

61. What ballot papers are to be marked "未用" and "UNUSED" by the Presiding Officer

(1) Unless it is not reasonably practicable to do so, the Presiding Officer must endorse the words "未用" and "UNUSED" on any ballot paper that has been issued but has not been put into the ballot box.

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

62. What ballot papers are to be marked "損壞" and "SPOILT" by the Presiding Officer

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

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

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

63. Steps to be taken at a polling station

at the close of the poll

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

(a) seal each ballot box with a seal provided for that purpose or with any other device specified by the Chief Electoral Officer, so that a ballot paper or any other material cannot be introduced or withdrawn from the ballot box after it is sealed; and

(b) make up into separate sealed packets---

(i) ballot papers which have not been issued;

(ii) the unused ballot papers;

(iii) the spoiled ballot papers; and

(iv) the marked copies of the final register.

(2) The Presiding Officer must then deliver the ballot box or boxes and the sealed packets to the Returning Officer.

(3) At a polling station used for polling for more than one constituency, the Presiding Officer must make separate sealed packets for each constituency.

(4) For the avoidance of doubt it is stated that the ballot papers in a sealed packet prepared under this section are not to be counted for the purpose of counting

of the votes. Accordingly, references to ballot papers in relation to the counting of the votes are to be construed as not including those ballot papers.

64. Presiding Officer to prepare a ballot paper account for each packet of sealed ballot papers

(1) The Presiding Officer must prepare a statement which complies with subsection (2) for each packet prepared under section 63 for a constituency.

(2) The statement under subsection (1) must be in the specified form and show the number of ballot papers for the constituency supplied to the Presiding Officer under section 40(2) and account for those ballot papers under the following heads---

(a) the number of ballot papers estimated by the Presiding Officer to be in the ballot box or boxes;

(b) the number of un-issued ballot papers;

(c) the number of unused ballot papers; and

(d) the number of spoilt ballot papers.

PART IV

Counting of the Votes: Ordinary Election and By-Elections

65. Returning Officer to give notice of time and place of the counting of the votes to candidates

(1) Subject to subsection (6), the Returning Officer is to determine the time at which the counting of the votes for a constituency is to begin.

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

(3) The Returning Officer must give notice in writing to each candidate of the time determined for the counting of the votes to begin for the constituency contested by the candidate and the place or places at which counting is to take place.

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

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

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

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

66. Candidates may appoint counting agents

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

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

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

(4) A candidate must give notice of appointment of a counting agent to the Returning Officer at least 3 working days before polling day.

(5) If notice is not given under subsection (4), it must be delivered on polling day to the Returning Officer---

(a) by the candidate in person; or

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

(6) A notice for the purposes of this section must be in writing and in the specified form. It must state the name, identity card number and residential address of the counting agent. It must be signed by the candidate.

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

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

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

(10) If notice of revocation is given on polling day, it must be given in accordance with subsection (5).

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

67. Chief Electoral Officer to appoint counting officers

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

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

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

68. Who may be present at the counting of the votes

(1) Subject to subsections (2) and (5), only the Chief Returning Officer, Returning Officer, Assistant Returning Officers and the following persons may be present at the counting of the votes---

(a) counting officers;

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

(2) No other person may be present except with the permission of the Chief Returning Officer or the Returning Officer.

(3) The Chief Returning Officer and the Returning Officer are to ensure that the arrangements for the counting of the votes are such that the candidates and their respective election agents or counting agents are able to observe how individual votes are counted.

(4) Only an election agent or counting agent regarding whom notice of appointment has been given under this Regulation may be present during the counting of the votes at the counting zone or zones. On arriving at the counting station, an election agent or counting agent must report in person to the Returning Officer and produce his or her identity card and a declaration of secrecy completed on the specified form by him or her.

(5) The Chief Returning Officer may, if that Officer considers it appropriate and practicable without disrupting the count and prejudicing the secrecy of the individual votes, permit members of the public to observe the counting of the votes from an area at the counting station set apart for that purpose by that Officer. The area is to be at such a distance from the place where the votes are being counted as that Officer considers appropriate.

69. What constitutes an offence at a counting station

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

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(a) the Chief Returning Officer or the Returning Officer in charge of the counting zone; or

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

(2) A person who fails to comply with a lawful order given by the Chief Returning Officer or the Returning Officer at or in the vicinity of a counting station or behaves in a disorderly manner there 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 3 months.

70. Returning Officers to keep order
at the counting station

(1) The Chief Returning Officer and the other Returning Officers must keep order at the counting station.

(2) If, at or in the vicinity of a counting station, a person---

(a) misconducts himself or herself, the Chief Returning Officer may; or

(b) fails to obey a lawful order of the Returning Officer, that Officer may, order the person to leave the counting station or the vicinity of the counting station, as the case may be, immediately.

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

(4) A person who is removed under subsection (3) may not enter the relevant counting station again on that day, unless the Officer who ordered his or her removal permits him or her to do so.

71. Ballot boxes to be delivered to
the district counting station

(1) Each Presiding Officer must arrange for the ballot box or boxes from that Officer 掇 polling station to be delivered to the relevant district counting station.

(2) If the counting of the votes is to be conducted at a counting station other than the relevant district counting station, the Presiding Officer must arrange for the ballot box or boxes from that Officer 掇 polling station to be delivered to that other counting station.

72. Arrangements for the supervision of district counting station and separate counting zones

(1) The Chief Returning Officer is to supervise the relevant district counting station.

(2) The respective Returning Officers for the constituencies are to be in charge of the counting zone for the relevant constituency.

(3) Each counting zone is to have one or more Assistant Returning Officers (General) to assist the Returning Officer in charge.

73. Delivered ballot boxes to be taken to relevant counting zones at the district counting station

(1) After delivery of the ballot boxes to the district counting station, the ballot box or boxes from each polling station are to be given into the charge of the Returning Officer for the relevant constituency.

(2) If the Chief Returning Officer considers that the arrangements described in

subsection (1) are not practicable, that Officer may modify them.

74. Returning Officer to open ballot box

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

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

75. Returning Officer to separate ballot papers at the counting zone and verify ballot paper account

(1) A Returning Officer in charge of a counting zone must---

(a) count and record the number of ballot papers for the constituency concerned; and
(b) verify the ballot paper account by comparing it with the number of ballot papers recorded under paragraph (a) and prepare a statement in writing as to the result of the verification.

(2) If a Returning Officer considers it necessary or if required by a candidate who is present at the counting zone or an election agent or counting agent so present, that Officer must, in preparing the verification of the ballot paper account, compare the ballot paper account with the ballot papers recorded by that Officer and the spoilt ballot papers, the unused ballot papers and the counterfoils or un-issued ballot papers.

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

76. Counting of the votes

(1) At the counting zone for each constituency, the ballot papers for that constituency must be dealt with by the Returning Officer as provided in this section.

(2) Where more than one polling station is used for polling for a constituency, ballot papers that have been delivered from 2 or more polling stations must be mixed before counting the votes in respect of that constituency.

(3) Ballot papers are to be sorted with reference to the candidate for which the vote has been recorded.

(4) The votes recorded on the ballot papers are to be counted according to the system of counting described in section 41 of the District Councils Ordinance (8 of 1999).

77. Result of the counting of the votes and re-count

(1) After the votes are counted under section 76, the Returning Officer must make known to the candidates who are present at the counting zone, the result of the counting of the votes. If the candidates are not present, the Returning Officer is to make known the result to their respective election agents or counting agents, if those agents are present at the counting zone.

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

(3) After a count or re-count is completed, nothing further is to be done until each candidate present at the completion, or the election agent of each candidate (but not both) if present at the completion of the count or re-count is given a reasonable opportunity to make a request for a re-count.

78. Ballot papers which are not to be counted when counting the votes

(1) When counting the votes, the following ballot papers are not to be counted---

- (a) on which there is writing or a mark by which the elector can be identified;
- (b) which has the words "重複" and "TENDERED" endorsed on the front of it;
- (c) which has the words "損壞" and "SPOILT" endorsed on the front of it;
- (d) which is unused;
- (e) which is substantially mutilated;
- (f) which is unmarked;
- (g) subject to subsection (2), a ballot paper which is not marked in accordance with section 58; or
- (h) which the Returning Officer determines as being void for uncertainty.

(2) In the case of a ballot paper referred to in subsection(1)(g), if the Returning Officer is satisfied that the intention of the elector is clear notwithstanding the deviation from the requirements in section 58(2), the Returning Officer may count that ballot paper.

(3) For the avoidance of doubt it is stated that the Returning Officer is not to make a decision not to count a ballot paper solely for the reason that the ballot paper is stamped with the words "已故" and "DECEASED" or "喪失資格" and "DISQUALIFIED", as the case may be, in accordance with section 40(2).

79. Returning Officer to make decisions on questionable ballot papers

(1) The Returning Officer must separate from the other ballot papers and set aside any ballot paper which appears to that Officer to be a ballot paper described in section 78.

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

(3) After considering the representations, if any, the Returning Officer must make a decision as to whether the ballot paper is a ballot paper which under section 78 should not be counted or whether it should be counted.

(4) If the Returning Officer decides a ballot paper is not to be counted, that Officer must endorse the words "不獲接納" and "rejected" on the front of it. If a candidate or an election agent objects to the Returning Officer 掇 decision, that Officer must also add the words "反對此選票不獲接納" and "rejection objected to".

(5) If a candidate or an election agent objects to the decision of the Returning Officer to count a ballot paper, that Officer must endorse the words "反對此選票獲接納" and "acceptance objected to" on that ballot paper.

(6) The Returning Officer is to prepare a statement of the ballot papers which that Officer decides under this section to be ballot papers which are not to be counted. The statement is to be under the following heads---

- (a) writing or mark by which the elector can be identified;
- (b) endorsed with the words "重複" and "TENDERED";
- (c) endorsed with the words "損壞" and "SPOILT";
- (d) unused;
- (e) substantially mutilated;
- (f) unmarked;
- (g) not marked in accordance with section 58; and
- (h) void for uncertainty.

80. Returning Officer 掇 decision
on a ballot paper to be final

Subject to section 49 of the District Councils Ordinance (8 of 1999), the decision of the Returning Officer on a ballot paper is final.

81. Returning Officer to declare election result

(1) When the counting of the votes and re-counts, if any, are completed and the result of the election determined, subject to subsection (2), the Returning Officer must declare the candidate who is successful at the election to be elected, as provided in section 41(4) of the District Councils Ordinance (8 of 1999).

(2) If, before declaring a successful candidate at an election to be elected, it comes to the knowledge of the Returning Officer that the candidate has died or is disqualified, that Officer must not declare the candidate to be elected and must

declare the election to have failed, as provided in section 40(3) of the District Councils Ordinance (8 of 1999).

82. The form in which Returning Officer is to publish result of election

(1) A notice to be published under section 46(1) of the District Councils Ordinance (8 of 1999) is to be in the form prescribed in Schedule 3.

(2) A notice under subsection (1) must be published in the Gazette within 10 days from the date the relevant result is declared under section 81(1).

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

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

- (a) the Chairman of the Commission;
- (b) the Secretary for Constitutional Affairs;
- (c) the Director of Home Affairs; and
- (d) the Chief Electoral Officer.

PART V

Disposal of Documents: Ordinary Election and By-elections

83. Returning Officer to seal ballot papers in packets

(1) As soon as practicable after the Returning Officer has ascertained the result of the poll, that Officer must, at the counting station, make up into separate sealed packets---

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

(2) The Returning Officer must endorse on each sealed packet---

- (a) a description of its contents;
- (b) the date of the relevant election; and
- (c) the name of the constituency and the name of the relevant District.

(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.

(4) Before the Returning Officer makes up the packets, that Officer must inform---

- (a) the candidates who are present at the counting station; and
- (b) either the election agent or counting agent (if present) of a candidate who is

not present at the counting station,

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

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

As soon as practicable after preparing the notice of the result of the election, the Returning Officer must send to the Chief Electoral Officer---

(a) the ballot paper accounts, verification of the ballot paper accounts and the re-verification of the ballot paper accounts;

(b) the statement referred to in section 79(6);

(c) the sealed packets made up under section 83(1);

(d) a copy of the notice of the result of the election;

(e) all nomination forms;

(f) notices of withdrawal of candidature (if any);

(g) notices of appointment of election agents, polling agents and counting agents and copies of authorizations of election expense agents; and

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

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

The Chief Electoral Officer is not to permit any person to inspect any ballot paper in that Officer's custody other than on an order made by a court in proceedings relating to an election petition or criminal proceedings.

86. Chief Electoral Officer to retain election documents for at least 6 months

The Chief Electoral Officer must retain in that Officer's custody the documents sent under section 84 for at least 6 months from the date of the election to which they relate. That Officer must thereafter, unless directed by an order of court in proceedings relating to an election petition or criminal proceedings, destroy them.

PART VI

Miscellaneous and Supplemental Provisions:

Ordinary Election and By-elections

87. Returning Officers, Presiding Officers, polling officers or counting officers not to act as

agents of candidates in the same election

(1) A Returning Officer, Presiding Officer, polling officer or counting officer who acts as an election agent, a polling agent, a counting agent or an election expenses agent in the election for which he or she is appointed commits an offence.

(2) A person who commits an offence under subsection (1) is liable to a fine at

level 2 and to imprisonment for 3 months.

88. Employees of candidates not to act as electoral officers

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

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

89. Presiding Officer may perform functions through polling officers

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

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

90. Returning Officer may perform functions through Assistant Returning Officers

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

(2) A Returning Officer may not delegate under subsection (1)---

(a) the power to determine the validity or otherwise of a nomination or a nomination form;

(b) a decision regarding a ballot paper; or

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

91. Chief Electoral Officer to be subject to direction of Commission

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

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

92. Acts done in the absence of candidates or agents not to be invalid

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

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

(1) Every electoral officer within the meaning of section 2 of the District Councils Ordinance (8 of 1999) or person authorized by or under this Regulation to attend at a polling station (except as an elector) must, before entering the polling station, make a declaration of secrecy on the specified form.

(2) Every candidate, counting agent or counting officer or other person (except as a member of the public under section 68(5)) authorized by or under this Regulation to attend at the counting of the votes must make a declaration of secrecy on the specified form before entering the counting station.

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

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

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

94. Enforcement of provisions as to secrecy

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

(2) Subsection (1) does not apply to anything done for a purpose authorized by law or when required to do so by a police officer or an officer of the Independent Commission Against Corruption investigating an offence under the Corrupt and Illegal Practices Ordinance (Cap. 288), section 13B of the Independent Commission Against Corruption Ordinance (Cap. 204), or the Electoral Affairs Commission Ordinance (Cap. 541) or any regulation made under that Ordinance.

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

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

(5) A person who interferes with or attempts to interfere with any ballot boxes, un-issued ballot papers, unused ballot papers, spoilt ballot papers, tendered ballot

papers, marked ballot papers or a copy or extract of the final register marked under section 56(3), commits an offence.

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

(7) A person who obtains or attempts to obtain in any manner---

(a) within a polling station or a no staying zone; or

(b) within a no canvassing zone, without the express permission of the Presiding Officer or the Commission,

information as to the candidate for whom an elector in that station is about to vote or has voted, commits an offence.

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

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

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

95. Procedure after election proceedings are terminated

(1) A declaration terminating the proceedings for an election under section 40(1) of the District Councils Ordinance (8 of 1999) is to be made by the Returning Officer by a notice. The notice must be displayed in a prominent place outside each polling station for the constituency concerned. As soon as practicable after the declaration is made, the notice must be published in the Gazette.

(2) If the death or disqualification of a candidate which is the reason for the termination of the election proceedings comes to the knowledge of the Returning Officer on the election day but before the close of polling for the constituency, that Officer must direct that the poll for the constituency be abandoned.

(3) When the poll is abandoned under this section, the Presiding Officer at every polling station for the constituency for which the deceased or disqualified candidate was standing for election must take the steps that Officer is required to take under this Regulation for the delivery to the Returning Officer of the ballot box or boxes, ballot papers and other election materials at the close of a poll.

(4) For the purposes of subsection (3), the requirement in section 64 relating to the preparation of a ballot paper account does not apply.

(5) The Returning Officer to whom the ballot papers are delivered must seal all

the ballot papers in packets without separating, sorting or counting them or counting the votes.

(6) The provisions in Part V relating to the inspection, retention and destruction of ballot papers and other documents relating to a poll apply to the election documents of a poll abandoned under this section, subject to necessary modifications.

(7) When a poll is abandoned under this section, the Returning Officer must, as far as practicable and in a manner that Officer thinks fit, notify the Chief Electoral Officer and the candidates for the constituency or their respective election agents.

(8) A by-election is to be arranged, subject to section 33(2) of the District Councils Ordinance (8 of 1999), under section 33(1) of that Ordinance.

96. Procedure in case of death or disqualification of candidate after close of poll

(1) If the death or disqualification of a candidate comes to the knowledge of the Returning Officer after the close of polling for the constituency concerned, the Returning Officer must direct that the counting of the votes for the constituency is to begin or continue, as the case may be, as if the death or disqualification had not occurred.

(2) If, after the votes are counted, the deceased or disqualified candidate is found to be successful at the election, section 81(2) applies.

(3) If the candidate who has died or is disqualified is not successful at the election, the Returning Officer must declare the successful candidate to be elected as provided in section 81(1).

97. Procedure after election fails

(1) A declaration of failure of an election under section 39(2) of the District Councils Ordinance (8 of 1999) is to be made by the Returning Officer by notice published in the Gazette.

(2) A declaration of failure of an election under section 40(3) of the District Councils Ordinance (8 of 1999) is to be made by the Returning Officer by a notice. The notice must be displayed in a prominent place outside the relevant counting station. As soon as practicable after the declaration is made, the notice must be published in the Gazette.

(3) A by-election is to be arranged, subject to section 33(2) of the District Councils Ordinance (8 of 1999), under section 33(1) of that Ordinance.

98. Publication and display of notices, etc.

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

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

- (a) notice of the decision of the Returning Officer as to whether a person is validly nominated as a candidate;
- (b) notice of a declaration that a candidate has died or that the decision of the Returning Officer has been varied to the effect that a candidate is not validly nominated;
- (c) notice of the appointment or notice of revocation of the appointment of an election agent (other than a notice given on polling day);
- (d) application to vote at a special polling station;
- (e) notice to Returning Officers and to candidates of the determination of a no canvassing zone and a no staying zone;
- (f) notice to Returning Officers and to candidates of the variation before the polling day of a no canvassing zone or a no staying zone;
- (g) notice to candidates of the arrangements for the drawing of lots to determine the order of appearance of candidates on the ballot paper;
- (h) notice of the appointment or notice of revocation of the appointment of a polling agent (other than a notice given on polling day);
- (i) notice of the appointment or notice of revocation of the appointment of a counting agent (other than a notice given on polling day); and
- (j) notice to candidates of the time and place for the counting of the votes.

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

99. Commission to designate Chief Returning Officer for each counting station

The Commission may designate---

- (a) a Returning Officer as the Chief Returning Officer for a counting station; and
- (b) one or more Returning Officers or other persons, each as an Assistant Returning Officer (General).

100.* Commission to specify forms

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

(2) The Commission may specify forms for notifications by the Returning Officer under the District Councils (Subscribers and Election Deposit for Nomination) Regulation (L.N. 113 of 1999).

(3) The Chief Electoral Officer is to make available during ordinary business hours at that Officer 掇 office and at the office of each Returning Officer, the forms

specified under subsection (1).

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

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

(6) Subsections (3),(4) and (5) do not apply to the specified forms for the election notice, by-election notice, notice of nominations, notice published under section 23, 24 or 25 declaring the candidates who are returned un-contested as elected members, notification by the Chief Electoral Officer of the particulars of election agents, notice of guidance to electors referred to in section 42, ballot paper, ballot paper account or notice of the election result.

101.* Reporting of irregularities

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

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

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

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

102.* Letters that may be sent free

of postage by candidates

(1) A candidate may send one letter, as provided in this section, free of postage, to each elector in the constituency for which the candidate is validly nominated in an election.

(2) The letter must---

(a) be posted in Hong Kong;

(b) contain materials relating only to the candidate 掇 candidature at the election concerned;

(c) not exceeding 50 grams in weight; and

(d) be not larger than 175 mm * 245 mm and not smaller than 90 mm * 140 mm in size.

(3) If a candidate is sending letters to electors in bulk by post, the candidate, or any person authorized by the candidate, must provide to the Postmaster General

a specimen of the materials contained in the bulk. The candidate or the person authorized must make a declaration in the specified form stating that the materials contained in the bulk are identical with the specimen provided to the Postmaster General.

(4) The declaration must be signed and submitted to the Postmaster General.

(5) If any letter in the bulk sent by the candidate under subsection (1) is not in compliance with subsection (2), or if the declaration made under subsection (3) is false in any particular, the candidate is liable for payment of postage for all the letters in that bulk.

103.* Election advertisements

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

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

(3) A candidate must make a declaration which complies with subsection (4) in respect of an election advertisement he or she uses at an election.

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

(5) The declaration must be submitted to the Returning Officer not later than 7 days after the candidate displays, distributes or otherwise uses the election advertisement.

(6) Subject to subsection (7), a candidate must, not later than 7 days after he or she displays, distributes or otherwise uses an election advertisement, furnish 2 copies of it to the Returning Officer.

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

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

(9) The candidate must, not later than 7 days after he or she displays, distributes or otherwise uses an election advertisement, deposit with the Returning Officer 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).

(10) The Returning Officer must make available for inspection by any person a copy each of any declaration, permission or authorization or election advertisement furnished under this section. They must be made available after the declaration, permission or authorization or election advertisement is furnished to the Returning Officer and until the end of the period for which returns and declarations of election expenses of candidates are open for inspection under section 29A of the Corrupt and Illegal Practices Ordinance (Cap. 288).

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

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

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

(14) The Returning Officer may seize and dispose of any election advertisement on display and in respect of which any requirement in this section has not been complied with.

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

(a) which is a printed material---

(i) of or smaller than A4 size, that is, 30 cm * 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) to be sent by facsimile or any other form of electronic transmission; or

(c) in the form of a balloon, T-shirt, cap, badge or carrier bag.

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

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

104.* Offence of false declaration

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

(2) A person who directly or indirectly by himself or herself or by another person on his or her behalf conspires with, incites, compels, induces, coerces, intimidates or persuades another person to make a false statement in an election related document

or to provide information which that person knows to be wrong in a material particular in an election related document commits an offence.

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

(4) An offence under this section is to be an offence prescribed for the purposes of sections 21 and 24 of the District Councils Ordinance (8 of 1999).

(5) In this section "election related document" (與選舉有關的文件) means a form, declaration (other than a declaration under section 102), application, authorization, notice, statement or a nomination form required or used for the purposes of this Regulation.

SCHEDULE 1 [ss. 3, 65 & 89]

Postponement and Adjournment of Ordinary

Election and By-elections

1. Postponement of an ordinary election and adjournment of poll at all polling stations or count at all counting stations

(1) If, before the holding of an ordinary election, it appears to the Commission that the election is likely to be obstructed, disrupted, undermined or seriously affected by an occurrence specified in subsection (3), the Commission may postpone the holding of the election by making a declaration under section 4.

(2) If, at any time during the polling or the counting of the votes at an ordinary election, it appears to the Commission that the poll or count is likely to be obstructed, disrupted, undermined or seriously affected by an occurrence specified in subsection (3), the Commission may adjourn the poll or count by making a declaration under section 4.

(3) The occurrences for the purposes of subsections (1) and (2) are---

(a) a typhoon or other climatic condition of a serious nature; or

(b) an occurrence which appears to the Commission to be a material irregularity relating to the election, the poll or count.

2. Postponement of election, adjournment of poll or count in respect of a single constituency

(1) If, during or before an ordinary election or by-election, it appears to the Commission that the election for a constituency is likely to be obstructed, disrupted, undermined or seriously affected by an occurrence specified in subsection (3), the Commission may postpone the election or by-election for the constituency by making a declaration under section 4.

(2) If, at any time during a poll or count in respect of an ordinary election or by-election referred to in subsection (1), it appears to the Commission that the

poll at all the polling stations for any constituency or the count at all the counting stations for any constituency is likely to be obstructed, disrupted, undermined or seriously affected by an occurrence specified in subsection (3), the Commission may adjourn the poll at all the polling stations or the count at all the counting stations for that constituency by making a declaration under section 4.

(3) The occurrences for the purposes of subsections (1) and (2) are---

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

3. Adjournment of poll at a particular polling station

(1) If, at any time during polling at an ordinary election or by-election, it appears to the Presiding Officer that the poll at the polling station is likely to be obstructed, disrupted, undermined or seriously affected by an occurrence specified in subsection (2), the Presiding Officer may adjourn the poll at that polling station by making a declaration under section 4.

(2) The occurrences for the purposes of subsection (1) are---

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

4. How a declaration for the purposes of sections 1, 2 and 3 is to be made and what it is to contain

(1) A declaration for the purposes of sections 1, 2 and 3 is to be made by a notice published in the Gazette. If publication in the Gazette is not practicable in the circumstances, the notice may be published by other means determined by the Commission.

(2) The declaration must contain the following as may be appropriate in each case---

- (a) a description (by name or otherwise) of the ordinary election or by-election that is being postponed or in respect of which a poll or count is being adjourned or postponed;
- (b) the fact that the ordinary election or by-election is being postponed;
- (c) the fact that the polling or the counting of the votes is being postponed or adjourned;
- (d) a statement as to whether the polling or the counting of the votes is being postponed or adjourned at all the polling stations or counting stations in respect of a constituency;

(e) a statement as to whether the polling or the counting of the votes is being adjourned at a single polling station or counting station or certain polling stations or counting stations; and

(f) a description (by name or otherwise) of the polling stations or counting stations at which a poll or count is being postponed or adjourned.

5. Procedure after adjournment of poll

(1) If a poll is adjourned under this Schedule or section 38 of the District Councils Ordinance (8 of 1999), the procedure specified in this section is to be complied with.

(2) The Presiding Officer must, in the presence of any persons present at the polling station, secure the ballot boxes and their contents in a manner that Officer thinks fit. Then, without counting the ballot papers or counting the votes, that Officer must deliver the secured ballot boxes together with any un-issued ballot papers, unused ballot papers or spoilt ballot papers, and the marked copies of the final register to the Returning Officer.

(3) If it is not practicable to make delivery to the Returning Officer, the Presiding Officer must deposit the secured ballot boxes, and the other materials referred to in subsection (2), in a safe place within the polling station. If there is no safe place within the polling station, that Officer must deposit them in a safe place within a police station or a public building close to the polling station. If there is no such police station or public building, that Officer must deposit them in a secure building (which may even be a residential building) close to the polling station. If there is no police station, public building or secure building close to the polling station, that Officer must deposit the ballot boxes and materials in a safe place within any other police station or public building or, in the absence of such a station or building, in a safe place in any other building (which may even be a residential building).

(4) If the ballot boxes and other materials are delivered to the Returning Officer, that Officer must take such steps as determined by the Commission (generally or in a particular case) for the purpose of ensuring their safety and security. The Returning Officer must remain in charge of them and be responsible for their safety and security until polling in respect of the adjourned poll commences.

(5) If a poll is adjourned under this Schedule or section 38 of the District Councils Ordinance (8 of 1999), the polling hours appointed for the resumed poll must be such that the total time allowed for polling (that is the aggregate of the polling hours which had been spent at the time the poll was adjourned and the polling hours appointed for the resumed poll) is not less than the total time that would have been allowed for polling had the poll not been adjourned.

6. Procedure after adjournment or postponement of a count

(1) If a count is adjourned under this Schedule or section 38 of the District Councils Ordinance (8 of 1999), or if the count is adjourned due to the postponement of a poll under this Schedule, the Returning Officer must comply with this section.

(2) The Returning Officer must take steps to cease the count. Then, in the presence of the persons, if any, present at the counting station, deposit the ballot boxes (whether opened or un-opened) and receptacles, if any, together with the ballot papers (whether counted or not), any un-issued ballot papers, tendered ballot papers, ballot paper account, verification of a ballot paper account or re-verification of a ballot paper account, and any other relevant election materials, in a safe place within the counting station. If there is no safe place within the counting station, that Officer must deposit them in a safe place within a police station or a public building close to the counting station. If there is no such police station or public building, that Officer must deposit them in a secure building (which may even be a residential building) close to the counting station. If there is no police station, public building or secure building close to the counting station, that Officer must deposit the election materials in a safe place within any other police station or public building or, in the absence of such a station or building, in a safe place in any other building (which may even be a residential building).

(3) The election materials must remain in the charge of the Returning Officer. That Officer is to be responsible for their safety and security until the adjourned or postponed count is resumed under section 65(6) of this Regulation.

(4) In this section "Returning Officer" (選舉主任) means a Returning Officer specified by the Chief Electoral Officer for the purposes of this section.

7. Appointment of a date by Commission for election, polling or counting after a postponement or an adjournment

(1) If an ordinary election or by-election is postponed under this Schedule, the Commission is to, as soon as practicable after the postponement, appoint a date for holding an ordinary election or by-election, as may be appropriate.

(2) If a poll or a count is adjourned under this Schedule, the Commission is to, as soon as practicable after the adjournment, appoint a date for holding a poll or a count.

(3) If the postponement or adjournment is due to a reason referred to in section 2(3)(a) or (b), the appointed date must not be later than 14 days from the date on which the postponed election or the adjourned poll or count would have been held. If the postponement or adjournment is due to the reason referred to in section 2(3)(c),

the appointed date must not be later than 2 days from the date on which the postponed election or the adjourned poll or count would have been held.

(4) In each case referred to in sections 1, 2 and 3, the Commission is to, in the relevant notice making the declaration, specify the date appointed under this section to hold the relevant ordinary election, by-election, the poll or the count, as the case may require.

(5) If it is not practicable to specify the date in the notice of declaration, the Commission is to specify it in a notice published in the Gazette soon after the publication of a notice of declaration. If such publication is not practicable in the circumstances, the date must be specified in a notice published by some other means the Commission considers appropriate.

(6) The appointment of a date under this section for holding a by-election is subject to section 33(2) of the District Councils Ordinance (8 of 1999).

SCHEDULE 2 [s. 52]

Form of Ballot Paper for an Ordinary Election/By-election

SCHEDULE 3 [s. 82]

Form for the Notice of Election Result under Section 46 of the District Councils Ordinance (8 of 1999)

Made this 2nd day of June 1999.

Justice WOO Kwok-hing

Chairman,

Electoral Affairs Commission

Norman LEUNG Nai-pang

Member,

Electoral Affairs Commission

Elizabeth S. C. SHING

Member,

Electoral Affairs Commission

Explanatory Note

This Regulation sets out the procedure for conducting an election to elect elected members of the District Councils. It applies to an ordinary election and a by-election.

2. Section 1 states that the Regulation is to come into effect on 1 August 1999.

3. Section 2 sets out the definitions with reference to which the terms used in the

Regulation are to be interpreted.

4. Section 3 provides for the application of the Regulation. The Regulation applies to an ordinary election and a by-election. Parts III and IV apply to a by-election subject to the appropriate modifications.

5. Part II provides for the stages of an election before the holding of the poll. It requires the Electoral Registration Officer to compile and publish a register for the first ordinary election. The register has to indicate the constituency in which an elector is entitled to vote at the first ordinary election. That Part also requires the Chief Electoral Officer to publish a notice calling for nominations for the election. The notice is to state where and when nomination forms are to be submitted. That Part further sets out how a person is to be nominated as a candidate for an election. The nomination form, completed in accordance with the Regulation and subscribed in accordance with the District Councils (Subscribers and Election Deposit for Nomination) Regulation (L.N. 113 of 1999) together with the deposit required to be lodged under that Regulation, has to be submitted to the Returning Officer. The Returning Officer has the power to assist a person to prepare a nomination form. A person cannot be nominated as a candidate in an election in respect of more than one constituency. After the close of nominations, the Returning Officer is to decide who are validly nominated as candidates and publish a notice of nominations specifying the candidates who are validly nominated. If there is only one validly nominated candidate for a constituency, the Returning Officer has to publish a notice under section 39(1) of the District Councils Ordinance (8 of 1999). If it comes to the knowledge of the Returning Officer before election day that a validly nominated candidate has died or is disqualified from being nominated, the Returning Officer has to make a declaration to that effect. That Officer has to further declare which candidates remain validly nominated. If only one validly nominated candidate remains for the constituency, the Returning Officer is to publish a notice under section 39(1) of the District Councils Ordinance (8 of 1999). That Part also enables a person who is nominated as a candidate or a validly nominated candidate to appoint an election agent. An election agent must be a person who is a holder of an identity card and has attained the age of 18 years. Notice of the appointment of an election agent and notice of revocation of the appointment have to be given in accordance with the Regulation. A candidate or a person who intends to stand for election may also under that Part authorize persons to incur election expenses on the candidate's behalf. Any person who is 18 years or over may be authorized. Notice of authorization and revocation must be given.

6. Part III (Division 1) sets out the functions to be performed by the various electoral officers and what the candidates may do and what a person is prohibited

from doing at or near a polling station. They are as follows---

- * The Chief Electoral Officer is to appoint the polling hours and to give notice in the Gazette of the polling hours;
- * The Chief Electoral Officer is to designate polling stations and counting stations and to display at that Officer's office a list of the polling stations and counting stations. That Officer is also to designate some polling stations as special polling stations to be used by persons with a disability. These must be indicated on the list of polling stations;
- * The Chief Electoral Officer is to allocate a polling station to electors;
- * The Chief Electoral Officer is to send poll cards to electors stating the polling station allocated to the electors. A person with a disability may apply to the Chief Electoral Officer to have a special polling station allocated to him or her. If circumstances require, the Chief Electoral Officer may allocate an alternative polling station or alternative special polling station to electors;
- * The Chief Electoral Officer is to appoint a Presiding Officer for each polling station and polling officers to assist the Presiding Officer;
- * The Chief Electoral Officer is to supply an extract (or, in the case of the first ordinary election, a copy) of the relevant part of the final register to each candidate. The copy or extract may be supplied to the election agent of a candidate instead of the candidate;
- * The Chief Electoral Officer is to supply a copy of the relevant part of the final register to each Returning Officer;
- * At each polling station, the Chief Electoral Officer is to provide voting compartments, chops (bearing the mark "*") and other materials to mark the ballot papers. That Officer is also to supply sufficient ballot papers and a copy of the relevant part of the final register to each Presiding Officer. The Chief Electoral Officer is also to supply to the Presiding Officer a list of the polling officers who are to assist the Presiding Officer;
- * The Returning Officer for each constituency must determine an area around the polling stations for that constituency as a no canvassing zone and an area within that zone as a no staying zone. Notice of the zones must be given to the candidates. On polling day, the zones must be marked by barriers or in other manner the Returning Officer thinks fit. On polling day, a person is prohibited from canvassing or using a sound amplifying system in the no canvassing zone or staying or loitering in the no staying zone. Door-to-door canvassing activities in a building (except on the storey at street level, and except in a building in which a polling station is located) in the no canvassing zone which cause no obstruction to any person are allowed. On polling day, the Presiding Officer is to keep order in the no canvassing zone and

the no staying zone. If a person misbehaves in those zones, that person can be removed on the order of the Presiding Officer or Returning Officer and he or she cannot return to those zones without the permission of the relevant Officer;

* The Chief Electoral Officer is to delineate the polling stations on a map or plan and, on polling day, the Presiding Officer has to demarcate the polling station by barriers or other means as the Presiding Officer thinks fit;

* Candidates may appoint polling agents to attend at a polling station on their behalf. Only a person who is a holder of an identity card and has attained the age of 18 years may be appointed as a polling agent. Notice of the appointment of a polling agent and notice of revocation of any appointment have to be given in accordance with the Regulation;

* The Presiding Officer has power to regulate the number of persons who can enter a polling station and exclude persons from the polling station (but not so as to prevent a person from voting at the polling station allocated to that person). Candidates, election agents or polling agents may be present only if there is seating capacity in the area designated to seat them;

* A person (other than those set out in section 48(6)) who communicates with an elector, canvasses votes, fails to obey an order of the Presiding Officer or the Returning Officer, displays or wears clothes or accessories to promote a candidate or uses a mobile telephone or other electronic device for communication inside a polling station, commits an offence;

* A person can vote only at the polling station or special polling station allocated to him or her;

* The Presiding Officer is to keep order at the polling station. A person who fails to obey an order of that Officer or misconducts himself or herself in a no canvassing zone or no staying zone or at a polling station commits an offence.

7. Part III (Division 2) deals with ballot boxes, ballot papers and voting procedure. The main provisions are as follows---

* The ballot box is to be designed so as to prevent the extraction of ballot papers without breaking the seal;

* Before polling commences, the Presiding Officer has to show the empty ballot box to those who are present at the polling station, lock and seal it and keep it in the view of that Officer or any polling officer for putting in ballot papers;

* The form of ballot paper is set out in Schedule 2. The order in which candidates' names appear on a ballot paper is to be determined by drawing lots;

* The ballot paper is not to contain the name and other information of any candidate who is found before election day to have died or be disqualified. If such information has already been printed on the ballot paper, it must be crossed out by stamping the

words "已故" and "DECEASED" or "喪失資格" and "DISQUALIFIED", as the case may require;

* A ballot paper is to be given to a person for the purpose of voting only if the Presiding Officer is satisfied as to the person's identity. After a ballot paper is issued, a line is to be placed across that person's name and identity document number in the copy of the final register supplied by the Chief Electoral Officer to the Presiding Officer;

* The Presiding Officer may ask the person the questions set out in section 54 before issuing a ballot paper to that person. If a candidate or an election agent or a polling agent requires the Presiding Officer to ask those questions, that Officer must ask them;

* If a candidate or an election agent or a polling agent reasonably believes that a person has committed the offence of personation and gives a written undertaking to substantiate the allegation in court, the Presiding Officer may request a police officer to arrest the person. The Presiding Officer may also have a person arrested if that Officer believes that the person has committed the offence of personation;

* A person may be issued with only one ballot paper. Before issuing a ballot paper to a person, the Presiding Officer is to call out the name of the person as registered in the final register;

* A ballot paper is to be marked by affixing the chop provided at the polling station against the name of the candidate of the person's choice;

* The Presiding Officer may assist an incapacitated person to mark his or her vote at that person's request. If a template is provided, a blind person may use the template;

* If a person comes to vote after a ballot paper has been issued to another person who had claimed to be the person who has come to vote, that person is to be issued with a ballot paper marked "重複" and "TENDERED";

* If a ballot paper which has been issued is not used, the Presiding Officer is to mark "未用" and "UNUSED" on the front of it unless it is not practicable to do so;

* If a person to whom a ballot paper is issued deals with it so that it cannot be used and returns it to the Presiding Officer, that Officer may issue another ballot paper to that person and mark the first ballot paper "損壞" and "SPOILT";

* After the close of the poll, the Presiding Officer must, in the presence of those who are present inside the polling station, seal the ballot box and make into separate sealed packets the ballot papers which have not been issued, those that had not been used, the spoilt ballot papers and marked copies of the final register ;

* After the ballot box is sealed, the Presiding Officer is to prepare a ballot paper account setting out the number of ballot papers estimated by that Officer to be in

the ballot box, number of un-issued ballot papers, the number of unused ballot papers and the spoilt ballot papers.

8. Part IV provides for the matters relating to the counting of the votes. The main provisions are as follows---

- * The Returning Officer is to determine the time for the counting of the votes to begin and is to give notice of the time and place for the counting of the votes to the candidate or the election agent or counting agents of the candidate;

- * Candidates may appoint counting agents to observe the counting of the votes on their behalf. Only a person who is a holder of an identity card and has attained the age of 18 years may be appointed as a counting agent. Notice of the appointment of a counting agent and notice of the revocation of the appointment of a counting agent is to be given in accordance with the Regulation;

- * The Chief Electoral Officer may appoint counting officers to assist in the counting of the votes;

- * Other than the Chief Returning Officer, Returning Officer, Assistant Returning Officers and the officials set out in section 68(1), only candidates and election agents and counting agents may be present at the counting station. The Chief Returning Officer may make arrangements for members of the public to watch the counting from an area set apart for the purpose if that Officer is of the opinion that it will not prejudice the secrecy of the ballot and is practicable;

- * The Chief Returning Officer and the other Returning Officers are to keep order at the counting station. A person who fails to obey a lawful order or misbehaves at or in the vicinity of the counting station commits an offence;

- * The Presiding Officer is to arrange for the ballot boxes from that Officer's polling station to be delivered to the district counting station. At the district counting station the ballot boxes are to be given into the charge of the relevant Returning Officer;

- * The Chief Returning Officer is to supervise the relevant district counting station. The other Returning Officers are to supervise and be in charge of the relevant counting zones;

- * The Returning Officer is to break the seal of the ballot boxes in the presence of the candidates and their election agents or counting agents, if present at the counting station;

- * Each Returning Officer to whom a ballot box is handed must prepare a verification of a ballot paper account;

- * Ballot papers from 2 or more polling stations used for polling for a constituency are to be mixed and the votes counted according to the simple or relative majority system of counting;

* When the result of the counting of the votes is ascertained, the Returning Officer is to declare the result to the persons who are at the counting station. A candidate or the election agent of a candidate may request a re-count;

* Section 78 sets out what ballot papers are not to be counted when counting the votes and section 79 requires the Returning Officer to set them aside. Section 79 also enables a candidate or the election agent of a candidate to challenge the decision of the Returning Officer to set aside a ballot paper;

* The decision of the Returning Officer on a ballot paper is final and may be questioned only by an election petition;

* When the counting and the re-count are completed, the Returning Officer is to publicly declare the result. That Officer is also to publish a notice of the result of the election. That Officer must send a copy of the notice to the officials set out in section 82.

9. Part V sets out how documents relating to an election are to be disposed of. They are to be made into separate sealed packets under the heads specified in section 83 and given into the custody of the Chief Electoral Officer. That Officer is to retain custody of them for 6 months. That Officer is not to permit anyone to inspect them unless on a court order.

10. Part VI contains the following miscellaneous provisions---

* Section 87 makes it an offence for an electoral officer to act as an agent of a candidate at an election;

* Section 88 makes it an offence for an employee of a candidate to act as an electoral officer;

* Section 89 enables the Presiding Officer to perform his or her functions through a polling officer. However that Officer is to personally exercise the power of adjourning the poll at a polling station;

* Section 90 enables the Returning Officer to delegate his or her functions except the determination of the validity of a nomination form, a decision regarding a ballot paper or the declaration of the election result;

* Section 91 provides that the Chief Electoral Officer is subject to the direction of the Electoral Affairs Commission in performing that Officer's functions;

* Section 92 preserves the validity of any act done in the absence of a candidate or the agent of a candidate despite any requirement that it should be done in the presence of a candidate or the agent of a candidate;

* Section 93 requires electoral officers, candidates and agents of candidates to make a declaration of secrecy before entering a polling station or a counting station;

* Section 94 makes it an offence for any person to divulge information prejudicial to the secrecy of the ballot other than for a lawful purpose or interfere with an

elector, ballot box or ballot papers;

* Section 95 sets out the procedure to be observed when an election is terminated due to the death or disqualification of a candidate before the close of polling on election day;

* Section 96 sets out the procedure to be observed in the case of death or disqualification of a candidate after the close of polling;

* Section 97 sets out the procedure to be observed when an election fails due to the death or disqualification of a successful candidate;

* Section 98 provides how notices for the purposes of the Regulation are to be given;

* Section 99 empowers the Commission to designate a Chief Returning Officer for each counting station and Assistant Returning Officers (General);

* Section 100 empowers the Commission to specify forms for the purposes of the Regulation. The specified forms (other than those expressly excluded under section 100(5)) are to be made available free of charge. The Commission may also specify forms for notifications given under the District Councils (Subscribers and Election Deposit for Nomination) Regulation (L.N. 113 of 1999);

* Section 101 requires the electoral officers to report to the Commission any occurrence which appears to such an officer to be an irregularity relating to an election;

* Section 102 sets out the limitations on the postal materials that may be sent to electors by a candidate free of postage. The candidate must provide a specimen to the Postmaster General and make a declaration that the postal materials are identical with the specimen. The candidate is liable for payment of postage if the postal materials do not comply with the requirements or the declaration is false;

* Section 103 imposes requirements to be complied with by a candidate in relation to election advertisements. Election advertisements, except those exempted, are to be numbered consecutively. Each type of election advertisement is to be numbered as a separate series. Either 2 copies of each election advertisement or, if it is not practicable, 2 colour photographs of each election advertisement must be submitted to the Returning Officer or, if a Returning Officer has not been appointed, to the Chief Electoral Officer. The Returning Officer may seize and dispose of any election advertisement in respect of which the requirements of that section have not been complied with;

* Section 104 makes it an offence if a person knowingly makes a statement which is false or which he or she knows to be false in a material particular or knowingly omits a material particular from a form, declaration, application, authorization, notice, statement or nomination form required for the purposes of the Regulation.

11. Schedule 1 applies to an ordinary election and a by-election. It sets out the

circumstances in which such an election, the poll or the counting of the votes in respect of a constituency, or the polling at a polling station is to be postponed or adjourned. It sets out the procedure for such a postponement or an adjournment and the steps to be taken for the safeguarding of the ballot boxes, ballot papers and other election materials in the event of such a postponement or an adjournment. It also makes provision for the appointment of a date for the holding of an election or the resumption of a poll or a count after such a postponement or an adjournment.

12. Schedule 2 contains the form for the ballot paper.

13. Schedule 3 contains the form for the notice of election result.