

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

PART I

Preliminary

1. Commencement

This Regulation shall come into operation on 1 August 1999.

2. Interpretation

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

"ballot paper" (選票) means a ballot paper to vote for a candidate standing for election for a constituency;

"ballot paper account" (選票結算表) means a statement prepared under section 64;

"by-election" (補選) has the meaning assigned to it by section 2 of the District Councils Ordinance (8 of 1999);

"by-election notice" (補選公告) means a notice published under section 10;

"candidate" (候選人) means, subject to subsection (2), in relation to

a particular constituency, a candidate who is validly nominated to be returned as an elected member for that constituency at an election;

"Chief Returning Officer" (總選舉主任) means the Returning Officer designated as such under section 99(a);

"constituency" (選區) has the meaning assigned to it by section 2 of the District Councils Ordinance (8 of 1999);

"counting agent" (監察點票代理人) means a person appointed as a counting agent under section 66;

"counting of the votes" (點票) includes, where appropriate, the separation, sorting and counting of ballot papers;

"counting officer" (點票人員) means, in relation to a counting station, a person appointed under section 67 as a counting officer for that counting station;

"counting station" (點票站) means a place designated as a counting station under section 31;

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

"District" (地方行政區) has the meaning assigned to it by section 2 of the District Councils Ordinance (8 of 1999);

"district counting station" (分區點票站) means a counting station designated as a district counting station under section 31(9);

"elected member" (民選議員) has the meaning assigned to it by section 2 of the District Councils Ordinance (8 of 1999);

"election" (選舉) means an ordinary election or a by-election;

"election advertisement" (選舉廣告) means any publicity material used or intended to be used by or on behalf of a candidate for the purpose of promoting or advertising that candidate in connection with an election;

"election agent" (選舉代理人) means a person appointed as an election agent under section 26;

"election day" (選舉日) means the date on which an election is to be held;

"election expense agent" (選舉開支代理人) means a person authorized to incur election expenses under section 28;

"election expenses" (選舉開支), in relation to an election, has the meaning assigned to it by section 2 of the Corrupt and Illegal Practices Ordinance (Cap. 288);

"election notice" (選舉公告) means a notice published under section 8;

"elector" (選民) means any person whose name is included in the final register;

"Electoral Registration Officer" (選舉登記主任) has the meaning assigned to it by section 2 of the District Councils Ordinance (8 of 1999);

"final register" (正式選民登記冊) means the geographical constituencies final register or, in relation to the first ordinary election, the register compiled under section 4 for that election;

"geographical constituencies final register" (地方選區正式選民登記冊) means the final register of electors for geographical constituencies compiled under the Electoral Affairs Commission (Registration of Electors) (Geographical Constituencies) (Legislative Council) Regulation (Cap. 541 sub. leg.) and which is in effect;

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

"identity document" (身分證明文件) has the meaning assigned to it by section 2 of the District Councils Ordinance (8 of 1999);

"no canvassing zone" (禁止拉票區) means an area determined under section 43 to be an area in which canvassing of votes is prohibited;

"no staying zone" (禁止逗留區) means an area determined under section 43 to be an area in which staying or loitering is prohibited;

"nomination form" (提名表格) means the specified form submitted for the purpose of nominating a candidate to stand for election for a constituency;

"nomination period" (提名期) means, in relation to---

(a) an ordinary election, the period specified under section 8(2)(b);

(b) a by-election for a constituency, the period specified under section 10(5)(a);

"Nominations Advisory Committee" (提名顧問委員會) means a committee appointed under the Electoral Affairs Commission (Nominations Advisory Committees (District

Councils) ) Regulation (L.N. 115 of 1999);

"notice appointing the election day" (指定選舉日公告) means, in relation to an ordinary election, a notice by which a date is specified by the Chief Executive under the District Councils Ordinance (8 of 1999) to hold an election to return elected members of the District Councils;

"notice of nominations" (提名公告) means a notice published under section 22;

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

(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;

"polling agent" (監察投票代理人) means a person appointed as a polling agent under section 45;

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

"polling hours" (投票時間) means the hours for polling appointed under section 30;

"polling officer" (投票站人員) means, in relation to a polling station, the person appointed under section 37(2) as a polling officer for that polling station;

"polling station" (投票站) means a place designated as a polling station under section 31;

"Presiding Officer" (投票站主任) means, in relation to a polling station, the person appointed under section 37(1) as the Presiding Officer for that polling station;

"principal residential address" (主要住址) means, in relation to a person, the address of the only or principal residence (within the meaning of section 28(3) of the Legislative Council Ordinance (Cap. 542) ) of the person;

"registered residential address" (登記住址) means, in relation to a person---

(a) subject to paragraph (b), the address recorded in the particulars of that person in the final register;

(b) in sections 5 and 6, the address recorded in the particulars of that person in the geographical constituencies final register;

"Returning Officer" (選舉主任) has the meaning assigned to it by section 2 of the District Councils Ordinance (8 of 1999);

"special polling station" (特別投票站) means a polling station designated as such under section 32;

"specified address" (指明地點) means, in relation to a constituency, the address specified in the relevant election notice or by-election notice as the address at which the nomination forms are to be submitted for that constituency;

"specified form" (指明表格、指明格式) means, in relation to a particular purpose of this Regulation, the form specified under section 100 for that purpose;

"spoilt ballot paper" (損壞的選票) means a spoilt ballot paper within the meaning

of section 62;

"tendered ballot paper" (重複的選票) means a tendered ballot paper within the meaning of section 60;

"unused ballot paper" (未用的選票) means an unused ballot paper within the meaning of section 61;

"validly nominated candidate" (獲有效提名的候選人) means---

(a) subject to paragraph (b), a person whom the Returning Officer has decided under section 16 to be validly nominated; or

(b) in case a declaration under section 24 or 25 is made, a person whom the Returning Officer has declared under section 24 or 25 to be validly nominated;

"verification of the ballot paper account" (選票結算核實書) means a statement prepared under section 75(1)(b).

(2) In this Regulation---

(a) in Part II, "candidate" (候選人) includes a person who is being or has been nominated as a candidate to stand for election as an elected member; and

(b) in the definition of "election advertisement" and section 103, "candidate" (候選人) includes a person who is a candidate within the meaning of paragraph (a) and a person who intends to stand for election as an elected member at an election, whether or not that person has submitted a nomination form under Part II.

(3) In this Regulation, unless it is provided otherwise---

(a) references to the Chief Returning Officer are to be construed, in relation to a counting station, as references to the Chief Returning Officer appointed for that counting station; and

(b) references to the Returning Officer are to be construed, in relation to a constituency, as references to the Returning Officer appointed for that constituency.

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

### 3. Application

(1) Except where otherwise stated, this Regulation applies to an ordinary election and a by-election.

(2) In their application to a by-election, Parts III and IV are to be read subject to necessary modifications.

(3) Schedule 1 applies to an ordinary election and a by-election.

## PART II

### Stages of an Election Before the Poll:

#### Ordinary Election and By-elections

##### Division 1: Publication of Register for the First Ordinary Election

#### 4. Electoral Registration Officer to compile register for the first ordinary election

The Electoral Registration Officer must, not later than 2 months before the date of the first ordinary election, compile a register for that election on the basis of the geographical constituencies final register which is currently in effect.

#### 5. Form of register

(1) The register compiled under section 4 is to be divided into sections by reference to Districts so that there is a separate section in the register for each District.

(2) Each section of the register must be further divided into parts corresponding to the constituencies for the District so that there is a separate part for each constituency.

(3) An entry in the register relating to an elector must show the name and the registered residential address of that elector.

(4) The arrangement of the entries for each constituency must be as follows--

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(a) the names of the electors in Chinese, arranged according to the number of strokes of the Chinese characters of their respective surnames, are to be recorded first;

(b) the names of the electors in English, arranged according to the alphabetical order of their respective surnames, must follow the entries at paragraph (a).

#### 6. Electoral Registration Officer to determine the part in which an elector's name is to be recorded

(1) The Electoral Registration Officer must, having regard to the constituency allocated to an elector under section 31 of the District Councils Ordinance (8 of 1999), determine the appropriate part of the register compiled under section 4 in which to record the elector's name and registered residential address. When the part is so determined, the Electoral Registration Officer must record the elector 掇 name and registered residential address in that part according to section 5(3) and (4).

(2) The Electoral Registration Officer must inform an elector in writing of the section and part in which that elector's name and registered residential address are recorded.

#### 7. Electoral Registration Officer to publish notice of the register and to make the register

available for public inspection

(1) The Electoral Registration Officer must, as soon as practicable after the register for the first ordinary election is compiled under section 4, publish in the Gazette and at least one Chinese language daily newspaper and one English language daily newspaper, in circulation in Hong Kong, a notice which complies with subsection (2).

(2) A notice under subsection (1) must specify---

(a) that a copy of the register is available for public inspection during ordinary business hours; and

(b) the place or places at which a copy of the register may be inspected by the public.

(3) The Electoral Registration Officer must make available for public inspection, a copy of the register at the place or places specified in the notice during ordinary business hours.

(4) The Electoral Registration Officer may make available for public inspection, a copy of a specific part of the register at a place additional to the place or places specified in the notice published under this section. The Electoral Registration Officer may determine the period during which and the times at which it may be so inspected.

(5) The Electoral Registration Officer may require a person who wishes to inspect a copy of the register or any part of it to produce to that Officer his or her identity document and to complete a form furnished by that Officer.

(6) Publication of a notice under subsection (1) is to be treated as the publication of the register for the purposes of section 31(1)(b) of the District Councils Ordinance (8 of 1999).

Division 2: Nominations

8. Chief Electoral Officer to publish a notice specifying a period and place for submitting nomination forms

(1) As soon as practicable after the publication of the notice appointing the election day, the Chief Electoral Officer must publish in the Gazette a notice which complies with subsection (2).

(2) A notice under subsection (1) must state, in relation to each constituency---

(a) the name of the constituency, the name of the relevant District, and that one elected member is to be returned for that constituency;

(b) the period within which nomination forms for the constituency are to be submitted to the Returning Officer;

(c) the address at which nomination forms are to be submitted;

(d) that nomination forms must be submitted during ordinary business hours;

(e) the date on which the election is to be held; and

(f) that a poll will be held on the date referred to in paragraph (e) if there is more than one validly nominated candidate for that constituency.

9. Chief Electoral Officer to determine nomination period

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

(2) The nomination period must not begin earlier than the date on which the relevant election notice is published in the Gazette. The nomination period must not be less than 14 days or more than 21 days.

(3) The nomination period must end not less than 28 days and not more than 42 days before the date on which the relevant election is to be held.

10. Chief Electoral Officer to publish by-election notice

if a by-election is to be held under section 33 of the District Councils Ordinance

(1) Subject to section 33(2) of the District Councils Ordinance (8 of 1999), as soon as practicable after a declaration referred to in section 33(1) of that Ordinance is made, in order to hold a by-election for the purposes of that section 33(1), the Chief Electoral Officer must publish in the Gazette a notice in accordance with this section.

(2) The by-election notice must state, in relation to each constituency for which the by-election is to be held, the name of the constituency, the name of the relevant District, and that one elected member is to be returned for the constituency at the by-election.

(3) The by-election notice must state the date on which the by-election is to be held.

(4) The by-election notice must also state that a poll will be held on the date referred to in subsection (3) if there is more than one validly nominated candidate for the constituency.

(5) The by-election notice must also state---

(a) the period within which nomination forms for the by-election are to be submitted to the Returning Officer;

(b) the address at which nomination forms are to be submitted; and

(c) that nomination forms must be submitted during ordinary business hours.

11. Election notice to be in the specified form

An election notice or a by-election notice must be in the specified form.

12. How to nominate a candidate for a constituency

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

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

(3) The nomination form must be in the specified form and subscribed in accordance with the District Councils (Subscribers and Election Deposit for Nomination) Regulation (L.N. 113 of 1999).

(4) The candidate must make the declaration required by section 34(1)(b) of the District Councils Ordinance (8 of 1999) in the appropriate place on the nomination form.

(5) The nomination form must contain a declaration by the candidate to the effect that he or she---

- (a) is eligible to be nominated as a candidate;
- (b) is not disqualified from being so nominated; and
- (c) consents to being so nominated.

(6) The nomination form---

- (a) must contain the name of the candidate as shown on the candidates' identity document (being the identity document based on which the particulars of the candidate are recorded in the final register) and, if the Returning Officer is satisfied that the candidate is usually known by a name different from that shown on the candidates' identity document, may include that different name of the candidate; and
- (b) must also contain the identity document number and principal residential address of the candidate.

(7) The nomination form must be signed by the candidate in each place the candidates' signature is required on that form.

(8) The nomination form must be signed by each subscriber. It must contain the name, identity document number and registered residential address of each subscriber.

(9) The nomination form must contain other particulars (if any) required to be furnished on that form.

(10) The Returning Officer may require a candidate to furnish any other information that Officer considers appropriate in order to be satisfied---

- (a) that he or she is eligible to be nominated as a candidate for a constituency; or
- (b) as to the validity of the nomination.

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

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

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

13. Returning Officer may assist in preparation of nomination forms

The Returning Officer may, at the request of a person who proposes to be nominated



as a candidate, give assistance in preparing a nomination form.

14. Returning Officer to make available copies of nomination forms for public inspection

The Returning Officer must make available for inspection by the public, at the specified address, during ordinary business hours, a copy of each nomination form received by that Officer. A nomination form must be made so available as soon as practicable after it is received by the Returning Officer and until the relevant notice of election result is published under section 46 of the District Councils Ordinance (8 of 1999).

15. Returning Officer not to accept nomination form without deposit and to issue receipt for deposit

(1) The Returning Officer may accept a nomination form only if it is accompanied by the appropriate deposit.

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

(3) In this section and section 16 "appropriate deposit" (適當的按金) means the amount of deposit to be lodged under the District Councils (Subscribers and Election Deposit for Nomination) Regulation (L.N. 113 of 1999).

16. Returning Officer to decide whether candidates are validly nominated

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

(2) If sections 20, 21 and 34 of the District Councils Ordinance (8 of 1999) and section 12 are complied with, the candidate stands validly nominated unless---

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

(3) Without prejudice to sections 20, 21 and 34 of the District Councils Ordinance (8 of 1999), the Returning Officer may decide that a nomination form is invalid if and only if---

- (a) the nomination form has not been signed by the prescribed number of subscribers qualified to subscribe to the nomination form under the District Councils (Subscribers and Election Deposit for Nomination) Regulation (L.N. 113 of 1999);
- (b) the nomination form has not been completed or signed as required under this Regulation;
- (c) the Returning Officer is satisfied that the candidate is not eligible to be or is disqualified from being nominated as a candidate under the District Councils Ordinance (8 of 1999);
- (d) the candidate has been nominated for another constituency in the same election,

and the Returning Officer is satisfied that the other candidature has not been withdrawn;

(e) the candidate has not lodged the appropriate deposit; or

(f) the Returning Officer is satisfied that the candidate is dead.

(4) In this section "prescribed number" (訂明數目) means the number of subscribers required to subscribe to the nomination form under the District Councils (Subscribers and Election Deposit for Nomination) Regulation (L.N. 113 of 1999).  
17. Returning Officer to have regard to advice of Nominations Advisory Committee

In deciding under section 16 whether a person is eligible to be or is disqualified from being nominated as a candidate, the Returning Officer must have regard to--  
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(a) the advice given by a Nominations Advisory Committee on an application, if any, made by the Returning Officer regarding that person under the Electoral Affairs Commission (Nominations Advisory Committees (District Councils)) Regulation (L.N. 115 of 1999); or

(b) the advice given by a Nominations Advisory Committee on an application, if any, made by that person to the Nominations Advisory Committee under that Regulation or, if advice has not been given, the result of the application.

18. Returning Officer may give opportunity to rectify a nomination form

(1) If the Returning Officer detects on a nomination form---

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

(b) anything which may affect the validity of the nomination form,

and the Returning Officer considers that it can be rectified within the nomination period, that Officer may, before making a decision under section 16, give the candidate a reasonable opportunity to rectify it.

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

19. Returning Officer to endorse invalid nomination forms

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

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

(3) The Returning Officer must send a notice of a decision that a person is validly nominated or is not validly nominated to the person concerned and each validly

nominated candidate for the constituency concerned.

(4) A notice under subsection (3) must be sent to the principal residential address of the candidate as given on the nomination form.

20. How a nominated candidate is to withdraw from candidature

(1) A withdrawal of candidature for the purposes of section 35 of the District Councils Ordinance (8 of 1999) is to be effected by giving a notice of withdrawal to the Returning Officer in accordance with subsection (2).

(2) The following applies to a notice of withdrawal---

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

21. No nomination for more than one constituency

(1) A person cannot be nominated as a candidate in an election for more than one constituency.

(2) A person who wishes to be nominated as a candidate in the same election for a constituency other than the constituency for which he or she has for the time being submitted a nomination form ("first constituency") must, before he or she submits a nomination form for that other constituency, withdraw his or her candidature for the first constituency, in accordance with section 20, and declare in the nomination form for that other constituency that his or her candidature for the first constituency has been withdrawn.

22. Returning Officer to publish a notice of particulars of validly nominated candidates

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

(2) A notice referred to in subsection (1) must be published for all constituencies.

(3) For the purposes of subsection (2), a separate notice may be published for each constituency or one notice may be published for all the constituencies in one District, or one notice may be published for all the constituencies.

(4) A notice published for a constituency must state---

- (a) the name and the principal residential address of each validly nominated candidate for that constituency; and
- (b) the number allocated to each candidate under section 52(4).

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

(6) If one notice is to be published for more than one constituency under this section, the notice is to be published by the Returning Officer specified for the purpose by the Chief Electoral Officer.

23. Returning Officer to publish a notice for the purposes of section 39(1) of the District Councils Ordinance

(1) If only one candidate has been validly nominated for a particular constituency, the Returning Officer must, in the notice published for that constituency under section 22 or in a separate notice, declare, for the purposes of section 39(1) of the District Councils Ordinance (8 of 1999), the candidate as being duly elected as an elected member for that constituency.

(2) A separate notice under subsection (1) must---

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

24. Returning Officer to declare if a validly nominated candidate is known to have died

(1) If the death of a candidate comes to the knowledge of the Returning Officer before the election day but after that Officer has decided that the candidate is validly nominated, that Officer must notify the Chief Electoral Officer as soon as possible.

(2) The Returning Officer must, as soon as practicable, declare that the candidate has died. That Officer must further declare which candidates are validly nominated for election for the relevant constituency.

(3) A declaration under subsection (2) must be made---

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

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

- (a) the name and the principal residential address of the deceased candidate;
- (b) the name of the constituency and the name of the relevant District; and
- (c) the name and the principal residential address of each candidate that remains validly nominated for that constituency.

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

- (a) the name of the deceased candidate;
- (b) the name of the constituency and the name of the relevant District; and

(c) the name of each candidate that remains validly nominated for that constituency.

(6) The Returning Officer must endorse on the nomination form of the deceased candidate that the candidate has died. The Returning Officer must sign the endorsement.

(7) The Returning Officer must, if practicable, send a notice of the declaration under subsection (2) to each of the candidates that remains validly nominated for the constituency concerned to replace the notice under section 19(3).

(8) On polling day, the Returning Officer may, where that Officer considers appropriate, display a notice which complies with subsection (4) in a prominent place outside each polling station for the constituency concerned.

(9) If, after the death of a candidate, only one candidate remains validly nominated for the constituency concerned, the Returning Officer must, by such means as that Officer considers appropriate in the circumstances, declare that no poll is to be held for that constituency. The Returning Officer must in the notice under subsection (3)(a), if any, or in a separate notice declare, for the purposes of section 39(1) of the District Councils Ordinance (8 of 1999), the remaining candidate as being duly elected as an elected member for that constituency.

(10) A separate notice under subsection (9) must---

(a) be published in the Gazette as soon as practicable;

(b) state the name and the principal residential address of the candidate declared to be duly elected as an elected member; and

(c) be in the specified form.

25. Returning Officer to vary decision if a validly nominated candidate is known to be disqualified

(1) If the disqualification of a candidate comes to the knowledge of the Returning Officer before the election day but after that Officer has decided that the candidate is validly nominated, that Officer must notify the Chief Electoral Officer as soon as possible.

(2) The Returning Officer must, as soon as practicable, declare that the Officers' decision under section 16 is varied to the effect that the candidate is not validly nominated. That Officer must further declare which candidates are validly nominated for election for the relevant constituency.

(3) A declaration under subsection (2) must be made---

(a) by notice published in the Gazette;

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

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

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

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

- (a) the name and the principal residential address of the disqualified candidate;
- (b) the name of the constituency and the name of the relevant District;
- (c) that the decision of the Returning Officer under section 16 has been varied to the effect that the candidate is not validly nominated; and
- (d) the name and the principal residential address of each candidate that remains validly nominated for that constituency.

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

- (a) the name of the disqualified candidate;
- (b) the name of the constituency and the name of the relevant District; and
- (c) the name of each candidate that remains validly nominated for that constituency.

(6) The Returning Officer must endorse on the nomination form of the disqualified candidate that the Officers' decision under section 16 in relation to that candidate is varied and the reasons for it. The Returning Officer must sign the endorsement.

(7) The Returning Officer must, if practicable, send a notice of the declaration under subsection (2) to the disqualified candidate and each of the candidates that remains validly nominated for the constituency concerned to replace the notice under section 19(3).

(8) On polling day, the Returning Officer may, where that Officer considers appropriate, display a notice which complies with subsection (4) in a prominent place outside each polling station for the constituency concerned.

(9) If, after the disqualification of a candidate, only one candidate remains validly nominated for the constituency concerned, the Returning Officer must, by such means as that Officer considers appropriate in the circumstances, declare that no poll is to be held for that constituency. The Returning Officer must in the notice under subsection (3)(a), if any, or in a separate notice declare, for the purposes of section 39(1) of the District Councils Ordinance (8 of 1999), the remaining candidate as being duly elected as an elected member for that constituency.

(10) A separate notice under subsection (9) must---

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

### Division 3: Election Agents and Election Expense Agents

#### 26. A candidate may appoint election agent

(1) A candidate may appoint one person as his or her election agent.

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

(3) A candidate must give notice of appointment of his or her election agent to the Returning Officer.

(4) The appointment of an election agent is not effective until notice of the appointment is received by the Returning Officer.

(5) A notice for the purposes of this section must be in writing and state the name, identity card number and residential address of the election agent.

(6) The notice must be signed by the candidate.

(7) A candidate cannot have more than one election agent at any one time.

(8) If the appointment of an election agent is revoked, the candidate must give notice of the revocation to the Returning Officer as soon as possible.

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

(10) The revocation of the appointment of an election agent is not effective until notice of revocation is received by the Returning Officer.

(11) If at any time an election agent dies or the appointment of an election agent is revoked, the candidate may appoint a replacement.

(12) The appointment of a replacement must be in accordance with the requirements of this section.

(13) A notice of appointment or a notice of revocation under this section must be in the specified form.

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

(15) An election agent may not---

(a) do anything a candidate is required to do under section 12;

(b) withdraw a candidate's candidature; or

(c) authorize any person for the purposes of section 28.

27. Returning Officer to send to other candidates  
a notice of particulars of election agent

(1) The Returning Officer must send to every candidate a notice containing the particulars of the election agents of the other candidates for the constituency concerned.

(2) If a replacement is appointed for an election agent, the Returning Officer must send a notice of the particulars of the replacement to the candidates that Officer is required to send a notice under subsection (1).

(3) The Returning Officer must send a notice under subsection (1) within 10 days of the expiry of the relevant nomination period.

(4) If the appointment of the election agent is made after the period of 10 days referred to in subsection (3), or if a replacement is appointed under section 26(11),

the Returning Officer must send a notice of the particulars as soon as practicable after that Officer receives notice of the appointment or replacement, as the case may be.

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

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

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

28. A candidate may authorize persons to incur election expenses on the candidate's behalf

(1) A candidate may authorize one or more persons to incur election expenses on his or her behalf.

(2) Only a person who has attained the age of 18 years may be authorized as an election expense agent.

(3) An authorization under this section must be in writing and state the name, identity document number and residential address of the person authorized.

(4) An authorization must state the maximum amount the person authorized may incur as election expenses.

(5) An authorization must be signed by the candidate. An authorization must also be signed by the person authorized.

(6) If an authorization is given on or after the commencement of the nomination period, the candidate must serve a copy of it on the Returning Officer so that it is received by that Officer within 3 working days after the authorization is given.

(7) If an authorization is given before the commencement of the nomination period by a person who is subsequently nominated as a candidate for the election concerned, the candidate must serve a copy of the authorization on the Returning Officer within 3 working days after the nomination form is submitted.

(8) If a person has, before the commencement of this section, authorized another person to incur election expenses on his or her behalf for the first ordinary election, and the first-mentioned person is subsequently nominated as a candidate for that election, he or she must serve a copy of the authorization---

(a) on the Returning Officer; or

(b) if the Returning Officer has not been appointed, on the Chief Electoral Officer, not later than 3 working days after the nomination form is submitted.

(9) If the information required under subsections (3) and (4) to be contained in an authorization is not contained in the authorization referred to in subsection (8), the candidate must, when he or she serves the copy, inform the Returning Officer or the Chief Electoral Officer, as the case may be, in writing of the name, identity



document number and residential address of the person authorized, the amount the authorized person was authorized to incur as election expenses and the amount actually incurred at the time of giving the information. The candidate must send a copy of the information to the authorized person.

(10) Subsections (7) and (8) must be complied with even if the authorization has been revoked at the time a copy of the authorization is required to be given under those subsections.

(11) If the authorization of an election expense agent is revoked, the candidate must give notice of the revocation---

(a) to the Returning Officer; or

(b) if the Returning Officer has not been appointed, to the Chief Electoral Officer, as soon as possible.

(12) A notice of revocation must be in writing and be signed by the candidate.

(13) The Returning Officer or the Chief Electoral Officer, as the case may be, is to regard a revocation of the authorization of an election expense agent as being effective, for any purpose related to an election for which a revocation is relevant, only when the relevant Officer receives the notice of revocation.

(14) Subject to subsections (8) and (9), an authorization or a notice of revocation must be in the specified form.

(15) For the purposes of this section, a copy of an authorization may be delivered by hand or sent by post or facsimile transmission.

29. Returning Officer to make available copies of authorization of election expense agents for public inspection

The Returning Officer must make available for public inspection a copy of each copy of an authorization received by that Officer under section 28. A copy must be made available for public inspection as soon as practicable after that Officer receives the copy of the authorization and until the end of the period for which the return and declaration of election expenses of the candidate is to be open for inspection under section 29A of the Corrupt and Illegal Practices Ordinance (Cap. 288).

### PART III

Contested Elections: Ordinary Election  
and By-elections

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

30. Chief Electoral Officer to appoint polling hours and to give notice in the Gazette

(1) The hours during which electors can cast their votes on polling day are to

be appointed by the Chief Electoral Officer in accordance with this section.

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

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

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

31. Chief Electoral Officer to designate polling stations and counting stations

(1) The Chief Electoral Officer must designate, by notice published in the Gazette, one or more places for---

- (a) conducting a poll in respect of an election; and
- (b) counting of the votes.

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

- (a) premises occupied by a Government department for official purposes ("Government building");
- (b) a structure, place or premises hired under subsection (3) or which is to be so hired;
- (c) any school in respect of which a grant is made out of the general revenue;
- (d) a building occupied by an organization, association or body in respect of which a grant is made out of the general revenue; or
- (e) any other structure, premises, whether permanent or temporary, mobile or otherwise, or place, which the Chief Electoral Officer considers suitable for a purpose specified in subsection (1).

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

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

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

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

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

(a) make good any damage caused; and

(b) defray any expenses incurred by any person having control over the structure, place or premises,

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

(8) The Chief Electoral Officer may take such steps as that Officer considers appropriate, including taking out insurance, to insure against any risk of loss or damage that may arise due to or in connection with the use of any structure, place or premises as a polling station or a counting station.

(9) The Chief Electoral Officer may, in relation to all the constituencies within a particular District, designate one counting station for the purpose of counting the votes cast at all the polling stations designated or used for polling for those constituencies.

32. Chief Electoral Officer to designate some polling stations as special polling stations

(1) The Chief Electoral Officer must designate one or more polling stations to be used for voting by persons with a disability for whom access to other polling stations would be difficult.

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

(3) At least 10 days before polling day, the Chief Electoral Officer must indicate, on the list of polling stations, the special polling stations.

(4) The Chief Electoral Officer must indicate, on the list of polling stations, the constituency or the constituencies for which a particular special polling station is designated.

33. Chief Electoral Officer to assign polling stations for constituencies and to allocate polling stations to electors

(1) The Chief Electoral Officer may assign, for each constituency, one or more polling stations for conducting the poll for that constituency.

(2) The Chief Electoral Officer must allocate to each elector a polling station to cast the vote he or she is entitled to cast at an election.

(3) Under subsection (2), for the purposes of an election, the Chief Electoral Officer must allocate to an elector a polling station that is, as far as practicable, close to his or her registered residential address.

(4) The Chief Electoral Officer may, if the circumstances require, allocate to

an elector an alternative polling station, in addition to or in substitution of the polling station allocated under subsection (2), to cast the vote he or she is entitled to cast at the election.

#### 34. Chief Electoral Officer to send poll cards to electors

(1) For every contested election, at least 10 days before polling day, the Chief Electoral Officer must send a poll card to each elector.

(2) A poll card need not be sent to an elector if---

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

(b) the Chief Electoral Officer is satisfied that the elector's address as recorded in the final register---

(i) does not exist;

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

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

(3) The Chief Electoral Officer must state in the poll card the polling station at which the elector must cast his or her vote.

(4) Where an alternative polling station is allocated to an elector under section 33(4), the Chief Electoral Officer must, as soon as practicable, notify, in a manner that Officer considers appropriate---

(a) the elector;

(b) the Returning Officer;

(c) the Presiding Officer of the polling station previously allocated to the elector; and

(d) the Presiding Officer of the alternative polling station.

#### 35. Chief Electoral Officer may allocate special polling stations

(1) An elector, who claims to be a person with a disability and that access to the polling station which is allocated to him or her under section 33(2) is difficult for him or her due to the disability, may apply to the Chief Electoral Officer to vote at the special polling station designated for the constituency for which he or she is entitled to vote.

(2) An application under subsection (1) must be made at least 5 days before polling day.

(3) On receiving an application under subsection (1), the Chief Electoral Officer must, if satisfied that the application is well founded, allocate to the elector an appropriate special polling station to cast the vote he or she is entitled to cast at the election to which the application relates.

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

(5) When the Chief Electoral Officer allocates a special polling station to an elector, that Officer must, as soon as practicable, notify, in a manner that Officer considers appropriate---

(a) the Returning Officer;

(b) the Presiding Officer of the special polling station; and

(c) the Presiding Officer of the polling station previously allocated to the elector, of the name, identity document number and registered residential address of that elector.

(6) The Chief Electoral Officer must notify the persons referred to in subsection (5) of the constituency for which the elector is entitled to vote.

(7) The Chief Electoral Officer may, if the circumstances require, allocate to an elector an alternative special polling station, in addition to or in substitution of the special polling station allocated under subsection (3), to cast the vote he or she is entitled to cast at the election.

(8) Where an alternative special polling station is allocated to an elector under subsection (7), the Chief Electoral Officer must, as soon as practicable, notify, in a manner that Officer considers appropriate---

(a) the elector;

(b) the persons referred to in subsection (5); and

(c) the Presiding Officer of the alternative special polling station.

36. Persons to vote at the correct polling station

(1) Subject to subsection (2), a person may only vote at the polling station allocated to him or her under section 33.

(2) A person who is allocated a special polling station under section 35 may only vote at the special polling station so allocated.

37. Chief Electoral Officer to appoint Presiding Officer for each polling station

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

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

38. Chief Electoral Officer to supply candidates with copy or extract of final register

(1) The Chief Electoral Officer must supply to each candidate---

(a) in the case of the first ordinary election, a copy of the part of the final register;

or

(b) in the case of any subsequent ordinary election, an extract of the part of the final register,

which relates to the constituency for which that candidate is nominated.

(2) A copy or extract for the purposes of this section must be supplied to a candidate as soon as practicable after the relevant nomination form is submitted to the Returning Officer.

(3) A copy under subsection (1)(a)---

(a) must, in an entry relating to an elector, show the sex of the elector, denoted by the letter "M" for male and "F" for female; and

(b) may contain additional particulars or information the Chief Electoral Officer thinks fit to include.

(4) An extract under subsection (1)(b) may contain additional particulars or information the Chief Electoral Officer thinks fit to include.

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

(6) A copy or extract for the purposes of this section may be supplied to the election agent of a candidate instead of the candidate to whom it is required to be supplied.

39. Chief Electoral Officer to supply Returning Officer  
with copy or extract of final register

(1) The Chief Electoral Officer must supply to the Returning Officer---

(a) in the case of the first ordinary election, a copy of the part of the final register;  
or

(b) in the case of any subsequent ordinary election, a copy or extract of the part of the final register,

which relates to the constituency for which the Returning Officer is appointed.

(2) A copy or extract for the purposes of this section must be supplied after the relevant notice of nominations is published.

(3) A copy under subsection (1)(a)---

(a) must, in an entry relating to an elector, show---

(i) the identity document number of the elector; and

(ii) the sex of the elector, denoted by the letter "M" for male and "F" for female; and

(b) may contain additional particulars or information the Chief Electoral Officer thinks fit to include,

and the entries in the copy may be re-arranged in the format or order as the Chief

Electoral Officer considers appropriate.

(4) A copy or extract under subsection (1)(b) may contain additional particulars or information the Chief Electoral Officer thinks fit to include.

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

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

(1) The Chief Electoral Officer must provide at each polling station sufficient compartments as that Officer considers necessary to enable electors to vote, screened from observation.

(2) The Chief Electoral Officer must supply to each Presiding Officer the number of ballot papers the Chief Electoral Officer considers necessary for the constituency for which the polling station is to be used for polling. The Chief Electoral Officer must ensure that the name of any deceased or disqualified candidate regarding whom a declaration under section 24 or 25 is made, and other information relating to that candidate, if printed on the ballot papers, are crossed out by stamping the words "已故" and "DECEASED" or "喪失資格" and "DISQUALIFIED", as the case may require.

(3) The Chief Electoral Officer must also supply to the Presiding Officer---

(a) in the case of the first ordinary election, a copy of the appropriate part of the final register; or

(b) in the case of any subsequent ordinary election, a copy or extract of the appropriate part of the final register.

(4) A copy under subsection (3)(a)---

(a) must, in an entry relating to an elector, show---

(i) the identity document number of the elector; and

(ii) the sex of the elector, denoted by the letter "M" for male and "F" for female; and

(b) may contain additional particulars or information the Chief Electoral Officer thinks fit to include,

and the entries in the copy may be re-arranged in the format or order as the Chief Electoral Officer considers appropriate.

(5) A copy or extract under subsection (3)(b) may contain additional particulars or information the Chief Electoral Officer thinks fit to include.

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

(7) The Chief Electoral Officer must provide at each polling station chops

bearing the mark "\*", with or without other design, and other materials that are necessary to enable electors to mark the ballot papers.

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

41. Chief Electoral Officer to supply list of polling officers to assist Presiding Officer

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

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

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

42. Presiding Officer to exhibit at polling station notice providing information for the guidance of electors

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

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

43. Returning Officer to determine no canvassing zones and no staying zones

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

(2) If the polling station is to be used for only one constituency, the Returning Officer for the constituency must give notice to the candidates for that constituency.

(3) If a polling station is to be used for polling for more than one constituency, the determination of the no canvassing zone and the no staying zone is to be made by the Returning Officer specified for the purpose by the Chief Electoral Officer. The Returning Officer who makes the determination must give notice to---

(a) the candidates for the constituency for which that Officer is appointed; and  
(b) the Returning Officers for the other constituencies.

(4) Notice under subsection (2) or (3) must be given at least 7 days before polling day.

(5) A Returning Officer who is given notice under subsection (3) must give notice to the candidates for the constituency for which that Officer is appointed, as soon



as practicable after that Officer receives the notice.

(6) A Returning Officer who makes a determination of a no canvassing zone or a no staying zone may vary either or both those areas in accordance with this section. Subject to subsection (10), notice of a variation must be given as soon as practicable after the variation in the same manner as notice of a no canvassing zone or a no staying zone is given under subsection (2) or (3).

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

(8) If after display under subsection (7), either or both of those areas are varied, the Returning Officer must display at or near the polling station a notice of the no canvassing zone or the no staying zone or both those zones, if appropriate, as varied.

(9) A determination of a no canvassing zone or a no staying zone or the variation of such an area becomes effective only on the display of a notice under subsection (7) or (8), as may be applicable.

(10) A notice of a variation under subsection (8) need not be given to the candidates if it is not reasonably practicable to do so before the close of the poll. Notice may be given to the election agent or polling agent of a candidate if present at the polling station.

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

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

(13) On polling day, a person must not---

- (a) subject to subsection (14), engage in canvassing votes in a no canvassing zone;
- (b) use a sound amplifying system or device for any purpose in the no canvassing zone;
- (c) use a sound amplifying system or device, for canvassing votes, so that the sound emitted by it can be heard in the no canvassing zone; or
- (d) stay or loiter in the no staying zone without the express permission of the Presiding Officer.

(14) A person may, on polling day, canvass from door to door, without obstructing any person, on the storeys above or below street level in a building within the no canvassing zone other than a building in which there is a polling station.

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

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

(a) engage in the canvassing of votes in the no canvassing zone (except as provided in section 43(14) );

(b) use a sound amplifying system or device in the no canvassing zone;

(c) use a sound amplifying system or device, for canvassing votes, so that the sound emitted by it can be heard in the no canvassing zone; or

(d) stay or loiter in the no staying zone (except where the person has been expressly permitted to do so by the Presiding Officer).

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

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

(b) fails to obey a lawful order of the Returning Officer, that Officer may; or

(c) fails to obey a lawful order of the Presiding Officer, that Officer may, order the person to leave the no canvassing zone or the no staying zone, as the case may be, immediately.

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

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

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

45. Candidates may appoint polling agents

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

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

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

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

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

(6) If notice is not given under subsection (5), it must be delivered on polling

day to the Presiding Officer for the polling station for which the polling agent is appointed---

(a) by the candidate in person; or

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

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

(8) 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 polling agent. It must be signed by the candidate.

(9) If the appointment of a polling agent is revoked, the candidate must give notice of the revocation to the Returning Officer or the Presiding Officer in accordance with subsection (11).

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

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

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

46. Chief Electoral Officer to delineate polling stations on a map and display map outside the polling station

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

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

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

47. Who may enter or be present at a polling station

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

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

(a) regulate the number of electors, candidates, election agents and polling agents to be admitted to the polling station at any one time; or

(b) exclude any person from the polling station.

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

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

(a) a polling officer;

(b) the Returning Officer or Assistant Returning Officers for the constituency or constituencies for which the polling station is used;

(c) members of the Commission;

(d) the Chief Electoral Officer;

(e) police officers on duty at the polling station;

(f) public officers authorized in writing by the Chief Electoral Officer; or

(g) persons authorized in writing by a member of the Commission.

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

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

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

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

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

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

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

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

(13) If a person arrives at a polling station for the purpose of voting

accompanied by a child, the Presiding Officer may permit the child to enter the polling station if that Officer considers that the child should not be left unattended while the person is inside the polling station.

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

48. What constitutes an offence at a polling station

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

(a) communicates with an elector; or

(b) uses a mobile telephone, paging machine or any other device for electronic communication,

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

(2) A person who, on polling day, films or takes photographs or makes any audio or video recording within a polling station without the express permission of---

(a) the Presiding Officer;

(b) the Returning Officer for the constituency or constituencies for which the polling station is used; or

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

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

(4) A person who, on polling day, fails to comply with a lawful order given by the Returning Officer or the Presiding Officer or behaves in a disorderly manner in a no canvassing zone or a no staying zone or within or at a polling station or contravenes section 43(13) or 44(4), commits an offence.

(5) A person who, on polling day, displays a badge, emblem or any clothing which makes direct reference to the election, a body with any member standing as a candidate in the election, a Hong Kong political organization, a candidate or the number allocated to a candidate, within a polling station, commits an offence.

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

(a) a Returning Officer;

(b) a member of the Commission;

(c) the Chief Electoral Officer;

(d) a person authorized in writing by a member of the Commission to so communicate;

(e) a Presiding Officer;

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

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

(8) In this section "political organization" (政治性組織) means---

- (a) a political party or an organization that purports to be a political party; or
- (b) an organization whose principal function or main object is to promote or prepare a candidate for an election.

#### 49. Presiding Officer to keep order at the polling station

(1) The Presiding Officer must keep order at the polling station.

(2) If, on polling day, in the polling station or its vicinity, a person---

- (a) misconducts himself or herself, the Returning Officer or the Presiding Officer may;
- (b) fails to obey a lawful order of the Returning Officer, that Officer may; or
- (c) fails to obey a lawful order of the Presiding Officer, that Officer may, order the person to leave the polling station or the vicinity of the polling station, as the case may be, immediately.

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

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

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

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

#### 50. Design of ballot box

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

#### 51. Presiding Officer to seal ballot box

before commencement of poll

(1) Immediately before the commencement of the poll, the Presiding Officer must show each ballot box, empty, to the persons, if any, as are then present within the polling station. Then the Presiding Officer must lock the ballot box, seal it with

a seal provided for that purpose or any other device specified by the Chief Electoral Officer, so that it cannot be opened without breaking the seal or the device.

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

52. Form of ballot paper and order of appearance of names of candidates on ballot papers

(1) A ballot paper is to be in the form prescribed in Schedule 2.

(2) The Commission may decide---

(a) to have a ballot paper printed in white or in colour or colour pattern;

(b) the colour in which a ballot paper is to be printed or the colour pattern to be printed on a ballot paper;

(c) whether or not to have a design on the back of a ballot paper; or

(d) the design to be printed on the back of a ballot paper.

(3) The Commission may assign a code for each constituency. The code is to be printed on the front of a ballot paper.

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

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

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

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

(a) the name of the candidate;

(b) if the Commission so determines, the address of the candidate as shown on the notice of nominations; and

(c) the number allocated to the candidate under this section.

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

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

(b) if printed on the ballot paper, are to be crossed out in accordance with section 40(2).

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

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

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

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

53. Ballot paper to be given to a person only if Presiding Officer is satisfied of the person's identity

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

(2) A person is not to be prevented from voting only due to an omission or inaccuracy of a particular required to be recorded in a final register, other than---

(a) in the case of the first ordinary election, the omission of both the person's name and identity document number from the copy of the part of the final register supplied to the Presiding Officer; or

(b) in the case of any subsequent ordinary election, the omission of both the person's name and identity document number from the final register.

54. Questions to be asked from persons applying for a ballot paper

(1) The Presiding Officer may, at the time a person applies for a ballot paper, but not afterwards, ask, in case of doubt, the appropriate questions set out in subsection (2).

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

(a) "Are you the person registered in the final register now in effect for this constituency, as follows (the Presiding Officer to read the whole entry as it is recorded in the copy or extract of the final register supplied to that Officer)?" or "你是否已登記在對本選區有效的正式選民登記冊上的人，並且有關記項一如以下所述 (the Presiding Officer to read the whole entry as it is recorded in the copy or extract of the final register supplied to that Officer)?";

(b) "Have you already voted for this or any other constituency in this election?" or "在這次選舉中，你是否已經就本選區或任何其他選區投票?".

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

(4) The Presiding Officer must not give 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.



55. A candidate or election agent or polling agent may challenge a person who has applied for a ballot paper or who has voted

(1) If a candidate, an election agent or a polling agent declares to the Presiding Officer that he or she has reasonable cause to believe that a person has committed the offence of personation and undertakes in writing to substantiate the allegation in a court, the Presiding Officer may request a police officer to arrest that person. A candidate or an election agent or a polling agent may so declare only at the time a person applies for the ballot paper or after a person has applied for a ballot paper and before he or she has left the polling station.

(2) If the Presiding Officer has reason to believe that a person applying for a ballot paper or who has applied for a ballot paper and who has not left the polling station has committed the offence of personation, the Presiding Officer may request a police officer to arrest that person.

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

(4) In this section "personation" (冒充行爲) has the meaning assigned to it by section 6 of the Corrupt and Illegal Practices Ordinance (Cap. 288).

56. Presiding Officer to issue only one ballot paper to an elector

(1) The Presiding Officer is to issue only one ballot paper to an elector who applies for a ballot paper.

(2) Before issuing a ballot paper under this section, the name of the elector as stated in the copy or extract of the relevant final register supplied under section 40(3) must be called out.

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

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

57. Procedure for voting

(1) When an elector is issued with a ballot paper, he or she must immediately go into a voting compartment and mark the ballot paper. After marking the ballot paper, the elector must, before leaving the voting compartment, conceal the mark on it in the appropriate manner described in subsection (2) and put the ballot paper into the ballot box.

(2) An elector must fold the ballot paper so that the marked side is inside and put the folded ballot paper into the ballot box.

(3) An elector must cast his or her vote without undue delay. An elector must leave the polling station as soon as he or she has put the ballot paper into the ballot box.

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

(5) Except where it is provided otherwise in this Regulation, a person must not remove a ballot paper from a polling station.

(6) In this section "voting compartment" (投票間) means a compartment provided under section 40(1) for the purpose of marking ballot papers.

#### 58. How ballot papers are to be marked

(1) An elector is to mark his or her ballot paper with the chop.

(2) The chop is to be affixed to give a single "\*" in the circle opposite the name of the candidate of the elector 掇 choice on the ballot paper.

(3) In this section "chop" (印章) means a chop provided under section 40(7) for the purpose of marking the ballot paper.

#### 59. Marking of ballot papers for or by incapacitated person

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

(2) The Presiding Officer must mark the ballot paper for a person referred to in subsection (1) in the presence of a polling officer and in the appropriate manner specified in section 58 according to the choice of the elector. The Presiding Officer must put the ballot paper into the ballot box, in the manner described in section 57 in the presence of a polling officer, after marking it.

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

#### 60. When a person is to be issued with a ballot paper marked "重複" and "TENDERED"

(1) If a person ("the first-mentioned person") representing himself or herself to be a particular elector applies for a ballot paper after another person has been issued with a ballot paper on the basis that he or she is that first-mentioned person, the Presiding Officer must issue to the first-mentioned person a ballot paper endorsed on the front of it with the words "重複" and "TENDERED".

(2) The Presiding Officer may issue a ballot paper under subsection (1) only if the first-mentioned person answers the appropriate questions set out in section 54 to the satisfaction of that Officer.

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 spoilt 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--

-

- (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's 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 Officers' 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's 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's 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 掇 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's 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's 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 spoiled 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.