

## **LEGISLATIVE COUNCIL BRIEF**

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

#### **ELECTORAL PROCEDURE (CHIEF EXECUTIVE ELECTION) REGULATION**

##### **INTRODUCTION**

On 2 November 2001, the Electoral Affairs Commission (“EAC”) made the Electoral Procedure (Chief Executive Election) Regulation under section 7 of the EAC Ordinance (Cap. 541) to provide detailed electoral procedure for conducting the Chief Executive Election (“the Election”). The Regulation is set out at Annex A.

##### **BACKGROUND**

2. The Chief Executive Election Ordinance (Cap. 569) (“CEEO”) provides for the election of the Chief Executive in accordance with the Basic Law of the Hong Kong Special Administrative Region. Among other things, it has amended the EAC Ordinance to empower the EAC to supervise the Election, including the making of regulation to govern the conduct of the Election.

3. The term of the office of the current CE will expire on 30 June 2002. In accordance with sections 6 and 10 of the CEEO, an election will be held on 24 March 2002 to return a candidate for appointment by the Central People’s Government to fill the vacancy for the office of the CE that will arise on 1 July 2002.

4. The CEEO lays down the fundamental principles and procedures governing the Election. On the basis of these principles and procedures, the EAC has made a new Electoral Procedure (Chief Executive Election) Regulation (“the Regulation”) under section 7(1)(b) of the EAC Ordinance, providing for the detailed electoral procedures that should be followed for the Election to ensure openness, fairness and transparency.

5. In drafting the Regulation, the EAC has made reference to the practices and arrangements of the Legislative Council (“LegCo”) elections. The procedures for various aspects of the Election are, where applicable, modelled on those of the LegCo elections, subject to necessary modifications to cater for the differences in nature between the Election and the LegCo elections. The EAC has also taken the opportunity to critically examine these practices and arrangements and, where appropriate, made improvements accordingly.

6. Efforts have been made in drafting the Regulation to streamline its provisions as far as possible so that it is more compact and more reader-friendly. Its key provisions are highlighted in the following section.

## **THE REGULATION**

### ***(I) Nomination and withdrawal of candidature (sections 3 to 11)***

7. The Chief Electoral Officer (“CEO”) will publish a notice in the Gazette, stating, among other things, the nomination period and the address of the Returning Officer (“RO”) at which nomination forms must be delivered. A prospective candidate, after completing the nomination form, securing the subscription of not less than 100 members of the Election Committee (“EC”) and making all the necessary declarations required under the Regulation and the CEEO, shall submit his nomination in person or in other manner as authorized by the RO.

8. The RO will inform the person who has been nominated as well as each validly nominated candidate, after determining on the validity of a nomination. Where he determines that a person is not validly nominated, he shall endorse on the nomination form and give reasons for reaching such a decision. All nomination forms received by the RO will be made available for public inspection.

9. The Regulation does not require candidates for the Election to lodge any election deposit in the light of the requirement for a candidate to obtain not less than 100 EC members as his subscribers. There is no need for a Nominations Advisory Committee because of the appointment of a judge of the High Court or above as the RO.

10. In accordance with section 19 of the CEEO, a person may only

withdraw his candidature before the close of nominations, by completing a withdrawal notice and delivering it, either in person or by his election agent, to the RO before the deadline.

***(II) Election agents and election expense agents (sections 12 to 16)***

11. A candidate may appoint one election agent and any number of election expense agents. All appointments and revocation of appointments must be made through written notice addressed to the RO. These agents must be aged 18 or above and, for election agents, they must be holders of the Hong Kong Identity Card.

***(III) Polling arrangement (sections 17 to 27)***

12. The CEO will appoint the polling hours for the first three rounds of the voting on the polling day. He will also designate a place as the polling station and another as the counting station. Electors will be informed of the polling hours, the voting instructions, the location of the polling station and the polling and counting procedures by a polling notice, which shall be sent at least ten days before the polling date.

13. Where no candidate is elected after the first three rounds of voting, the fourth and subsequent rounds (if any) of voting will be held on the day immediately following the polling date (i.e. 25 March 2002 in the case of the coming Election). To allow electors sufficient time to cast their votes, the Regulation provides that not more than three rounds of voting shall be conducted on each day. The CEO will appoint the polling hours for the fourth and subsequent rounds. For these rounds of voting, the CEO may dispense with the polling notice and announce the polling hours through radio or television broadcast.

14. The CEO will appoint a Presiding Officer (“PRO”) to preside at the polling station and a number of polling officers to assist the PRO. As for the RO, he will designate an area outside the polling station as no canvassing zone and an area within the no canvassing zone as no staying zone. Within the no canvassing zone, no person shall canvass for votes, use an amplifying system or device without lawful authority or display propaganda materials relating to the Election or any candidate without reasonable excuse. These provisions are

similar to those adopted for the LegCo elections.

15. A candidate may appoint not more than three persons aged 18 or above as his polling agents. Inside the polling station, no person shall communicate with an elector or use mobile phones or other communication devices during the polling hours unless otherwise authorized by the EAC or the CEO. Filming, photographing and audio or video recording are also prohibited inside the polling station on the polling day except with the express permission of the EAC, RO or the PRO. Furthermore, no person shall disrupt the poll, misconduct himself or disturb or cause inconvenience to any person in the polling station. These provisions are similar to those adopted for the LegCo elections.

***(IV) Ballot box, ballot papers and voting procedure (sections 28 to 42)***

16. The design of the ballot box and how it is to be sealed are similar to those adopted for the LegCo elections. The order of the names of the candidates on the ballot paper will be determined by drawing of lots.

17. Similar to the LegCo elections, electors shall cast their votes by using a chop with a “ . Appropriate procedures have been laid down to help incapacitated electors to vote. A provision is also made to enable the PRO to return a ballot paper to an elector if, after having been issued with a ballot paper, the elector –

- (a) has to leave the polling station and asks to return to cast his vote before the close of the relevant round of voting; or
- (b) becomes physically incapacitated from voting and leaves the polling station without casting his vote.

18. The established practices of marking a ballot paper as “TENDERED”, “UNUSED” and “SPOILT” are applicable to the Election as they are in the case of the LegCo elections.

***(V) Counting of votes (sections 43 to 55)***

19. Votes will be counted manually. Questionable ballot papers will be

forwarded to the RO for determination, in a way similar to the arrangements adopted for the LegCo elections. The CEO will appoint counting officers to assist the RO.

20. A candidate may appoint not more than two persons as his counting agents. Candidates, counting agents and electors may enter and stay in the counting station. Members of the public will also be allowed entry into the counting station to observe the counting of votes within a designated area so long as the counting is not disrupted or disturbed by their presence.

21. If no candidate obtains an absolute majority of votes, there will be a new round of voting after the counting of votes. Propaganda materials relating to the Election or any candidate are not allowed to be displayed inside the counting station without reasonable excuse and no amplifying system or device shall be used without lawful authority. Moreover, the RO may order a person to leave the counting station if that person misconducts himself, disrupts the counting of votes or disturbs or causes inconvenience to other persons. The RO may also do so if he reasonably considers that, having regard to the conduct of a person, the person's presence at the counting station is for a purpose other than that for which such presence is permitted or authorized. These provisions are similar to those adopted for the Regulation recently submitted to the LegCo for negative vetting in respect of the EC Subsector elections.

***(VI) Disposal of documents (sections 56 to 59)***

22. The provisions are similar to those adopted for the LegCo elections.

***(VII) Termination, postponement or adjournment of proceedings (sections 60 to 65)***

23. Under section 22 of the CEEO, the RO shall terminate the election proceedings if a candidate dies or is disqualified from being elected after the close of nominations but before the declaration of election result. Similar to the arrangements adopted for the LegCo elections for postponement or adjournment of elections proceedings, the EAC may postpone or adjourn the polling or counting as the case may be, in the event of public danger, inclement weather or material irregularity.

24. The Regulation provides for how the ballot box, ballot papers and other materials are to be handled, the procedures of announcement and when the polling or counting should resume under different circumstances.

***(VIII) Miscellaneous and supplemental provisions (sections 66 to 85)***

25. These provisions cover a number of ancillary issues such as the declaration of secrecy, election documents not be affected by misnomer or inaccuracy, election not to be affected by defect in the appointment of electoral officers, the limit on the RO to delegate his power, the functions, powers and duties of the CEO, how election advertisements are to be published, what constitutes an offence under the Regulation, restrictions on the use of free postage etc.

**PUBLIC CONSULTATION**

26. The public has been consulted on the EAC's "Proposed Guidelines on Election-related Activities in respect of the 2002 Chief Executive Election" from 21 September to 4 October 2001. The EAC has considered the public views before making the Regulation.

**BASIC LAW IMPLICATIONS**

27. 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**

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

**BINDING EFFECT OF THE LEGISLATION**

29. The Regulation does not affect the current binding effect of the CEEO and the EAC Ordinance.

**FINANCIAL AND STAFFING IMPLICATIONS**

30. Any additional resource requirement arising from the Regulation will be met by the funds earmarked for conducting the Election.

## **LEGISLATIVE TIMETABLE**

31. The Regulation will be published in the Gazette on 9 November 2001 and tabled in the LegCo on 14 November 2001.

## **PUBLICITY**

32. 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  
November 2001

**ANNEX A**

**ELECTORAL PROCEDURE (CHIEF EXECUTIVE  
ELECTION) REGULATION**

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# **ELECTORAL PROCEDURE (CHIEF EXECUTIVE ELECTION) REGULATION**

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

## **PART 1**

### **PRELIMINARY**

#### **1. Commencement**

This Regulation shall come into operation on 21 December 2001.

#### **2. Interpretation**

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

“adjournment” (押後), in relation to a poll, or the counting of the votes in respect of a poll, means an adjournment under section 21(2) of the Election Ordinance or section 61(2), and “adjourned” (押後) shall be construed accordingly;

“Assistant Presiding Officer” (助理投票站主任) means a polling officer designated as an Assistant Presiding Officer under section 20(2);

“Assisting Returning Officer” (助理選舉主任) means an Assistant Returning Officer appointed under section 41(3) of the Election Ordinance;

“ballot paper account” (選票結算表) means a statement prepared under section 42;

“candidate” (候選人) has, subject to subsection (2), the meaning assigned to it by section 2(1) of the Election Ordinance;

“counting agent” (監察點票代理人) means a counting agent appointed under section 44;

“counting station” (點票站) means a counting station designated under section 18;

- “Deputy Presiding Officer” (副投票站主任) means a polling officer designated as the Deputy Presiding Officer under section 20(2);
- “election” (選舉) means an election held under section 6 of the Election Ordinance;
- “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 shall be construed as a reference to an election defined in this section;
- “election agent” (選舉代理人) means an election agent appointed under section 12;
- “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);
- “election expense agent” (選舉開支代理人) means an election expense agent appointed under section 13;
- “Election Ordinance” (《選舉條例》) means the Chief Executive Election Ordinance (Cap. 569);
- “elector” (選民) means a member of the Election Committee constituted under section 8 of the Election Ordinance who is not disqualified under section 26 of the Election Ordinance from voting;
- “electoral officer” (選舉事務人員) has the meaning assigned to it by section 2(1) of the Election Ordinance and includes the Presiding Officer, a polling officer and a counting officer;
- “final register” (正式委員登記冊) means the final register of members of the Election Committee compiled and published under section 40 of the Schedule to the Election Ordinance;
- “identity card” (身分證) has the same meaning as it has in 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 made under the Registration of Persons Ordinance (Cap. 177) certifying that he is exempt from being required to register under that Ordinance;
- (c) any other document issued to a person which is acceptable to the Returning Officer as proof of the person's identity;

“no canvassing zone” (禁止拉票區) means an area determined under section 23 as a no canvassing zone;

“no staying zone” (禁止逗留區) means an area determined under section 23 as a no staying zone;

“nomination period” (提名期) means the nomination period fixed under section 15(1) of the Election Ordinance;

“ordinary business hours” (通常辦公時間) means the hour –

- (a) between 9 a.m. and 12 noon on a Saturday; and
- (b) between 9 a.m. and 5 p.m. on any other day, other than a general holiday;

“poll” (投票) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“polling agent” (監察投票代理人) means a polling agent appointed under section 25;

“polling date” (投票日) means –

- (a) the date fixed in accordance with section 10 or 11 of the Election Ordinance as the date of the poll;
- (b) the date fixed in accordance with section 17(3); or
- (c) the date appointed under section 65(1) or (2);

“polling hours” (投票時間) means the hours for polling appointed under section 17(1) or (3)(b) or 65(2);

“polling officer” (投票站人員) means a polling officer appointed under section 20;

“polling station” (投票站) means a polling station designated under section 18;

“postponement” (延遲), in relation to a poll or the counting of the votes in respect of a poll, means a postponement under section 21(1) of the Election Ordinance or section 61(1), and “postponed” (延遲) shall be construed accordingly;

“Presiding Officer” (投票站主任) means the Presiding Officer appointed under section 20;

“Returning Officer” (選舉主任) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“specified form” (指明表格、指明格式) means, in a particular provision of this Regulation, the form specified under section 73 for the purpose of that provision;

“spoilt ballot papers” (損壞的選票) means a ballot paper endorsed in the manner described in section 40(3);

“unused ballot papers” (未用的選票) means a ballot paper which has been issued and has not been put into the ballot box, whether or not it has been endorsed in the manner described in section 39;

“verification statement” (核實報表) means a statement prepared under section 52(1)(d).

(2) In this Regulation, the expression “candidate” (候選人) also means –

- (a) in sections 5(1), 12, 15 and 21, a person who is being or has been nominated to stand for an election;
- (b) in sections 13, 16 and 81, a person who has publicly declared an intention to stand for an election at any time before close of nominations;

- (c) in section 14, a person referred to in paragraph (a) or (b).

## PART 2

### NOMINATION AND WITHDRAWAL OF CANDIDATURE

#### **3. Notice relating to submission of nomination forms**

As soon as practicable after the publication of a notice under section 12 of the Election Ordinance, the Chief Electoral Officer shall publish in the Gazette a notice which states –

- (a) the nomination period fixed under section 15(1) of the Election Ordinance;
- (b) the address of the office of the Returning Officer at which nomination forms must be delivered;
- (c) that nomination forms must be delivered during ordinary business hours; and
- (d) that a poll will be held on the polling date if more than one candidate is validly nominated.

#### **4. How to nominate a candidate**

- (1) A nomination form nominating a person as a candidate shall –
  - (a) be in the specified form;
  - (b) contain a declaration by the person that he –
    - (i) is eligible to be;
    - (ii) is not disqualified from being; and
    - (iii) consents to be, so nominated;
  - (c) contain the name as shown on the identity card and identity card number of the person and each member of the Election Committee making the nomination;
  - (d) be signed by -

- (i) the person;
  - (ii) a holder of an identity card who has attained the age of 18 years as the witness to the signature of the person; and
  - (iii) each member of the Election Committee making the nomination; and
- (e) be delivered –
- (i) during ordinary business hours at the address stated in the notice published under section 3;
  - (ii) by the person in person or in any other manner authorized by the Returning Officer; and
  - (iii) together with the declarations referred to in section 16(7) of the Election Ordinance.

(2) A nomination form nominating a person as a candidate may include a name of the person which is different from that shown on his identity card if the Returning Officer is satisfied that the person is usually known by that name.

(3) The Returning Officer may require a person who is nominated as a candidate to furnish such information which is not covered by the nomination form as the Returning Officer considers necessary in order to be satisfied –

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

(4) The provisions of this section are made for the purposes of section 16 of the Election Ordinance.

#### **5. Returning Officer may give opportunity to rectify a nomination form**

- (1) If the Returning Officer –

- (a) detects on a nomination form an error or omission or anything which may affect the validity of the nomination form; and
- (b) considers that it can be rectified within the nomination period,

he may, before making a determination under section 17 of the Election Ordinance, give the candidate a reasonable opportunity to rectify it.

(2) A nomination form cannot be rectified under this section after the close of nominations.

#### **6. Returning Officer to endorse invalid nomination forms**

(1) If the Returning Officer determines that a nomination form or the nomination of a candidate is invalid, he shall endorse on the nomination form the determination and the reasons for it.

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

#### **7. Returning Officer to notify determination of validity of nomination**

(1) The Returning Officer shall, as soon as practicable after determining that a person is validly nominated as a candidate or is not so nominated, send a written notice of the determination to the person and to each validly nominated candidate.

(2) A notice under subsection (1) shall be sent to the address of the person concerned contained in the nomination form.

#### **8. Nomination forms to be available for inspection**

A copy of each of the nomination forms received by the Returning Officer shall be made available for inspection by the public –

- (a) free of charge;
- (b) at an office of the Returning Officer specified by him; and
- (c) during ordinary business hours,

until the result of the election is published under section 28 of the Election Ordinance.

#### **9. Withdrawal of candidature**

(1) A withdrawal of candidature under section 19 of the Election Ordinance shall be effected by delivering a notice of withdrawal to the Returning Officer before the close of nominations.

(2) A notice of withdrawal shall –

- (a) be in the specified form;
- (b) bear the signature of the candidate which shall be attested by a witness and bear the witness' signature; and
- (c) be delivered –
  - (i) by the candidate in person or his election agent in person;
  - (ii) at an office of the Returning Officer specified by him; and
  - (iii) during ordinary business hours.

(3) The provisions of this section are made for the purposes of section 19 of the Election Ordinance.

#### **10. Notice that the only candidate is returned**

The Returning Officer shall, as soon as practicable after declaring under section 23 of the Election Ordinance that the only candidate is returned at the election, publish the declaration by notice in the Gazette.

**11. Notice of termination of election proceedings**

(1) The Returning Officer shall, as soon as practicable after terminating the proceedings for the election under section 22 of the Election Ordinance, publish a notice of the termination of proceedings.

(2) A notice under subsection (1) shall –

- (a) be signed by the Returning Officer;
- (b) state the reasons for and the date and time of the termination; and
- (c) be published in the Gazette or in such newspaper circulating daily in Hong Kong as the Returning Officer considers appropriate.

**PART 3****ELECTION AGENTS AND ELECTION EXPENSE AGENTS****12. Appointment of election agent**

(1) Each candidate may appoint one person as his 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) An election agent appointed by a candidate may do all things which the candidate may do or is required to do in connection with an election except –

- (a) making a declaration referred to in section 16(7) of the Election Ordinance or section 4(1)(b);
- (b) signing on a nomination form as the candidate being nominated;
- (c) signing on a notice of withdrawal of candidature referred to in section 19 of the Election Ordinance as the candidate;
- (d) appointing an election agent under subsection (1);
- (e) appointing an election expense agent under section 13;

- (f) without prejudice to section 13, incurring election expenses on behalf of the candidate; and
- (g) revoking the appointment of an election agent or election expense agent under section 14(4).

(4) Subject to subsection (3), any act which purports to be done by an election agent in his capacity as such on behalf of the candidate who appointed him shall be as effective as if it had been done by the candidate in person.

(5) A notice under section 15(1), 23(2) or (4), 31(4) or 43(3) given to the election agent of a candidate shall be regarded as having been given to the candidate.

### **13. Appointment of election expense agent**

(1) Each candidate may appoint as his election expense agent any number of person who has attained the age of 18 years.

(2) An election expense agent appointed by a candidate shall, by virtue of the appointment, be authorized to incur election expenses on behalf of the candidate as his agent.

### **14. Provisions applicable to appointment of agents**

(1) In this section –

- (a) "agent" (代理人) means an election agent or election expense agent;
- (b) a reference to the Returning Officer shall be construed as a reference to the Chief Electoral Officer if the Returning Officer has not been appointed.

(2) An appointment of an agent shall be effected by giving a notice of appointment to the Returning Officer.

(3) A notice of appointment shall –

- (a) be given by the candidate;

- (b) be in specified form;
- (c) state the name and address of the agent;
- (d) (in the case of an election agent) state the identity card number of the agent; and
- (e) be signed by the candidate and the agent.

(4) The appointment of an agent may be revoked by giving a notice of revocation to the Returning Officer.

(5) A notice of revocation shall be –

- (a) given by the candidate;
- (b) in specified form; and
- (c) signed by the candidate.

(6) If an agent dies or the appointment of an agent is revoked, the candidate may, subject to this Part, appoint another person as an agent to replace the first-mentioned agent.

(7) The appointment of or revocation of the appointment of an agent is not effective until the notice of appointment or notice of revocation, as the case may be, is received by the Returning Officer.

(8) The Returning Officer shall display in a prominent place immediately outside his office a notice of the particulars of the election agents.

(9) All notices of appointment of election expense agent given by any candidate under subsection (2) shall be made available for inspection by the public –

- (a) free of charge;
- (b) at an office of the Returning Officer specified by him; and
- (c) during ordinary business hours,

until the end of the period during 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).

**15. Other candidates to be notified of particulars of election agent**

(1) After receiving a notice of appointment of an election agent by a candidate, the Returning Officer shall send a notice in specified form to every other candidate.

(2) A notice under subsection (1) shall –

- (a) state the name, identity card number and address of the agent; and
- (b) be sent as soon as practicable after the receipt of the notice of appointment.

**16. Limit of expenses for election expense agent**

(1) A candidate who appoints an election expense agent shall set the maximum amount of election expenses that the agent may incur on his behalf.

(2) The amount set under subsection (1) by a candidate in relation to an election expense agent shall be specified in the notice of appointment of the agent.

**PART 4****POLLING ARRANGEMENT****17. Appointment of polling hours**

(1) The hours during which electors can vote in the first 3 rounds of voting on the polling date shall be appointed by the Chief Electoral Officer.

(2) The Chief Electoral Officer shall, at least 10 days before the polling date, publish in the Gazette a notice specifying the polling hours appointed under subsection (1).

(3) If the voting has to proceed to the fourth or any subsequent round –

- (a) any such round of voting shall, subject to subsection (4), be conducted on the day following the polling date on which the first 3 rounds of voting are conducted or, if the operation of section 27 of the Election Ordinance so requires, day after day thereafter until a candidate is returned; and
- (b) the Chief Electoral Officer shall appoint the hours during which electors can vote in such round.

(4) Not more than 3 rounds of voting shall be conducted under subsection (3)(a) on each day.

(5) The Chief Electoral Officer shall, as soon as practicable after the appointment of polling hours under subsection (3)(b) for a polling date fixed under subsection (3)(a), announce the polling date and polling hours through radio or television broadcast.

(6) The Chief Electoral Officer shall appoint the polling hours so as to give the electors a reasonable opportunity to vote.

## **18. Designation of polling station and counting station**

(1) The Chief Electoral Officer shall designate, by notice published in the Gazette –

- (a) a place as the polling station for conducting a poll in respect of an election; and
- (b) a place as the counting station for counting of the votes cast in the election.

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

- (a) any premises occupied by a Government department for official purposes; or
- (b) any other premises hired under subsection (3).

(3) The Chief Electoral Officer may hire any premises for use as the polling station or the counting station.

(4) If any premises hired under subsection (3) are used as the polling station or the counting station, the Chief Electoral Officer shall –

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

due to their having been so used.

(5) The Chief Electoral Officer may take such steps as he 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 premises as the polling station or counting station.

(6) A designation under subsection (1) may be made by reference to a map or plan.

(7) The Chief Electoral Officer shall display a map or plan referred to in subsection (6) in a prominent place immediately outside the polling station or the counting station, as the case may be.

## **19. Polling notice to electors**

(1) Subject to subsection (3), the Chief Electoral Officer shall send a polling notice in specified form to every elector.

(2) A polling notice shall –

- (a) state the polling date, the address of the polling station and the polling hours;
- (b) be accompanied by –
  - (i) a location map of the polling station;
  - (ii) detailed voting instructions; and
  - (iii) details of the polling and counting procedures; and
- (c) be sent at least 10 days before the polling date.

(3) If the polling date is fixed under section 17(3), the Chief Electoral Officer may dispense with the polling notice and announce the polling date, the address of the polling station and the polling hours through radio or television broadcast.

## **20. Appointment of Presiding Officer and polling officers**

- (1) The Chief Electoral Officer may appoint –
  - (a) a Presiding Officer to preside at the polling station; and
  - (b) such number of polling officers as he thinks fit to assist the Presiding Officer in the conduct of a poll.
- (2) The Chief Electoral Officer may designate –
  - (a) a polling officer as the Deputy Presiding Officer; and
  - (b) any polling officer as an Assistant Presiding Officer.

(3) The Presiding Officer shall display a list of the names of the polling officers and himself in a prominent place immediately outside the polling station.

(4) The Presiding Officer may perform any act which he is required or authorized to perform under this Regulation through a polling officer.

## **21. Copy of final register to be supplied to candidates**

(1) The Chief Electoral Officer shall, as soon as practicable after a nomination form nominating a candidate is delivered to the Returning Officer, supply to the candidate a copy of the final register.

(2) The Chief Electoral Officer shall, as soon as practicable after making a declaration under section 18(1) of the Election Ordinance, supply to the Returning Officer a copy of the final register.

(3) The Chief Electoral Officer may add to the copy of the final register supplied under subsection (1) or (2) such particulars or information as he thinks fit.

(4) Copies of the final register may be supplied in any or all of the following form -

- (a) a printed form;
- (b) a non-legible form which is capable of being reproduced in a legible form by using a computer;
- (c) any other form determined by the Chief Electoral Officer.

**22. Miscellaneous arrangements relating to voting**

(1) The Chief Electoral Officer shall provide at the polling station sufficient compartments to enable electors to mark and fold ballot papers issued to them, screened from observation.

(2) The Chief Electoral Officer shall supply to the Presiding Officer such number of ballot papers he considers necessary for the polling.

(3) The Presiding Officer shall display a notice providing information on voting procedure for the guidance of electors –

- (a) in a prominent place immediately outside the polling station; and
- (b) inside every compartment provided under subsection (1).

**23. Determination of no canvassing zone and no staying zone**

(1) The Returning Officer shall, by reference to a map or plan, determine –

- (a) any area outside the polling station as a no canvassing zone; and
- (b) any area within a no canvassing zone as a no staying zone.

(2) The Returning Officer shall give a notice indicating the boundary of the no canvassing zone and no staying zone to every candidate at least 2 days before the polling date.

(3) The Returning Officer may vary a no canvassing zone or a no staying zone.

(4) If a no canvassing zone or a no staying zone is varied, the Returning Officer shall, as soon as practicable after the variation –

(a) give a notice indicating the boundary of the zone as varied to every candidate; and

(b) display a copy of such notice at or near the polling station.

(5) On the polling date, the Returning Officer shall display at or near the polling station a notice indicating the boundary of the no canvassing zone and the no staying zone as determined or, where applicable, as varied.

(6) A determination under subsection (1) comes into effect upon the display of a notice under subsection (5) in relation to the no canvassing zone and no staying zone as determined.

(7) A variation under subsection (3) comes into effect upon the display of a notice under subsection (5) in relation to the no canvassing zone or no staying zone as varied.

#### **24. Order in no canvassing zone and no staying zone**

(1) The Presiding Officer shall keep order at any no canvassing zone or no staying zone.

(2) No person shall –

(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 without lawful authority;

(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) without reasonable excuse, display in the no canvassing zone any propaganda material relating to any candidate or the election of the Chief Executive; or
- (e) stay or loiter in the no staying zone without the express permission of the Presiding Officer,

on the polling date.

(3) For the purposes of subsection (2), suggesting not to vote for any candidate shall be regarded as canvassing for votes.

(4) No person shall –

- (a) fail to comply with a lawful direction given by the Returning Officer or the Presiding Officer;
- (b) cause an obstruction to any person who is in the zone and on his way to vote; or
- (c) otherwise misconduct himself,

in a no canvassing zone or a no staying zone on the polling date.

(5) If a person contravenes subsection (2) or (4), the Returning Officer or the Presiding Officer may –

- (a) require the person to produce his identity card for inspection; and
- (b) order the person to leave the zone immediately.

(6) No person shall fail to produce his identity card when required to do so under subsection (5).

(7) If a person fails to leave when ordered to do so under subsection (5), he may be removed by a police officer or by a person authorized in writing by the Returning Officer or the Presiding Officer.

(8) No person who is removed under subsection (7) shall enter the relevant zone again on the polling date without the express permission of the Returning Officer or the Presiding Officer.

(9) The powers conferred by subsections (5) and (7) shall not be so exercised as to prevent an elector from voting.

## **25. Polling agents**

(1) Each candidate may appoint not more than 3 persons as his polling agents.

(2) A polling agent appointed by a candidate may attend at the polling station on behalf of the candidate for any purpose connected with the conduct of a poll.

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

(4) An appointment of a polling agent shall be effected by giving a notice of appointment to the Chief Electoral Officer or the Presiding Officer.

(5) A notice of appointment shall –

(a) be given by the candidate;

(b) be in specified form;

(c) state the name, identity card number and address of the polling agent; and

(d) be signed by the candidate and the polling agent.

(6) The appointment of a polling agent may be revoked by giving a notice of revocation to the Chief Electoral Officer or the Presiding Officer.

(7) A notice of revocation shall be -

(a) given by the candidate;

(b) in specified form; and

(c) signed by the candidate.

(8) If the appointment of a polling agent is revoked, the candidate may, subject to this section, appoint another person as a polling agent to replace the first-mentioned agent.

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

(10) A notice under subsection (4) which is not given before the 7 days before the polling date shall be delivered by the candidate or his election agent on the polling date to the Presiding Officer.

## **26. Admission to polling station**

- (1) No person other than –
- (a) a member of the Commission;
  - (b) the Returning Officer;
  - (c) an Assistant Returning Officer;
  - (d) the Chief Electoral Officer;
  - (e) the Presiding Officer;
  - (f) a polling officer;
  - (g) a candidate;
  - (h) an election agent;
  - (i) an elector;
  - (j) a polling agent;
  - (k) a public officer on duty at the polling station;
  - (l) a member of Civil Aid Service on duty at the polling station;
  - (m) a child with permission granted under subsection (2); or
  - (n) a person authorized under subsection (3),

may enter or stay in the polling station.

- (2) If –
- (a) an elector arrives at the 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 elector is in the polling station; and
    - (ii) will not disturb or cause inconvenience to any person in the polling station,

the Presiding Officer may grant permission for the child to enter the polling station.

(3) The Chief Electoral Officer or a member of the Commission may authorize any person in writing to enter and stay in the polling station in accordance with the terms of the authorization.

## **27. Order in the polling station**

- (1) The Presiding Officer shall keep order at the polling station.
- (2) No person shall –
  - (a) communicate with any elector; or
  - (b) use a mobile telephone, paging machine or any other communication device to communicate with any other person,

in the polling station during the polling hours contrary to a direction of the Presiding Officer not to do so.

- (3) Subsection (2) does not apply to –
  - (a) a member of the Commission;
  - (b) the Returning Officer;
  - (c) an Assistant Returning Officer;
  - (d) the Chief Electoral Officer;
  - (e) the Presiding Officer;
  - (f) a polling officer;
  - (g) a public officer on duty at the polling station;
  - (h) a member of the Civil Aid Service on duty at the polling station; or
  - (i) a person authorized by the Chief Electoral Officer or a member of the Commission in writing to do an act prohibited by subsection (2).
- (4) No person shall –
  - (a) film;

- (b) take photograph; or
- (c) make any audio or video recording,

in a polling station on the polling date without the express permission of –

- (d) a member of the Commission;
- (e) the Returning Officer; or
- (f) the Presiding Officer.

(5) No person shall –

- (a) engage in canvassing for votes; or
- (b) without reasonable excuse, display any propaganda material relating to any candidate or the election of the Chief Executive,

in the polling station on the polling date.

(6) For the purposes of subsection (5), suggesting not to vote for any candidate shall be regarded as canvassing for votes.

(7) No person shall –

- (a) fail to comply with a lawful direction given by the Returning Officer or the Presiding Officer;
- (b) disrupt the poll;
- (c) disturb or cause inconvenience to any person; or
- (d) otherwise misconduct himself,

in the polling station on the polling date.

(8) If a person contravenes subsection (5) or (7), the Returning Officer or the Presiding Officer may –

- (a) require the person to produce his identity card for inspection; and
- (b) order the person to leave the polling station immediately.

(9) No person shall fail to produce his identity card when required to do so under subsection (8).

(10) If a person fails to leave when ordered to do so under subsection (8), he may be removed by a police officer or by a person authorized in writing by the Returning Officer or the Presiding Officer.

(11) A person who is removed under subsection (10) may not enter the polling station again on the polling date without the express permission of the Returning Officer or the Presiding Officer.

(12) The powers conferred by subsections (8) and (10) shall not be so exercised as to prevent an elector from voting.

## PART 5

### BALLOT BOX, BALLOT PAPERS AND VOTING PROCEDURE

#### **28. Design of ballot box**

A ballot box to be used in a poll shall be so constructed that ballot papers can be put into it while it is locked but cannot be withdrawn from it without unlocking it and breaking the sealing device used to seal it.

#### **29. Ballot box to be sealed before commencement of poll**

(1) Immediately before the commencement of the poll, the Presiding Officer shall show the ballot box, empty, to the persons who are present within the polling station.

(2) The Presiding Officer shall, after showing the ballot box under subsection (1), lock it and seal it with a sealing device provided for that purpose by the Chief Electoral Officer so that it cannot be opened without unlocking the lock and breaking the sealing device.

(3) The Presiding Officer shall –

- (a) place the ballot box for the receipt of ballot papers in the view of a polling officer or himself; and

- (b) ensure that the ballot box is kept locked and sealed while it is in his custody.

### **30. Form of ballot papers**

(1) A ballot paper to be used for an election shall be in the form set out in the Schedule.

(2) The Commission may decide –

- (a) the colour of ballot papers;
- (b) the design, if any, printed on the back of ballot papers; or
- (c) to have ballot papers to be used in different rounds of voting printed in different colours.

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

### **31. Order of names of candidates on ballot papers**

(1) A number shall be allocated to each candidate by the drawing of lots conducted by the Returning Officer.

(2) The names of the candidates shall appear on a ballot paper in the order of the numbers allocated under subsection (1).

(3) The number allocated to a candidate shall be printed on the ballot papers against his name.

(4) The Chief Electoral Officer shall give notice to each candidate of the arrangements for the drawing of lots under subsection (1).

(5) A candidate or his election agent may be present at the drawing of lots under subsection (1).

### **32. Question to person applying for a ballot paper**

(1) The Presiding Officer may, in case of doubt and at the time a person applies for a ballot paper, ask the person any appropriate question set out in subsection (2).

(2) The questions referred to in subsection (1) are –

- (a) (i) "你是否已登記在選舉委員會正式委員登記冊上，而有關登記記項一如以下所述(the Presiding Officer to read the Chinese version of the whole entry as it is recorded in the final register)?"; or
- (ii) "Are you the person registered in the Election Committee final register as follows (the Presiding Officer to read the English version of the whole entry as it is recorded in the final register)?";
- (b) (i) "你是否已在這一輪投票中投了票 ?"; or
- (ii) "Have you already cast a vote in this round of voting?".

(3) The Presiding Officer must ask the appropriate question set out in subsection (2) if so required by a candidate, an election agent or a polling agent.

(4) The Presiding Officer shall 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.

### **33. Challenging a person who has applied for a ballot paper or who has voted**

(1) If a candidate, an election agent or a polling agent –

- (a) declares to the Presiding Officer that he has reasonable cause to believe that a person has engaged in corrupt conduct of impersonation referred to in section 15 of the

Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554); and

- (b) undertakes in writing to substantiate the allegation in a court,

the Presiding Officer may request a police officer to arrest that person.

- (2) A declaration referred to in subsection (1)(a) may only be made –
  - (a) (i) at the time the person applies for the ballot paper;
    - or
    - (ii) after the person has applied for a ballot paper; and
  - (b) before the person has left the polling station.
- (3) If the Presiding Officer has reason to believe that a person –
  - (a) who applies for or has applied for a ballot paper; and
  - (b) who has not left the polling station,

has engaged in corrupt conduct of impersonation referred to in section 15 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the Presiding Officer may request a police officer to arrest that person.

- (4) A person –
  - (a) in respect of whom a declaration is made under subsection (1) (whether or not he is arrested under that subsection); or
  - (b) who has been arrested under subsection (3),

shall not be prevented from voting only by reason of the declaration or arrest.

### **34. Issue of ballot paper**

- (1) If a person applies for a ballot paper at the issuing desk, the polling officer manning the desk shall –
  - (a) upon being satisfied by inspecting the person's identity document that the person is an elector registered in the final register ; and
  - (b) after calling out the name of the person as stated in the copy of the final register in that officer's possession,

issue to the person one ballot paper and a chop for marking the ballot paper.

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

(3) If a ballot paper is issued to an elector, the polling officer shall, subject to subsection (4), record that a ballot paper has been so issued by one or both of the following means –

- (a) placing a line in the copy of the final register in his possession across the name and identity document number of the elector;
- (b) marking the copy of the final register in his possession in such other manner as the Chief Electoral Officer may direct.

(4) No record shall be made of the particular ballot paper or ballot papers issued to an elector.

**35. Elector who has not cast vote may return to cast vote with permission**

(1) Subject to subsection (5), if –

- (a) an elector has been issued with a ballot paper in a round of voting; and
- (b) he has left the polling station without casting his vote,

he shall not cast the vote in that round of voting unless -

- (c) before leaving the polling station, he has –
  - (i) made a request to the Presiding Officer for permission to cast the vote before the close of that round of voting;

- (ii) informed the Presiding Officer of his reason for leaving the polling station without casting the vote; and
- (iii) returned the ballot paper to the Presiding Officer; and

(d) the Presiding Officer has granted the permission.

(2) If an elector has complied with subsection (1)(c), the Presiding Officer shall grant the requested permission unless he is of the opinion that the request is a manifest abuse of the facilities provided by this section.

(3) If the Presiding Officer grants the permission to an elector under subsection (2), he shall –

- (a) keep in his custody the ballot paper returned by the elector under subsection (1)(c)(iii); and
- (b) on the elector's return to the polling station to cast the vote, re-issue the ballot paper to the elector in the presence of a police officer.

(4) If the Presiding Officer does not grant the permission under subsection (2), he shall immediately re-issue to the elector the ballot paper returned under subsection (1)(c)(iii).

(5) An elector who –

- (a) has been issued with a ballot paper in a round of voting;
- (b) becomes incapacitated from voting by physical illness; and
- (c) has left the polling station after-
  - (i) returning the ballot paper to the Presiding Officer; or
  - (ii) leaving the ballot paper in the polling station without putting it into the ballot box,

may return to the polling station and cast his vote before the close of that round of voting.

(6) If a ballot paper is returned under subsection (5)(c)(i) or left in the polling station under subsection (5)(c)(ii) by an elector, the Presiding Officer shall –

- (a) keep in his custody the ballot paper; and
- (b) on the elector's return to the polling station to cast the vote, re-issue the ballot paper to the elector in the presence of a police officer.

(7) For the purposes of this Regulation, re-issuing a ballot paper under subsection (3), (4) or (6) shall be regarded issuing a ballot paper under section 34(1).

### **36. Voting procedure**

(1) Subject to section 37(1), when an elector is issued with a ballot paper, he shall, without undue delay –

- (a) immediately go into a compartment provided under section 22(1) in the polling station;
- (b) mark the ballot paper in the compartment by affixing the chop issued under section 34(1) to give a single "✓" in the circle opposite the name of the candidate of his choice on the ballot paper;
- (c) fold the ballot paper so that the marked side is inside before leaving the voting compartment;
- (d) put the folded ballot paper into the ballot box; and
- (e) leave the polling station as soon as the ballot paper is put into the ballot box.

(2) Except where it is provided otherwise in this Regulation, no person shall remove a ballot paper from the polling station.

**37. Marking of ballot paper for or by incapacitated person**

(1) The Presiding Officer, the Deputy Presiding Officer or any Assistant Presiding Officer may, upon the request of an elector who claims that he is unable to read or is incapacitated from casting his vote due to impaired eyesight or other physical cause –

- (a) mark a ballot paper for the elector according to the choice of the elector; and
- (b) fold and put the ballot paper in the ballot box,

in accordance with paragraphs (a), (b), (c) and (d) of section 36(1) in the presence of a polling officer designated by the Presiding Officer, the Deputy Presiding Officer or Assistant Presiding Officer, as the case may be, having regard to the choice (if any) of a candidate or his polling agent.

(2) The Presiding Officer shall cause a template to be made available upon request by an elector.

(3) A template made available to an elector under subsection (2) shall be so constructed so as to be able to facilitate an elector suffering from impaired eyesight to mark a ballot paper.

**38. Issue a ballot paper marked "TENDERED"**

(1) Subject to subsection (2) and section 35 , if a person ("the first-mentioned person") representing himself to be a particular elector applies for a ballot paper after a ballot paper has been issued on the basis that the person to whom it is issued is that elector, the Presiding Officer shall issue to the first-mentioned person a ballot paper endorsed on the front of it with the words "TENDERED" and "重複".

(2) The Presiding Officer may issue a ballot paper under subsection (1) only if –

- (a) he is not certain that the first-mentioned person is the person who has been issued with a ballot paper earlier; and

- (b) the first-mentioned person answers the appropriate questions set out in section 32(2) to his satisfaction.

### **39. Marking "UNUSED" on ballot paper**

If a ballot paper has been issued and has not been put into the ballot box otherwise than under the circumstances prescribed in section 35(1) or (5), the Presiding Officer shall endorse the words "UNUSED" and "未用" on the front of the ballot paper.

### **40. Marking "SPOILT" on ballot paper**

- (1) If an elector issued with a ballot paper –
  - (a) inadvertently deals with it in such a manner that it cannot be properly used as a ballot paper; or
  - (b) makes an error in marking it,

he may apply to the Presiding Officer for another ballot paper.

- (2) The Presiding Officer may issue another ballot paper to an elector referred to in subsection (1) if the elector –
  - (a) returns the ballot paper already issued to him to the Presiding Officer; and
  - (b) establishes to the satisfaction of the Presiding Officer the circumstances referred to subsection (1)(a) or (b).

(3) The Presiding Officer shall immediately cancel a ballot paper returned to him under subsection (2) by endorsing the words "SPOILT" and "損壞" on the front of the ballot paper and keep it in his custody.

(4) For the purposes of this Regulation, issuing a ballot paper under subsection (2) shall be regarded as issuing a ballot paper under section 34(1).

**41. Steps to be taken at the polling station after the close of the poll**

(1) As soon as practicable after the close of the poll, the Presiding Officer shall –

- (a) seal the ballot box with a sealing device provided for that purpose by the Chief Electoral Officer so that nothing can be put into or withdrawn from the ballot box after it is sealed; and
- (b) make up into separate sealed packets –
  - (i) the counterfoils of the ballot papers that have been issued;
  - (ii) the ballot papers that have not been issued;
  - (iii) the unused ballot papers;
  - (iv) the spoilt ballot papers; and
  - (v) the marked copy of the final register,

in the presence of the persons who are present within the polling station.

(2) As soon as practicable after complying with subsection (1), the Presiding Officer shall deliver –

- (a) the sealed ballot box;
- (b) the sealed packets referred to in subsection (1)(b); and
- (c) the ballot paper account,

to the Returning Officer at the counting station.

**42. Ballot paper account**

The Presiding Officer shall prepare a statement which shall –

- (a) be in the specified form; and
- (b) show the number of ballot papers supplied under section 22(2) and account for those ballot papers under the following heads –

- (i) the number of ballot papers estimated by the Presiding Officer to be in the ballot box;
- (ii) the number of ballot papers which have not been issued;
- (iii) the number of unused ballot papers; and
- (iv) the number of the spoiled ballot papers.

## PART 6

### COUNTING OF VOTES

#### **43. Determination and notice of time of counting of votes**

(1) The Returning Officer shall determine the time at which the counting of the votes is to begin.

(2) The time determined under subsection (1) shall be a time after the close of the relevant round of voting.

(3) Subject to subsection (5), the Returning Officer shall give notice in writing to each candidate or any counting agent appointed by him of –

- (a) the address of the counting station; and
- (b) the time determined under subsection (1).

(4) Notice under subsection (3) shall be given –

- (a) in the case of the counting of the votes for –
  - (i) a postponed poll; or
  - (ii) a poll on a date fixed under section 17(3),

as soon as practicable after the determination of the time under subsection (1);

- (b) in the case of a postponement or adjournment of the counting of the votes, as soon as practicable after the determination of the time under subsection (1); or

(c) in any other case, at least 24 hours before the time determined under subsection (1).

(5) If the Returning Officer considers that it is impracticable to give notice under subsection (3) of the time determined under subsection (1) in respect of the counting of the votes for the fourth or any subsequent round of voting, he may dispense with the notice and announce the time through radio or television broadcast.

#### **44. Appointment of counting agent**

(1) Each candidate may appoint not more than 2 persons as his counting agents to observe the counting of the votes.

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

(3) An appointment of a counting agent shall be effected by giving a notice of appointment to the Returning Officer.

(4) A notice of appointment shall –

- (a) be given by the candidate;
- (b) be in specified form;
- (c) state the name, identity card number and address of the counting agent; and
- (d) be signed by the candidate and the counting agent.

(5) The appointment of a counting agent may be revoked by giving a notice of revocation to the Returning Officer.

(6) A notice of revocation shall be –

- (a) given by the candidate;
- (b) in specified form; and
- (c) signed by the candidate.

(7) If the appointment of a counting agent is revoked, the candidate may, subject to this section, appoint another person as a counting agent to replace the first-mentioned agent.

(8) The appointment of or revocation of the appointment of a counting agent is not effective until the notice of appointment or notice of revocation, as the case may be, is received by the Returning Officer.

(9) A notice under subsection (3) which is not given before the 3 days preceding the polling date shall be delivered by the candidate or his election agent on the polling date to the Returning Officer.

#### **45. Appointment of counting officers**

(1) The Chief Electoral Officer may appoint such number of counting officers as he thinks fit to assist the Returning Officer in counting the votes.

(2) The Chief Electoral Officer shall display a list of the names of the counting officers in a prominent place inside the counting station.

#### **46. Admission to counting station**

- (1) Subject to subsection (3), no person other than –
- (a) a member of the Commission;
  - (b) the Returning Officer;
  - (c) an Assistant Returning Officer;
  - (d) the Chief Electoral Officer;
  - (e) a counting officer;
  - (f) a candidate;
  - (g) an election agent;
  - (h) an elector;
  - (i) a counting agent;
  - (j) a public officer on duty at the counting station;
  - (k) a member of the Civil Aid Service on duty at the counting station; or

(1) a person authorized under subsection (2),  
may enter or stay in the counting station.

(2) The Chief Electoral Officer or a member of the Commission may authorize any person in writing to enter and stay in the counting station in accordance with the terms of the authorization.

(3) Any member of the public may observe the counting of the votes from an area at the counting station set apart for that purpose by the Returning Officer unless the Returning Officer considers that his presence may –

- (a) cause disorder or disturbance in the counting station;
- (b) disrupt the counting of the votes; or
- (c) prejudice the secrecy of the individual votes.

(4) The Returning Officer shall ensure that the arrangements for the counting of the votes at 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) The Returning Officer may set apart an area within the counting station as a counting zone.

(6) Where a counting zone is set apart under subsection (5) –

- (a) the zone shall be delineated and identified by such means as the Returning Officer thinks fit; and
- (b) an elector or a person authorized under subsection (2) may not enter or stay in the zone.

#### **47. Order in the counting station**

(1) The Returning Officer shall keep order at the counting station.

(2) No person shall –

- (a) film;
- (b) take photograph; or
- (c) make any audio or video recording,

in a counting zone set apart under section 46(5) without the express permission of a member of the Commission or the Returning Officer.

- (3) No person shall –
- (a) fail to comply with a lawful direction given by the Returning Officer;
  - (b) without reasonable excuse, display any propaganda material relating to any candidate or the election of the Chief Executive;
  - (c) use a sound amplifying system or device for any purpose without lawful authority or the express permission of the Returning Officer;
  - (d) disrupt the counting of the votes or disturb or cause inconvenience to any person; or
  - (e) otherwise misconduct himself,

in the counting station.

- (4) If –
- (a) a person contravenes subsection (3); or
  - (b) the Returning Officer reasonably considers that, having regard to the conduct of a person, the person's presence at the counting station is for a purpose other than that for which such presence is permitted or authorized,

the Returning Officer may –

- (c) require the person to produce his identity card for inspection; and
- (d) order the person to leave the counting station immediately.

(5) No person shall fail to produce his identity card when required to do so under subsection (4).

(6) If a person fails to leave when ordered to do so under subsection (4), he may be removed by a police officer or a person authorized in writing by the Returning Officer.

(7) A person who is removed under subsection (6) may not enter the counting station again on the same day except with the permission of the Returning Officer.

#### **48. Opening the ballot box**

(1) The Returning Officer shall open a ballot box delivered to him under section 41(2) by breaking the sealing device in the presence of the candidates or their election agents or counting agents, if present in the counting station.

(2) If any candidate or his election agent or counting agent requests inspection of any paper (other than a ballot paper) taken from the ballot box, the Returning Officer shall allow him to inspect such paper before disposing of it.

#### **49. Counting of votes**

(1) Ballot papers in a ballot box opened in accordance with section 48 shall be –

- (a) sorted according to the choices marked on them;
- (b) placed in separate boxes; and
- (c) counted manually.

(2) In the course of sorting and counting in accordance with subsection (1), any ballot paper which appears to be a ballot paper described in section 50(a), (b), (c), (d), (e), (f) or (g) shall be forwarded to the Returning Officer.

#### **50. Ballot papers not to be counted**

When counting the votes, any ballot paper –

- (a) on which there is any writing or mark by which the elector can be identified;
- (b) which has the words "TENDERED" and "重複" endorsed on it;

- (c) which has the words "SPOILT" and "損壞" endorsed on it;
- (d) which has the words "UNUSED" and "未用" endorsed on it;
- (e) which is substantially mutilated;
- (f) which is unmarked;
- (g) which is not marked in accordance with section 36(1)(b);
- (h) which the Returning Officer determines as being void for uncertainty,

shall not be counted.

#### **51. Determination of validity of questionable ballot papers**

(1) If a ballot paper is forwarded to the Returning Officer under section 49(2), a candidate or his election agent, if present within the counting station, is entitled to –

- (a) inspect the ballot paper; and
- (b) make representations to the Returning Officer concerning the ballot paper.

(2) After considering the representations (if any) made under subsection (1), the Returning Officer shall determine whether the ballot paper –

- (a) is valid and the vote shall be counted; or
- (b) shall not be counted pursuant to section 50.

(3) Notwithstanding section 50(g), the Returning Officer may determine a ballot paper which is not marked in accordance with section 36(1)(b) as valid under subsection (2) and the vote shall be counted if, subject to other provisions of section 50, he is satisfied that the elector has marked the ballot paper by affixing the chop issued under section 34(1) on the ballot paper so as to clearly indicate his intention to vote for the candidate concerned.

(4) If the Returning Officer determines that a ballot paper shall not be counted, he shall –

- (a) endorse the words "rejected" and "不予接納" on the front of it; and
  - (b) where a candidate or an election agent objects to the determination, endorse the words "rejection objected to" and "不予接納的決定遭反對" on the front of it.
- (5) If –
- (a) the Returning Officer determines that a ballot paper is valid and the vote shall be counted; and
  - (b) a candidate or an election agent objects to the determination,

the Returning Officer shall endorse the words "acceptance objected to" and "予以接納的決定遭反對" on the front of the ballot paper.

(6) If the Returning Officer determines under subsection (2) that any ballot paper shall not be counted, he shall prepare a statement for such ballot paper.

(7) A statement prepared under subsection (6) shall show the respective number of ballot papers under the following heads –

- (a) has on it any writing or mark by which the elector can be identified;
  - (b) endorsed with the words "TENDERED" and "重複";
  - (c) endorsed with the words "SPOILT" and "損壞";
  - (d) endorsed with the words "UNUSED" and "未用";
  - (e) substantially mutilated;
  - (f) unmarked;
  - (g) not marked by affixing an issued chop; and
  - (h) void for uncertainty.
- (8) A determination made under subsection (2) shall be final.

## **52. Verification of ballot paper account**

- (1) The Returning Officer shall –
  - (a) record the number of valid votes obtained by each candidate;
  - (b) record the number of ballot papers which are not counted pursuant to section 50;
  - (c) verify the ballot paper account by comparing it with the numbers recorded under paragraphs (a) and (b); and
  - (d) prepare a statement in writing as to the result of the verification.
- (2) If –
  - (a) the Returning Officer considers it necessary to do so; or
  - (b) a candidate, an election agent or a counting agent present within the counting station so requests,

the Returning Officer shall, in preparing the verification statement, compare the ballot paper account with the number of ballot papers recorded by him and the unused ballot papers, the spoilt ballot papers, the ballot papers that have not been issued and counterfoils of ballot papers that have been issued.

- (3) A candidate, an election agent or a counting agent may copy what is recorded on –
  - (a) the ballot paper account; or
  - (b) the verification statement.

## **53. Result of counting and re-count**

- (1) After the votes are counted and the ballot paper account verified, the Returning Officer shall –
  - (a) make known the result of the counting to –
    - (i) the candidates who are present; and
    - (ii) the election agent or any counting agent (if present) of a candidate who is not present; and

- (b) give them a reasonable opportunity to make a request under subsection (2).

(2) A candidate or an election agent who is present may request the Returning Officer to count again the counted or re-counted votes.

(3) The Returning Officer shall comply with a request under subsection (2) unless he is of the opinion that the request is unreasonable.

#### **54. Notice of further round of voting**

(1) If, after the completion of the counting of the votes, no candidate obtains more than half of the total number of valid votes cast, the Returning Officer shall by an announcement declare –

- (a) that the poll shall proceed to the next round of voting; and
- (b) who are the remaining candidates in the next round of voting.

(2) An announcement under subsection (1) shall be –

- (a) broadcast on radio and television as soon as practicable after the completion of the counting of the votes; or
- (b) made in such manner as the Returning Officer thinks fit.

#### **55. Notice of election result**

The Returning Officer shall, as soon as practicable after declaring the election result under section 28(a) of the Election Ordinance –

- (a) display a notice of the result of the election at a prominent place immediately outside the counting station; and
- (b) send a notice of the result of the election to –
  - (i) the Chairman of the Commission;
  - (ii) the Secretary for Constitutional Affairs; and
  - (iii) the Chief Electoral Officer.

## PART 7

## DISPOSAL OF DOCUMENTS

**56. Ballot papers to be sealed**

(1) The Returning Officer shall, as soon as practicable after declaring the result of the election under section 28(a) of the Election Ordinance, make up into separate sealed packets –

- (a) the counted ballot papers;
- (b) the counterfoils of the ballot paper that have been issued;
- (c) the ballot papers that have not been issued; and
- (d) the ballot papers that are not counted pursuant to section 50.

(2) The Returning Officer shall endorse on each sealed packet –

- (a) a description of its contents;
- (b) the polling date; and
- (c) the number of the relevant round of voting.

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

**57. Ballot papers, accounts, packets, etc. to be sent to Chief Electoral Officer**

The Returning Officer shall, as soon as practicable after discharging his duties under section 56, send to the Chief Electoral Officer –

- (a) the ballot paper account;
- (b) the statement prepared under section 51(6);
- (c) the verification statement;
- (d) the sealed packets made up under section 56(1);
- (e) a copy of the notice referred to in section 55(b);
- (f) all nomination forms delivered to him in accordance with section 4(1);

- (g) all notices of withdrawal (if any) delivered to him in accordance with section 9(2);
- (h) all notices of appointment given to him under section 14(2), 25(4) or 44(3);
- (i) all notices of revocation given to him under section 14(4), 25(6) or 44(5); and
- (j) any other document relating to the election specified by the Commission.

**58. Inspection of ballot paper kept by the Chief Electoral Officer**

The Chief Electoral Officer shall not permit any person to inspect any ballot paper sent to him under section 57 other than on an order made by a court in proceedings relating to an election petition or other legal proceedings.

**59. Retention of election documents**

The Chief Electoral Officer shall –

- (a) retain in his custody the documents sent to him under section 57 for 6 months from the declaration of the result of the election to which they relate under section 28(a) of the Election Ordinance; and
- (b) unless otherwise directed by an order of court in proceedings relating to an election petition or other legal proceedings, destroy the documents after the expiry of those 6 months.

## PART 8

TERMINATION, POSTPONEMENT OR ADJOURNMENT OF  
PROCEEDINGS**60. Procedure after termination of election proceedings**

(1) A declaration of termination of the proceedings for the election made under section 22(1) of the Election Ordinance shall be published in the Gazette as soon as practicable.

(2) If a declaration of termination of the proceedings for the election is made under section 22(1) of the Election Ordinance –

- (a) on the polling date, the Presiding Officer shall display a notice of the declaration at a prominent place immediately outside the polling station as soon as practicable;
- (b) during a round of voting, the Presiding Officer shall –
  - (i) open the ballot box; and
  - (ii) deliver to the Returning Officer –
    - (A) all ballot papers (whether issued or not) made up into a sealed packet;
    - (B) the ballot box (whether used or not); and
    - (C) all other materials supplied to him by the Chief Electoral Officer for the purpose of the poll;
- (c) after the close of the poll but before the declaration of the result of the election, the Presiding Officer shall –
  - (i) where the ballot box has not been opened, open the ballot box; and
  - (ii) deliver to the Returning Officer –
    - (A) all ballot papers (whether issued or not) made up into a sealed packet;

- (B) the ballot box; and
- (C) all other materials supplied to him by the Chief Electoral Officer for the purpose of the poll.

(3) Sections 58 and 59 apply to the ballot papers and other materials delivered to the Returning Officer under subsection (2)(b)(ii) as if they are ballot papers and documents sent to the Returning Officer under section 57.

**61. Postponement or adjournment of polling or counting of votes**

- (1) The Commission may direct –
  - (a) the postponement of a poll if, before the commencement of polling, the Commission is of the opinion that the poll; or
  - (b) the postponement of the counting of the votes in respect of a poll if, before the commencement of the counting, the Commission is of the opinion that the counting,

is likely to be obstructed, disrupted, undermined or seriously affected by –

- (c) a typhoon or other climatic condition of a serious nature; or
  - (d) an occurrence which appears to the Commission to be a material irregularity relating to the election, the poll or the counting.
- (2) The Commission may direct –
    - (a) the adjournment of a poll if, during the polling, the Commission is of the opinion that the poll; or
    - (b) the adjournment of the counting of the votes in respect of a poll if, during the counting, the Commission is of the opinion that the counting,

is likely to be or is being obstructed, disrupted, undermined or seriously affected by –

- (c) a typhoon or other climatic condition of a serious nature; or
- (d) an occurrence which appears to the Commission to be a material irregularity relating to the election, the poll or the counting.

(3) An elector who has cast a vote at a poll adjourned under subsection (2) is not entitled and shall not be allowed to cast a vote again at the resumed polling.

(4) Subsection (3) ceases to apply if the poll proceeds to another round of voting.

## **62. Publication of postponement or adjournment of polling or counting**

If the Commission directs the postponement or adjournment of –

- (a) a poll; or
- (b) the counting of the votes in respect of a poll,

it shall publish the direction in such manner as it considers practicable.

## **63. Procedure after adjournment of polling**

(1) If the Commission directs the adjournment of a poll, the Presiding Officer shall, as soon as practicable after receiving the direction, make up into packets –

- (a) the counterfoils of the ballot papers that have been issued;
- (b) the ballot papers that have not been issued;
- (c) the unused ballot papers;
- (d) the spoilt ballot papers; and
- (e) the marked copy of the final register,

in the presence of the persons who are present within the polling station.

(2) The Presiding Officer shall, as soon as practicable after complying with subsection (1), deliver –

- (a) the sealed ballot box; and
- (b) the packets referred to in subsection (1),

to the Returning Officer.

(3) If it is impracticable to make delivery under subsection (2), the Presiding Officer shall deposit the items in –

- (a) a safe place within the polling station;
- (b) if there is no safe place referred to in paragraph (a), a safe place within a police station or a public building close to the polling station; or
- (c) if there is no safe place referred to in paragraphs (a) and (b), a safe place within a secure building close to the polling station,

until the delivery becomes practicable.

(4) Upon the delivery to the Returning Officer of the ballot box and sealed packets under subsection (2), he shall –

- (a) take such steps as determined by the Commission for the purpose of ensuring the safety and security of the ballot box and sealed packets; and
- (b) remain in charge of the ballot box and sealed packets and be responsible for their safety and security until the resumption of the poll.

#### **64. Procedure after postponement or adjournment of counting**

If the counting of the votes is postponed or adjourned, the Returning Officer shall –

- (a) (in the case of adjournment) cease the counting;
- (b) deposit the ballot box (whether opened or not), the ballot papers (whether counted or not), the verification statement,

all other items delivered to him under section 41(2) and such other documents relating to the election as he thinks fit in –

- (i) a safe place within the counting station;
  - (ii) if there is no safe place referred to in subparagraph (i), a safe place within a police station or a public building close to the counting station; or
  - (iii) if there is no safe place referred to in subparagraphs (i) and (ii), a safe place within a secure building close to the counting station;
- (c) take such steps as determined by the Commission for the purpose of ensuring the safety and security of the items so deposited; and
- (d) remain in charge of the items so deposited and be responsible for their safety and security until the resumption of the counting of the votes.

**65. Resumption of postponed or adjourned polling or counting**

(1) If a poll is postponed, the Commission shall appoint a date within the prescribed period after the date of the postponed poll as the new polling date.

(2) If a poll is adjourned, the Commission shall appoint –

- (a) a date within the prescribed period after the date of the adjourned poll as the date on which the polling shall resume; and
- (b) subject to section 17(5), the polling hours for the resumed polling.

(3) If the counting of the votes is postponed, the Commission shall appoint a date within the prescribed period after the date of the postponed counting as the date on which the counting shall be conducted.

(4) If the counting of the votes is adjourned, the Commission shall appoint a date within the prescribed period after the date of the adjourned counting as the date on which the counting shall resume.

(5) In subsections (1), (2), (3) and (4), “prescribed period” (訂明限期) means –

- (a) 2 days in the case of an adjournment or postponement –
  - (i) under section 61(1) due to an occurrence referred to in section 61(1)(d); or
  - (ii) under section 61(2) due to an occurrence referred to in section 61(2)(d); or
- (b) 14 days in any other case.

(6) A date appointed under subsection (1), (2), (3) or (4) shall be published in the Gazette as soon as practicable after the appointment.

## PART 9

### MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

#### **66. Certain officers cannot act as candidate's agent**

The Returning Officer, an Assistant Returning Officer, the Presiding Officer, a polling officer or a counting officer shall not act as –

- (a) the election agent;
- (b) an election expense agent;
- (c) a polling agent; or
- (d) a counting agent,

in relation to the election for which he is appointed.

**67. Employees of candidates shall not act as electoral officers**

No person shall, while in the employment of a candidate in an election, act as –

- (a) the Returning Officer;
- (b) an Assistant Returning Officer;
- (c) the Presiding Officer;
- (d) a polling officer; or
- (e) a counting officer,

at the election.

**68. Act done in the absence of candidates or agents still valid**

If an act is required or authorized under this Regulation to be done in the presence of –

- (a) a candidate or all candidates; or
- (b) an election agent, a polling agent or a counting agent,

that act shall not be invalid solely for the reason that such person or persons are not present when the act is performed.

**69. Declaration of secrecy**

- (1) Except a person to whom subsection (2) applies, no person shall –
  - (a) enter the polling station or the counting station without making a declaration of secrecy in the specified form; or
  - (b) stay in the polling station or the counting station without carrying with him the declaration of secrecy.
- (2) This subsection applies to –
  - (a) an elector;
  - (b) a child permitted to enter the polling station under section 26(2);
  - (c) a police officer on duty at the polling station or the counting station, as the case may be;

- (d) a member of the Civil Aid Service on duty at the polling station or the counting station, as the case may be; or
  - (e) a person who is authorized by section 46(3) to stay in the counting station.
- (3) A declaration of secrecy –
- (a) by the Returning Officer shall be made in the presence of a Commissioner for Oaths;
  - (b) by any other person shall be made in the presence of –
    - (i) the Returning Officer;
    - (ii) a Commissioner for Oaths;
    - (iii) a member of the Commission; or
    - (iv) the Chief Electoral Officer.

## **70. Secrecy**

- (1) No person shall –
- (a) subject to subsection (2), divulge to any person whether an elector has or has not applied for a ballot paper or voted;
  - (b) communicate to another person any information obtained at the counting of the votes as to the candidate for whom a vote has been given on any particular ballot paper;
  - (c) interfere with an elector when he is marking the ballot paper;
  - (d) interfere with or attempt to interfere with a ballot box, a ballot paper (including a ballot paper that has not been counted pursuant to section 50), a copy of the final register, a statement prepared under section 51(6) or a verification statement;
  - (e) without the permission of the Commission or the Returning Officer, obtain or attempt to obtain in any manner within the polling station, a no canvassing zone or

- a no staying zone information as to the candidate for whom an elector is about to vote or has voted;
- (f) communicate to another person any information obtained in the polling station as to the candidate for whom an elector is about to vote or has voted; or
  - (g) directly or indirectly induce an elector to display a ballot paper marked by the elector so as to make known to any person any information as to the candidate for whom the elector has voted.
- (2) Subsection (1)(a) does not apply to –
- (a) any act authorized by law; or
  - (b) anything done at the direction of a police officer or an officer of the Independent Commission Against Corruption investigating an offence under –
    - (i) the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554);
    - (ii) sections 3, 4 and 8 of the Prevention of Bribery Ordinance (Cap. 201);
    - (iii) section 13B of the Independent Commission Against Corruption Ordinance (Cap. 204); or
    - (iv) this Ordinance.

**71. Declaration and undertaking concerning political affiliation**

- (1) A statutory declaration and written undertaking referred to in section 31(1)(a) and (b) of the Election Ordinance shall be in specified form.
- (2) The Returning Officer shall deliver a written undertaking lodged with him under section 31(1)(b) of the Election Ordinance to the Commission.
- (3) The Commission shall retain in its custody a written undertaking delivered to it under subsection (2).

**72. Manner of giving notice**

(1) Notices under the following provisions may be sent by hand, by post or by facsimile transmission –

- (a) section 7(1) (determination of validity of nomination);
- (b) section 14(2) (appointment of election agents or election expense agents);
- (c) section 14(4) (revocation of appointment of election agents or election expense agents);
- (d) section 15(1) (notice to candidates of the appointment of election agents);
- (e) section 19(1) (polling notice);
- (f) section 23(2) (boundary of the no canvassing zone and no staying zone);
- (g) section 23(4) (variation of the no canvassing zone and no staying zone);
- (h) section 25(4) (appointment of polling agents);
- (i) section 25(6) (revocation of appointment of polling agents);
- (j) section 31(4) (allocation of candidate numbers by drawing of lots);
- (k) section 43(3) (time and place of the counting of votes);
- (l) section 44(3) (appointment of counting agents); or
- (m) section 44(5) (revocation of appointment of counting agents).

(2) A notice under section 23(4) may be given orally if sending it in accordance with subsection (1) is not practicable or is not suitable in the circumstances.

**73. Commission to specify forms**

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

(2) Forms specified under subsection (1) shall be made available by the Chief Electoral Officer –

- (a) during ordinary business hours at his office; and
- (b) free of charge.

(3) Subsection (2) does not apply to the specified form referred to in –

- (a) section 15(1) (notice to candidates of the appointment of election agents);
- (b) section 19(1) (polling notice); and
- (c) section 42 (ballot paper account).

**74. Misnomer or inaccuracy does not affect election documents**

A misnomer or inaccurate description of a person, a person's identity document or a place specified in –

- (a) the final register;
- (b) a nomination form;
- (c) a ballot paper;
- (d) a notice that may be or is required to be given or sent under the Election Ordinance or this Regulation; or
- (e) any other document that may be or is required to be prepared or produced under the Election Ordinance or this Regulation,

shall not limit its full operation with respect to that person, identity document or place if the description of the person, identity document or place is such as to be commonly understood.

**75. Defect in appointment of officers do not affect election**

An election shall not be questioned only because of a defect in the appointment of a person as an electoral officer if the person was at the relevant time holding office or acting as such an officer at the election.

**76. Limit on the Returning Officer's power to delegate**

The Returning Officer may not delegate to an Assistant Returning Officer –

- (a) the power under section 17 of the Election Ordinance to determine the validity of a nomination;
- (b) a determination under section 51(2); or
- (c) the declaration of the result of an election under section 28 of the Election Ordinance.

**77. Chief Electoral Officer's functions, powers and duties**

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

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

**78. Elector need not disclose vote**

(1) An elector who is asked to disclose the name of, or any particulars relating to, the candidate for whom the elector has voted at the election is not required to answer the question.

(2) No person shall require or purport to require, without lawful authority, an elector to disclose the name of or any particulars relating to the candidate for whom the elector has voted at the election.

**79. Reporting of irregularities**

(1) If the Returning Officer, the Chief Electoral Officer or the Presiding Officer is of the opinion that an irregularity has occurred in relation to an election, a poll or a count, he shall make a report in writing to the Commission.

(2) A report of an irregularity shall be made –

- (a) as soon as practicable after the Officer concerned becomes aware of it; and
- (b) in any case not later than 14 days after the polling date.

(3) If in the opinion of the Returning Officer, the Chief Electoral Officer or the Presiding Officer a material irregularity has occurred or is likely to occur in relation to an election, he shall immediately make a report to the Commission in such manner as he considers expedient in the circumstances.

(4) If a report is made under subsection (3) otherwise than in writing, the Officer concerned shall make a report also in writing –

- (a) as soon as practicable after the making of the first-mentioned report; and
- (b) in any case not later than 30 days after the polling date.

**80. Provisions relating to free postage by candidates**

(1) A letter that may be sent free of postage by a candidate under section 45 of the Election Ordinance shall –

- (a) be posted in Hong Kong;
- (b) contain materials relating only to his candidature;
- (c) not exceed 50 grams 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 by a candidate under section 45 of the Election Ordinance, he shall 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 stating that the materials contained in that bulk mailing are identical with that specimen.
- (3) If –
- (a) any letter sent by a candidate in a bulk mailing under section 45 of the Election Ordinance does not comply with subsection (1); or
  - (b) a declaration made by a candidate 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.

### **81. Election advertisement**

- (1) No candidate shall display, distribute or otherwise use an election advertisement unless –
- (a) each election advertisement of the same type is marked in a conspicuous position with a consecutive number in a series beginning with the number “1”;
  - (b) he makes beforehand a declaration in the specified form stating the quantity of each type of election advertisement he proposes to display, distribute or otherwise use for the time being for the election;
  - (c) he submits beforehand the declaration to the Returning Officer together with –
    - (i) 2 copies of the advertisement;
    - (ii) where it is not practicable to make a copy of the advertisement, 2 colour photographs in postcard size of the advertisement; or

- (iii) where the advertisement is recorded on a video tape or an audio tape or disc, 2 copies of the tape or disc; and
- (d) he submits beforehand to the Returning Officer –
  - (i) 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
  - (ii) in case the 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.

(2) A copy each of any declaration, permission, authorization, consent, election advertisement, photograph, tape or disc submitted to the Returning Officer under subsection (1) shall be made available by him for inspection by the public –

- (a) free of charge;
- (b) at an office of the Returning Officer specified by him; and
- (c) during ordinary business hours,

until the end of the period during 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).

(3) If any requirement in this section has not been complied with in relation to an election advertisement, the Returning Officer may –

- (a) cover the advertisement with such materials as he thinks fit; or
- (b) seize the advertisement and dispose of it in such manner as he thinks fit.

(4) If the Returning Officer has not been appointed, a reference in this section to the Returning Officer shall be construed as a reference to the Chief Electoral Officer.

- (5) Subsection (1)(a) does 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) published on a newspaper required to be registered under section 7 of the Registration of Local Newspapers Ordinance (Cap. 268);
  - (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.

## **82. Offence**

(1) Any person who contravenes section 24(2), (4), (6) or (8), 26(1), 27(2), (4), (5), (7), (9) or (11), 46(1), 47(2), (3), (5) or (7), 66, 67, 70(1) or 78(2), commits an offence and shall be liable on conviction to a fine at level 2 and to imprisonment for 3 months.

(2) Any person who contravenes section 81(1) commits an offence and shall be liable on conviction to a fine at level 2 and to imprisonment for 6 months.

## **83. Offences by electoral officer**

(1) Any person holding office as an electoral officer at an election who neglects or refuses to perform the functions or duties of that office in relation to the election commits an offence and is liable on conviction to a fine at level 2.

(2) A prosecution for an offence under this section may be brought only with the consent of the Secretary for Justice.

(3) A person shall not be liable to conviction under this section unless the complaint or information alleging the offence is made or laid within 3 months after the date of the alleged offence.

#### **84. Offence of false statement**

(1) Any person who –

- (a) makes a statement which he knows to be false in a material particular in an election related document;
- (b) recklessly makes a statement which is incorrect in a material particular in an election related document; or
- (c) omits a material particular in an election related document,

commits an offence.

(2) Any person (“the first-mentioned person”) who directly or indirectly by himself or by another person on his behalf conspires with, incites, compels, induces, coerces, intimidates or persuade, any other person to –

- (a) make a false statement; or
- (b) provide information which the first-mentioned 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) shall be an offence referred to in section 14(h)(iv) of the Election Ordinance.

(5) The provisions of this section are made for the purposes of section 14(h) of the Election Ordinance.

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

**85. Application of Parts 4 to 9**

The provisions of Parts 4 to 9 apply to and in relation to every round of voting in a poll.

SCHEDULE

[s. 30]

BALLOT PAPER

Made this                      day of November 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 provides for the electoral procedure of Chief Executive election conducted under the Chief Executive Election Ordinance (Cap. 569) (“the Election Ordinance”).

2. Section 2 sets out the definitions of the terms used in the Regulation.
3. Part 2 provides for nomination of candidates and withdrawal of candidature. The Chief Electoral Officer (“CEO”) must publish a notice of the nomination period and manner of nomination (section 3). Section 4 sets out the requirements as regards nomination. The Returning Officer (“RO”) must notify a candidate of his determination on the validity of the nomination (section 7). He has to give reasons if he determines that a nomination is invalid (section 6). Section 9 makes provision for withdrawal of candidature under the Election Ordinance. If the only candidate is declared to be returned or the proceedings for the election are terminated due to the death or disqualification of a candidate, RO must publish a Gazette notice (sections 10 and 11).
4. Part 3 makes provision for appointment of election agents and election expense agents. Each candidate may appoint one election agent. The election agent may, subject to several exceptions, handle electoral affairs on behalf of the candidate (section 12). A candidate may appoint any number of election expense agent who may incur election expenses on behalf of the candidate (section 13). Appointment and removal of agents is effected by giving notice to RO (section 14).
5. Part 4 deals with polling arrangement. Unlike other elections, Chief Executive election may have more than one round of voting. Not more than 3 rounds of voting can be conducted on each day. Polling hours are appointed by CEO (section 17). CEO may designate any public premises or hire private premises as the polling station (section 18). A polling notice providing information on voting must be sent to the electors (section 19). CEO is empowered to appoint polling officers and a Presiding Officer (“PRO”) who is

to preside at the polling station (section 20). A copy of the final register of electors is to be sent to every candidate to facilitate electioneering (section 21).

6. RO may designate and vary a no canvassing zone and no staying zone outside the polling station (section 23). Sections 24 and 27 empower PRO to keep order in such zones and the polling station. A range of misconduct is prohibited.

7. Under section 25, candidates may appoint polling agents to attend at the polling station to observe voting.

8. Part 5 deals with ballot box, ballot papers and voting procedure. Design of ballot boxes, sealing of ballot boxes, and design of ballot papers are provided for (sections 28, 29, 30 and 31). Procedures for the issuance of ballot papers are also prescribed (sections 32 and 34). If a person is suspected of having engaged in corrupt conduct of impersonation, he may be arrested (section 33).

9. Section 36 provides for voting procedure to be observed by the electors. Circumstances in which PRO has to mark the words “TENDERED”, “UNUSED” and “SPOILT” on ballot papers are provided for in sections 38, 39 and 40. Sections 41 and 42 require PRO to seal the ballot box, pack the ballot papers and prepare a ballot paper account after the close of the poll.

10. Part 6 provides for counting of the votes. A candidate may appoint counting agents to attend at the counting station to observe the counting (section 44). Members of the public may also observe the counting so long as the counting is not disrupted or disturbed (section 46). RO is empowered by section 47 to keep order at the counting station. A range of misconduct is prohibited. Sections 48 and 49 set out the counting procedure. Validity of questionable ballot papers is to be determined by RO under sections 50 and 51. After the completion of counting, RO has to prepare a verification statement (section 52) and publish the result (sections 53 and 55). A candidate may request a re-count (section 53).

11. Part 7 deals with disposal of all election-related documents.

12. Part 8 makes provision for the procedure to be observed when the election proceedings are terminated, postponed or adjourned. The Electoral Affairs Commission is empowered by the Election Ordinance and section 61 to postpone or adjourn the polling or the counting of the votes in certain circumstances. Steps to be taken upon such postponement or adjournment are set out in sections 62 to 64.

13. Part 9 contains miscellaneous provisions. Sections 66 and 67 ensure impartiality of electoral officers. Sections 70 and 78 provide for maintenance of secrecy of the election proceedings. Section 80 sets out requirements for free postage by candidates. Section 81 makes provision for election advertisement. Sections 82 to 84 deal with a range of offences under this Regulation.

14. The Schedule sets out the form of the ballot paper.

## SCHEDULE

[s. 30]

## BALLOT PAPER

<p>《選舉程序 (行政長官選舉) 規例》  <b>ELECTORAL PROCEDURE          (CHIEF EXECUTIVE ELECTION) REGULATION</b></p> <p>行政長官選舉  <b>CHIEF EXECUTIVE ELECTION</b></p>		<p><b>選票          BALLOT          PAPER</b></p>	
<p>*(選舉日期)          *(date of election)</p>		<p>第#(數目)輪投票          # (sequence number) <b>ROUND OF POLLING</b></p>	
<p><b>只選一名</b></p>		<p><b>VOTE FOR ONE ONLY</b></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> *(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.

# The relevant sequence number of the round of polling will be printed.