

## **LEGISLATIVE COUNCIL BRIEF**

### **Electoral Affairs Commission Ordinance (Cap. 541)**

#### **ELECTORAL AFFAIRS COMMISSION (ELECTORAL PROCEDURE) (ELECTION COMMITTEE) REGULATION**

#### **INTRODUCTION**

On 8 October 2001, the Electoral Affairs Commission (EAC) made the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (“the Regulation”) to provide for the detailed arrangements for electoral procedures for the EC subsector ordinary elections and by-elections \_\_\_\_\_ under section 7 of the EAC Ordinance. The Regulation is set out at Annex A.

#### **BACKGROUND**

2. Arrangements for the elections of the Election Committee subsectors to constitute the Election Committee ("EC") before the Legislative Council ("LegCo") general election in 2000 in accordance with Schedule 2 to the LegCo Ordinance are set out in Schedules 1, 2 and 5 to the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (EAC(EP)(LC)R). The provisions relating to the constitution of the EC in Schedule 2 to the LegCo Ordinance were transplanted, with necessary revisions, to the Schedule to the CEEO, under which:

- (a) subsector ordinary elections and nominations (in case of the religious subsector) will be held if a new EC is to be constituted; and
  
- (b) subsector by-elections and/or supplementary nominations (in the case of the religious subsector) will be held to fill vacancies, if any, in the relevant subsectors if the membership of the EC is to be updated before the EC is called upon to elect a Chief Executive (CE) or a Member to fill a vacancy of the six Members of the LegCo returned by the EC for the second term of office of the LegCo.

3. The existing EAC(EP)(LC)R does not provide for the arrangements for subsector by-elections and supplementary nominations required under the Schedule to the CEEO . As a result of this and the enacting of the CEEO, the EAC needs to make a new regulation to provide for the arrangements for EC subsector ordinary elections and by-elections as well as nomination and supplementary nomination of the religious subsector.

4. The Regulation is modeled on Schedules 1, 2 and 5 to the EAC(EP)(LC)R. Apart from incorporating the necessary changes to align with the requirements set out in the CEEO, it also includes the recommendations of the EAC based on its observations of the EC Subsectors Elections and the

LegCo Elections held in 2000 and some minor textual amendments to improve some of the old provisions. Details of the major changes are set out in the following paragraphs.

## **MAJOR CHANGES**

### ***Interpretation and application (ss 1 &2)***

5. The interpretations stated in section 1 of Schedule 1 to the EAC(EP)(LC)R have been properly amended and necessary interpretations have been included in the Regulation to tally with the interpretations set out in the CEEO and its Schedule.

6. The existing provisions in Schedule 1 to the EAC(EP)(LC)R only regulate the EC subsector ordinary election for the year 2000, when supplementary nomination for the religious subsector and by-elections for other subsectors were not required. Section 2 stipulates that the Regulation applies to supplementary nomination and by-election as required under section 5(1) of the Schedule to the CEEO.

### ***Nominations (ss 3, 4, 8 & 20-22)***

7. The procedures for the Chief Electoral Officer to publish a notice calling for nominations are set out in sections 3 and 4.

8. As the principal residential address of a candidate is not a factor in determining the validity of the nomination, we propose to do away with the requirement of asking candidates to provide their principal residential addresses on the nomination forms. Instead, the candidate is only required to provide an address. Similarly, the requirement of asking subscribers to provide their registered residential address on the nomination form is not essential in determining the eligibility of the subscribers and is not included in the Regulation. These changes will facilitate both the candidates and the Returning Officer in the process of validating the nomination.

9. Sections 20-22 are added to the Regulation to provide for the procedures to be followed in case of death or disqualification of a candidate before the subsector election day. They are added pursuant to sections 23 and 26 of the Schedule to the CEEO. The three new sections are very similar to the corresponding provisions in the EAC(EP)(LC)R for LegCo elections.

***Misconduct within a no canvassing or no staying zone (s41)***

10. A new subsection (6) is added to clarify what constitutes misconduct within a no canvassing zone or a no staying zone.

***Misconduct at a polling station (s46)***

11. Similar to section 41, a new subsection (6) is added to clarify what constitutes misconduct at a polling station.

***Request for permission to return to cast vote (s55)***

12. The EAC considers that the Presiding Officer ("PRO") should be able to return a ballot paper to a voter or authorized representative, if, after having been issued with a ballot paper, the voter or authorized representative:

- (a) has to leave the polling station and asks to return to cast his vote later, or
- (b) becomes physically incapacitated from voting and leaves the polling station without casting his vote.

Section 55 empowers the PRO to give the originally issued ballot paper back to that person, if he returns to cast his vote later, in the presence of the police officer on duty at the polling station.

***How ballot papers are to be marked (s56)***

13. In previous EC subsector elections, the voter must mark the ballot paper by shading the oval provided next to the name of the candidates of his choice. It is envisaged that a different method of marking the ballot papers for a by-election may be more appropriate, depending on the number of members to be elected for the subsector. Section 56 provides flexibility for the EAC to decide on the marking method to cater for different situations. In the case of a by-election, the EAC may direct that "✓" chops be used to mark the ballot

paper.

***Tendered ballot paper (s58)***

14. The conditions under which a tendered ballot paper is issued are more clearly spelt out in section 58 of the Regulation. Under subsection (1), the PRO must issue a tendered ballot paper unless he is certain that the voter is the one who has been issued with a ballot paper earlier. If the PRO is certain, section 53(3) applies, and he must not issue any ballot paper to that person.

***Steps to be taken at a polling station at the close of the poll (s61)***

15. To expedite the packing process of relevant documents after the close of the poll, we suggest that the PRO can make separate sealed packets for unissued/unused/spoilt subsector ballot papers and marked copies of the subsector final register for **all** subsectors, instead of for each subsector.

***Misconduct at counting station (s68)***

16. For the avoidance of doubt, subsection (7) of section 68 clarifies that misconduct includes behaviours that may cause disruption of the counting of votes or disturbance and inconvenience to any person in the counting station. Furthermore, subsection (4) stipulates that if a person conducts himself in such a way that the purpose of his presence is other than that for which such presence is permitted or authorized, he may be ordered to leave the counting station by

the Chief Returning Officer or the Returning Officer.

***Counting of votes (ss73, 74 & 75)***

17. Sections 73 and 74 provide for different modes of counting, either counting by computer or manual counting, as is appropriate for an election. In practice, computer counting will be adopted for an ordinary election, where voters have to choose a large number of candidates, and manual counting will be adopted for a by-election in which voters need only to choose one to two candidates.

18. According to the provisions in Schedule 1 to the EAC(EP)(LC)R, the ballot paper account of a polling station is to be verified before the actual counting of votes. The counting procedure in the Regulation is modified in the case of counting by computer. As the counting of the number of ballot papers from each ballot box and the votes cast for individual candidates are performed simultaneously, the ballot paper accounts can be verified after the counting of votes by checking against the computer results and the number of invalid ballot papers.

19. In the case of manual counting, the ballot paper accounts will continue to be verified before the actual counting of votes.

20. In past elections, the ballot papers from not less than two polling stations were mixed before proceeding to the actual counting of votes. The

rationale behind is to preserve vote secrecy, especially for ballot papers from a small electorate. It has however led to the unnecessary lengthening of the counting time. Such a requirement has been dispensed with in the Regulation for the following reasons:

- (a) in the case of computer counting where ballot papers for all subsectors from a ballot box are fed into a computer without sorting, it is impossible to identify any particular vote ; and
- (b) in the case of manual counting, which will be adopted for by-elections in which voters are allowed to cast their votes in any one of the polling stations linked by a computer network, it will also not be possible to relate a ballot paper to a particular voter.

***Death or disqualification before declaring election result (s80)***

21. Section 80 sets out the procedures for the death or disqualification of a candidate before declaring the result of a subsector election. It is modeled on the corresponding section of the EAC(EP)(LC)R for LegCo elections.

***Consequential amendments (ss102 - 106)***

22. As Schedules 1 and 5 to the EAC(EP)(LC)R only applied to the EC subsector elections in 2000, they are now repealed.

***Postponement and adjournment (Sch 1)***

23. The EAC is empowered under section 7(2) of the EAC Ordinance to make regulation to provide for the postponement or adjournment of a subsector election, the poll and the counting of votes on the grounds that the election, the poll and the counting of votes is likely to be affected by -

- (a) a typhoon or other climatic condition of a serious nature;
- (b) riot or open violence or any other occurrence of public danger; or
- (c) an occurrence which appears to the Commission or any person specified in the regulations to be a material irregularity relating to the election, the poll or the count.

Schedule 1 to the Regulation sets out the procedure for the above postponement or adjournment and the steps to be taken for the safeguarding of election materials in the event of such a postponement or adjournment.

## **PUBLIC CONSULTATION**

24. There is no need for public consultation because the Regulation is basically modeled on the EAC(EP)(LC)R with necessary amendments to align

with the provisions set out in the CEEO.

## **BASIC LAW IMPLICATIONS**

25. The Department of Justice advises that the Regulation does not conflict with those provisions of the Basic Law carrying no human rights implications.

## **HUMAN RIGHTS IMPLICATIONS**

26. The Department of Justice advises that the Regulation is consistent with the human rights provisions of the Basic Law.

## **FINANCIAL AND STAFFING IMPLICATIONS**

27. Any additional resource requirement arising from the Regulation will be met by existing resources of the Registration and Electoral Office.

## **LEGISLATIVE TIMETABLE**

28. The Regulation will be published in the Gazette on 12 October 2001 and tabled in the LegCo on 17 October 2001.

## **PUBLICITY**

29. A press release will be issued to announce the publication of the Regulation in the Gazette. A spokesman will be available for answering media enquiries.

Registration and Electoral Office

October 2001

Drafter: L. Peng  
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#### **ELECTORAL AFFAIRS COMMISSION (ELECTORAL PROCEDURE) (ELECTION COMMITTEE) REGULATION**

**ELECTORAL AFFAIRS COMMISSION (ELECTORAL PROCEDURE)  
(ELECTION COMMITTEE) REGULATION**

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**ELECTORAL AFFAIRS COMMISSION (ELECTORAL PROCEDURE)  
(ELECTION COMMITTEE) REGULATION**

(Made by the Electoral Affairs Commission under section 7 of the  
Electoral Affairs Commission Ordinance (Cap. 541))

**PART 1**

**PRELIMINARY**

**1. Interpretation**

(1) In this Regulation, unless the context otherwise requires –

"authorized representative" (獲授權代表) has the meaning assigned to it by section 11(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569);

"ballot paper account" (選票結算表) means a statement prepared under section 62;

"candidate" (候選人) means, subject to subsection (2), in relation to a particular subsector, a person who is a validly nominated candidate for that subsector;

"central counting station" (中央點票站) means a counting station designated under section 28(9) for the counting of the votes cast at all the polling stations used for polling for more than one subsector election;

"Chief Returning Officer (Subsectors)" (總選舉主任(界別分組)) means the Returning Officer designated as the Chief Returning Officer (Subsectors) under section 96;

"computer" (電腦), in relation to the counting of votes, includes any computer software that is programmed to count the votes cast at a subsector election so as to give an accurate result;

"counting agent" (監察點票代理人) means a person appointed as a counting agent under section 64;

"counting officer" (點票人員) means, in relation to a counting station, a person appointed under section 65 as a counting officer for that counting station;

"counting station" (點票站) means a place designated under section 28(1) for the counting of votes;

"counting zone" (點票區) means an area within a counting station assigned by the Chief Electoral Officer for the counting of the votes for a particular subsector;

"designated body" (指定團體) means a designated body within the meaning of Part 3 of the Schedule to the Chief Executive Election Ordinance (Cap. 569);

"EC member" (選委會委員) means a member of the Election Committee;

"election advertisement" (選舉廣告) has the meaning assigned to it by section 2(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), but the reference to an election in that meaning is to be construed as the election referred to in section 4(d) or (da) of that Ordinance;

"election agent" (選舉代理人) means a person appointed as an election agent under section 23;

"election expense agent" (選舉開支代理人) has the meaning assigned to it by section 2(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554);

"election expenses" (選舉開支) has the meaning assigned to it by section 2(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), but the reference to an election in that meaning is to be construed as the election referred to in section 4(d) or (da) of that Ordinance;

"geographical constituencies final register" (地方選區正式選民登記冊) means the final register of electors for geographical constituencies compiled under the Electoral Affairs Commission (Registration of Electors) (Legislative

Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541 sub. leg.) and which is in effect;

"identity card" (身分證) has the meaning assigned to it by section 1A of the Registration of Persons Ordinance (Cap. 177);

"identity document" (身分證明文件) means –

- (a) an identity card;
- (b) a document issued to a person under regulations in force under the Registration of Persons Ordinance (Cap. 177) certifying that the person is exempt from being required to register under that Ordinance; or
- (c) any other document issued to a person that is acceptable as proof of the person's identity to the Electoral Registration Officer (as defined in section 1(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569));

"no canvassing zone" (禁止拉票區) means an area determined under section 40 to be an area in which canvassing for votes is prohibited;

"no staying zone" (禁止逗留區) means an area determined under section 40 to be an area in which staying or loitering is prohibited;

"nomination period" (提名期) means the period specified under section 4(3)(b);

"Nominations Advisory Committee" (提名顧問委員會) means a committee appointed under the Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) Regulation (L.N. of 2001);

"notice appointing the subsector ordinary election day" (指定界別分組一般選舉日公告) means a notice by which a date is specified by the Chief Executive under section 16 of the Schedule to the Chief Executive Election Ordinance (Cap. 569) to hold a subsector ordinary election;

"ordinary business hours" (通常辦公時間) means the hours –

- (a) between 9 a.m. and 12 noon on a Saturday that is not a general holiday; and

(b) between 9 a.m. and 5 p.m. on any other day that is not a general holiday;

"political body" (政治性團體) has the meaning assigned to it by section 2(1) of the Societies Ordinance (Cap. 151);

"polling agent" (監察投票代理人) means a person appointed as a polling agent under section 42;

"polling day" (投票日) means the date on which the poll is to be held in a subsector election;

"polling hours" (投票時間) means the hours for polling appointed under section 27;

"polling officer" (投票站人員) means, in relation to a polling station, a person appointed under section 34(2) as a polling officer for that polling station;

"polling station" (投票站) means a place designated under section 28(1) for conducting a poll;

"Presiding Officer" (投票站主任) means, in relation to a polling station, the person appointed under section 34(1) to preside at that polling station;

"religious subsector nomination form" (宗教界界別分組提名表格) means the specified form submitted under section 7 setting out the nominees to represent the religious subsector on the Election Committee;

"Returning Officer" (選舉主任) means a person holding office as a Returning Officer under section 47 of the Schedule to the Chief Executive Election Ordinance (Cap. 569), and includes any person appointed to act in place of such an Officer when the Officer is absent or when an office of Returning Officer is vacant;

"special polling station" (特別投票站) means a polling station designated as a special polling station under section 29;

"specified address" (指明地點) means, in relation to –

- (a) nominations or supplementary nominations for the religious subsector under section 7 of the Schedule to the Chief Executive Election Ordinance (Cap. 569), the address specified under section 3(3)(c) as the address at which religious subsector nomination forms are to be submitted; and
- (b) nominations for a subsector election, the address specified under section 4(3)(c) as the address at which the subsector nomination forms are to be submitted;

"specified form" (指明表格、指明格式) means, in relation to a particular purpose of this Regulation, the form specified under section 97 for that purpose;

"spoilt ballot paper" (損壞的選票) means a spoilt ballot paper within the meaning of section 60;

"sub-subsector" (小組) means a sub-subsector referred to in section 2(9)(a) of the Schedule to the Chief Executive Election Ordinance (Cap. 569);

"sub-subsector by-election" (小組補選) means an election to elect an EC member assigned to a sub-subsector who, under section 2(7)(b) and (9) of the Schedule to the Chief Executive Election Ordinance (Cap. 569), is to be elected by the sub-subsector, otherwise than at a sub-subsector ordinary election;

"sub-subsector ordinary election" (小組一般選舉) means an election to elect those EC members assigned to a sub-subsector who, under section 2(7)(b) and (9) of the Schedule to the Chief Executive Election Ordinance (Cap. 569), are to be elected by the sub-subsector, for a new term of office of the Election Committee;

"subsector" (界別分組) has, subject to subsection (3), the meaning assigned to it by section 1 of the Schedule to the Chief Executive Election Ordinance (Cap. 569);

- "subsector by-election" (界別分組補選) means an election to elect an EC member assigned to a subsector who, under section 2(7)(b) of the Schedule to the Chief Executive Election Ordinance (Cap. 569), is to be elected by the subsector, otherwise than at a subsector ordinary election;
- "subsector election" (界別分組選舉) means a subsector ordinary election or a subsector by-election;
- "subsector election notice" (界別分組選舉公告) means a notice published under section 4(1) or (2);
- "subsector final register" (界別分組正式投票人登記冊) means a final register of voters for subsectors compiled under the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541 sub. leg.) and which is in effect;
- "subsector nomination form" (界別分組提名表格) means the specified form submitted under section 8 to nominate a person as a candidate for a subsector election;
- "subsector ordinary election" (界別分組一般選舉) means an election to elect those EC members assigned to a subsector who, under section 2(7)(b) of the Schedule to the Chief Executive Election Ordinance (Cap. 569), are to be elected by the subsector, for a new term of office of the Election Committee;
- "tendered ballot paper" (重複的選票) means a tendered ballot paper within the meaning of section 58;
- "unused ballot paper" (未用的選票) means an unused ballot paper within the meaning of section 59(2);
- "validly nominated candidate" (獲有效提名的候選人) means –
- (a) subject to paragraph (b), a person whom the Returning Officer has decided under section 13 to be validly nominated;

- (b) in case a declaration under section 23(2)(b) or (5)(b) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) is made, a person who is stated to be validly nominated in the declaration;

"verification of the ballot paper account" (選票結算核實書) means the statement prepared under section 73(2)(a)(iv) or (3)(c) or 74(4)(c);

"voter" (投票人) has the meaning assigned to it by section 11(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569).

(2) In this Regulation –

- (a) in Part 2 (except section 25), "candidate" (候選人) includes a person who is being or has been nominated to stand for election at a subsector election; and
- (b) in sections 25 and 100, "candidate" (候選人) –
  - (i) means a person who stands nominated as a candidate at a subsector election; and
  - (ii) also means a person who, at any time before close of nominations for a subsector election, has publicly declared an intention to stand as a candidate at the subsector election.

(3) In this Regulation –

- (a) references to a "Returning Officer" are to be construed, in relation to a particular subsector, as the Returning Officer appointed for that subsector;
- (b) in respect of the sports, performing arts, culture and publication subsector –
  - (i) references to "subsector", "subsector ordinary election" and "subsector by-election" mean "sub-subsector", "sub-subsector ordinary election"

and "sub-subsector by-election" respectively and with any necessary modifications; and

(ii) references to "subsector election" mean "sub-subsector ordinary election" and "sub-subsector by-election" with any necessary modifications; and

(c) references to the counting of votes are to be construed as including, where appropriate, sorting, separation and counting of ballot papers.

(4) In this Regulation, any provision which entitles or permits a candidate, an election agent, a polling agent or a counting agent to do anything in a polling station, counting station, counting zone or in relation to the counting of votes is to be construed as entitling or permitting the candidate or the agent to do it in a polling station, counting station, counting zone or in relation to the counting of the votes for the subsector for which the candidate is standing for election or for which the agent is appointed, as the case may require.

## **2. Application**

Except where otherwise stated, this Regulation, with any necessary modifications –

(a) applies to a supplementary nomination for the religious subsector under section 7(2) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) as it applies to a nomination for that subsector under section 7(1) of that Schedule; and

(b) applies to a subsector by-election as it applies to a subsector ordinary election.

## PART 2

### NOMINATIONS AND SUPPLEMENTARY NOMINATIONS FOR RELIGIOUS SUBSECTOR AND NOMINATIONS FOR OTHER SUBSECTORS AND OTHER STAGES OF SUBSECTOR ELECTION BEFORE POLL

#### Division 1: Nominations

#### 3. Chief Electoral Officer to publish notice calling for nominations or supplementary nominations for religious subsector

(1) As soon as practicable after the publication of a notice appointing the subsector ordinary election day, the Chief Electoral Officer must publish in the Gazette, for the religious subsector, a notice which complies with subsection (3).

(2) Where the Commission is required under section 5(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) to arrange for a supplementary nomination to fill a vacancy among the members representing the religious subsector on the Election Committee, as soon as practicable after the ascertainment under paragraph (a) of that section 5(1) is made, the Chief Electoral Officer must publish in the Gazette, for that subsector, a notice which complies with subsection (3).

(3) The notice must state –

(a) in the case of a notice referred to –

(i) in subsection (1), the name of each designated body and the number of EC members allocated to each designated body by the order in force under section 6(2) of the Schedule to the Chief Executive Election Ordinance (Cap. 569);

(ii) in subsection (2), the number of vacancies to be filled and the name of the designated body that

may nominate under section 7(2) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) a number of persons selected by it to fill each of the vacancies;

- (b) that forms nominating EC members for the purposes of section 7(1) or (2) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) are to be submitted to the Returning Officer;
- (c) the period within which and the address at which the forms referred to in paragraph (b) are to be submitted; and
- (d) that the forms referred to in paragraph (b) must be submitted during ordinary business hours.

(4) The period for the purposes of subsection (3)(c) is to be determined by the Chief Electoral Officer.

**4. Chief Electoral Officer to publish notice specifying period and address for submitting subsector nomination forms**

(1) As soon as practicable after the publication of a notice appointing the subsector ordinary election day, the Chief Electoral Officer must publish in the Gazette, for the subsectors concerned, a notice which complies with subsection (3).

(2) Where the Commission is required under section 5(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) to arrange for a subsector by-election, as soon as practicable after the ascertainment under paragraph (a) of that section 5(1) is made, the Chief Electoral Officer must publish in the Gazette a notice which complies with subsection (3).

(3) The notice must state –

- (a) in the case of a notice referred to –

- (i) in subsection (1), the names of all the subsectors and the number of EC members allocated to each subsector;
  - (ii) in subsection (2), the name of the subsector or each subsector for which a subsector by-election is to be held and the number of EC members to be returned for the subsector or each subsector at the subsector by-election;
- (b) the period within which the subsector nomination forms are to be submitted to the Returning Officer;
- (c) the address at which the subsector nomination forms are to be submitted;
- (d) that the subsector nomination forms must be submitted during ordinary business hours;
- (e) the date on which the subsector election is to be held; and
- (f) in the case of a notice referred to –
  - (i) in subsection (1), that a poll will be held on the date referred to in paragraph (e) for a subsector, if the number of validly nominated candidates for the subsector exceeds the number of EC members allocated to the subsector;
  - (ii) in subsection (2), that a poll will be held on the date referred to in paragraph (e) for a subsector, if the number of validly nominated candidates for the subsector exceeds the number of EC members to be returned at the subsector by-election.

**5. Chief Electoral Officer to determine nomination period**

(1) Subject to subsections (2) and (3), the nomination period is to be determined by the Chief Electoral Officer.

(2) The nomination period must not begin earlier than the date on which the subsector election notice is published in the Gazette. The nomination period must not be less than 7 days.

(3) The nomination period must end not less than 12 days before the date on which the relevant subsector election is to be held.

**6. Notices under sections 3 and 4 to be in specified form**

A notice published under section 3 calling for nominations or supplementary nominations for the religious subsector and a subsector election notice must be in the specified form.

**7. How to nominate EC members for religious subsector**

(1) A person is to be nominated as a member representing the religious subsector on the Election Committee by the submission by a designated body of a nomination form in the specified form that complies with section 7 of the Schedule to the Chief Executive Election Ordinance (Cap. 569) and this section.

(2) The religious subsector nomination form must contain a declaration by each nominee to the effect that he or she –

- (a) is eligible to be nominated as a member representing the religious subsector on the Election Committee;
- (b) is not disqualified from being so nominated;
- (c) consents to being so nominated; and
- (d) consents to the order of priority in which nominees are ranked in the religious subsector nomination form for the

purposes of section 7(4) of the Schedule to the Chief Executive Election Ordinance (Cap. 569).

(3) A designated body must nominate all its nominees on one religious subsector nomination form.

(4) The religious subsector nomination form must be signed by each nominee. It must also be signed on behalf of the designated body by a person authorized by the designated body for that purpose.

(5) The religious subsector nomination form must contain other particulars, if any, required to be furnished on that form.

(6) The Returning Officer may require a designated body or a person who is being nominated under this section or both to furnish any other information that Officer considers appropriate to be satisfied –

(a) that the person is eligible to be a member representing the religious subsector on the Election Committee; or

(b) as to the validity of the nomination.

(7) The religious subsector nomination form must be submitted to the Returning Officer within the period referred to in section 3(3)(c) at the specified address.

## **8. How to nominate candidates for other subsectors**

(1) A person is to be nominated as a candidate for a subsector election by submitting to the Returning Officer a subsector nomination form which complies with this section.

(2) The subsector nomination form must be submitted in accordance with this section.

(3) The subsector nomination form must be in the specified form and subscribed in accordance with the Election Committee (Subscribers and Election Deposit for Nomination) Regulation (L.N. of 2001).

- (4) The subsector nomination form must contain a declaration by the person being nominated as the candidate to the effect that he or she –
- (a) is eligible to be nominated as a candidate for the subsector concerned;
  - (b) is not disqualified from being so nominated; and
  - (c) consents to being so nominated.
- (5) The subsector nomination form –
- (a) must contain the name of the person being nominated as the candidate as shown on the person's identity document (being the identity document on the basis of which the particulars of the person are recorded in the geographical constituencies final register) and, if the Returning Officer is satisfied that the person is usually known by a name different from that shown on the person's identity document aforesaid, may also include that different name; and
  - (b) must also contain the identity document number and address of the person being nominated as the candidate.
- (6) The subsector nomination form must be signed by the person being nominated as the candidate in each place the person's signature is required on that form.
- (7) The subsector nomination form must be signed by each subscriber. It must contain the name and identity document number of each subscriber.
- (8) In the case of a voter other than a natural person, the subscription of the subsector nomination form by that voter may be effected by that voter's authorized representative.
- (9) The subsector nomination form must contain other particulars, if any, required to be furnished on that form.

(10) The Returning Officer may require a person who is being nominated as a candidate to furnish any other information that Officer considers appropriate to be satisfied –

- (a) that the person is eligible to be nominated as a candidate for the subsector concerned; or
- (b) as to the validity of the nomination.

(11) Only one person can be nominated on one subsector nomination form.

(12) The subsector nomination form must be submitted to the Returning Officer within the nomination period at the specified address.

(13) The subsector nomination form must be submitted by the candidate in person or in any other manner authorized by the Chief Electoral Officer.

#### **9. Returning Officer may assist in preparation of nomination forms**

(1) The Returning Officer may assist a designated body in preparing a religious subsector nomination form.

(2) The Returning Officer may, at the request of a person who proposes to be nominated as a candidate, give assistance in preparing a subsector nomination form.

#### **10. Returning Officer to make available copies of nomination forms for public inspection**

The Returning Officer must make available for inspection by the public, at the specified address, during ordinary business hours, a copy of each of the religious subsector nomination forms and subsector nomination forms received by that Officer. Copies of the religious subsector nomination forms must be made so available until the Returning Officer makes a declaration of nominees who become EC members under section 7(8) of the Schedule to the Chief Executive Election Ordinance (Cap. 569). Copies of the subsector nomination forms must be made so available until the Returning Officer makes a declaration

for the relevant subsector under section 25, or publishes a notice of the result of the relevant subsector election under section 35, of that Schedule.

**11. Returning Officer not to accept subsector nomination form without deposit and to issue receipt for deposit**

(1) The Returning Officer may accept a subsector nomination form submitted for the purposes of section 8 only if it is accompanied by the appropriate deposit.

(2) When the Returning Officer receives the appropriate deposit, that Officer must issue a receipt for the amount of the deposit.

(3) In this section and section 13, "appropriate deposit" (適當的按金) means the amount of deposit to be lodged under the Election Committee (Subscribers and Election Deposit for Nomination) Regulation (L.N. of 2001) for a subsector election.

**12. Returning Officer to decide whether nominee for religious subsector is validly nominated**

(1) The Returning Officer must, as soon as practicable after receiving a religious subsector nomination form under section 7, decide whether each nominee is validly nominated.

(2) If section 7 and sections 8 and 9 of the Schedule to the Chief Executive Election Ordinance (Cap. 569) are complied with, a nominee for the religious subsector stands validly nominated (subject to section 7(7) of that Schedule) to be an EC member, unless the Returning Officer decides that the religious subsector nomination form is invalid.

**13. Returning Officer to decide whether candidates are validly nominated**

(1) The Returning Officer must, as soon as practicable after receiving a subsector nomination form, decide whether the candidate is validly nominated.

(2) If section 8 and sections 17 and 18 of the Schedule to the Chief Executive Election Ordinance (Cap. 569) are complied with, the candidate stands validly nominated unless –

- (a) the Returning Officer decides that the subsector nomination form is invalid; or
- (b) the candidate withdraws his or her candidature.

(3) Without prejudice to sections 17 and 18 of the Schedule to the Chief Executive Election Ordinance (Cap. 569), the Returning Officer may decide a nomination to be invalid if and only if –

- (a) the subsector nomination form has not been signed by the prescribed number of subscribers qualified to subscribe to a subsector nomination form under the Election Committee (Subscribers and Election Deposit for Nomination) Regulation (L.N. of 2001);
- (b) the subsector nomination form has not been completed or signed as required under this Regulation;
- (c) the Returning Officer is satisfied that the candidate is not eligible to be or is disqualified from being nominated as a candidate under the Schedule to the Chief Executive Election Ordinance (Cap. 569);
- (d) the candidate has not lodged the appropriate deposit; or
- (e) the Returning Officer is satisfied that the candidate is dead.

(4) In this section, "prescribed number" (訂明數目) means the number of subscribers required to subscribe to a nomination form for a subsector election under the Election Committee (Subscribers and Election Deposit for Nomination) Regulation (L.N. of 2001).

**14. Returning Officer to have regard to advice of Nominations Advisory Committee**

In deciding under section 12 or 13 whether a person is eligible to be, or disqualified from being, nominated as a member representing the religious subsector on the Election Committee or as a candidate, the Returning Officer must have regard to –

- (a) advice given by a Nominations Advisory Committee on an application, if any, made by the Returning Officer regarding the person under the Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) Regulation (L.N. of 2001); or
- (b) advice given by a Nominations Advisory Committee on an application, if any, made by the person or the designated body concerned to the Nominations Advisory Committee under that Regulation or, if advice has not been given, the result of the application.

**15. Returning Officer may give opportunity to rectify nomination form**

(1) If the Returning Officer detects on a religious subsector nomination form or a subsector nomination form –

- (a) an error or what appears to that Officer to be an error, or an omission, which may amount to a ground for deciding that the nomination form is invalid; or
- (b) anything which may affect the validity of the nomination form,

and that Officer considers that it can be rectified within the period referred to in section 3(3)(c) or the nomination period, that Officer may, before making a decision under section 12 or 13, as may be appropriate, give the nominee, the designated body or the candidate a reasonable opportunity to rectify it.

(2) A religious subsector nomination form or a subsector nomination form cannot be rectified under this section after the expiry of the period referred to in section 3(3)(c) or of the nomination period.

#### **16. Returning Officer to endorse that nomination form is invalid**

(1) If the Returning Officer decides that a religious subsector nomination form or a subsector nomination form is invalid or that the nomination of a nominee for the religious subsector or of a candidate is invalid, that Officer must endorse on the relevant nomination form the decision and the reasons for it.

(2) The Returning Officer must sign an endorsement under subsection (1).

(3) A decision that the nomination of a nominee for the religious subsector is valid or invalid must be sent to the nominee concerned, the designated body that nominated that nominee and the other nominees who are nominated by that designated body.

(4) The Returning Officer must send a notice of a decision that a person is validly nominated or is not validly nominated as a candidate –

- (a) to the person concerned at that person's address given on the subsector nomination form; and
- (b) to each validly nominated candidate for the subsector concerned at the candidate's address given on the subsector nomination form.

#### **17. How nominated candidate is to withdraw candidature**

(1) A withdrawal of candidature for the purposes of section 21 of the Schedule to the Chief Executive Election Ordinance (Cap. 569) is to be effected by giving a notice of withdrawal to the Returning Officer in accordance with subsection (2).

- (2) The following applies to a notice of withdrawal –
  - (a) the notice must be in the specified form;
  - (b) the signature of the candidate on the notice must be attested by a witness;
  - (c) the notice must be delivered to the Returning Officer by the candidate in person or the candidate's election agent in person; and
  - (d) the notice must be so delivered at the specified address.

**18. Returning Officer to publish notice of particulars of validly nominated candidates**

(1) Within 14 days after the expiry of the nomination period, the Returning Officer must publish in the Gazette a notice which complies with this section.

(2) A notice referred to in subsection (1) must be published for all subsectors referred to in the subsector election notice.

(3) For the purposes of subsection (2), separate notices may be published for each of the subsectors or one notice may be published for all the subsectors. If one notice is to be published for all the subsectors, the notice is to be published by the Returning Officer specified for the purpose by the Chief Electoral Officer.

(4) A notice published for a subsector must state the name and address of each validly nominated candidate for the subsector. It must also state the number allocated to each candidate under section 49(4).

(5) A notice under this section must be in the specified form.

**19. Returning Officer to publish notice for purposes of sections 7(8) and 25(1) of Schedule to Chief Executive Election Ordinance**

(1) The Returning Officer must, within 14 days after the expiry of the period referred to in section 3(3)(c), publish a notice in the Gazette declaring, for the purposes of section 7(8) of the Schedule to the Chief Executive Election Ordinance (Cap. 569), the nominee or nominees who become an EC member or EC members as such member or members.

(2) If, for a subsector –

- (a) no more candidates have been validly nominated for the subsector ordinary election than the number of EC members allocated to the subsector; or
- (b) no more candidates have been validly nominated for the subsector by-election than the number of EC members to be returned at the subsector by-election,

the Returning Officer must, in the notice published for that subsector under section 18 or in a separate notice, declare, for the purposes of section 25(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569), the candidate or candidates as being duly elected as an EC member or as EC members for that subsector.

(3) A separate notice under subsection (2) must –

- (a) be published in the Gazette within 14 days after the expiry of the nomination period;
- (b) state the name and address of each candidate declared to be duly elected as an EC member; and
- (c) be in the specified form.

**20. Returning Officer to notify or declare if validly nominated candidate has died**

(1) A notice under section 23(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) is to be given by the Returning Officer concerned as soon as practicable after the death of the candidate is proved to the satisfaction of that Officer. The notice must be given in writing to –

- (a) the Chief Electoral Officer; and
- (b) if practicable, each candidate who remains validly nominated for the subsector election concerned, to replace the notice under section 16(4).

(2) The Returning Officer under subsection (1) –

- (a) must –
  - (i) endorse on the subsector nomination form of the deceased candidate that the candidate has died; and
  - (ii) sign the endorsement; and
- (b) may on polling day, if that Officer considers it appropriate to do so, display a notice in a prominent place outside each polling station used for polling for the subsector concerned.

(3) Declarations under section 23(2) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) are to be made by the Returning Officer concerned as soon as practicable after the death of the candidate is proved to the satisfaction of that Officer. The declarations must be made –

- (a) by notice published in the Gazette;
- (b) by notice published in any daily newspaper in circulation in Hong Kong;
- (c) by a public announcement made by radio or television; or
- (d) by such other means as that Officer considers appropriate in the circumstances.

(4) A notice under subsection (2)(b) or (3)(a) or (b) must state –

- (a) the name and address of the deceased candidate;
  - (b) the name of the subsector for which the deceased candidate was nominated; and
  - (c) the name and address of each candidate who remains validly nominated for the subsector election concerned.
- (5) A public announcement under subsection (3)(c) must state –
- (a) the name of the deceased candidate;
  - (b) the name of the subsector for which the deceased candidate was nominated; and
  - (c) the name of each candidate who remains validly nominated for the subsector election concerned.

**21. Returning Officer to notify or declare if validly nominated candidate is disqualified**

(1) A notice under section 23(4) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) is to be given by the Returning Officer concerned as soon as practicable after the disqualification to which the variation of decision relates is proved to the satisfaction of that Officer. The notice must be given in writing to –

- (a) the Chief Electoral Officer; and
  - (b) if practicable, each candidate who remains validly nominated for the subsector election concerned, to replace the notice under section 16(4).
- (2) The Returning Officer under subsection (1) –
- (a) must –
    - (i) endorse on the subsector nomination form of the disqualified candidate that that Officer's decision made under section 22(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) in

relation to that candidate is varied and the reason for the variation of decision; and

(ii) sign the endorsement; and

(b) may on polling day, if that Officer considers it appropriate to do so, display a notice in a prominent place outside each polling station used for polling for the subsector concerned.

(3) Declarations under section 23(5) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) are to be made by the Returning Officer concerned as soon as practicable after the disqualification to which the variation of decision relates is proved to the satisfaction of that Officer. The declarations must be made –

(a) by notice published in the Gazette;

(b) by notice published in any daily newspaper in circulation in Hong Kong;

(c) by a public announcement made by radio or television; or

(d) by such other means as that Officer considers appropriate in the circumstances.

(4) A notice under subsection (2)(b) or (3)(a) or (b) must state –

(a) the name and address of the disqualified candidate;

(b) the name of the subsector for which the disqualified candidate was nominated;

(c) that the decision of the Returning Officer made under section 22(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) has been varied to the effect that the candidate is not validly nominated; and

(d) the name and address of each candidate who remains validly nominated for the subsector election concerned.

(5) A public announcement under subsection (3)(c) must state –

(a) the name of the disqualified candidate;

- (b) the name of the subsector for which the disqualified candidate was nominated; and
- (c) the name of each candidate who remains validly nominated for the subsector election concerned.

**22. No poll upon death or disqualification of candidate under certain circumstances**

(1) If, after the death referred to in section 20(1) or the disqualification referred to in section 21(1) –

- (a) the number of candidates remaining validly nominated for –
  - (i) the subsector ordinary election concerned is equal to the number of EC members allocated to the subsector; or
  - (ii) the subsector by-election concerned is equal to the number of EC members to be returned at the subsector by-election;
- (b) no candidate remains validly nominated for the subsector election concerned; or
- (c) the number of candidates remaining validly nominated for –
  - (i) the subsector ordinary election concerned is less than the number of EC members allocated to the subsector; or
  - (ii) the subsector by-election concerned is less than the number of EC members to be returned at the subsector by-election,

the Returning Officer must, by such means as that Officer considers appropriate in the circumstances, declare that a poll is not to be held for that subsector.

(2) The Returning Officer must in a notice under section 20(3)(a) or 21(3)(a), if any, or in a separate notice –

- (a) in the case of subsection (1)(a), declare, for the purposes of section 25(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569), the remaining candidate or candidates as being duly elected as an EC member or as EC members;
- (b) in the case of subsection (1)(b), declare, for the purposes of section 25(2) of the Schedule to the Chief Executive Election Ordinance (Cap. 569), no candidate was validly nominated for the subsector election;
- (c) in the case of subsection (1)(c), declare –
  - (i) for the purposes of section 25(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569), the remaining candidate or candidates as being duly elected as an EC member or as EC members; and
  - (ii) for the purposes of section 25(3) of that Schedule, the number of EC members returned at the subsector election is less than the number of EC members to be returned at that subsector election.

(3) A separate notice containing a declaration under subsection (2) must –

- (a) be published in the Gazette as soon as practicable;
- (b) if applicable, state the name and address of each candidate declared to be duly elected as an EC member; and
- (c) be in the specified form.

## **Division 2: Election Agents and Election Expense Agents**

### **23. Candidate may appoint election agent**

- (1) Each candidate may appoint one person as his or her election agent.
- (2) Only a holder of an identity card who has attained the age of 18 years may be appointed as an election agent.
- (3) A candidate who appoints an election agent must give notice of the appointment to the Returning Officer.
- (4) The appointment of an election agent is not effective until notice of the appointment is received by the Returning Officer.
- (5) A notice of appointment must be in writing and state the name, identity card number and address of the election agent.
- (6) A notice of appointment must be signed by the candidate.
- (7) A candidate cannot have more than one election agent at any one time.
- (8) If the appointment of an election agent is revoked, the candidate must give notice of the revocation to the Returning Officer.
- (9) A notice of revocation must be in writing and be signed by the candidate.
- (10) The revocation of the appointment of an election agent is not effective until notice of the revocation is received by the Returning Officer.
- (11) If at any time an election agent dies or the appointment of an election agent is revoked, the candidate may appoint a replacement.
- (12) The appointment of a replacement must be in accordance with the requirements of this section.
- (13) A notice of appointment or a notice of revocation under this section must be in the specified form.

(14) Subject to subsection (15), an election agent may do all things which a candidate may do in connection with a subsector election. Any such act of the election agent is effective as if it had been done by the candidate in person.

(15) An election agent may not –

- (a) do anything a candidate is required to do under section 8;
- (b) withdraw the candidate's candidature; or
- (c) authorize any person for the purposes of section 25.

**24. Returning Officer to send to other candidates notice of particulars of election agent**

(1) The Returning Officer must send to the candidates for a subsector, a notice containing the particulars of the election agents of the other candidates for that subsector.

(2) If a replacement is appointed for an election agent, the Returning Officer must send a notice of the particulars of the replacement to the other candidates for the relevant subsector.

(3) The Returning Officer must send a notice under subsection (1) within 5 days after the expiry of the relevant nomination period.

(4) If the appointment of the election agent is made after the period of 5 days referred to in subsection (3), or if a replacement is appointed under section 23(11), the Returning Officer must send a notice of the particulars as soon as practicable after that Officer receives notice of the appointment or replacement, as the case may be.

(5) The Returning Officer must also display in a prominent place outside that Officer's office, a notice of the particulars of the election agents.

(6) A notice under this section must be in the specified form.

(7) A notice required to be sent to a candidate under subsection (1) may be sent to the election agent of the candidate instead of to the candidate.

**25. Authorization of election expense agent to incur election expenses at or in connection with subsector election**

(1) Only a person who has attained the age of 18 years may be authorized as an election expense agent to incur election expenses at or in connection with a subsector election.

(2) An authorization of such an election expense agent must be in writing and in the specified form and state the name, identity document number and address of the person authorized.

(3) The authorization must specify the maximum amount of election expenses that the election expense agent is authorized to incur.

(4) The authorization must be signed by the candidate making the authorization and the person authorized.

(5) A copy of the authorization must be served –

(a) on the Returning Officer; or

(b) if the Returning Officer has not been appointed, on the Chief Electoral Officer.

(6) Service of a copy of the authorization –

(a) may be effected by delivery by hand, by post or by facsimile transmission; and

(b) must be effected by the candidate making the authorization.

(7) The Returning Officer or the Chief Electoral Officer, as the case may be, is to regard an authorization of an election expense agent to incur election expenses at or in connection with a subsector election as being effective, for any purpose related to the subsector election for which the authorization is relevant, only when a copy of the authorization has been served on the relevant Officer.

(8) If the authorization of an election expense agent to incur election expenses at or in connection with a subsector election has been revoked, the candidate who made the authorization must as soon as possible after the

revocation, give written notice of the revocation, by hand, by post or by facsimile transmission –

- (a) to the Returning Officer; or
- (b) if the Returning Officer has not been appointed, to the Chief Electoral Officer.

(9) The notice of revocation must be in the specified form and signed by the candidate who made the authorization.

(10) If the authorization of an election expense agent to incur election expenses at or in connection with a subsector election has been revoked, the Returning Officer or the Chief Electoral Officer, as the case may be, is to regard the revocation as being effective, for any purpose related to the subsector election for which the revocation is relevant, only when the relevant Officer receives the notice of revocation.

**26. Copies of authorization of election expense agents to be made available for public inspection**

The Returning Officer or the Chief Electoral Officer, as the case may be, must make available for public inspection a copy of each of the copies of authorizations served on that Officer under section 25. A copy must be made available for public inspection as soon as practicable after that Officer is served the copy of the authorization and until the end of the period for which the copy of the election return lodged by the candidate is available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

PART 3  
CONTESTED SUBSECTOR ELECTIONS

**Division 1: Hours of Poll and Matters Relating to  
Polling Stations**

**27. Chief Electoral Officer to appoint polling hours and to give notice in Gazette**

(1) The hours during which voters can cast their votes on polling day are to be appointed by the Chief Electoral Officer in accordance with this section.

(2) The Chief Electoral Officer may appoint different polling hours for different subsectors or for different polling stations.

(3) The Chief Electoral Officer must appoint the polling hours so as to give the voters a reasonable opportunity to vote.

(4) The Chief Electoral Officer must, at least 10 days before polling day, publish in the Gazette, a notice specifying the polling hours for the subsectors and, if appropriate, for each polling station.

(5) In this section, "voters" (投票人) includes authorized representatives.

**28. Chief Electoral Officer to designate polling stations and counting stations**

(1) The Chief Electoral Officer must, in respect of a subsector election, designate, by notice published in the Gazette, one or more places for –

(a) conducting a poll; and

(b) the counting of votes.

(2) The Chief Electoral Officer may designate under subsection (1) –

(a) premises occupied by a Government department for official purposes ("Government building");

(b) a structure, place or premises hired under subsection (3) or which is to be so hired;

- (c) any school in respect of which a grant is made out of the general revenue;
- (d) a building occupied by an organization, association or body in respect of which a grant is made out of the general revenue; or
- (e) any other structure, premises, whether permanent or temporary, mobile or otherwise, or place, which the Chief Electoral Officer considers suitable for a purpose specified in subsection (1).

(3) The Chief Electoral Officer may hire any structure, place or premises or a part of a structure, place or premises to designate as a polling station or a counting station.

(4) The Chief Electoral Officer may designate a place described in subsection (2) in addition to or in substitution of a place designated under this section as a polling station or a counting station. The Chief Electoral Officer must publish notice of such designation. The notice may be published in a manner that Officer thinks fit.

(5) The Chief Electoral Officer must ensure that there are sufficient polling stations and counting stations to enable polling and counting of votes to take place smoothly and efficiently.

(6) The Chief Electoral Officer must make available, at that Officer's office, for public inspection, a list of the polling stations and counting stations.

(7) The Chief Electoral Officer must, in the case of a polling station or a counting station which is not a Government building –

- (a) make good any damage caused; and
- (b) defray any expenses incurred by any person having control over the structure, place or premises,

due to their having been used as a polling station or a counting station.

(8) The Chief Electoral Officer may take such steps as that Officer considers appropriate, including taking out insurance, to insure against any risk

of loss or damage that may arise due to or in connection with the use of any structure, place or premises as a polling station or a counting station.

(9) The Chief Electoral Officer may, in relation to more than one subsector election, designate one counting station for the counting of the votes cast at all the polling stations used for polling for the subsector elections concerned.

**29. Chief Electoral Officer to designate some polling stations as special polling stations**

(1) The Chief Electoral Officer must designate one or more polling stations to be used for voting by persons with a disability for whom access to other polling stations would be difficult. That Officer must specify the subsector or subsectors for which each special polling station is designated.

(2) Only a polling station which, in the opinion of the Chief Electoral Officer, is suitable for use by persons referred to in subsection (1) may be designated as a special polling station.

(3) At least 10 days before polling day, the Chief Electoral Officer must indicate the special polling stations on the list of polling stations. That Officer must also indicate on the list of polling stations the subsector or subsectors for which each special polling station is designated.

**30. Chief Electoral Officer may arrange for voting for subsectors to take place at polling station and to allocate polling stations to voters and authorized representatives**

(1) The Chief Electoral Officer may make arrangements for voting for more than one subsector to take place at one polling station.

(2) The Chief Electoral Officer must allocate to each voter and authorized representative a polling station or polling stations to cast the vote or votes he or she is entitled to cast at a subsector election.

(3) If a person is entitled to cast more than one vote (one as a voter and the other as an authorized representative), the Chief Electoral Officer may allocate to that person the same polling station to cast both the votes.

(4) The Chief Electoral Officer may, if that Officer considers it appropriate to do so in the circumstances, allocate to a voter or authorized representative an alternative polling station, in addition to or in substitution of the polling station or any of the polling stations, as the case may be, allocated under subsection (2), to cast the vote or votes he or she is entitled to cast at a subsector election.

**31. Chief Electoral Officer to send poll cards to voters and authorized representatives**

(1) Subject to subsections (3) and (4), for every contested subsector election, the Chief Electoral Officer must, at least 5 days before polling day, send a poll card to each voter and authorized representative.

(2) A poll card need not be sent to a voter or authorized representative if –

(a) the Chief Electoral Officer is satisfied, having regard to information received from the Registrar of Births and Deaths, that the voter or authorized representative is dead; or

(b) the Chief Electoral Officer is satisfied that the voter's or authorized representative's address as recorded in the subsector final register –

(i) does not exist;

(ii) refers to a building that has been demolished; or

(iii) refers to a building that is not built at the time poll cards are to be sent.

(3) A poll card need not be sent under subsection (1) to a corporate voter.

(4) If the Chief Electoral Officer receives notice of the substitution or replacement of an authorized representative within the 5 days preceding polling day, that Officer need not send a poll card to the substitute or replacement authorized representative. The Chief Electoral Officer must inform that substitute or replacement authorized representative of the polling station allocated to him or her in a manner that Officer thinks fit.

(5) The Chief Electoral Officer must state in the poll card the polling station or polling stations at which the voter or authorized representative must cast his or her vote or votes.

(6) As soon as practicable after having allocated to a voter or authorized representative an alternative polling station under section 30(4), the Chief Electoral Officer must, in a manner that Officer considers appropriate –

- (a) notify –
  - (i) the voter or authorized representative;
  - (ii) the Returning Officer; and
  - (iii) the Presiding Officer of the polling station previously allocated to the voter or authorized representative,  
of the alternative polling station; and
- (b) notify –
  - (i) the Returning Officer;
  - (ii) the Presiding Officer of the polling station previously allocated to the voter or authorized representative; and
  - (iii) the Presiding Officer of the alternative polling station,  
of the name, identity document number and residential address (as they appear in the subsector final register) of the voter or authorized representative and the subsector

for which the voter or authorized representative is entitled to vote.

(7) In this section, "corporate voter" (團體投票人) has the meaning assigned to it by section 11(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569).

### **32. Person to vote at correct polling station**

(1) Subject to subsection (2), a person may only vote at the polling station or polling stations allocated to him or her under section 30.

(2) A person who is allocated a special polling station under section 33 may only vote at that special polling station.

### **33. Chief Electoral Officer may allocate special polling stations**

(1) A voter or authorized representative who claims to be a person with a disability and that access to the polling station which is allocated to him or her under section 30 is difficult for him or her due to the disability, may apply to the Chief Electoral Officer to vote at the special polling station designated for the subsector for which he or she is entitled to vote.

(2) An application under subsection (1) must reach the Chief Electoral Officer at least 3 days before polling day. The application –

- (a) may be –
  - (i) made in writing; and
  - (ii) delivered by hand or sent by post or by facsimile transmission; or
- (b) may be made orally by telephone.

(3) On receiving an application under subsection (1), the Chief Electoral Officer must, if satisfied that the application is well founded, allocate to the voter or authorized representative an appropriate special polling station to

cast the vote he or she is entitled to cast at the subsector election to which the application relates.

(4) The Chief Electoral Officer must inform the applicant in a manner that Officer considers appropriate, the result of the application, as soon as practicable.

(5) When the Chief Electoral Officer allocates a special polling station to a voter or authorized representative under this section, that Officer must, as soon as practicable, notify, in a manner that Officer considers appropriate –

- (a) the Returning Officer;
- (b) the Presiding Officer of the special polling station; and
- (c) the Presiding Officer of the polling station previously allocated to the voter or authorized representative,

of the name, identity document number and residential address (as they appear in the subsector final register) of the voter or authorized representative.

(6) The Chief Electoral Officer must notify the persons referred to in subsection (5) of the subsector for which the voter or authorized representative is entitled to vote.

(7) The Chief Electoral Officer may, if that Officer considers it appropriate to do so in the circumstances, allocate to a voter or authorized representative an alternative special polling station, in addition to or in substitution of the special polling station allocated under subsection (3), to cast the vote he or she is entitled to cast at the subsector election.

(8) As soon as practicable after having allocated to a voter or authorized representative an alternative special polling station under subsection (7), the Chief Electoral Officer must, in a manner that Officer considers appropriate –

- (a) notify –
  - (i) the voter or authorized representative; and
  - (ii) the persons referred to in subsection (5),  
of the alternative special polling station; and

- (b) notify –
  - (i) the persons referred to in subsection (5); and
  - (ii) the Presiding Officer of the alternative special polling station,  
of the name, identity document number and residential address (as they appear in the subsector final register) of the voter or authorized representative and the subsector for which the voter or authorized representative is entitled to vote.

**34. Chief Electoral Officer to appoint Presiding Officers for each polling station**

(1) The Chief Electoral Officer must appoint a person to preside at each polling station.

(2) The Chief Electoral Officer may appoint, as polling officers, persons that Officer considers suitable to assist the Presiding Officer in the conduct of a poll.

**35. Chief Electoral Officer to supply candidates with copy of subsector final register**

(1) The Chief Electoral Officer must supply to each candidate a copy of the part of the subsector final register which relates to the subsector for which that candidate is nominated.

(2) A copy under this section must be supplied to a candidate as soon as practicable after the relevant subsector nomination form is submitted to the Returning Officer. The copy may contain such additional particulars or information as the Chief Electoral Officer thinks fit to include.

(3) The form in which the copy is supplied may be a printed form, a form which is capable of being read by a computer or any other form determined by the Chief Electoral Officer.

(4) A copy for the purposes of this section may be supplied to the election agent of the candidate instead of to the candidate.

**36. Chief Electoral Officer to supply Returning Officer with copy of subsector final register**

(1) The Chief Electoral Officer must supply to the Returning Officer a copy of the part of the subsector final register which relates to the subsector for which that Returning Officer is appointed.

(2) A copy under this section must be supplied after the relevant notice of nominations is published under section 18.

(3) The copy may contain the identity document numbers of the voters and authorized representatives and such other additional particulars or information as the Chief Electoral Officer thinks fit to include.

(4) The form in which the copy is supplied may be a printed form, a form which is capable of being read by a computer or any other form determined by the Chief Electoral Officer.

**37. Chief Electoral Officer to carry out other duties relating to polling stations**

(1) The Chief Electoral Officer must provide at each polling station sufficient compartments as that Officer considers necessary to enable voters and authorized representatives to mark ballot papers, screened from observation.

(2) The Chief Electoral Officer must supply to each Presiding Officer, the number of ballot papers the Chief Electoral Officer considers necessary for the subsector or subsectors for which the polling station is to be used for polling. The Chief Electoral Officer must ensure that the name of any deceased or disqualified candidate regarding whom notice under section 20(1) or 21(1) is given or declarations under section 20(3) or 21(3) are made, and other information relating to that candidate, if printed on the ballot papers, are crossed out by stamping the words "已故" and "DECEASED" or "喪失資格" and "DISQUALIFIED", as the case may require.

(3) The Chief Electoral Officer must also supply to the Presiding Officer a copy of the part of the subsector final register relating to that subsector or subsectors.

(4) The copy may contain the identity document numbers of the voters and authorized representatives and such other additional particulars or information as the Chief Electoral Officer thinks fit to include.

(5) The form in which the copy is supplied may be a printed form, a form which is capable of being read by a computer or any other form determined by the Chief Electoral Officer.

(6) The Chief Electoral Officer must provide at each polling station –

(a) materials; and

(b) if the polling station is to be used for polling for a subsector by-election in relation to which the Commission has made a direction under section 56(2), chops bearing the mark "✓", with or without any design,

that are necessary to enable voters and authorized representatives to mark the ballot papers.

(7) The Chief Electoral Officer must do other acts and things as that Officer considers necessary for holding the poll effectively.

### **38. Chief Electoral Officer to supply list of polling officers to assist Presiding Officer**

(1) The Chief Electoral Officer must supply to the Presiding Officer a list of the polling officers appointed for the polling station for which that Presiding Officer is appointed.

(2) The Chief Electoral Officer must supply to the Returning Officer for a subsector a list of the polling officers appointed for the polling stations at which polling for that subsector is to take place.

(3) The Presiding Officer must display the list referred to in subsection (1) in a prominent place outside the polling station for which that Officer is appointed.

**39. Presiding Officer to exhibit at polling station notice providing information for guidance of voters**

(1) The Presiding Officer must ensure that a notice providing information for the guidance of voters and authorized representatives in voting procedure is exhibited outside the polling station and inside every voting compartment of that polling station.

(2) A notice under subsection (1) must be in the specified form.

**40. Returning Officer to determine no canvassing zones and no staying zones**

(1) The Returning Officer for a subsector must determine an area outside each polling station used for polling for that subsector as a no canvassing zone and an area within that area as a no staying zone. A no canvassing zone and a no staying zone are to be determined with reference to a map or plan.

(2) If a polling station is to be used for polling for more than one subsector, the determination of the no canvassing zone and the no staying zone is to be made by the Returning Officer specified for the purpose by the Chief Electoral Officer.

(3) If a polling station is to be used for polling for only one subsector, the Returning Officer for the subsector must give notice to the candidates.

(4) If a polling station is to be used for polling for more than one subsector, the Returning Officer who makes the determination must give notice to the candidates for the subsector for which that Officer is appointed and the Returning Officers for the other subsectors for which the polling station is to be used.

(5) Notice under subsection (3) or (4) must be given at least 5 days before polling day.

(6) A Returning Officer who is given notice under subsection (4) must give notice to the candidates for the subsector for which that Officer is appointed as soon as practicable after that Officer receives the notice.

(7) A Returning Officer who makes a determination of a no canvassing zone or a no staying zone may vary either or both of those areas in accordance with this section. Subject to subsection (11), notice of a variation must be given as soon as practicable after the variation in the same manner as notice of a no canvassing zone or a no staying zone is given under subsection (3) or (4).

(8) On polling day, the Returning Officer who has determined the no canvassing zone or the no staying zone (or subsequently varied it, if applicable) must display at or near the polling station a notice of the no canvassing zone and the no staying zone. That Officer must also indicate the boundaries of those zones in a manner that Officer thinks fit.

(9) If after display under subsection (8), either or both of those areas are varied, the Returning Officer must display at or near the polling station a notice of the no canvassing zone or the no staying zone or both those zones, if appropriate, as varied.

(10) A determination of a no canvassing zone or a no staying zone or the variation of such an area becomes effective only on the display of a notice under subsection (8) or (9), as may be applicable.

(11) A notice of a variation under subsection (7) need not be given to the candidates if it is not reasonably practicable to do so before the close of the poll. Notice may be given to the election agent or polling agent of a candidate if present at the polling station.

(12) A notice required to be given to a candidate under this section may be given to the election agent or polling agent of the candidate instead of to the candidate.

(13) For the purposes of this section, "notice" (通知、公告) means a notice of the determination of the no canvassing zone and the no staying zone with a map or plan or separate maps or plans showing those zones in relation to the relevant polling station.

(14) On polling day, a person must not –

- (a) subject to subsection (15)(a), engage in canvassing for votes in a no canvassing zone;
- (b) use a sound amplifying system or device for any purpose in the no canvassing zone;
- (c) use a sound amplifying system or device, for canvassing for votes, so that the sound emitted by it can be heard in the no canvassing zone;
- (d) subject to subsection (15)(b), without reasonable excuse, display in the no canvassing zone any badge, emblem or clothing which –
  - (i) may promote or prejudice the election of a candidate or candidates at the subsector election;  
or
  - (ii) makes direct reference to a political body in Hong Kong or to a body any member of which is standing as a candidate at the subsector election;  
or
- (e) stay or loiter in the no staying zone without the express permission of the Presiding Officer.

(15) On polling day, a person may, on the storeys above or below street level in a building within the no canvassing zone other than a building in which there is a polling station –

- (a) without obstructing any person, canvass for votes from door to door; and

- (b) for the purpose of such canvassing, display any badge, emblem or clothing referred to in subsection (14)(d).

**41. Presiding Officer to keep order in no canvassing zone and no staying zone**

(1) The Presiding Officer must use that Officer's best endeavours to ensure that a person does not, on polling day –

- (a) engage in canvassing for votes in the no canvassing zone (except as provided in section 40(15)(a));
- (b) use a sound amplifying system or device for any purpose in the no canvassing zone;
- (c) use a sound amplifying system or device, for canvassing for votes, so that the sound emitted by it can be heard in the no canvassing zone;
- (d) (except as provided in section 40(15)(b)) without reasonable excuse, display in the no canvassing zone any badge, emblem or clothing which –
  - (i) may promote or prejudice the election of a candidate or candidates at the subsector election; or
  - (ii) makes direct reference to a political body in Hong Kong or to a body any member of which is standing as a candidate at the subsector election; or
- (e) stay or loiter in the no staying zone (except where the person has been expressly permitted to do so by the Presiding Officer).

(2) If, on polling day, in a no canvassing zone or a no staying zone, a person –

- (a) misconducts himself or herself, the Returning Officer or the Presiding Officer may;
- (b) fails to obey a lawful order of the Returning Officer, that Officer may; or
- (c) fails to obey a lawful order of the Presiding Officer, that Officer may,

order the person to leave the no canvassing zone or the no staying zone, as the case may be, immediately.

(3) If a person fails to leave when ordered to do so under subsection (2), the person may be removed by a police officer or by a person authorized in writing by the Returning Officer or the Presiding Officer, as may be appropriate.

(4) A person who is removed under subsection (3) may not enter the relevant area again on that day, unless the Returning Officer or the Presiding Officer, as may be appropriate, permits him or her to do so.

(5) The powers conferred by this section are not to be exercised so as to prevent a person from voting at the polling station allocated to that person.

(6) For the purpose of subsection (2) but without limiting it, a person misconducts himself or herself if the person causes an obstruction to any person who is in the no canvassing zone or the no staying zone and on his or her way to vote.

#### **42. Candidates may appoint polling agents**

(1) A candidate may appoint persons to attend at polling stations on his or her behalf for any purpose connected with the conduct of a poll, in accordance with this section.

(2) Polling agents may be appointed by a candidate to attend only at the polling stations used for polling for the subsector for which the candidate is standing for election.

(3) A candidate may appoint a maximum of 2 polling agents for one polling station.

(4) Only a holder of an identity card who has attained the age of 18 years may be appointed as a polling agent.

(5) A candidate who appoints a polling agent must give notice of the appointment either to the Chief Electoral Officer to reach that Officer at least 1 week before polling day or on polling day, to the Presiding Officer of the polling station for which the polling agent is appointed.

(6) If notice of appointment is given on polling day, it must be delivered to the Presiding Officer –

(a) by the candidate in person; or

(b) by the election agent of the candidate, in person.

(7) The appointment of a polling agent is not effective until notice of the appointment is received by the Chief Electoral Officer or the Presiding Officer, as may be appropriate.

(8) A notice of appointment must be in writing and in the specified form. It must state the name, identity card number and address of the polling agent. It must be signed by the candidate.

(9) If the appointment of a polling agent is revoked, the candidate must give notice of the revocation to the Chief Electoral Officer or the Presiding Officer.

(10) A notice of revocation must be in writing and in the specified form. It must be signed by the candidate.

(11) If notice of revocation is given before polling day, it must be given to the Chief Electoral Officer. If it is given on polling day, it must be given to the Presiding Officer of the polling station for which the polling agent is appointed in accordance with subsection (6).

(12) The revocation of the appointment of a polling agent is not effective until notice of the revocation is received by the Chief Electoral Officer or the Presiding Officer, as may be appropriate.

**43. Chief Electoral Officer to delineate polling stations on map and display map outside polling station**

(1) The Chief Electoral Officer must delineate each polling station on one or more maps or plans. The Chief Electoral Officer must display the relevant map or plan outside each polling station.

(2) The Presiding Officer must demarcate clearly by marks, barriers or other means as that Officer thinks fit, the polling station in accordance with the map or plan referred to in subsection (1).

(3) The Chief Electoral Officer and the Presiding Officer must carry out their functions under this section before the poll commences.

**44. Who may enter or be present at polling station**

(1) Except where it is provided otherwise in this Regulation, a person must not enter a polling station other than to vote.

(2) Subject to subsections (4) and (5), in order to ensure that polling takes place smoothly and efficiently, the Presiding Officer may –

- (a) regulate the number of voters, authorized representatives, candidates, election agents and polling agents to be admitted to the polling station at any one time; or
- (b) exclude any person from the polling station.

(3) Without limiting subsection (2), the Presiding Officer may exclude from the polling station any person who is present in contravention of this section.

(4) The Presiding Officer may not exclude from the polling station –

- (a) polling officers;
- (b) the Chief Returning Officer (Subsectors);
- (c) the Returning Officers or Assistant Returning Officers for the subsectors for which the polling station is used;
- (d) members of the Commission;

- (e) public officers on duty at the polling station;
- (f) the Chief Electoral Officer;
- (g) public officers authorized in writing by the Chief Electoral Officer; or
- (h) persons authorized in writing by a member of the Commission.

(5) A person authorized by the Commission to be present in a polling station may be present in accordance with the terms of the authorization.

(6) Subject to subsections (7), (8), (9), (10), (11) and (12), on behalf of each candidate, one polling agent of that candidate may be present in the polling station at any one time.

(7) If a candidate is present in the polling station, the election agent or polling agent of that candidate may not be present in that polling station at the same time.

(8) If the election agent of a candidate is present in the polling station, a polling agent of that candidate may not be present in that polling station at the same time.

(9) A candidate, an election agent or a polling agent may be present in the polling station subject to the availability of seats in the area designated to accommodate them.

(10) A person referred to in subsection (9) who wishes to be admitted to the polling station must, on arriving at the polling station, report in person to the Presiding Officer and produce his or her identity document and a declaration of secrecy completed on the specified form by him or her.

(11) If the area referred to in subsection (9) is occupied to its full seating capacity, the Presiding Officer may refuse entry to the polling station to any person referred to in that subsection. That Officer may make arrangements for admitting them to the polling station later.

(12) Only an election agent or polling agent regarding whom notice of appointment has been given under this Regulation may be present in a polling station on behalf of a candidate.

(13) If –

- (a) a person arrives at a polling station for the purpose of voting accompanied by a child; and
- (b) the Presiding Officer considers that the child –
  - (i) should not be left unattended while the person is in the polling station; and
  - (ii) will not disturb or cause inconvenience to any person in the polling station,

that Officer may permit the child to enter the polling station.

(14) The Presiding Officer must not exercise the powers conferred on that Officer under this section so as to prevent a person from voting at the polling station allocated to that person.

#### **45. What constitutes offence at polling station**

(1) Subject to subsection (6), if on polling day, within a polling station, a person –

- (a) communicates with a voter or an authorized representative;  
or
- (b) uses a mobile telephone, paging machine or any other device for electronic communication,

contrary to a direction of the Presiding Officer not to do so, that person commits an offence.

(2) A person who, on polling day, films or takes photographs or makes any audio or video recording within a polling station without –

- (a) the express permission of –
  - (i) the Presiding Officer; or
  - (ii) any member of the Commission; or

- (b) the express permission, in writing, of the Returning Officer for the subsector or subsectors for which the polling station is used for polling,

commits an offence.

(3) A person who, on polling day, engages in canvassing for votes or displays an election advertisement within a polling station, commits an offence.

(4) A person who, on polling day –

- (a) in a no canvassing zone or a no staying zone or within or at a polling station –
  - (i) fails to comply with a lawful order given by the Returning Officer or the Presiding Officer; or
  - (ii) behaves in a disorderly manner; or
- (b) contravenes section 40(14) or 41(4),

commits an offence.

(5) A person who, without reasonable excuse, displays, on polling day and within a polling station, any badge, emblem or clothing which –

- (a) may promote or prejudice the election of a candidate or candidates at the subsector election; or
- (b) makes direct reference to a political body in Hong Kong or to a body any member of which is standing as a candidate at the subsector election,

commits an offence.

(6) Subsection (1) does not apply to –

- (a) a Returning Officer;
- (b) a member of the Commission;
- (c) the Chief Electoral Officer;
- (d) a person authorized in writing by a member of the Commission to so communicate;
- (e) a Presiding Officer;
- (f) a polling officer;

- (g) a person authorized in writing by the Returning Officer to act as a liaison officer;
- (h) a police officer on duty at a polling station; or
- (i) a member of the Civil Aid Service on duty at the polling station.

(7) A person who commits an offence under this section is liable to a fine at level 2 and to imprisonment for 3 months.

**46. Presiding Officer to keep order at polling station**

- (1) The Presiding Officer must keep order at the polling station.
- (2) If, on polling day, at a polling station, a person –
  - (a) misconducts himself or herself, the Returning Officer or the Presiding Officer may;
  - (b) fails to obey a lawful order of the Returning Officer, that Officer may; or
  - (c) fails to obey a lawful order of the Presiding Officer, that Officer may,

order the person to leave the polling station or the vicinity of the polling station, as the case may require, immediately.

(3) If a person fails to leave when ordered to do so under subsection (2), the person may be removed by a police officer or by a person authorized in writing by the Returning Officer or the Presiding Officer, as may be appropriate.

(4) A person who is removed under subsection (3) may not enter the relevant polling station again on that day, unless the Returning Officer or the Presiding Officer, as may be appropriate, permits him or her to do so.

(5) The powers conferred by this section are not to be exercised so as to prevent a person from voting at the polling station allocated to that person.

(6) For the purpose of subsection (2) but without limiting it, a person misconducts himself or herself if the person disrupts the poll at the polling station, or disturbs or causes inconvenience to any person in the polling station.

## **Division 2: Ballot Boxes and Ballot Papers and Procedure for Voting**

### **47. Design of ballot box**

A ballot box to be used for a subsector election is to be so constructed that ballot papers can be introduced into it while it is locked but cannot be withdrawn from it without unlocking it or breaking the seal or the sealing device.

### **48. Presiding Officer to seal ballot box before commencement of poll**

(1) Immediately before the commencement of the poll, the Presiding Officer must show each ballot box, empty, to the persons, if any, as are then present within the polling station. Then the Presiding Officer must lock the ballot box, seal it with a seal provided for that purpose or any other device specified by the Chief Electoral Officer, so that it cannot be opened without breaking the seal or the device.

(2) The Presiding Officer must place the ballot box for the receipt of ballot papers in that Officer's view or in the view of any other polling officers, and must keep it locked and sealed.

### **49. Form of ballot papers and order of appearance of names of candidates on ballot papers**

(1) Subject to subsection (2), a ballot paper to be used to vote at a subsector election is to be in Form 1 in Schedule 2.

(2) If the Commission has made a direction under section 56(2) in relation to a subsector by-election, the ballot paper to be used to vote at the subsector by-election is to be in Form 2 in Schedule 2.

(3) The Commission may decide –

- (a) to have a ballot paper printed in white or in colour or a colour pattern;
- (b) the colour in which a ballot paper is to be printed or the colour pattern to be printed on a ballot paper;
- (c) to have the ballot papers for different subsectors printed in different colours or with different colour patterns;
- (d) whether or not to have a design on the back of a ballot paper;
- (e) the design to be printed on the back of a ballot paper; or
- (f) to have different designs printed on the back of ballot papers for different subsectors.

(4) The order in which the names of candidates appear on a ballot paper is to be determined by the Returning Officer by the drawing of lots. A number is to be allocated to each candidate in accordance with the result of the draw.

(5) A candidate may be present at the drawing of lots under this section or be represented by a person authorized in writing by him or her.

(6) The Returning Officer must give notice to each candidate of the arrangements for the drawing of lots under this section.

(7) A ballot paper is to contain the following information –

- (a) the name of the candidate;
- (b) if the Commission so determines, the address of the candidate as shown on the notice of nominations that has been published under section 18; and
- (c) the number allocated to the candidate under this section.

(8) In the case of the death or disqualification of a candidate who has been allocated a number under this section, the name of the candidate and the information under subsection (7) relating to that candidate –

- (a) are to be omitted from the ballot paper; or

(b) if printed on the ballot paper, are to be crossed out in accordance with section 37(2).

(9) The number allocated to a candidate under this section is not to be altered even if the information relating to another candidate for the subsector concerned who has died or is disqualified is omitted from the ballot paper or crossed out under subsection (8).

(10) A ballot paper is to have the date and description of the subsector election printed on the front of it.

(11) A number may be printed on the counterfoil of a ballot paper, but that number is not to be printed or shown in any manner on the ballot paper.

(12) A notice required to be given to a candidate under subsection (6) may be given to the election agent of the candidate instead of to the candidate.

**50. Ballot paper to be issued to person only if Presiding Officer is satisfied of person's identity**

(1) The Presiding Officer must not issue a ballot paper to a person unless that Officer is satisfied by inspecting that person's identity document or any other document showing the person's name and photograph that he or she is the person registered in the subsector final register, whom he or she claims to be.

(2) A person is not to be prevented from voting only due to an omission or inaccuracy of a particular required to be recorded in the subsector final register, other than the omission of both the person's name and the identity document number.

**51. Questions to be asked of persons applying for ballot paper**

(1) The Presiding Officer may, at the time a person applies for a ballot paper, but not afterwards, ask, in case of doubt, the appropriate questions set out in subsection (3).

(2) When asking the questions, the Presiding Officer must have regard to whether the person applying for the ballot paper is a voter or an authorized representative. That Officer must choose, frame, adjust or modify the questions accordingly.

(3) The questions referred to in subsections (1) and (2) are –

(a) "Are you the person registered in the subsector final register now in effect for this subsector, as follows (the Presiding Officer to read the whole entry as it is recorded in the register)?" or "你是否已登記在就本界別分組正有效的界別分組正式投票人登記冊上，並且有關登記記項一如以下所述 (the Presiding Officer to read the whole entry as it is recorded in the register)?";

(b) "Have you already voted for this subsector?" or "你是否已經就本界別分組投票?".

(4) The Presiding Officer must ask the appropriate questions set out in subsection (3) if so required by a candidate, an election agent or a polling agent.

(5) The Presiding Officer must not issue a ballot paper to any person who fails to answer the questions asked of that person under this section to the satisfaction of that Officer.

## **52. Candidate or election agent may challenge person who has applied for ballot paper or who has voted**

(1) If a candidate, an election agent or a polling agent declares to the Presiding Officer that he or she has reasonable cause to believe that a person has engaged in corrupt conduct by impersonation and undertakes in writing to substantiate the allegation in a court, the Presiding Officer may request a police officer to arrest that person. A candidate, an election agent or a polling agent may so declare only at the time a person applies for the ballot paper or after a

person has applied for a ballot paper and before he or she has left the polling station.

(2) If the Presiding Officer has reason to believe that a person applying for a ballot paper or who has applied for a ballot paper and who has not left the polling station has engaged in corrupt conduct by impersonation, the Presiding Officer may request a police officer to arrest that person.

(3) A person regarding whom a declaration is made under subsection (1) (whether or not that person is arrested under that subsection) or a person who has been arrested under subsection (2) is not to be prevented from voting only by reason of the declaration or the arrest.

(4) In this section, the reference to corrupt conduct by impersonation is to be construed as the corrupt conduct referred to in section 15 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

**53. Presiding Officer to issue ballot papers to voter or authorized representative**

(1) At a polling station used only for polling for one subsector, the Presiding Officer is, subject to subsection (3), to issue one ballot paper to a person who is voting only as a voter or only as an authorized representative.

(2) At a polling station used for polling for more than one subsector, the Presiding Officer is, subject to subsection (3), to issue –

- (a) one appropriate ballot paper to a person who is voting only as a voter or only as an authorized representative; and
- (b) 2 appropriate ballot papers to a person who is voting as a voter and as an authorized representative.

(3) Subject to section 60, if a person has been issued with a ballot paper for a subsector, a Presiding Officer must not issue another ballot paper for the subsector to that person.

(4) Before a ballot paper is issued under this section, the name of the voter or authorized representative, as may be applicable, as stated in the copy of the subsector final register must be called out.

(5) Immediately before issuing the ballot paper, the Presiding Officer must place a line in the copy of the subsector final register across the name and identity document number of the voter or authorized representative to denote that the ballot paper the person is entitled to have issued to him or her at that polling station has been so issued.

(6) No record is to be made of the particular ballot paper issued to a voter or authorized representative.

#### **54. Procedure for voting**

(1) Subject to section 55, a voter or authorized representative who has been issued with a ballot paper must immediately cast his or her vote. When a voter or authorized representative is issued with a ballot paper, he or she must immediately go into a voting compartment and mark the ballot paper as appropriate. After marking the ballot paper, the voter or authorized representative must fold the ballot paper so that the marked side is inside and put the folded ballot paper into the ballot box.

(2) A voter or authorized representative must leave the polling station as soon as he or she has put the ballot paper into the ballot box.

(3) A person must not put anything other than a marked ballot paper into the ballot box.

(4) Except where it is provided otherwise in this Regulation, a person must not remove a ballot paper from a polling station. A person who contravenes this subsection commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months.

(5) In this section, "voting compartment" (投票間) means a compartment provided under section 37(1) for the purpose of marking ballot papers.

**55. Voter or authorized representative having left polling station without casting vote may return to cast vote under certain circumstances**

(1) Subject to subsection (6), a voter or authorized representative who –

- (a) has been issued with a ballot paper; and
- (b) has left the polling station without casting his or her vote,

must not cast the vote unless before leaving the polling station, the voter or authorized representative has made a request to the Presiding Officer for permission to cast the vote at the polling station before the close of the poll and the Presiding Officer has granted the permission.

(2) On making a request under subsection (1), the voter or authorized representative must –

- (a) inform the Presiding Officer of his or her reason for leaving the polling station without casting the vote; and
- (b) immediately give back to that Officer the ballot paper that has been issued to him or her.

(3) If a voter or authorized representative has made a request under subsection (1) and has complied with subsection (2), the Presiding Officer must grant the permission unless that Officer is of the opinion that the request is a manifest abuse of the facilities provided by this section.

(4) If the Presiding Officer grants the permission under subsection (3), that Officer must –

- (a) keep in that Officer's custody the ballot paper that is given to that Officer under subsection (2)(b); and
- (b) on the voter's or authorized representative's return to the polling station before the close of the poll to cast his or her vote, return to the voter or authorized representative that ballot paper in the presence of a police officer.

(5) If the Presiding Officer does not grant the permission under subsection (3), that Officer must immediately return to the voter or authorized representative the ballot paper that is given to that Officer under subsection (2)(b).

(6) A voter or authorized representative who –

- (a) has been issued with a ballot paper;
- (b) becomes incapacitated from voting by physical illness; and
- (c) has left the polling station without casting his or her vote,

may cast the vote at the polling station before the close of the poll if before he or she leaves the polling station, the ballot paper has been given back to the Presiding Officer. In that case, the Presiding Officer must keep that ballot paper in that Officer's custody and on the voter's or authorized representative's return to the polling station before the close of the poll to cast the vote, return to the voter or authorized representative that ballot paper in the presence of a police officer.

(7) When a voter or authorized representative is returned a ballot paper under subsection (4)(b), (5) or (6), section 54 and this section apply as if the voter or authorized representative had been issued with the ballot paper.

## **56. How ballot papers are to be marked**

(1) Subject to subsection (2), a voter or authorized representative voting at a subsector election must mark the ballot paper by shading the ovals on it opposite the names of the candidates of his or her choice.

(2) The Commission may, in relation to a subsector by-election, direct that the ballot paper must be marked with a chop provided for that purpose by the Chief Electoral Officer at the polling station and bearing the mark "✓", with or without any design. If the Commission so directs –

- (a) a voter or authorized representative voting at the subsector by-election must mark the ballot paper with the chop; and

- (b) the chop is to be affixed to give a single "✓" in the circles on the ballot paper opposite the names of the candidates of the voter's or authorized representative's choice.

(3) At a subsector ordinary election, a voter or authorized representative may vote for as many candidates as the number of EC members allocated to the subsector concerned. At a subsector by-election, a voter or authorized representative may vote for as many candidates as the number of EC members to be returned at the subsector by-election.

**57. Marking of ballot papers for or by incapacitated person**

(1) The Presiding Officer may mark a ballot paper for a voter or authorized representative who is or claims that he or she is unable to read or is incapacitated from voting due to blindness or other physical cause. The Presiding Officer may do so only on the application of such a voter or authorized representative.

(2) The Presiding Officer must mark the ballot paper for a person referred to in subsection (1) in the presence of a polling officer and in the appropriate manner specified in section 56, according to the choice of the voter or authorized representative. The Presiding Officer must put the ballot paper into the ballot box in the presence of a polling officer and in the appropriate manner described in section 54, after marking it.

(3) A voter or authorized representative who is blind or claims that he or she is blind may make use of a template to mark the ballot paper if a template is provided for that purpose at the polling station.

**58. When person is to be issued with ballot paper marked "重複" and "TENDERED"**

- (1) If –
  - (a) a person (the "first-mentioned person") representing himself or herself to be a particular voter or authorized

representative registered in the subsector final register applies for a ballot paper; and

- (b) a person (the "second-mentioned person") has been issued with a ballot paper on the basis that he or she is the first-mentioned person,

the Presiding Officer must issue to the first-mentioned person a ballot paper endorsed on the front of it with the words "重複" and "TENDERED", unless the first-mentioned person and the second-mentioned person are the same person.

(2) The Presiding Officer may issue a ballot paper under subsection (1) only if the first-mentioned person answers the appropriate questions set out in section 51 to the satisfaction of that Officer.

**59. What ballot papers are to be marked "未用" and "UNUSED" by Presiding Officer**

(1) Unless it is not reasonably practicable to do so, the Presiding Officer must endorse the words "未用" and "UNUSED" on any ballot paper that has been issued but has not been put into the ballot box, including any ballot paper kept in that Officer's custody under section 55(4) or (6) at the close of the poll.

(2) References in this Regulation to an "unused ballot paper" are to be construed as references to a ballot paper which has been issued and has not been put into the ballot box, whether or not it has been endorsed under subsection (1).

**60. What ballot papers are to be marked "損壞" and "SPOILT" by Presiding Officer**

(1) If a voter or authorized representative inadvertently deals with the ballot paper issued to him or her in such a manner that it cannot be properly used as a ballot paper or makes an error in marking a ballot paper, he or she may apply to the Presiding Officer for another ballot paper.

(2) The Presiding Officer may issue another ballot paper to a person referred to in subsection (1) if that person gives back the ballot paper already issued to him or her to that Officer and establishes to the satisfaction of that Officer inadvertence or the fact that he or she has made an error.

(3) The Presiding Officer must immediately cancel the ballot paper given back to that Officer under subsection (2) by endorsing on the front of it the words "損壞" and "SPOILT".

#### **61. Steps to be taken at polling station after close of poll**

(1) As soon as practicable after the close of the poll at a polling station, the Presiding Officer must, in the presence of the persons, if any, who are present within the polling station, take the following steps –

- (a) seal each ballot box with a seal provided for that purpose or with any other device specified by the Chief Electoral Officer, so that a ballot paper or any other material cannot be introduced into or withdrawn from the ballot box after it is sealed; and
- (b) make up into separate sealed packets –
  - (i) the un-issued ballot papers;
  - (ii) the unused ballot papers;
  - (iii) the spoiled ballot papers; and
  - (iv) the marked copies of the subsector final register.

(2) The Presiding Officer must then comply with section 69 in relation to the ballot box, the sealed packets and the ballot paper account.

(3) For the avoidance of doubt, it is declared that the ballot papers in a sealed packet prepared under this section are not to be processed for the purpose of the counting of votes. Accordingly, references in this Regulation to ballot papers in relation to the counting of votes are to be construed as not including those ballot papers.

**62. Presiding Officer to prepare ballot paper account**

(1) The Presiding Officer must prepare a statement which complies with subsection (2). At a polling station used for polling for more than one subsector, the Presiding Officer must make a separate statement for each subsector.

(2) The statement under subsection (1) must be in the specified form and show the number of ballot papers for the subsector, supplied to the Presiding Officer under section 37(2) and account for those ballot papers under the following heads –

- (a) the number of ballot papers estimated by the Presiding Officer to be in the ballot box or boxes;
- (b) the number of un-issued ballot papers;
- (c) the number of unused ballot papers; and
- (d) the number of spoilt ballot papers.

**PART 4**

**COUNTING OF VOTES: SUBSECTOR ELECTIONS**

**63. Returning Officer to give notice of time and place of counting of votes to candidates**

(1) Subject to subsection (6), the Returning Officer is to determine the time at which the counting of the votes in respect of a subsector election is to begin.

(2) The time determined under subsection (1) must be a time after the poll has closed at all the polling stations at which polling for that subsector was conducted.

(3) The Returning Officer must give notice in writing to each candidate for a subsector of the time determined for the counting of the votes for that subsector to begin and the place at which the counting is to take place.

(4) Notice under subsection (3) must be given at least 24 hours in advance of the relevant time determined under subsection (1).

(5) If the poll for a subsector is adjourned under Schedule 1, the counting of the votes for that subsector is to stand postponed.

(6) If the counting of votes stands postponed under subsection (5), the Chief Electoral Officer is to determine a time for the counting to begin and the place at which it is to take place. The time must be after the adjourned poll for the subsector is resumed and after the close of that poll. The Returning Officer is to give notice to each candidate for the relevant subsector of the time and place.

(7) A notice required to be given to a candidate under this section may be given to the election agent or counting agent of the candidate instead of to the candidate.

#### **64. Candidates may appoint counting agents**

(1) A candidate may appoint persons to attend at a counting station to observe the counting of the votes for the subsector contested by the candidate, in accordance with this section.

(2) The Commission is to determine the maximum number of counting agents a candidate may appoint.

(3) Only a holder of an identity card who has attained the age of 18 years may be appointed as a counting agent.

(4) A candidate must give notice of appointment of counting agent to the Returning Officer.

(5) A notice of appointment must be given to the Returning Officer –

(a) to reach that Officer at least 3 working days before polling day; or

(b) on polling day.

(6) If notice of appointment is given on polling day, it must be delivered to the Returning Officer –

- (a) by the candidate in person; or
- (b) by the election agent of the candidate, in person.

(7) The appointment of a counting agent is not effective until notice of the appointment is received by the Returning Officer.

(8) A notice of appointment must be in writing and in the specified form. It must state the name, identity card number and address of the counting agent. It must be signed by the candidate.

(9) If the appointment of a counting agent is revoked, the candidate must give notice of the revocation to the Returning Officer.

(10) A notice of revocation must be in writing and in the specified form. It must be signed by the candidate.

(11) If notice of revocation is given on polling day, it must be given in accordance with subsection (6).

(12) The revocation of the appointment of a counting agent is not effective until notice of the revocation is received by the Returning Officer.

## **65. Chief Electoral Officer to appoint counting officers**

(1) The Chief Electoral Officer may appoint, as counting officers, persons that Officer considers suitable to assist a Returning Officer in the counting of votes.

(2) The Chief Electoral Officer must supply to each Returning Officer a list of the counting officers appointed to assist the Returning Officer.

(3) The Chief Electoral Officer must display the list of counting officers in a prominent place within the relevant counting station or stations.

## **66. Who may be present at counting of votes**

(1) Subject to subsections (2) and (6), only the Chief Returning Officer (Subsectors), Returning Officer, Assistant Returning Officer and the following persons may be present at the counting of votes –

- (a) counting officers;

- (b) candidates;
- (c) election agents and counting agents;
- (d) members of the Commission;
- (e) the Chief Electoral Officer;
- (f) police officers on duty at the counting station;
- (g) members of the Civil Aid Service on duty at the counting station;
- (h) public officers authorized in writing by the Chief Electoral Officer; and
- (i) persons authorized in writing by a member of the Commission.

(2) No other person may be present at the counting of votes except with the permission of –

- (a) if the counting takes place at a counting zone of a central counting station, the Chief Returning Officer (Subsectors), or the Returning Officer in charge of the counting zone; or
- (b) if the counting takes place at a counting zone of a counting station that is not a central counting station, the Returning Officer who supervises the counting station.

(3) The Chief Returning Officer (Subsectors), and the Returning Officer in charge of the counting zone, are to ensure that the arrangements for the counting of votes at a counting zone of a central counting station are such that the candidates and their respective election agents or counting agents are able to observe how individual votes are counted.

(4) The Returning Officer who supervises a counting station is to ensure that the arrangements for the counting of votes at a counting zone of the counting station are such that the candidates and their respective election agents or counting agents are able to observe how individual votes are counted.

(5) Only an election agent or counting agent regarding whom notice of appointment has been given under this Regulation may be present during the

counting of votes at the counting zone. On arriving at the counting station, an election agent or counting agent must report in person to the Returning Officer and produce his or her identity document and a declaration of secrecy completed on the specified form by him or her.

(6) The Chief Returning Officer (Subsectors) (in the case of a central counting station), or the Returning Officer who supervises the counting station (in the case of a counting station that is not a central counting station), may, if that Officer considers it appropriate and practicable without disrupting the counting of votes and prejudicing the secrecy of the individual votes, permit members of the public to observe the counting of votes from an area at the counting station set apart for that purpose by that Officer. The area is to be at such a distance from the place where the votes are being counted as that Officer considers appropriate.

#### **67. What constitutes offence at counting station**

(1) A person who, during the relevant period, films or takes photographs or makes any audio or video recording within a counting zone of a counting station without the express permission of –

- (a) (i) in the case of a central counting station, the Chief Returning Officer (Subsectors), or the Returning Officer in charge of the counting zone; or
- (ii) in the case of a counting station that is not a central counting station, the Returning Officer who supervises the counting station; or

(b) any member of the Commission,  
commits an offence.

(2) In subsection (1), "relevant period" (有關期間) means, in relation to a counting zone, the period commencing from the time, determined under section 63, at which the counting of votes is to begin at the zone and ending upon the completion of the counting and re-count, if any, at the zone.

(3) A person who, at or in the vicinity of a counting station, behaves in a disorderly manner, or fails to comply with a lawful order given by –

- (a) in the case of a central counting station, the Chief Returning Officer (Subsectors), or the Returning Officer in charge of a counting zone of the central counting station;  
or
- (b) in the case of a counting station that is not a central counting station, the Returning Officer who supervises the counting station,

commits an offence.

(4) A person who commits an offence under this section is liable to a fine at level 2 and to imprisonment for 3 months.

#### **68. Returning Officers to keep order at counting station**

(1) The Chief Returning Officer (Subsectors), and the Returning Officers in charge of a counting zone of a central counting station, must keep order at the central counting station.

(2) The Returning Officer who supervises a counting station must keep order at the counting station.

(3) If a person –

- (a) misconducts himself or herself at or in the vicinity of –
  - (i) a central counting station, the Chief Returning Officer (Subsectors) may; or
  - (ii) a counting station that is not a central counting station, the Returning Officer who supervises the counting station may;
- (b) at or in the vicinity of a counting station, fails to obey a lawful order of the Returning Officer –
  - (i) who supervises the counting station; or

(ii) in charge of a counting zone of the counting station,

that Officer may,

order the person to leave the counting station or the vicinity of the counting station, as the case may be, immediately.

(4) The Chief Returning Officer (Subsectors) or the Returning Officer who supervises a counting station may order a person to leave the counting station immediately if that Officer reasonably considers that, having regard to the conduct of the person, the person's presence at the counting station is for a purpose other than that for which such presence is permitted or authorized.

(5) If a person fails to leave when ordered to do so under subsection (3) or (4), the person may be removed by a police officer or by a person authorized in writing by the Chief Returning Officer (Subsectors) or the Returning Officer, as may be appropriate.

(6) A person who is removed under subsection (5) may not enter the relevant counting station again on that day unless the Officer who ordered his or her removal permits him or her to do so.

(7) For the purpose of subsection (3) but without limiting it, a person misconducts himself or herself if the person disrupts the counting of votes at the counting station, or disturbs or causes inconvenience to any person in the counting station.

## **69. Ballot boxes to be delivered to counting station**

A Presiding Officer must deliver or arrange to be delivered to the counting station designated for the counting of the votes cast at the subsector election concerned, the ballot boxes from that Officer's polling station, together with the sealed packets under section 61 and the ballot paper account prepared by that Officer.

**70. Supervision of counting station and separate counting zones**

(1) The Chief Returning Officer (Subsectors) is to supervise the central counting station. In a central counting station, the respective Returning Officers for the subsectors are to be in charge of the counting zone for the relevant subsector.

(2) A counting station that is not a central counting station and is designated for the counting of the votes for a subsector election, is to be supervised by the Returning Officer for the subsector.

(3) The Chief Returning Officer (Subsectors) and the Returning Officer are to be assisted by one or more Assistant Returning Officers.

**71. Delivered ballot boxes and ballot paper accounts to be given into charge of relevant Returning Officer**

(1) After delivery to a central counting station –

(a) the ballot boxes and ballot paper accounts from a polling station are to be given into the charge of the Returning Officer specified for the purpose by the Chief Electoral Officer; and

(b) the sealed packets under section 61 are to be given into the charge of the Chief Returning Officer (Subsectors).

(2) If the Chief Returning Officer (Subsectors) considers that the arrangements described in subsection (1) are not practicable, that Officer may modify them.

(3) The ballot boxes, the ballot paper accounts and the sealed packets under section 61 delivered to a counting station that is not a central counting station are to be given into the charge of the Returning Officer who supervises the counting station.

**72. Returning Officer to open ballot box**

(1) A Returning Officer into whose charge a ballot box is given must, at the counting zone of which that Officer is in charge, open it by breaking the seal. That Officer must do so in the presence of the candidates, their election agents or counting agents, if present at the counting zone.

(2) The Returning Officer must permit a candidate, or the election agent or counting agent of a candidate, to inspect any paper taken from the ballot box, if so requested by the candidate or agent before the paper is disposed of. A candidate or an election agent or a counting agent must not be permitted under this subsection to inspect a ballot paper.

**73. Arrangements for counting of votes and verification of the ballot paper account in manual counting**

(1) This section applies where the votes cast for the candidates at the subsector election concerned are to be counted without the use of a computer.

- (2) At a central counting station, the Returning Officer must –
- (a) in relation to the ballot papers in the ballot boxes that have been given into that Officer's charge under section 71, at the counting zone of which that Officer is in charge –
    - (i) arrange for the ballot papers to be sorted according to each subsector;
    - (ii) arrange for the number of ballot papers to be counted and recorded for each subsector;
    - (iii) verify the ballot paper account for each subsector by comparing it with the number of ballot papers recorded for that subsector under subparagraph (ii);
    - (iv) prepare a statement in writing as to the result of the verification;

- (v) retain the ballot papers for the subsector for which that Officer is appointed together with the verification of the ballot paper account;
  - (vi) make into separate bundles the other sorted ballot papers together with the relevant verification of the ballot paper account, place each bundle in a separate receptacle and seal it in the presence of those present at the counting zone; and
  - (vii) arrange for the Assistant Returning Officer in attendance at the counting zone to hand over the receptacles to the Returning Officer for the relevant subsector at the counting zone for that subsector; and
- (b) in relation to the ballot papers retained by that Officer under paragraph (a)(v) and those handed over to that Officer under paragraph (a)(vii), arrange for the votes recorded on the ballot papers to be counted, without the use of a computer, at the counting zone of which that Officer is in charge.

(3) At a counting station that is not a central counting station, the Returning Officer must, in relation to the ballot papers in the ballot boxes that have been given into that Officer's charge under section 71 –

- (a) arrange for the number of ballot papers to be counted and recorded;
- (b) verify the ballot paper account by comparing it with the number of ballot papers recorded under paragraph (a);
- (c) prepare a statement in writing as to the result of the verification; and
- (d) arrange for the votes recorded on the ballot papers to be counted without the use of a computer.

(4) In preparing the verification of the ballot paper account, if the Returning Officer considers it necessary or if required by a candidate present at the counting zone or an election agent or a counting agent so present, that Officer must compare the ballot paper account with –

- (a) the number of ballot papers recorded for the subsector under subsection (2)(a)(ii) or (3)(a), as the case may be; and
- (b) the number of the counterfoils or un-issued ballot papers, the unused ballot papers and the spoilt ballot papers.

(5) A candidate, an election agent or a counting agent may copy what is recorded on the ballot paper account or the verification of the ballot paper account.

#### **74. Arrangements for counting of votes and verification of the ballot paper account in computer counting**

(1) This section applies where the votes cast for the candidates at the subsector election concerned are to be counted with the use of a computer.

- (2) At a central counting station, the Returning Officer must –
  - (a) in relation to the ballot papers in the ballot boxes that have been given into that Officer's charge under section 71, arrange for the votes recorded on the ballot papers to be counted with the use of a computer;
  - (b) in relation to the ballot papers the votes recorded on which cannot be counted with the use of a computer, at the counting zone of which that Officer is in charge –
    - (i) arrange for the ballot papers to be sorted according to each subsector;
    - (ii) retain the ballot papers for the subsector for which that Officer is appointed;

- (iii) arrange for the number of the other sorted ballot papers to be counted and recorded for each of the other subsectors;
  - (iv) prepare a statement in writing as to the number of ballot papers recorded for each of the other subsectors under subparagraph (iii);
  - (v) make into separate bundles the other sorted ballot papers together with the relevant statement prepared under subparagraph (iv), place each bundle in a separate receptacle and seal it in the presence of those present at the counting zone; and
  - (vi) arrange for the Assistant Returning Officer in attendance at the counting zone to hand over the receptacles to the Returning Officer for the relevant subsector at the counting zone for that subsector;
- (c) in relation to the ballot paper accounts that have been given into that Officer's charge under section 71 –
  - (i) retain the ballot paper account for the subsector for which that Officer is appointed; and
  - (ii) arrange for the Assistant Returning Officer in attendance at the counting zone to hand over the other ballot paper accounts to the Returning Officer for the relevant subsector at the counting zone for that subsector; and
- (d) in relation to the ballot papers retained by that Officer under paragraph (b)(ii) and those handed over to that Officer under paragraph (b)(vi), arrange for the votes recorded on the ballot papers to be counted, without the

use of a computer, at the counting zone of which that Officer is in charge.

(3) At a counting station that is not a central counting station, the Returning Officer must –

- (a) in relation to the ballot papers in the ballot boxes that have been given into that Officer's charge under section 71, arrange for the votes recorded on the ballot papers to be counted with the use of a computer; and
- (b) in relation to the ballot papers the votes recorded on which cannot be counted with the use of a computer, arrange for the votes recorded on the ballot papers to be counted without the use of a computer.

(4) After the votes for a subsector election have been counted under subsection (2) or (3), the Returning Officer must –

- (a) ascertain the number of ballot papers for the subsector in the ballot boxes from –
  - (i) the result of the counting of votes; and
  - (ii) the number of ballot papers that the Returning Officer decides under section 78 to be ballot papers the votes recorded on which are not to be counted;
- (b) verify the ballot paper accounts for the subsector by comparing them with the number of ballot papers so ascertained; and
- (c) prepare a statement in writing as to the result of the verification.

(5) In preparing the verification of the ballot paper account, if the Returning Officer considers it necessary or if required by a candidate present at the counting zone or an election agent or a counting agent so present, that Officer must compare the ballot paper account with –

- (a) the number of ballot papers ascertained for the subsector under subsection (4)(a); and
- (b) the number of the counterfoils or un-issued ballot papers, the unused ballot papers and the spoilt ballot papers.

(6) A candidate, an election agent or a counting agent may copy what is recorded on the ballot paper account or the verification of the ballot paper account.

**75. Votes to be counted in accordance with counting system in Schedule to Chief Executive Election Ordinance**

The votes recorded on the ballot papers are to be counted in accordance with the counting system described in section 29 of the Schedule to the Chief Executive Election Ordinance (Cap. 569), whether with or without the use of a computer.

**76. Result of counting of votes and re-count**

(1) After the votes for a subsector election have been counted under section 73 or 74, the Returning Officer must make known to the candidates who are present at the counting zone, the result of the counting of votes. If the candidates are not present the Returning Officer is to make known the result to the respective election agents or counting agents of the candidates, if those agents are present at the counting zone.

(2) A candidate who is present when the votes are counted or re-counted or an election agent so present may request the Returning Officer to count again the counted votes or re-counted votes, as the case may be. That Officer must comply with the request unless the Officer is of the opinion that the request is unreasonable.

(3) After a counting of votes or re-count is completed, nothing further is to be done until each candidate present at the completion, or the election agent

of each candidate (but not both) if present at the completion of the counting or re-count, is given a reasonable opportunity to make a request for a re-count.

**77. Ballot papers the votes recorded on which are not to be counted**

(1) The votes recorded on the following ballot papers are not to be counted –

- (a) on which there is writing or a mark by which the voter can be identified;
- (b) which has the words "重複" and "TENDERED" endorsed on the front of it;
- (c) which has the words "未用" and "UNUSED" endorsed thereon;
- (d) which has the words "損壞" and "SPOILT" endorsed on the front of it;
- (e) which is substantially mutilated;
- (f) which is unmarked;
- (g) subject to subsection (2), which is not marked in accordance with section 56; and
- (h) which the Returning Officer determines as being void for uncertainty.

(2) In the case of a ballot paper referred to in subsection (1)(g) that is used for a subsector by-election in relation to which the Commission has made a direction under section 56(2), if the Returning Officer is satisfied that the intention of the voter or authorized representative is clear notwithstanding the deviation from the requirements in section 56(2)(b), that Officer may count the vote recorded on that ballot paper.

(3) For the avoidance of doubt, it is declared that the Returning Officer is not to make a decision not to count the vote recorded on a ballot paper solely for the reason that the ballot paper is stamped with the words "已故" and

"DECEASED" or "喪失資格" and "DISQUALIFIED", as the case may be, in accordance with section 37(2).

**78. Returning Officer to make decisions on questionable ballot papers**

(1) Subject to subsection (2), the Returning Officer must separate from the other ballot papers and set aside any ballot paper which appears to that Officer to be a ballot paper described in section 77.

(2) If the votes cast at a subsector election are to be counted with the use of a computer under section 74, the Returning Officer is only required to comply with subsection (1) in relation to the ballot papers described in section 74(2)(d) or (3)(b), as the case may be.

(3) A candidate or an election agent, if present at the counting of votes, is entitled to inspect a ballot paper set aside by the Returning Officer. The candidate or the agent is entitled to make representations to the Returning Officer concerning the ballot paper.

(4) After considering the representations, the Returning Officer must make a decision as to whether the vote recorded on the ballot paper is not to be counted under section 77 or is to be counted.

(5) If the Returning Officer decides the vote recorded on a ballot paper is not to be counted, that Officer must endorse the words "不予接納" and "rejected" on the front of the ballot paper. If a candidate or an election agent objects to the Returning Officer's decision, that Officer must also add the words "不予接納的決定遭反對" and "rejection objected to".

(6) If a candidate or an election agent objects to the decision of the Returning Officer to count the vote recorded on a ballot paper, that Officer must endorse the words "予以接納的決定遭反對" and "acceptance objected to" on that ballot paper.

(7) The Returning Officer is to prepare a statement of the ballot papers which that Officer decides under this section to be ballot papers the votes

recorded on which are not to be counted. The statement is to be under the following heads –

- (a) writing or a mark by which the voter can be identified;
- (b) endorsed with the words "重復" and "TENDERED";
- (c) endorsed with the words "未用" and "UNUSED";
- (d) endorsed with the words "損壞" and "SPOILT";
- (e) substantially mutilated;
- (f) unmarked;
- (g) not marked in accordance with section 56; and
- (h) void for uncertainty.

**79. Returning Officer's decision on ballot paper to be final**

Subject to section 39 of the Schedule to the Chief Executive Election Ordinance (Cap. 569), the decision of the Returning Officer on a ballot paper is final.

**80. Returning Officer to declare subsector election result**

(1) When the counting of votes and re-counts, if any, are completed and the result of the subsector election determined, the Returning Officer is to declare as elected the candidates who were successful at the subsector election, as provided in section 29(7) of the Schedule to the Chief Executive Election Ordinance (Cap. 569).

(2) If before the Returning Officer declares a candidate to be elected, proof is given to the satisfaction of that Officer that the candidate has died or is disqualified from being elected, that Officer –

- (a) must not declare that candidate to be elected; and
- (b) must –

- (i) declare the candidate to be returned for the subsector under section 29(9) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) to be elected; or
- (ii) if there is no candidate who can be returned under that section, declare that no candidate is returned at the subsector election, as provided in section 26(2)(c) of that Schedule, or that the number of EC members returned at the subsector election for the subsector is less than the number of EC members to be returned at the subsector election, as provided in section 26(2)(d) of that Schedule.

(3) A declaration under section 26(2)(c) or (d) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) is to be made by the Returning Officer by a notice. The notice must be displayed in a prominent place outside the counting station. As soon as practicable after the declaration is made, the notice must be published in the Gazette.

#### **81. Form in which Returning Officer is to publish result of subsector election**

(1) The notice to be published under section 35(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) for a subsector election is to be in Form 3 in Schedule 2.

(2) A notice under subsection (1) must be published in the Gazette, within 7 days after the date the relevant result is declared under section 80.

(3) The Returning Officer is to prepare a notice of the result of the subsector election in the appropriate form under this section and display it prominently in a place outside the counting station.

(4) The Returning Officer is to send a copy of each notice prepared under subsection (3) to –

- (a) the Chairman;
- (b) the Secretary for Constitutional Affairs; and
- (c) the Chief Electoral Officer.

## PART 5

### DISPOSAL OF DOCUMENTS: SUBSECTOR ELECTIONS

#### **82. Returning Officer to seal ballot papers in packets**

(1) At a central counting station, the Chief Returning Officer (Subsectors) must, as soon as practicable after the results of the polls for all the subsectors concerned have been ascertained, make up into separate sealed packets in relation to those subsectors –

- (a) the ballot papers the votes recorded on which are counted;
- (b) the un-issued ballot papers;
- (c) the unused ballot papers;
- (d) the spoilt ballot papers; and
- (e) the rejected ballot papers.

(2) At a counting station that is not a central counting station, the Returning Officer must, as soon as practicable after having ascertained the result of the poll for the subsector for which that Officer is appointed, make up into separate sealed packets in relation to that subsector –

- (a) the ballot papers the votes recorded on which are counted;
- (b) the un-issued ballot papers;
- (c) the unused ballot papers;
- (d) the spoilt ballot papers; and
- (e) the rejected ballot papers.

(3) The Chief Returning Officer (Subsectors) or the Returning Officer must endorse on each sealed packet a description of its contents, the date of the relevant subsector election and the name of the subsector.

(4) A candidate or an election agent or a counting agent may be present when the Chief Returning Officer (Subsectors) or the Returning Officer makes up the sealed packets and endorses them.

(5) Before the Chief Returning Officer (Subsectors) or the Returning Officer makes up the packets, that Officer must inform –

- (a) the candidates who are present at the counting station; and
- (b) either the election agent or counting agent (if present) of a candidate who is not present at the counting station,

that they may be present when that Officer makes up the packets and seals and endorses them.

**83. Returning Officer to send ballot papers, accounts, packets, etc. to Chief Electoral Officer**

(1) As soon as practicable after preparing the notice of the result of the subsector election, the Returning Officer must send to the Chief Electoral Officer –

- (a) the ballot paper accounts, verification of the ballot paper account and the re-verification of the ballot paper account;
- (b) the statement referred to in section 78(7);
- (c) subject to subsection (2), the sealed packets made up under section 82;
- (d) a copy of the notice of the result of the subsector election;
- (e) all nomination forms;
- (f) notices of withdrawal of candidature, if any;
- (g) notices of appointment of election agents, polling agents and counting agents and copies of authorizations of election expense agents; and

(h) any other document relating to the subsector election specified by the Commission.

(2) At a central counting station where the votes are counted with the use of a computer, the sealed packets made up under section 82 are to be sent by the Chief Returning Officer (Subsectors) to the Chief Electoral Officer as soon as practicable after they have been made up.

**84. Ballot paper in custody of Chief Electoral Officer may be inspected only on court order**

The Chief Electoral Officer is not to permit any person to inspect any ballot paper in that Officer's custody other than on an order made by a Revising Officer in an appeal under section 39 of the Schedule to the Chief Executive Election Ordinance (Cap. 569) or on an order of court made in criminal proceedings.

**85. Chief Electoral Officer to retain subsector election documents for at least 6 months**

The Chief Electoral Officer must retain in that Officer's custody the documents sent to that Officer under section 83 for at least 6 months from the date of the subsector election to which they relate. That Officer must thereafter, unless directed by an order of the Revising Officer in an appeal under section 39 of the Schedule to the Chief Executive Election Ordinance (Cap. 569) or by an order of court made in criminal proceedings, destroy them.

## PART 6

### MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS: SUBSECTOR ELECTIONS

**86. Returning Officers, Presiding Officers, polling officers or counting officers not to act as agent of candidate in same subsector election**

(1) A Returning Officer, Presiding Officer, polling officer or counting officer who, in relation to the subsector election for which he or she is appointed,

acts as an election agent, a polling agent, a counting agent or an election expense agent, commits an offence.

(2) A person who commits an offence under subsection (1) is liable to a fine at level 2 and to imprisonment for 3 months.

**87. Employees of candidates not to act as electoral officers**

(1) A person who, while in the employment of a candidate, acts as a Returning Officer, Presiding Officer, polling officer or counting officer at a subsector election for which the candidate stands for election, commits an offence.

(2) A person who commits an offence under subsection (1) is liable to a fine at level 2 and to imprisonment for 3 months.

**88. Presiding Officer may perform functions through polling officers**

(1) A Presiding Officer may perform any act which that Officer is required or authorized to perform under this Regulation through a polling officer.

(2) The power to adjourn a poll under section 2(1) of Schedule 1 must be exercised by the Presiding Officer personally.

**89. Returning Officer may perform functions through Assistant Returning Officers**

(1) A Returning Officer may perform any act which that Officer is required or authorized to perform under this Regulation through an Assistant Returning Officer appointed for the subsector for which the Returning Officer is appointed.

- (2) A Returning Officer may not delegate under subsection (1) –
- (a) the power to determine the validity or otherwise of a nomination or a nomination form;
  - (b) a decision regarding a ballot paper; or

- (c) the declaration of the result of the subsector election.

**90. Chief Electoral Officer to be subject to direction of Commission**

(1) The Chief Electoral Officer is subject to the directions of the Commission in the performance of that Officer's functions under this Regulation.

(2) The Chief Electoral Officer may delegate that Officer's powers, duties or functions under this Regulation to a member of the staff provided under section 9(3) of the Ordinance.

**91. Acts done in absence of candidates or agents not to be invalid**

Where under this Regulation, an act or thing is required or authorized to be done in the presence of a candidate or all the candidates, the election agent, the polling agent or the counting agent of the candidate, that act or thing is not to be invalidated solely for the reason that such person or persons were not present as required or authorized.

**92. Electoral officers, candidates and agents to make declaration of secrecy**

(1) Every electoral officer (within the meaning of paragraph (d), (e), (g) or (h) of the definition of "electoral officer" in section 2(1) of the Chief Executive Election Ordinance (Cap. 569)), every person (other than such an electoral officer) who is appointed under that Ordinance or the Ordinance to perform functions at or in connection with a subsector election, or every person authorized by or under this Regulation to attend at a polling station except as a voter or an authorized representative must, before entering the polling station, make a declaration of secrecy on the specified form.

(2) Every candidate, counting agent or counting officer or other person (except as a member of the public under section 66(6)) authorized by or under

this Regulation to attend at the counting of votes must, before entering the counting station, make a declaration of secrecy on the specified form.

(3) The Returning Officer is to make the declaration in the presence of a Commissioner for Oaths. Any other person may make the declaration in the presence of the Returning Officer, a Commissioner for Oaths, a member of the Commission, the Chief Electoral Officer or a person whose official designation is that of a deputy to the Chief Electoral Officer.

(4) Every Returning Officer or other officer or any other person attending at a polling station or the counting of votes must maintain and assist in maintaining the secrecy of the ballot.

(5) Subsections (1) and (2) do not apply to a police officer or a member of the Civil Aid Service on duty at a polling station or a counting station.

### **93. Enforcement of provisions as to secrecy**

(1) A person who divulges to any other person, by communicating information as to the name or identity document number in a register of voters, or otherwise, whether a person has or has not applied for a ballot paper or voted, commits an offence.

(2) Subsection (1) does not apply to anything done for a purpose authorized by law or when required to do so by a police officer or an officer of the Independent Commission Against Corruption investigating an offence under the Ordinance, any regulation made under the Ordinance, the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), sections 3, 4 and 8 of the Prevention of Bribery Ordinance (Cap. 201) or section 13B of the Independent Commission Against Corruption Ordinance (Cap. 204).

(3) A person who communicates to any other person any information obtained at a counting of votes as to the candidate for whom a vote has been given on any particular ballot paper, commits an offence.

(4) A person who interferes with a voter when the voter is recording the vote, commits an offence.

(5) A person who interferes with or attempts to interfere with any ballot boxes, un-issued ballot papers, tendered ballot papers, unused ballot papers, spoilt ballot papers, marked ballot papers or a copy of the subsector final register marked under section 53(5), commits an offence.

(6) A person who interferes with or attempts to interfere with any opened ballot boxes, ballot paper accounts, verifications or re-verifications of such accounts or any other relevant subsector election materials referred to in this Regulation, commits an offence.

(7) A person who obtains or attempts to obtain in any manner –  
(a) within a polling station or a no staying zone; or  
(b) within a no canvassing zone, without the express permission of the Presiding Officer or the Commission, information as to the candidate for whom a voter in the polling station is about to vote or has voted, commits an offence.

(8) A person who communicates at any time to any person any information obtained in a polling station as to the candidate for whom a voter is about to vote or has voted, commits an offence.

(9) A person who directly or indirectly induces a voter to display the voter's ballot paper after the voter has marked it so as to make known to any person a candidate for or against whom the voter has voted, commits an offence.

(10) A person who commits an offence under this section is liable to a fine at level 2 and to imprisonment for 3 months.

(11) In this section, "voter" (投票人) includes an authorized representative.

#### **94. Procedure in case of death or disqualification of candidate on polling day but before declaration of result**

(1) If, on or after the date of a subsector election but before the declaration of the result of the subsector election, proof is given to the

satisfaction of the Returning Officer that a candidate for the subsector election has died or is disqualified from being elected, the Returning Officer must direct that the proceedings for the subsector election are to begin or to continue, as the case may be, as if the death or disqualification had not occurred.

(2) If, after the votes are counted, the deceased or disqualified candidate is found to be successful at the subsector election, section 80(2) applies.

(3) If the deceased or disqualified candidate is not successful at the subsector election, the Returning Officer must declare the successful candidate to be elected as provided in section 80(1).

#### **95. Publication and display of notices, etc.**

(1) The Returning Officer may publish or display a notice, determination, or other writing under this Regulation in a manner that Officer thinks fit except where specific provision is made for the publication or display in this Regulation.

(2) The following notices or notifications may be delivered by hand, sent by post or by facsimile transmission –

- (a) notice of the decision of the Returning Officer as to whether a person is validly nominated as a candidate;
- (b) notice of a declaration that a candidate has died or that the decision of the Returning Officer has been varied to the effect that a candidate is not validly nominated;
- (c) notice of the appointment or notice of revocation of the appointment of an election agent (other than a notice given on polling day);
- (d) notice to Returning Officers and to candidates of the determination of a no canvassing zone and a no staying zone;

- (e) notice to Returning Officers and to candidates of the variation before polling day of a no canvassing zone or a no staying zone;
- (f) notice to candidates of the arrangements for the drawing of lots to determine the order of appearance of candidates on the ballot papers;
- (g) notice of the appointment or notice of revocation of the appointment of a polling agent (other than a notice given on polling day);
- (h) notice of the appointment or notice of revocation of the appointment of a counting agent (other than a notice given on polling day); and
- (i) notice to candidates of the time and place for the counting of votes.

(3) Notice of variation of a no canvassing zone or a no staying zone on the polling day or notice of the resumption of the counting of votes after an adjourned poll or counting may be given orally if notice by hand, by post or by facsimile transmission is not practicable or is not suitable in the circumstances.

#### **96. Commission to designate Chief Returning Officer (Subsectors)**

The Commission may designate a Returning Officer as the Chief Returning Officer (Subsectors).

#### **97. Commission to specify forms**

(1) The Commission may specify forms for the purpose of this Regulation.

(2) The Chief Electoral Officer is to make available during ordinary business hours at that Officer's office and at the office of each Returning Officer, the forms specified under subsection (1).

(3) The Chief Electoral Officer may make the forms specified under subsection (1) available at any other place that Officer considers appropriate.

(4) Forms specified under subsection (1) are to be made available free of charge.

(5) Subsections (2), (3) and (4) do not apply to the specified forms for the subsector election notices, notice published under section 18 or 19, notification by the Chief Electoral Officer of the particulars of election agents, notice of guidance to voters referred to in section 39, ballot papers, ballot paper account or notice of the subsector election result.

(6) The Commission may specify forms for notifications by the Returning Officer under the Election Committee (Subscribers and Election Deposit for Nomination) Regulation (L.N. of 2001).

#### **98. Reporting of irregularities**

(1) If the Chief Electoral Officer, Returning Officer or Presiding Officer is of the opinion that an irregularity has occurred in relation to a subsector election, a poll or a counting of votes, the relevant Officer must make a report in writing to the Commission.

(2) A report of an irregularity must be made as soon as practicable after the relevant Officer becomes aware of it, but it must in any case be made within 14 days after the polling day of the subsector election to which it relates.

(3) If it appears to an Officer referred to in subsection (1) that an occurrence which that Officer considers to be a material irregularity has taken place or is likely to take place in relation to a subsector election, that Officer must make a report to the Commission immediately in a manner that Officer considers expedient in the circumstances.

(4) If a report is made under subsection (3) otherwise than in writing, the Officer concerned must make a report also in writing as soon as practicable, and in any event within 30 days after the polling day of the relevant subsector election.

**99. Letters that may be sent free of postage by candidates**

(1) A letter that may be sent free of postage by or on behalf of a candidate under section 38(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) must –

- (a) be posted in Hong Kong;
- (b) contain materials relating only to the candidate's candidature at the subsector election concerned;
- (c) not exceed 50 g in weight; and
- (d) be not larger than 175 mm x 245 mm and not smaller than 90 mm x 140 mm in size.

(2) If letters are sent, in a bulk mailing, free of postage by or on behalf of a candidate under section 38(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569), the candidate or any person authorized by the candidate must provide the Postmaster General with –

- (a) a specimen of the materials contained in that bulk mailing; and
- (b) a declaration, in the specified form, signed by the candidate or the person and stating that the materials contained in that bulk mailing are identical with the specimen provided to the Postmaster General.

(3) If, in relation to any letters sent, in a bulk mailing, free of postage by or on behalf of a candidate under section 38(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) –

- (a) any letter in that bulk mailing does not comply with subsection (1); or
- (b) a declaration under subsection (2)(b) is false in any particular,

the candidate is liable for payment of postage for all the letters in that bulk mailing.

**100. Election advertisements**

(1) Before a candidate displays, distributes or otherwise uses an election advertisement, he or she must allocate a number to each election advertisement. The number must be a consecutive number in a series beginning with the number 1 and is not to be used more than once for a particular type of election advertisement.

(2) Each type of election advertisement must be numbered as a separate series.

(3) A candidate must make a declaration which complies with subsection (4) in respect of the election advertisements he or she proposes to use at a subsector election.

(4) The declaration must be in the specified form and state the quantity of each type of election advertisement he or she proposes to display, distribute or otherwise use for the time being for the subsector election. The declaration must contain any other information required to be furnished on the specified form.

(5) The declaration must be submitted to the Returning Officer before the candidate displays, distributes or otherwise uses an election advertisement.

(6) Subject to subsection (7), a candidate must, before he or she displays, distributes or otherwise uses an election advertisement, furnish 2 copies of it to the Returning Officer.

(7) If it is not practicable to make a copy of an election advertisement, the candidate must furnish to the Returning Officer 2 colour photographs in postcard size of that election advertisement.

(8) If an election advertisement is recorded on a videotape or an audio tape or disc, the candidate must, for the purposes of subsection (6), furnish to the Returning Officer 2 copies of the tape or disc.

(9) The candidate must, before he or she displays, distributes or otherwise uses an election advertisement, deposit with the Returning Officer –

- (a) a copy of the permission or other authorization given or obtained for the purposes of section 104A(1) of the Public Health and Municipal Services Ordinance (Cap. 132); and
- (b) in case the election advertisement is of a kind referred to in section 27(1) or (2) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), a copy of the consent in writing referred to in section 27(1) or (2), as the case may be, of that Ordinance.

(10) The Returning Officer must make available for inspection by any person a copy each of any declaration, permission or authorization, consent or election advertisement furnished under this section. They must be made available after the declaration, permission or authorization, consent or election advertisement is furnished to the Returning Officer and until the expiry of the period for which copies of election returns lodged by candidates are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

(11) A candidate who fails to comply with any requirement in this section, commits an offence.

(12) A person who displays an election advertisement in respect of which a requirement in this section has not been complied with, commits an offence.

(13) A person who commits an offence under subsection (11) or (12) is liable to a fine at level 2 and to imprisonment for 6 months.

(14) The Returning Officer may seize and dispose of, or destroy, or with such materials as that Officer thinks fit, cover any election advertisement on display and in respect of which any requirement in this section has not been complied with.

(15) Subsections (1) and (2) do not apply to an election advertisement –

- (a) which is a printed material –
  - (i) of or smaller than A4 size, that is, 30 cm x 21 cm;

- (ii) contained in a single sheet of paper; and
- (iii) bearing upon it the printer's name and address, number of copies printed and date of printing;
- (b) appearing on a local newspaper (within the meaning of the Registration of Local Newspapers Ordinance (Cap. 268)) registered under section 7 of that Ordinance;
- (c) to be sent by facsimile or any other form of electronic transmission; or
- (d) in the form of a balloon, T-shirt, cap, badge or carrier bag.

(16) The Commission may exempt by notice published in the Gazette any other class or type of election advertisement from the application of subsections (1) and (2).

(17) If a Returning Officer has not been appointed for a subsector, references in this section to a Returning Officer are to be construed as references to the Chief Electoral Officer.

### **101. Offence of false declaration**

(1) A person who, in an election related document, makes a statement which that person knows to be false in a material particular or recklessly makes a statement which is incorrect in a material particular or knowingly omits a material particular from an election related document, commits an offence.

(2) A person who directly or indirectly by himself or herself or another person on his or her behalf conspires with, incites, compels, induces, coerces, intimidates or persuades another person to make a false statement in an election related document or to provide information which that person knows to be wrong in a material particular in an election related document, commits an offence.

(3) A person who commits an offence under this section is liable to a fine at level 2 and to imprisonment for 6 months.

(4) An offence under subsection (1) or (2) is to be an offence prescribed for the purposes of sections 14 and 26 of, and sections 9, 18 and 30 of the Schedule to, the Chief Executive Election Ordinance (Cap. 569).

(5) In this section, "election related document" (與選舉有關的文件) means a form, declaration, application, authorization, notice, statement or a nomination form required or used for the purposes of this Regulation.

## **Consequential Amendments**

### **Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation**

#### **102. Interpretation**

Section 2 of the Electoral Affairs Commission (Electoral Procedure)(Legislative Council) Regulation (Cap. 541 sub. leg.) is amended –

- (a) in subsection (1), by repealing the definitions of "Election Committee" and "subsector election";
- (b) by repealing subsection (7).

#### **103. Application**

Section 3 is amended –

- (a) by repealing subsection (3);
- (b) in subsection (4), by repealing ", by-election and subsector election" and substituting "and by-election".

#### **104. Procedure for nominations for the religious subsector and subsector elections**

Schedule 1 is repealed.

#### **105. Postponement and adjournment of general election and by-election**

Schedule 2 is amended –

- (a) in the square brackets, by repealing "& Sch. 1";
- (b) in the heading, by repealing ", BY-ELECTION AND SUBSECTOR ELECTIONS" and substituting "AND BY-ELECTION";
- (c) in section 1 –
  - (i) in subsection (1), by repealing "or a subsector election for all the subsectors for which an election is required to be held under Schedule 2 to the Legislative Council Ordinance (Cap. 542)";
  - (ii) in subsection (2), by repealing "or a subsector election";
- (d) in section 2 –
  - (i) in subsection (1) –
    - (A) by repealing ", by-election or subsector election" and substituting "or by-election";
    - (B) by repealing "or a subsector";
    - (C) by repealing "or the subsector election for the subsector";
  - (ii) in subsection (2) –
    - (A) by repealing ", by-election or subsector election" and substituting "or by-election";
    - (B) by repealing ", subsector" where it twice appears;
- (e) in section 3(1), by repealing ", by-election or subsector election" and substituting "or by-election";
- (f) in section 4(2) –
  - (i) in paragraphs (a) and (b), by repealing ", by-election or subsector election" and substituting "or by-election";
  - (ii) in paragraph (d), by repealing ", subsector";

- (g) in section 6(3), by repealing "or section 58(6) of Schedule 1, as may be appropriate";
- (h) in section 7(1) and (4), by repealing ", subsector election" wherever it appears.

**106. Form of subsector ballot paper and form of notice of result of subsector election under section 28(2) of Schedule 2 to the Legislative Council Ordinance (Cap. 542)**

Schedule 5 is repealed.

SCHEDULE 1

[ss. 63 & 88]

POSTPONEMENT AND ADJOURNMENT OF  
SUBSECTOR ELECTIONS

**1. Postponement of subsector election and adjournment of poll or counting of votes in respect of subsector election**

(1) If, during or before a subsector election, it appears to the Commission that the subsector election is likely to be obstructed, disrupted, undermined or seriously affected by an occurrence specified in subsection (3), the Commission may postpone the subsector election by making a declaration under section 3.

(2) If, at any time during the poll or the counting of votes in respect of a subsector election, it appears to the Commission that the poll at all the polling stations, or the counting of votes at all the counting stations, for the subsector concerned is likely to be obstructed, disrupted, undermined or seriously affected by an occurrence specified in subsection (3), the Commission may adjourn the poll at all the polling stations, or the counting of votes at all the counting stations, for that subsector by making a declaration under section 3.

(3) The occurrences for the purposes of subsections (1) and (2) are –

- (a) a typhoon or other climatic condition of a serious nature;
- (b) riot, open violence or other occurrence of public danger;  
or
- (c) an occurrence which appears to the Commission to be a material irregularity relating to the subsector election, the poll or the counting of votes.

**2. Adjournment of poll at particular polling station**

(1) If, at any time during a poll in respect of a subsector election, it appears to the Presiding Officer that the poll at the polling station is likely to be obstructed, disrupted, undermined or seriously affected by an occurrence specified in subsection (2), the Presiding Officer may adjourn the poll at that polling station by making a declaration under section 3.

- (2) The occurrences for the purposes of subsection (1) are –
- (a) a typhoon or other climatic condition of a serious nature;
  - (b) riot, open violence or other occurrence of public danger;  
or
  - (c) an occurrence which appears to the Presiding Officer to be a material irregularity relating to the subsector election or the poll.

**3. How declaration for purposes of sections 1 and 2 is to be made and what it is to contain**

(1) A declaration for the purposes of sections 1 and 2 is to be made by a notice published in the Gazette. If publication in the Gazette is not practicable in the circumstances, the notice may be published by other means determined by the Commission.

(2) The declaration must contain the following as may be appropriate in each case –

- (a) a description (by name or otherwise) of the subsector election that is being postponed or in respect of which the poll or the counting of votes is being adjourned;
- (b) the fact that the subsector election is being postponed;
- (c) the fact that the poll or the counting of votes is being adjourned;
- (d) a statement as to whether the poll or the counting of votes is being adjourned at all the polling stations or counting stations;
- (e) a statement as to whether the poll or the counting of votes is being adjourned at a single polling station or counting station or certain polling stations or counting stations; and
- (f) a description (by name or otherwise) of the polling stations or counting stations at which the poll or the counting of votes is being adjourned.

#### 4. **Procedure after adjournment of poll**

(1) If a poll is adjourned under this Schedule or section 24 of the Schedule to the Chief Executive Election Ordinance (Cap. 569), the procedure specified in this section is to be complied with.

(2) The Presiding Officer must, in the presence of the persons, if any, who are present within the polling station, secure the ballot boxes and their contents in a manner that Officer thinks fit. Then, without sorting, separating or counting the ballot papers or counting the votes, that Officer must deliver the secured ballot boxes together with any un-issued ballot papers, unused ballot papers or spoiled ballot papers, and the marked copies of the subsector final register to the Returning Officer.

(3) If it is not practicable to make delivery to the Returning Officer, the Presiding Officer must deposit the secured ballot boxes, and the other materials referred to in subsection (2), in a safe place within the polling station.

If there is no safe place within the polling station, that Officer must deposit them in a safe place within a police station or a public building close to the polling station. If there is no such police station or public building, that Officer must deposit them in a secure building (which may even be a residential building) close to the polling station. If there is no police station, public building or secure building close to the polling station, that Officer must deposit the ballot boxes and materials in a safe place within any other police station or public building or, in the absence of such a station or building, in a safe place in any other building (which may even be a residential building).

(4) If the ballot boxes and other materials are delivered to the Returning Officer, that Officer must take such steps as determined by the Commission (generally or in a particular case) for the purpose of ensuring their safety and security. The Returning Officer must remain in charge of them and be responsible for their safety and security until polling in respect of the adjourned poll commences.

(5) If a poll is adjourned under this Schedule or section 24 of the Schedule to the Chief Executive Election Ordinance (Cap. 569), the polling hours appointed for the resumed poll must be such that the total time allowed for polling (that is the aggregate of the polling hours which had been spent at the time the poll was adjourned and the polling hours appointed for the resumed poll) is not less than the total time that would have been allowed for polling had the poll not been adjourned.

#### **5. Procedure after adjournment of counting of votes**

(1) If the counting of votes is adjourned under this Schedule or section 24 of the Schedule to the Chief Executive Election Ordinance (Cap. 569), or if the counting of votes is adjourned due to the adjournment of a poll under this Schedule, the Returning Officer must comply with this section.

(2) The Returning Officer must take steps to cease the counting of votes. Then, that Officer must in the presence of the persons, if any, who are present within the counting station, deposit the ballot boxes (whether opened or un-opened) and receptacles, if any, together with the ballot papers (whether the votes recorded on which are counted or not), any un-issued ballot papers, tendered ballot papers, ballot paper account, verification of the ballot paper account or re-verification of the ballot paper account, and any other relevant subsector election materials, in a safe place within the counting station. If there is no safe place within the counting station, that Officer must deposit them in a safe place within a police station or a public building close to the counting station. If there is no such police station or public building, that Officer must deposit them in a secure building (which may even be a residential building) close to the counting station. If there is no police station, public building or secure building close to the counting station, that Officer must deposit the subsector election materials in a safe place within any other police station or public building or in the absence of such a station or building, in a safe place in any other building (which may even be a residential building).

(3) The subsector election materials must remain in the charge of the Returning Officer. That Officer is to be responsible for their safety and security until the adjourned counting is resumed under section 63(6) of this Regulation.

(4) In this section, "Returning Officer" (選舉主任) means a Returning Officer specified by the Chief Electoral Officer for the purposes of this section.

**6. Appointment of date by Commission for subsector election, polling or counting after postponement or adjournment**

(1) If a subsector election is postponed under this Schedule, the Commission is to, as soon as practicable after the postponement, appoint a date for holding a subsector election.

(2) If the poll or the counting of votes is adjourned under this Schedule, the Commission is to, as soon as practicable after the adjournment, appoint a date for holding the poll or the counting of votes.

(3) If the postponement or adjournment is due to a reason referred to in section 1(3)(a) or (b) or 2(2)(a) or (b), the appointed date must not be later than 14 days after the date on which the postponed subsector election or the adjourned poll or counting would have been held. If the postponement or adjournment is due to the reason referred to in section 1(3)(c) or 2(2)(c), the appointed date must not be later than 2 days after the date on which the postponed subsector election or adjourned poll or counting would have been held.

(4) In each case referred to in sections 1 and 2, the Commission is to, in the relevant notice making the declaration, specify the date appointed under this section to hold the relevant subsector election, the poll or the counting of votes, as the case may require.

(5) If it is not practicable to specify the date in the notice of declaration, the Commission is to specify it in a notice published in the Gazette soon after the publication of a notice of declaration. If such publication is not practicable in the circumstances, the date must be specified in a notice published by some other means the Commission considers appropriate.

SCHEDULE 2 [ss. 49 & 81]  
**FORM OF BALLOT PAPER AND FORM OF NOTICE OF RESULT  
 OF SUBSECTOR ELECTION UNDER SECTION 35 OF  
 SCHEDULE TO CHIEF EXECUTIVE ELECTION  
 ORDINANCE (CAP.569)**

FORM 1

BALLOT PAPER FOR SUBSECTOR ELECTION

〈選舉管理委員會(選舉程序)(選舉委員會)規例〉  
 ELECTORAL AFFAIRS COMMISSION (ELECTORAL PROCEDURE) (ELECTION COMMITTEE) REGULATION

**選舉委員會界別分組一般選舉 / 補選**

**ELECTION COMMITTEE SUBSECTOR ORDINARY ELECTION / BY-ELECTION**

\*(選舉日期)

\*(date of election)

**選票**

**BALLOT PAPER**

\*(界別分組/小組名稱)

\*(Name of subsector  
/sub-subsector)

請選出不多於#(數目)名候選人  
**MARK UP TO #(Number) CHOICES AND NO MORE**

請用黑色筆填滿你所選擇的候選人姓名左邊的橢圓圈。

Please shade in black the ovals opposite the names of the candidates of your choice.

*(候選人提名公告上顯示的候選人姓名) *+(Name of candidate as shown in Notice of Nominations)	
1 ○	16 ○
2 ○	17 ○
3 ○	18 ○
⋮	⋮
13 ○	28 ○
14 ○	29 ○
15 ○	30 ○

\* Only the appropriate information will be printed.

+ Address of the candidate to be included if required under section 49(7)(b).

# The relevant number will be printed.

## FORM 2

BALLOT PAPER FOR SUBSECTOR BY-ELECTION IN RELATION TO  
WHICH COMMISSION HAS MADE DIRECTION UNDER  
SECTION 56(2)

<p>《選舉管理委員會(選舉程序)(選舉委員會)規例》 ELECTORAL AFFAIRS COMMISSION (ELECTORAL PROCEDURE) (ELECTION COMMITTEE) REGULATION 選舉委員會界別分組補選 ELECTION COMMITTEE SUBSECTOR BY-ELECTION</p>		<p><b>選票</b> <b>BALLOT</b> <b>PAPER</b></p>
<p>*(選舉日期) *(date of election)</p>	<p>*(界別分組/小組名稱) *(Name of subsector /sub-subsector)</p>	
<p>只可投票選出不多於#(數目)名候選人 VOTE FOR UP TO #(Number) CANDIDATE(S) AND NO MORE</p> <p>請用投票站提供的印章，在所選候選人姓名旁的圓圈內蓋上 ✓ 號。 Please use the chop provided at the polling station to stamp a ✓ in the circle opposite the name of candidate of your choice.</p>		
		
<p><b>1</b></p>	<p>*(候選人提名公告上顯示的候選人姓名) *+( Name of candidate as shown in Notice of Nominations)</p>	<input type="radio"/>
<p><b>2</b></p>		<input type="radio"/>
<p><b>3</b></p>		<input type="radio"/>

\* Only the appropriate information will be printed.

+ Address of the candidate to be included if required under section 49(7)(b).

# The relevant number will be printed.

## FORM 3

## NOTICE OF RESULT OF SUBSECTOR ELECTION

《選舉管理委員會（選舉程序）（選舉委員會）規例》  
ELECTORAL AFFAIRS COMMISSION  
(ELECTORAL PROCEDURE) (ELECTION COMMITTEE) REGULATION

選舉結果公告  
NOTICE OF RESULT OF ELECTION

選舉委員會界別分組一般選舉 / 補選  
\*(界別分組/小組名稱)  
ELECTION COMMITTEE SUBSECTOR ORDINARY ELECTION / BY-ELECTION  
\*(Name of subsector/sub-subsector)

1. 於\*( 年 月 日)舉行的上述選舉的結果公布如下—  
The following is a statement of the result of the above election held on \*(date) –

候選人編號 <i>Candidate Number</i>	候選人姓名 <i>Name of Candidate</i>	候選人所得票數 <i>Number of Votes Given to the Candidate</i>

2. 特此公布下列候選人\*依據以抽籤方式決定的選舉結果而在上述\*界別分組/小組中當選—  
It is hereby notified that the following candidate(s) \*is/are declared to be elected for the above-mentioned \*subsector/sub-subsector \*pursuant to a result determined by drawing lots –

(當選的候選人姓名)  
(Name(s) of Candidate(s) Elected)

日期: \_\_\_\_\_  
Date: \_\_\_\_\_

上述\*界別分組/小組的選舉主任  
Returning Officer  
for the above-mentioned \*subsector/sub-subsector

\*Only the appropriate information will be printed.

Made this 8th day of October 2001.

WOO Kwok-hing, J.A.  
Chairman,  
Electoral Affairs Commission

Norman LEUNG Nai-pang  
Member,  
Electoral Affairs Commission

Elizabeth S. C. SHING  
Member,  
Electoral Affairs Commission

### **Explanatory Note**

This Regulation sets out the procedures for nominating members to represent the religious subsector on the Election Committee and for conducting elections to elect the members of the Election Committee ("EC members") who, under the Schedule to the Chief Executive Election Ordinance (Cap. 569), are required to be elected by the relevant subsectors. Most of the provisions are adopted from Schedule 1 to the Electoral Affairs Commission (Electoral Procedure)(Legislative Council) Regulation (Cap. 541 sub. leg.) and adjusted

pursuant to the requirements set out in the Schedule to the Chief Executive Election Ordinance (Cap. 569).

2. Section 1 sets out the definitions of the terms used in the Regulation. Section 2 provides for the application of the Regulation to a supplementary nomination for the religious subsector and a subsector by-election.

3. Part 2 provides for the nominations and supplementary nominations for the religious subsector and nominations for other subsectors and for the stages of a subsector election before the holding of the poll. In particular, that Part –

- (a) requires the Chief Electoral Officer to publish a notice calling for nominations and sets out how a person is to be nominated as a nominee for the religious subsector or as a candidate for a subsector election;
- (b) requires the Returning Officer –
  - (i) to decide which nominees for the religious subsector are validly nominated and publish a notice declaring which nominees become EC members;
  - (ii) to decide who are validly nominated as candidates for a subsector election and publish a notice of nominations specifying them; and
  - (iii) to publish a notice for the purposes of section 25(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) if the number of validly nominated candidates for a subsector is not more than the number of EC members to be returned for the subsector;
- (c) provides for the procedures to be observed in case of death or disqualification of a candidate before the subsector election day; and
- (d) provides for the appointment of election agents and election expense agents.

4. Division 1 of Part 3 sets out the functions to be performed by various electoral officers with regard to polling matters and what the candidates may do and what a person is prohibited from doing at or near a polling station. In particular, that Division –

- (a) requires the Chief Electoral Officer –
  - (i) to appoint the polling hours;
  - (ii) to designate polling stations, special polling stations (to be used by persons with a disability) and counting stations;
  - (iii) to allocate a polling station to voters and authorized representatives and to send poll cards to them stating the polling station so allocated;
  - (iv) to appoint a Presiding Officer for each polling station and polling officers to assist the Presiding Officer;
  - (v) to supply a copy of the relevant part of the subsector final register to each candidate and Returning Officer;
  - (vi) to provide, at each polling station, voting compartments and materials to mark the ballot papers; and
  - (vii) to supply sufficient ballot papers and a copy of the relevant part of the subsector final register to each Presiding Officer;
- (b) provides –
  - (i) that the Returning Officer is to determine no canvassing zones and no staying zones;
  - (ii) what are prohibited in the no canvassing zone or no staying zone; and
  - (iii) that the Presiding Officer and Returning Officer are to keep order in the no canvassing zone and no staying zone;

- (c) provides for the appointment of polling agents; and
- (d) provides –
  - (i) what constitutes an offence at the polling station; and
  - (ii) that the Presiding Officer is to keep order at the polling station.

5. Division 2 of Part 3 deals with ballot boxes, ballot papers and voting procedure. In particular, that Division –

- (a) provides for the design of ballot boxes;
- (b) provides for –
  - (i) the form and contents of ballot papers;
  - (ii) the issuance of ballot papers and of ballot papers marked "重複" and "TENDERED";
  - (iii) the procedures to be observed if a voter or authorized representative who has been issued with a ballot paper leaves a polling station without casting his or her vote;
  - (iv) the marking of ballot papers by voters or authorized representatives by shading the ovals or affixing a chop; and
  - (v) the marking of ballot papers by the Presiding Officers with the words "未用" and "UNUSED" or the words "損壞" and "SPOILT";
- (c) provides for the arrest of any person who engages in corrupt conduct by impersonation; and
- (d) requires the Presiding Officer to do the following after the close of the poll –
  - (i) seal the ballot box and make up into separate sealed packets the un-issued ballot papers, the unused ballot

papers, the spoilt ballot papers and the marked copies of the subsector final register; and

(ii) prepare a ballot paper account.

6. Part 4 provides for the matters relating to the counting of votes. In particular, that Part –

- (a) requires the Returning Officer to determine the time at which the counting of votes to begin and to give notice in writing of the time and place for the counting to the candidate or the election agent or counting agent of the candidate;
- (b) provides for the appointment of counting agents;
- (c) empowers the Chief Electoral Officer to appoint counting officers to assist in the counting of votes;
- (d) provides –
  - (i) who may be present at the counting of votes;
  - (ii) what constitutes an offence at the counting station; and
  - (iii) that the Chief Returning Officer (Subsectors) and the other Returning Officers are to keep order at the counting station;
- (e) provides for –
  - (i) the delivery of ballot boxes to the counting station and the Returning Officer;
  - (ii) the supervision of the counting station and the counting zone;
  - (iii) the arrangement for the sorting and separation of ballot papers and the counting of votes (with or without the use of a computer);
  - (iv) the preparation of a verification of the ballot paper account;

- (v) the request by a candidate or an election agent for a re-count;
  - (vi) the ballot papers the votes recorded on which are not to be counted; and
  - (vii) the declaration of result on completion of the counting of votes and re-count and the procedure to be observed in case of death or disqualification of a successful candidate before the declaration; and
- (f) requires the Returning Officer –
- (i) to publicly declare the result on completion of the counting of votes and re-count;
  - (ii) to publish a notice of the result of the subsector election; and
  - (iii) to send a copy of the notice to certain officials.

7. Part 5 sets out how documents relating to a subsector election are to be disposed of. They are to be given into the custody of the Chief Electoral Officer. That Officer is to retain custody of them for at least 6 months from the date of the subsector election. That Officer is not to permit anyone to inspect them unless on a court order.

8. Part 6 contains a number of miscellaneous provisions –

- (a) section 86 makes it an offence for an electoral officer to act as an agent of a candidate in the same subsector election;
- (b) section 87 makes it an offence for an employee of a candidate to act as an electoral officer;
- (c) section 88 enables the Presiding Officer to perform through a polling officer his or her functions, except adjourning the poll at a polling station;
- (d) section 89 enables the Returning Officer to delegate his or her functions except the determination of the validity of a nomination, a nomination form, a decision regarding a

- ballot paper or the declaration of the subsector election result;
- (e) section 92 requires electoral officers, candidates and agents of candidates to make a declaration of secrecy before entering a polling station or a counting station;
  - (f) section 93 makes it an offence for any person to divulge information prejudicial to the secrecy of the ballot other than for a lawful purpose or interfere with a voter, authorized representative, ballot box or ballot paper;
  - (g) section 94 provides for the procedure to be observed in case of death or disqualification of a candidate on or after the date of a subsector election but before the declaration of result;
  - (h) section 99 sets out the limitations on the postal materials that may be sent to voters by a candidate free of postage;
  - (i) section 100 imposes requirements to be complied with by a candidate in relation to election advertisements;
  - (j) section 101 makes it an offence for any person to make a statement which is false or which he or she knows to be false in a material particular or to knowingly omit a material particular from a form, declaration, application, authorization, notice, statement or nomination form required for the purposes of the Regulation; and
  - (k) sections 102 to 106 are consequential amendments.

9. Schedule 1 sets out the circumstances in which a subsector election, the poll or the counting of votes, or the polling at a polling station is to be postponed or adjourned. It sets out the procedure for such a postponement or an adjournment and the steps to be taken for the safeguarding of the ballot boxes, ballot papers and other election materials in the event of such a postponement or an adjournment. It also makes provision for the appointment of a date for the

holding of a subsector election or the resumption of a poll or a counting of votes after such a postponement or an adjournment.

10. Schedule 2 contains the form of the ballot paper and the form of the notice of result of the subsector election.