the EP (RRE) Reg]

4.19 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 on duty, all other persons permitted to enter a polling station are required to make a **Declaration of Secrecy**[31] on a specified form before entering the polling station and need to adhere to the regulations on the secrecy of voting. [S 81 of the EP (RRE) Reg]

PART VII : QUEUING ARRANGEMENTS

4.20 If electors have to queue up to enter the polling station, the PRO may make special queuing arrangements for electors with special needs. Electors with special needs include:

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[31] The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/the CEO/a Justice of the Peace/a solicitor with a practising certificate.

(a) persons aged 70 years or above;

(b) pregnant women; and

(c) persons who are not able to queue for a long time or have difficulty in queuing because of illness, injury, disability or dependence on mobility aids.

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

4.21 The PRO may, having regard to the actual situation, set up two queues at the polling station, one for persons with special needs and the other for ordinary electors. Besides, seats may be provided in the polling station for electors with special needs to rest while waiting to join the special queue later for collecting ballot papers.

(a) <u>Queuing Arrangement When Printed Copy of Final Register of Electors is Used</u>

If the printed copy of the FR of electors is used for issuing ballot papers, the printed copy will be split and allocated to the ballot paper issuing desks according to the alphabetical prefixes of the HKID numbers to avoid duplicate issuance of ballot papers. The PRO may, having regard to the actual situation, set up a special queue for each ballot paper issuing desk to shorten the waiting time of the persons with special needs.

(b) <u>Queuing Arrangement When the Electronic Poll Register System is Used</u>

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

The PRO may, having regard to the actual situation, set up a special queue for each ballot paper issuing desk to shorten the waiting time of the persons with special needs (see para. 4.20 of this chapter).

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

4.22 To facilitate the polling staff to cast their votes, the PRO will arrange for the polling staff to leave their posts briefly to visit their allocated polling stations. To ensure the polling staff return to work promptly, the polling staff who are going to cast the votes may present to the staff of the allocated polling station their polling staff identification to request priority queuing for collecting ballot papers and casting their votes.

PART VIII : COLLECTING BALLOT PAPERS

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

(a) the elector's valid identity document, usually his HKID[32];

(b) alternative documents:

(i) a document issued to the elector by the Commissioner of Registration acknowledging that the elector has applied:

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[32] For ReR and KFR electors, the elector's identity document is usually his 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 as proof of the elector's identity according to s 2(1) of the RREO.

(1) to be registered under the Registration of Persons Ordinance (Cap. 177); or

(2) for a new HKID and is awaiting its issuance;

(ii) a valid HKSAR Passport;

(iii) a valid HKSAR seaman's identity book;

(iv) a valid document of identity; or

(c) a document evidencing that the elector has reported to a police officer the loss or destruction of the document referred to in (a) or (b)(i) of this paragraph, together with the original of a valid passport or similar travel document (not being one referred to in (a), (b)(i) to (iv) of this paragraph) issued to him showing his name and photograph.

[Ss 13, 14, and 25 of the Registration of Persons Regulations (Cap. 177A), Hong Kong Special Administrative Region Passports Ordinance (Cap. 539), s 3 of the Immigration Regulations (Cap. 115A), and s 45(1), (2) and (2A) of the EP (RRE) Reg]

4.24 For an elector applying for ballot paper(s) at a dedicated polling station situated in a penal institution, the document to be presented is a document issued by the Commissioner of Correctional Services showing the elector's name, photograph and prisoner registration number allocated by the Commissioner to the elector for identification purposes.

4.25 If the PRO has reasonable grounds to doubt the true identity and eligibility of an elector, he shall ask the elector concerned the following questions when that person applies for ballot paper(s) (but not after the ballot paper(s) has/have been issued):

(a) "Are you the person registered in the final register 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 final register)?"

(b) "Have you already voted in this election to elect a Rural Representative (the PRO to read the type of the Rural Representative) for this Rural Area (the PRO to read the name and type of the Rural Area)?"

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

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

4.27 If an IIR election and an ReR election are to be held concurrently for a Rural Area, the relevant polling station will be designated as a polling station for both elections to make voting more convenient for electors. A notice will be displayed inside each polling station to inform electors that polling for the relevant IIR and ReR elections is being held there concurrently and that an elector will be issued with one to two different ballot paper(s), depending on his entitlement.

PART IX : HOW TO ISSUE BALLOT PAPERS

4.28 Depending on the circumstances of individual polling stations, polling staff will use the printed copy of the FR of electors or the EPR System to issue ballot papers. The relevant procedures are as follows:

(a) <u>Use of Printed Copy of Final Register of Electors in Issuing Ballot Papers</u>

The polling staff will check the elector's identity document against the entry in the printed copy of the FR of electors to verify whether the person is a registered and eligible elector allocated to that polling station, as well as the number and types of ballot papers to be issued.

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

(b) <u>Use of Electronic Poll Register System in Issuing Ballot Papers</u>

The polling staff will use a tablet to scan the elector's HKID or, with the approval of the PRO, manually input the number of the HKID or other specified alternative documents into the EPR System to verify whether the person is a registered and eligible elector allocated to that polling station concerned, as well as the number and type(s) of ballot paper(s) to be issued.

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

In case the EPR System fails while in use on the polling day and cannot continue to operate, the polling staff will activate the fallback arrangement and use the printed copy of the FR of electors (as stated in (a) of this paragraph) to issue ballot papers until the close of poll. When activating the fallback arrangement, the polling staff should also activate the fallback mode of the EPR System, and cross-check against the data in the storage device of the polling stations before issuing the ballot papers, so as to confirm that the electors concerned have not collected any ballot paper when the EPR System was in use. The storage device will only record in an encrypted form the identity document numbers of electors who have collected their ballot papers, but will not record their names and other personal particulars.

[S 45 of the EP (RRE) Reg]

4.29 To facilitate the verification of the total number of ballot papers issued, the counterfoil of each ballot paper bears a serial number printed on its front. However, the serial number will not appear on the ballot paper. Neither the polling staff nor the EPR System will record the serial numbers of the ballot papers issued to an elector. The serial number will only be used for counting the number of ballot papers issued at the ballot paper issuing desks to calculate the voter turnout. Statistics of the hourly voter turnout and cumulative voter turnout will be posted outside the polling stations for the public's reference. [Ss 41(5) and 45(9) of the EP (RRE) Reg]

4.30 In general, ballot papers are issued at the ballot paper issuing desks. However, "TENDERED" ballot papers and ballot papers issued to electors in replacement of "SPOILT" ballot papers must be issued by the PRO at the PRO desk. Please see paras. 4.45 and 4.46 of this chapter for the arrangement.

PART X : VOTING METHODS

4.31 When issued with the ballot paper(s), an elector will also be issued with a colour cardboard:

(a) persons issued with one ballot paper for the ReR elections will be given a **white** cardboard;

(b) persons issued with one ballot paper for the IIR elections will be given a **red** cardboard;

(c) persons issued with one ballot paper for KFR elections will be given an **orange** cardboard; and

(d) persons issued with one ballot paper for the IIR elections and one ballot paper for the ReR elections will be given a cardboard with **red and white stripes**.

This arrangement helps the polling staff to ensure that an elector has cast all ballot papers issued to him before leaving the polling station, thereby preventing any ballot paper from being taken away from the polling station.

4.32 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 two or more Rural Areas

to facilitate sorting of ballot papers. The number of envelopes issued to an elector equals the number of ballot papers issued to him.

4.33 After 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) as instructed. One voting compartment can only be used by one elector at one time. [S 47 of the EP (RRE) Reg]

4.34 The RR elections adopt the "first-past-the-post" voting system. The number of candidates an elector may vote for depends on the number of RRs to be returned for that Rural Area concerned. If only one 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 choice on the ballot paper. If more than one RR are to be returned for that Rural Area, he 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 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**. [S 31(3) and (4) of the RREO, and ss 47 and 48 of the EP (RRE) Reg]

4.35 An elector of a dedicated polling station serving the poll for two 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 together with the ballot paper. If issued with two 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]

4.36 If computer counting[33] is used, after marking the ballot paper, the elector should cast his 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 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]

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

NOTE:

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

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

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

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[33] 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.

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

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

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

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

[Ss 38(7), (8), (10), 44, 47(4), (6) and (8) of the EP (RRE) Reg, and ss 14 and 17(1)(c), (d) and (e) of the ECICO]

An Elector Claiming That He Is Unable to Read or Is Incapacitated from Marking His Ballot Paper(s) by Himself due to Visual Impairment or Other Physical Conditions

4.38 In general, an elector must mark the ballot paper(s) **by himself** as described in para. 4.34 of this chapter and **must not** ask another person to do it for him. If an elector claims that he is unable to read or is incapacitated from marking the ballot paper(s) by himself due to visual impairment or other physical conditions, only the PRO, the Deputy PRO or an Assistant PRO may, in the presence of one of the polling staff as witness, help mark the ballot paper(s) in

accordance with the elector's choice inside a voting compartment provided at the polling station. The polling staff should inform the candidates or their agents who are present when such a request for assistance is received. A candidate or his agent in the polling station may suggest that the PRO, the Deputy PRO or an Assistant PRO choose a particular polling staff who is not working at the ballot paper issuing desk as the witness, but the final choice should be determined by the PRO, Deputy PRO or Assistant PRO. Such decision must take into account the views of the candidates or their polling agents (if any). Other than the children accompanying an elector admitted by the PRO, an elector's relative, friend or any other person is in no circumstances allowed to accompany the elector in the course of voting. [S 49(1) of the EP (RRE) Reg]

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

(a) the template is of the same width and length as the ballot paper;

(b) the template contains numbers in braille printed in relief which are arranged from the top downwards in ascending order according to the candidate numbers assigned to the candidates; 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.

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 choice.

[S 49(2) and (3) of the EP (RRE) Reg]

4.40 **The ballot is secret. No one is required to disclose which candidate he has voted for or is going to vote for.** A person who, without lawful authority, requires or purports to require an elector to disclose which candidate he has voted for or any particulars relating to that candidate commits an offence and is liable to a fine at level 2 ($5,000). The law also prohibits acts which may infringe the secrecy of vote during the polling and counting processes. If a person contravenes any of the prohibited acts under the relevant legislation, he commits an offence and is liable to a fine at level 2 ($5,000) and to imprisonment for 6 months. [S 38 of the RREO and s 82 of the EP (RRE) Reg]

4.41 To protect voting secrecy of electors, no one may, at any time, divulge whether an elector has or has not applied for ballot paper(s) or voted, or divulge the identity of an elector at a dedicated polling station. Anyone who makes such divulgence, unless otherwise permitted by the law, commits an offence and is liable to a fine at level 2 ($5,000) and to imprisonment for 6 months. [Ss 82(1) and 89(2) of the EP (RRE) Reg]

Issuance of "UNUSED", "SPOILT" or "TENDERED" Ballot Papers

4.42 An elector who has been issued with ballot paper(s) but has left the polling station without casting all his ballot paper(s) is not allowed to return to the polling station again to cast the remaining ballot paper(s). Nevertheless, if

there is a justified reason for an elector not to mark the ballot paper(s) immediately, or the elector has become incapacitated from completing the voting by physical illness, with the permission of the PRO, the elector could return to the polling station before the close of poll to cast his vote(s) after giving back the ballot paper(s) to the PRO:

(a) After receiving the ballot paper(s), the PRO must keep the relevant ballot paper(s) in his custody and, when the elector returns to the polling station to vote before the close of poll, the PRO should return such ballot paper(s) to the elector in the presence of a police officer; and

(b) where the elector has not returned to the polling station at the close of poll, the PRO must endorse on the front of the ballot paper(s) the words **"UNUSED" and "未用"** and show it/them to each candidate or his election agent or polling agents who is present at the time. Such ballot paper(s) must not be put into the ballot box and will not be counted.

[Ss 46(1), (3), (5), (6), 51 and 62(f) of the EP (RRE) Reg]

4.43 At dedicated polling stations situated in penal institutions, if the elector concerned has a justified reason not to mark the ballot paper(s) immediately, or the elector has become incapacitated from completing the voting by physical illness, with the permission of the PRO, the elector could return to the polling station before the close of poll within the existing or any newly assigned time slot before the close of poll to cast his vote(s) after giving back the ballot paper(s) to the PRO:

(a) After receiving the returned ballot paper(s), the PRO must keep the relevant ballot paper(s) in his custody and, when the elector returns to the dedicated polling station to vote before the close of poll, the PRO

should return such ballot paper(s) to the elector in the presence of an officer of the CSD or any law enforcement agencies;

(b) the Commissioner of Correctional Services or his officer(s) must as far as practicable assign a new time slot during the polling hours for the elector to cast his vote(s), and notify the elector; and

(c) where the elector has not returned to the dedicated polling station at the close of poll, the PRO must endorse on the front of the ballot paper(s) the words "**UNUSED**" and "**未用**" and show it/them to each candidate or his agents who is present at the time. Such ballot paper(s) must not be put into the ballot box and will not be counted.

[Ss 46(1), (2A), (2B), (3), (5), (5A), (6), 51 and 62(f) of the EP (RRE) Reg]

4.44 If anyone finds an issued ballot paper (whether marked or unmarked) left behind in a voting compartment or any areas inside the polling station, he must hand it to the PRO. The PRO must endorse on the front of the ballot paper(s) returned the words "**UNUSED**" and "**未用**" and should keep it/them in his custody. Such ballot paper(s) must not be put into the ballot box and will not be counted. [Ss 51 and 62 of the EP (RRE) Reg]

4.45 Any elector who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him may ask the PRO to exchange it for a new ballot paper. If the PRO considers the request reasonable, he will take back the ballot paper previously issued, then issue a new ballot paper. The PRO should endorse on the front of the ballot paper(s) returned the words "**SPOILT**" and "**損壞**" and keep it/them in his custody. Such ballot paper(s) will not be counted. [Ss 52 and 62 of the EP (RRE) Reg]

4.46 If a person, claiming to be a particular elector on the FR of electors, applies for ballot paper(s) at the polling station after a person has been issued with ballot paper(s) earlier with the same identity as per records, the PRO may issue to that person a ballot paper with the words "**TENDERED**" and "**重複**" endorsed on the front only in the circumstances that the PRO is not certain whether the person has been issued with ballot paper(s) earlier, and that the person has answered the questions set out in para. 4.25 of this chapter to the satisfaction of the PRO. Such ballot paper(s) will not be counted. [Ss 50 and 62 of the EP (RRE) Reg]

PART XI : ACTS PROHIBITED INSIDE POLLING STATIONS

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

(a) communicate with any elector or use a mobile phone, paging machine or any form of communication device in contravention of the direction of the RO or the PRO;

(b) attempt to obtain or disclose information on the vote of electors; or

(c) engage in canvassing for votes or without reasonable excuse, display any propaganda material relating to: (i) any candidate or his candidate number; (ii) any political body, or any organisation with a member standing as a candidate in the election concerned; or (iii) the RR election.

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 or 6 months (as the case may be). [Ss 38(2), (3), (5), 82 and 89(1) of the EP (RRE) Reg]

4.48 Inside a polling station, only the following persons may communicate with electors, and use a mobile phone, 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 (including police officers) and the members of the CAS on duty at the polling station; and

(g) any person authorised in writing by the RO or any member of the EAC.

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

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

(a) a police officer (if it is not a dedicated polling station);

(b) an officer of the CSD or other law enforcement agencies (if it is a dedicated polling station); or

(c) a person authorised in writing by the RO or the PRO to remove the relevant person.

The person who is removed may not enter the relevant polling station or its vicinity again on the polling day, unless the RO or the PRO permits him to do so. [Ss 35(10), 38(7), (8), (9A), (10), (11) and (12) of the EP (RRE) Reg]

4.50 A person commits an offence if he takes photos, films or makes any video or audio recording in a polling station without the express permission of the PRO, the relevant RO or any member of the EAC, and is liable to a fine at level 2 ($5,000) and to imprisonment for 6 months. Generally speaking, the relevant permission is only granted to government photographers for performing publicity duties. [Ss 38(4) and 89(2) of the EP (RRE) Reg]

PART XII : CLOSE OF POLL AND PREPARATIONS FOR COUNTING

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

already in the queue enter the polling station to queue so as to close the entrance of the polling station. The PRO will close the entrance of the polling station when all the relevant electors have entered the polling station.

4.52 In short, all electors who have arrived and queued up outside the polling station before the close of poll may enter the polling station to cast their votes. However, some polling stations are located at a place inside a building. If an elector has arrived at the building by the close of poll but has neither arrived at the entrance of the polling station nor queued up outside the entrance, he will not be allowed to enter the polling station to vote.

A Polling Station which is also a Counting Station

4.53 Except for certain polling stations and dedicated polling stations, all other polling stations will be designated as counting stations for the counting of votes. At the close of poll, the PRO will display a notice at a prominent place outside the polling stations as soon as practicable to inform the public that the poll has been closed and the polling station is being converted into a counting station. The candidates, election agents, polling agents and counting agents may stay in the station to observe the process of locking and sealing of ballot boxes and the preparation for converting the polling station into a counting station. The ballot boxes will be locked and sealed by the PRO in the presence of the candidates or their agents. The PRO will also inform them of the numbers of unissued, spoilt and unused ballot papers in his possession. Furthermore, all such ballot papers will be packed into separate sealed packets according to the respective Rural Area, and the marked printed copies of the FR of electors (if used) will also be packed into a separate sealed packet. The PRO has to prepare a ballot paper account to record the number of ballot papers estimated by the PRO to be in the ballot boxes, as well as the numbers of unissued, unused, and spoilt ballot papers. The counting station will be opened to the public when the preparations are completed. [Ss 53 and 54 of the EP (RRE) Reg]

4.54 The locked and sealed ballot boxes, the sealed packets and the ballot paper account mentioned in para. 4.53 of this chapter will be kept by the PRO who presides at the counting station (if an 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 votes begins. [S 53(6) of the EP (RRE) Reg]

A Polling Station which is not a Counting Station

4.55 **Certain polling stations and dedicated polling stations** will not be converted into 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 members of the public that the poll has been closed, and of 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 poll through the system. [S 53A(2) of the EP (RRE) Reg]

4.56 After the close of poll, candidates, election agents and polling agents may stay in the polling stations 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, election agent and polling agent may stay in a dedicated polling station not situated in a penal institution;

(b) only a maximum of two persons among the candidates or their agents may stay in a dedicated polling station situated in a penal institution other than a maximum security prison; and

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

[S 53A(5) of the EP (RRE) Reg]

4.57 The PRO will lock and seal the ballot boxes in the presence of the candidates, election agents and polling agents (if any). The PRO will also inform them of the numbers of unissued, spoilt and unused ballot papers in his possession. All such ballot papers and the marked printed copies of the FR of electors (if used) will also be packed into separate sealed packets. The PRO will prepare a ballot paper account to record the number of ballot papers estimated by the PRO to be in the ballot boxes, as well as the numbers of unissued, unused, and spoilt ballot papers. [S 53A(3), (4) and 54 of the EP (RRE) Reg]

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 to a corresponding counting station (as the case may be), and such ballot papers will be mixed with other ballot papers at the counting station before vote counting. Please refer to paras. 4.60 to 4.66 of this chapter for the ballot paper sorting and delivery arrangements regarding the ballot paper sorting stations.

4.58 If the polling station is not a dedicated polling station, the PRO will deliver the sealed ballot boxes, sealed packets, ballot paper accounts, etc. (see

para. 4.57 of this chapter) to the Officer-in-charge of the relevant counting station under police escort. For a dedicated polling station, the PRO will deliver the sealed ballot boxes, sealed packets, ballot paper accounts, etc. (see para. 4.57 of this chapter) 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]

4.59 Not more than two persons among the candidates, election agents, polling agents or counting agents may be allowed to accompany in the delivery mentioned in para. 4.58 of this chapter. If more than two such persons wish to accompany in the delivery, the PRO will draw lots to determine the accompanying persons. Other candidates and their agents are allowed to remain in the polling station only until the arrival of police officers for escorting the delivery. Thereafter, all other persons must leave the polling station.

PART XIII : SORTING OF BALLOT PAPERS

Conduct at the Ballot Paper Sorting Stations

4.60 In a rural ordinary election, or a rural by-election where the DHA considers it appropriate, ballot paper sorting stations will be set up by the HAD for sorting ballot papers received from dedicated polling stations according to the 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 may determine the time at which the sorting of ballot papers is to begin, which must be a time after the poll has closed at all the dedicated polling stations situated in penal institutions but may be a time before the poll has closed at all the other polling stations. Before the polling day, candidates will be informed of the expected time of the commencement of the sorting of ballot papers at the ballot paper sorting station. [Ss 28(1)(c), 55(1), (2A) and 57(1A) of the EP (RRE) Reg]

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

(a) members of the EAC;

(b) the DHA;

(c) the RO;

(d) the AROs;

(e) the PRO and staff of the ballot paper sorting station;

(f) the CEO;

(g) candidates and their election agents and counting agents;

(h) public officers (including police officers) and members of the CAS on duty at the ballot paper sorting station; and

(i) any person authorised in writing by the RO or a member of the EAC.

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

4.62 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 form before entering the ballot paper sorting station and observe the regulations on the secrecy of voting. Members of the public staying in the public area are not required to make a Declaration of Secrecy. [S 81 of the EP (RRE) Reg]

4.63 Except with the express permission of a member of the EAC, the DHA or the ARO in charge of the relevant ballot paper sorting station, it is an offence for anyone to take photographs, film or make any video or audio recording within the counting zone during the sorting process. [S 59(2) of the EP (RRE) Reg]

4.64 Any person who misconducts himself in a ballot paper sorting station or the vicinity of a ballot paper sorting station, or fails to obey any lawful order of the ARO who presides at the ballot paper sorting station commits an offence, and is liable to a fine at level 2 ($5,000) and to imprisonment for 3 months. He may be ordered by the ARO to leave the area immediately. A person misconducts himself if he 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 immediately if the person's conduct in the venue is not in line with the purpose authorised or permitted for his entry to or presence in the ballot paper sorting station. If the person fails to leave immediately, he may be removed by a police officer or by any other person authorised in writing by the ARO. Any person so removed is not allowed to re-enter the relevant ballot paper sorting station on that day except with the express permission of the ARO. [Ss 59 and 89(1) of the EP (RRE) Reg]

Sorting of Ballot Papers

4.65 The ARO presiding at the ballot paper sorting station will, in the presence of the candidates, their election agents or counting agents, sort the ballot papers received from dedicated polling stations. The ARO will check whether the ballot boxes and sealed packets are properly sealed. Afterwards, the ARO will break the seals on the ballot boxes in the presence of the candidates or their agents, and then open the ballot boxes and empty all the contents in the ballot boxes onto the sorting table. After the ballot boxes are opened by the ARO, the candidates and their agents may request to inspect any paper other than the ballot

papers taken out from the ballot boxes before the paper is disposed of by the ARO. **At no time should a candidate and his agents touch any ballot papers**.

4.66 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 Rural Area;

(c) count and record the number of ballot papers for each Rural Area;

(d) verify the ballot paper account by comparing it with the number of ballot papers of the respective Rural Area recorded under (c) of this paragraph;

(e) prepare a statement in writing as to the result of the verification;

(f) prepare a statement in writing as to the number of ballot papers of the respective Rural Area recorded under (c) of this paragraph;

(g) make into separate bundles the sorted ballot papers together with the relevant statement prepared under (f) of this paragraph;

(h) place each bundle of ballot papers and statement in a separate receptacle and seal it in the presence of the people present at the counting zone;

(i) arrange the receptacles to be delivered to the officers-in-charge of the respective counting stations of the relevant Rural Areas[34]; and

(j) send to the DHA the ballot paper accounts, the statements prepared under (e) of this paragraph and the sealed packets made up under para. 4.57 of this chapter.

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

PART XIV : COUNTING ARRANGEMENTS

4.67 The Officer-in-charge of the counting station will first check whether all the ballot boxes or receptacles and sealed packets are properly sealed. Afterwards, the Officer-in-charge will, in the presence of the candidates or their agents (if present), break the seal on each ballot box or receptacle one by one, and then open the ballot boxes or receptacles, and empty all the contents in the ballot boxes or receptacles onto the counting table. After the ballot boxes or receptacles are opened by the Officer-in-charge, the candidates and their 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 and his agents touch any ballot papers.** [S 60 of the EP (RRE) Reg]

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

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[34] 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 will arrange to inform the Officer-in-charge of the relevant counting station that no ballot paper of the Rural Area concerned will be delivered to that counting station.

(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 (a) and (b) of this paragraph;

(d) arrange to mix the ballot papers in (a) and (b) of this paragraph 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 (e) of this paragraph, the invalid ballot papers and questionable ballot papers will be handled in accordance with paras. 4.76 to 4.79; 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 (e) of this paragraph, 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]

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

(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 and counting agents;

(h) public officers (including police officers) and members of the CAS on duty at the counting station; and

(i) any person authorised in writing by the RO or a member of the EAC.

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

The Officer-in-charge of a counting station will designate an area inside the counting station where members of the public may observe the counting of votes ("the public area"). However, if the Officer-in-charge of the counting station considers that the presence of a person may cause disorder or disturbance in the counting station, disrupt the counting of the votes or prejudice the secrecy of individual votes, that person may not stay in the public area to observe the counting of votes. [S 58(5) of the EP (RRE) Reg]

4.70 Members of the public and the media may enter the public area of the counting station to observe the counting of votes but are not allowed to enter the counting zone. In order to keep order at the counting station, the Officer-in-charge of the counting station will set a maximum capacity of the public area and display a notice setting out such capacity outside the counting station. Once the maximum capacity is reached, the Officer-in-charge of the counting station shall cease to admit any further members of the public.

4.71 Besides, members of the public (including the media) may take photos and/or videos inside the public area of the counting stations (excluding the counting zone). On the other hand, video recording systems will be installed at counting stations (including the counting zone) to record the actual situation of the counting station (including the public area) for record purposes.

4.72 Except with the express permission of a member of the EAC, the DHA or the Officer-in-charge (as the case may be), a person commits an offence if he takes photos, films or makes any audio or video recording within the counting zone during the counting of votes at the zone. [Ss 59(2) and 89(1) of the EP (RRE) Reg]

4.73 Except for police officers, CSD officers, officers of any law enforcement agencies, and members of the CAS on duty, every person permitted to stay in a counting zone must make a **Declaration of Secrecy** on the specified form before entering the counting zone, and comply with the regulations on the secrecy of voting. Members of the public and the media inside the public area are not required to make a Declaration of Secrecy. [S 81 of the EP (RRE) Reg]

4.74 Any person who misconducts himself or fails to obey the lawful orders 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 may be ordered by the Officer-in-charge of the counting station to leave the area immediately. A person misconducts himself if he disrupts the counting of votes or disturbs or causes inconvenience to other persons in the counting station. The Officer-in-charge of the counting station may also order a person to leave the counting station immediately if a person's conduct at the counting station is not in line with the purpose authorised or permitted for his entry to or stay at the counting station. If the person fails to leave immediately, he may be removed by a police officer or by a person authorised in writing by the Officer-in-charge. Any person who is removed may not enter that counting station or its vicinity before the counting of votes at the station is finished, except with express permission of the Officer-in-charge. [Ss 59 and 89(1) of the EP (RRE) Reg]

4.75 The cumulative voter turnout announced on polling day is an estimated figure based on the statistics on ballot papers issued to electors by polling staff

at the ballot paper issuing desks (see para. 4.29 of this chapter). The relevant number may not tally with the number of ballot papers in the ballot boxes for different reasons. For instance, it does not take into account the numbers of ballot papers endorsed as "TENDERED" [35] issued at the PRO desks, the "UNUSED" [36] ones which were left behind and not put into the ballot boxes (see paras. 4.44 and 4.46 of this chapter), etc. After adding the number of "TENDERED" ballot papers and deducting the number of "UNUSED" ballot papers, the total voter turnout should, in principle, tally with the number of ballot papers in the ballot boxes[37]. However, a discrepancy may occur between the two numbers if any ballot paper was taken away without authorisation and consequently not put into a ballot box. In any event, the counting results will only be based on the actual number of ballot papers in the ballot boxes, while the cumulative voter turnout is for reference only.

Invalid Ballot Papers

4.76 A ballot paper is invalid if:

(a) it is unmarked;

(b) it is not marked with the chop provided by the polling station;

(c) it is endorsed with the words "**TENDERED**" and "**重複**";

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[35] "TENDERED" ballot papers are issued at the PRO desks. They are not counted in the cumulative voter turnout, but are put into the ballot box and included in the number of ballot papers actually counted from the ballot box.

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

[37] See para. 4.45 of this chapter. Ballot papers issued to electors in replacement of "SPOILT" ballot papers are also issued at the PRO desk. Since the "SPOILT" ballot papers to be kept in the PRO's custody were issued at the ballot paper issuing desks, and therefore they have been counted in the cumulative voter turnout. As for the ballot papers issued to electors by the PRO in replacement of "SPOILT" ballot papers, they will be put into the ballot box and hence subsequently included in the number of ballot papers actually counted from the ballot boxes.

(d) it is endorsed with the words "**UNUSED**" and "**未用**";

(e) it is endorsed with the words "**SPOILT**" and "**損壞**"; 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.

The above-mentioned ballot papers will be set aside and will neither be counted, nor treated as questionable ballot papers. [Ss 61(2)(b) and 62 of the EP (RRE) Reg]

Questionable Ballot Papers

4.77 Ballot papers which appear to fall under the following categories will be considered as questionable ballot papers, and must be separated and forwarded to the Officer-in-charge of the counting station to determine whether the votes are to be considered as valid and to be counted. A questionable ballot paper will be decided as invalid if in the opinion of the Officer-in-charge:

(a) it has any writing or mark by which the identity of the elector can possibly be identified;

(b) it is not marked by affixing the chop (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, if the Officer-in-charge is satisfied that the intention of the elector is clear, the relevant ballot paper may still be regarded as valid even though the "✓" mark is not placed inside the circle;

(c) it is substantially mutilated; or

(d) it is void for uncertainty

[Ss 48(1)(b), (2)(b), (3)(b), (4)(b), 61(2)(a), 62 and 63(3) of the EP (RRE) Reg]

4.78 The validity of all questionable ballot papers shall be determined by the Officer-in-charge of the counting station. The Officer-in-charge will invite the candidates, election agents or counting agents present to participate in the determination process of questionable ballot papers. [Ss 63(1) and (2) of the EP (RRE) Reg]

4.79 When deciding on the validity of the ballot papers as mentioned in para. 4.77(a) of this chapter, the Officer-in-charge should make reference to the judgment made by the Court on an election petition case (HCAL 127/2003). In that case, the Court ruled that the handwritten tick on the ballot paper in the said election petition was considered a mark by which the identity of the elector could possibly be identified. However, the validity of ballot papers with any other writings or marks will remain to be determined by the Officer-in-charge on a case-by-case basis. The specific determination process will be conducted in the following manner:

(a) the Officer-in-charge of the counting station will inform the candidates, election agents or counting agents of his initial decision on the validity of each questionable ballot paper. The candidates and their agents (if present in the counting zone) may inspect and make representations concerning the questionable ballot papers;

(b) the Officer-in-charge will then consider their representations and make a final decision on the validity of these questionable ballot papers (see para. 4.80 of this chapter);

(c) if the Officer-in-charge decides that a particular questionable ballot paper is invalid and, therefore, not to be counted, he must endorse on

the front of the ballot paper the words "rejected" and "不予接納". In that case, if any candidate or his agent objects to the Officer-in-charge's final decision, 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 that ballot paper;

(d) if any candidate or 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 that ballot paper; and

(e) the Officer-in-charge shall prepare a statement to record his decisions made in respect of all questionable ballot papers.

[Ss 48, 61(2)(a), 63(1), (2), (4), (5) and (6) of the EP (RRE) Reg]

4.80 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**, subject to an election petition lodged by the relevant person (see Part II of Chapter 5). [S 63(8) of the EP (RRE) Reg and s 39 of the RREO]

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

Request for a Re-count

4.82 After a count, when there is only one counting station for a Rural Area, the Officer-in-charge of the counting station will make known the counting results to the candidates, their election agents or counting agents (if present). The candidates or 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 such request unless he 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). The above also applies when there are two or more counting stations for a Rural Area. If there are two 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 to re-count the votes of all counting stations for the Rural Area concerned, and the RO shall comply with such request and inform the PROs of all counting stations for the Rural Area concerned 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 concerned to conduct a re-count at their respective stations at the same time. [Ss 65 and 65A of the EP (RRE) Reg]

PART XV : DECLARATION OF RESULTS

4.83 When the counting of votes and re-counts (if any) is completed and the results are obtained, the RO shall declare the result. If, after the counting of votes in respect of an election for a Rural Area is finished, the successful candidate(s) remaining have an equal number of votes exceeding the number of RRs to be elected, the RO will determine the result of the election by drawing lots (see Part III of Chapter 2 for detailed procedures for the drawing of lots). The candidate(s) on whom the lot fall(s) is/are to be returned for the Rural Area at the election. The RO shall display a notice of the result of the election at a prominent place outside each of the counting stations for the Rural Area concerned. The result of the election shall also be published in the Gazette

within ten days of the declaration of the result. [S 31(6) of the RREO and ss 66 and 67 of the EP (RRE) Reg]

PART XVI : DISPOSAL OF DOCUMENTS AND BALLOT PAPERS

4.84 After ascertaining the result of the poll in an election, the Officer-in-charge of the counting station should, as soon as practicable, pack and seal all the relevant documents and ballot papers. Candidates and their agents may be present to observe the relevant process. These sealed packets and other documents including nomination forms, notices of appointment of agents, etc. will then be delivered to the DHA for his safe custody for at least six months from the date on which the result of the rural election to which they relate is declared before destruction. **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**. [Ss 68, 69, 70 and 71 of the EP (RRE) Reg]

PART XVII : POSTPONEMENT OR ADJOURNMENT OF THE POLL OR THE COUNT OF VOTES

4.85 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.

4.86 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, open violence or any danger to public health or safety; or (c) an

occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or the count, the EAC may postpone or adjourn the poll or the count. [S 72(1) and (2) of the EP (RRE) Reg]

4.87 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 election, 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]

4.88 If the poll or count of votes has to be postponed or adjourned, 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 on the following Sunday. There is no provision in the relevant electoral law and regulations regarding further postponement or adjournment of an already postponed or adjourned poll or count. [S 77 of the EP (RRE) Reg]

PART XVIII : RURAL BY-ELECTION TO BE HELD

4.89 In respect of rural by-elections, the EAC must, 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 a Rural Area;

(b) on the making of a declaration by the RO that the election for a Rural Area has failed; and

(c) on the making of a declaration by the RO that the proceedings for an election for a Rural Area have been terminated.

[S 21 of the RREO]

4.90 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. 4.86 to 4.87 of this chapter but cannot be held within the 14 days after the scheduled date as stipulated in the law.