

LC Paper No. CB(2)2500/02-03(01)

**Subcommittee on subsidiary legislation relating to
District Council election gazetted on 16 May 2003**

**Electoral Affairs Commission (Electoral Procedure)
(District Councils) (Amendment) Regulation 2003**

Vote Counting Arrangements

At the last meeting on 9 June 2003, we explained to Members the modified proposal on vote counting arrangements in response to the comments made by Members at the previous meeting.

2. Under the modified proposal, for a polling station with less than 200 registered electors (small polling station), the ballot papers cast at the polling station will be delivered to another polling station within the same constituency for counting. The aggregate number of registered electors of the polling stations concerned will be at least 200. The detailed counting arrangements are set out in paper LC Paper No. CB(2)2361/02-03(01), submitted to Members at the last meeting.

3. We have now prepared a draft resolution at **Annex A** which seeks to amend the Amendment Regulation to reflect the modified proposal. For Members' easy reference, a mark-up version of the relevant sections of the Regulation incorporating the latest proposed amendments is at **Annex B**.

Constitutional Affairs Bureau
17 June 2003

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION OF THE LEGISLATIVE COUNCIL

ELECTORAL AFFAIRS COMMISSION (ELECTORAL PROCEDURE)
(DISTRICT COUNCILS) (AMENDMENT) REGULATION 2003

Resolution made and passed by the Legislative Council under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) on 2003.

RESOLVED that the Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2003, published in the Gazette as Legal Notice No. 125 of 2003 and laid on the table of the Legislative Council on 21 May 2003, be amended -

(a) in section 2(a)(iv), by adding -

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

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

(b) in section 4, in the heading, by adding "**small polling stations, main counting stations**" before "and";

(c) in section 4(a), by adding -

"(1C) The Chief Electoral Officer must designate each polling station at which less than 200 electors are to vote as a small polling station.

(1D) If in relation to a constituency, 2 or more polling stations have been designated and at least one of them is a small polling station, the Chief Electoral Officer must designate a polling station as a main counting station for the purpose of counting the votes of the small polling station or stations.

(1E) The Chief Electoral Officer may designate a polling station as a main counting station only if the aggregate of the electors to vote at the polling station to be so designated and the electors to vote at the small polling station referred to in subsection (1D) is not less than 200.";

(d) in section 4(b), by adding "small polling stations, main counting stations" before "and dominant";

(e) in section 10, in the new section 56A(5)(b), by repealing "becomes" and substituting "has become";

(f) in section 11, in the heading, by adding "**which is not a small polling station**" after "station";

(g) by adding -

"11A. Section added

The following is added -

**"63A. Steps to be taken at a small
polling station at the close
of the poll**

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

- (a) place the ballot box or boxes where that Officer and other persons who are present within the polling station can see them;
- (b) cover each ballot box with a device provided for that purpose so that a ballot paper or any other material cannot be introduced into or withdrawn from the ballot box after it is covered;

- (c) use a padlock to keep the device secured in position;
- (d) seal each ballot box; and
- (e) 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) A candidate and an election agent and a polling agent of such candidate may stay in a polling station referred to in subsection (1) while it is closed for taking the steps referred to in subsection (1) (a), (b), (c), (d) and (e).

(3) The Presiding Officer of the small polling station must then deliver the ballot box or boxes and the sealed packets

to the Presiding Officer of the main counting station."

11B. Presiding Officer to prepare a ballot paper account for each packet of sealed ballot papers

Section 64(1) is amended, by adding "or 63A, as the case may be," after "63".;

(h) in section 12(c), by adding -

"(9) In this section, "Presiding Officer" (投票站主任) does not include a Presiding Officer of a small polling station which is not designated as a main counting station.";

(i) in section 19(b), by adding -

"(4) In this section, "Presiding Officer" (投票站主任) does not include a Presiding Officer of a small polling station which is not designated as a main counting station.";

(j) in section 21(a), by adding "other than a Presiding Officer of a small polling station which is not designated as a main counting station" after "Presiding Officer";

(k) in section 22(a)(i), by adding "other than a Presiding Officer of a main counting station" after "Presiding Officer";

(l) in section 22, by adding -

"(aa) by adding -

"(1A) A Presiding Officer in charge of a counting zone of a main counting station must -

- (a) count and record the number of ballot papers in each ballot box under his or her charge; 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."";

(m) in section 23(b), by adding after "subsection (2)" -
"and substituting -

"(2) The Presiding Officer of a main counting station must mix the ballot papers of the polling station designated as the main counting station together with the ballot papers that have been delivered from one or more small polling stations to the main counting station before counting the votes at the main counting station."";

- (n) in section 28, in the new section 80B -
 - (i) in subsection (7), by adding "which is not the dominant counting station" after "each counting station";
 - (ii) in subsection (12), by repealing "including the dominant counting station";
- (o) in section 32, in the new section 84, by adding -
 - "(3) In this section, "Presiding Officer" (投票站主任) does not include a Presiding Officer of a small polling station which is not designated as a main counting station."

Clerk to the Legislative Council

2003

ELECTORAL AFFAIRS COMMISSION (ELECTORAL PROCEDURE) (DISTRICT COUNCILS) (AMENDMENT) REGULATION 2003

[Subsidiary]

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 (Cap. 547);
 - "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 90(a);~~
 - "constituency" (選區) has the meaning assigned to it by section 2 of the District Councils Ordinance (Cap. 547);
 - "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;

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"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 (Cap. 547);

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

"elected member" (區議員) has the meaning assigned to it by section 2 of the District Councils Ordinance (Cap. 547);

"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 Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554); (10 of 2000 s. 47)

"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 (Cap. 547);

"final register" (正式選民登記冊) means the geographical constituency 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) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541 sub. leg.) and which is in effect; (L.N. 284 of 1999)

"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 (Cap. 547);

"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;

↑ Presiding Officer

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

[Subsidiary]

- "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 (Cap. 541 sub. leg.);
- "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 (Cap. 547) 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" (投票站入員) 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 (Cap. 547);

[Subsidiary]

"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" (遞交的選票) 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).

- || Δ (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.

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

- △ "dominant counting station" (主要點票站) means a place designated as a dominant counting station under section 31;
- "head-dress" (頭飾) means anything which is worn on a person's head;
- "political body" (政治性團體) 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;

[Subsidiary]

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 (Cap. 547 sub. leg.).
- (4) The candidate must make the declaration required by section 34(1)(b) of the District Councils Ordinance (Cap. 547) 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 candidate's 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 candidate's 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 candidate's 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.

↑ and identity document number

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small polling stations, main counting stations ☆

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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 these constituencies.~~

Chief Electoral Officer to designate polling stations, counting stations and dominant counting stations

(1A) The Chief Electoral Officer may designate under subsection (1) the same place as a polling station and a counting station.

(1B) If in relation to a constituency, 2 or more counting stations, which are also polling stations, have been designated, the Chief Electoral Officer must designate the polling station at which the largest number of electors are to vote as the dominant counting station for that constituency.

(1C) The Chief Electoral Officer must designate each polling station at which less than 200 electors are to vote as a small polling station.

(1D) If in relation to a constituency, 2 or more polling stations have been designated and at least one of them is a small polling station, the Chief Electoral Officer must designate a polling station as a main counting station for the purpose of counting the votes of the small polling station or stations.

(1E) The Chief Electoral Officer may designate a polling station as a main counting station only if the aggregate of the electors to vote at the polling station to be so designated and the electors to vote at the small polling station referred to in subsection (1D) is not less than 200.

polling stations, counting stations and dominant counting stations

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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.

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(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;

- △ (ca) conduct any activity for canvassing votes, so that the sound of the activity can be heard in the no canvassing zone;
- (cb) subject to subsection (15), without reasonable excuse, display or wear in the no canvassing zone any badge, emblem, clothing or head-dress which—
 - (i) may promote or prejudice the election of a candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or to a political body in Hong Kong; or

★ (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, which—

- (a) the person is allowed to enter for the purpose of canvassing votes; and
- (b) has no polling station inside it.

(15) A person may, for the purpose of canvassing votes as described in subsection (14), display or wear any badge, emblem, clothing or head-dress referred to in subsection (13)(cb).

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(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~~

|| ~~Δ~~ (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.

Δ (ca) conduct any activity for canvassing votes, so that the sound of the activity can be heard in the no canvassing zone;

(cb) subject to subsection (1B), without reasonable excuse, display or wear in the no canvassing zone any badge, emblem, clothing or head-dress which—

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

★ (1A) 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, which—

(a) the person is allowed to enter for the purpose of canvassing votes; and

(b) has no polling station inside it.

(1B) A person may, for the purpose of canvassing votes as described in subsection (1A), display or wear any badge, emblem, clothing or head-dress referred to in subsection (1)(cb).

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SUBSIDIARY

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[Subsidiary]

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.

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[Subsidiary]

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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.

↑ and members of the Civil Aid Service

□; or

△ (h) a person authorized in writing by the Returning Officer to act as a liaison officer.

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(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.

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TO SUK/HSI WING

FROM K.E.U.

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[Subsidiary]

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.

↑ Returning Officer, Assistant Returning Officer, Presiding Officer, Deputy Presiding Officer or Assistant Presiding Officer

△ (5) A person who, on polling day, displays or wears in the no canvassing zone, without reasonable excuse (except as provided in section 43(15)), any badge, emblem, clothing or head-dress which—

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

commits an offence."

★ and an Assistant Returning Officer for the constituency or constituencies for which the polling station is used

[Subsidiary]

P.14

TO SCAP/EAST WING

17-JUN-2003 19:24 FROM R.E.O.



↑ has become |

△ 56A. Elector who has not cast vote may return to cast vote with permission

(1) Subject to subsection (5), if—

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

he or she shall not cast the vote when he or she returns to the polling station before the close of the poll unless—

- (c) before leaving the polling station, he or she has—
 - (i) made a request to the Presiding Officer for permission to cast the vote before the close of the poll;
 - (ii) informed the Presiding Officer of his or her reason for leaving the polling station without casting the vote; and
 - (iii) returned the ballot paper, unmarked, to the Presiding Officer; and
- (d) the Presiding Officer has granted the requested permission.

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

(3) If the Presiding Officer grants the permission to an elector under subsection (2), he or she must—

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

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

(5) An elector who—

- (a) has been issued with a ballot paper;
- (b) ~~becomes~~ becomes incapacitated from voting by physical illness; and
- (c) has left the polling station after—

- (i) returning the ballot paper, unmarked, to the Presiding Officer; or
- (ii) leaving the ballot paper, unmarked, behind in the polling station without putting the ballot paper into the ballot box (if the Presiding Officer is aware that the elector has so left the ballot paper behind before leaving the polling station),

may return to the polling station before the close of the poll and cast his or her vote.

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(6) If any ballot paper is returned under subsection (5)(c)(i) or left behind in the polling station under subsection (5)(c)(ii) by an elector, the Presiding Officer must—

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

(7) For the purposes of this Regulation, re-issuing a ballot paper under subsection (3), (4) or (6) shall be regarded as issuing a ballot paper under section 56(1).

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P. 16

TO SCA/EAST WING

FROM R.E.O.

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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.

△ (1) As soon as practicable after the close of the poll at a polling station which is also designated as a counting station, the Presiding Officer must display a notice in a prominent place outside the polling station stating that the poll has been closed and that it will be opened when it is ready for use for the counting of votes.

(1A) A candidate and an election agent and a counting agent of such candidate may stay in a polling station referred to in subsection (1) while it is closed for the preparation for the counting of votes.

(2) After complying with subsection (1), the Presiding Officer must, in the presence of the persons, if any, who are present within the polling station, take the following steps—

- (a) place the ballot box or boxes where that Officer and other persons who are present within the polling station can see them;
- (b) cover each ballot box with a device provided for that purpose so that a ballot paper or any other material cannot be introduced into or withdrawn from the ballot box after it is covered;
- (c) use a padlock to keep the device secured in position;
- (d) seal each ballot box; and
- (e) 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.

(2A) The Presiding Officer must, after complying with subsection (2), keep the sealed ballot box or boxes under that Officer's control until the counting of votes begins.

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63A. Steps to be taken at a small polling station at the close of the poll

- (1) As soon as practicable after the close of the poll at a small polling station, the Presiding Officer of ~~that~~ ^{small} polling station must, in the presence of the persons, if any, who are present within the polling station, take the following steps -
 - (a) place the ballot box or boxes where that Officer and other persons who are present within the polling station can see them;
 - (b) cover each ballot box with a device provided for that purpose so that a ballot paper or any other material cannot be introduced into or withdrawn from the ballot box after it is covered;
 - (c) use a padlock to keep the device secured in position;
 - (d) seal each ballot box; and
 - (e) 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) A candidate and an election agent and a polling agent of such candidate may stay in a polling station referred to in subsection (1) while it is closed for taking the steps referred to in subsection (1)(a) to (e).
- (3) The Presiding Officer of the small polling station must then deliver the ballot box or boxes and the sealed packets to the Presiding Officer of the main counting station."

0000 16 (b)

P. 18

TO SCARLESI WING

17-JUN-2003 19:25 FROM R.E.O.

4. 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.

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P.19

TO SCARERSI WING

FROM R.E.O.

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55. ~~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.

↑ Presiding Officer to give notice of time and place of the counting of votes to candidates

↑ Presiding Officer

↑ votes

* "(9) In this section, Presiding Officer does not include Presiding Officer of a small polling station which is not designated as a main counting station

△ (8) The Presiding Officer must, before the counting of votes begins, display a notice in a prominent place outside the counting station stating the time that the counting station will be opened to the public to observe the counting of votes.

☆ (2) The maximum number of counting agents that a candidate may appoint for one counting station is 2.

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(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.

or the Presiding Officer, as may be appropriate

Presiding Officer

Returning Officer, Assistant Returning Officers, Presiding Officer, Deputy Presiding Officer and Assistant Presiding Officers

Returning Officer or the Presiding Officer

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TO SCA/EAST WING

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[Subsidiary]

(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

Presiding Officer is

Presiding Officer

to do so without prejudicing the secrecy of the individual votes and considers that it will not cause disorder or disturbance in the counting station

(a) the relevant Returning Officer or Presiding Officer; or

Presiding Officer to keep order at the counting station

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(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 Officer's 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.~~

Presiding Officer

↑ Arrangements for the supervision of counting stations and counting zones

△ (2) The Presiding Officer is to supervise the counting station and the counting zone.
(3) The Presiding Officer may have one Deputy Presiding Officer and one or more Assistant Presiding Officers to assist him or her.

☆ (4) In this section, Presiding Officer does not include Presiding Officer of a small polling station which is not designated as a main counting station.

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TO SCA/EAST WING

FROM R.E.O.

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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.

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other than a Presiding Officer of a small polling station which is not designated as a main counting station

Presiding Officer to open ballot box

A Presiding Officer must open a ballot box in that Officer's charge by breaking the seal. The Presiding

Presiding Officer

, other than a ballot paper;

Presiding Officer to verify ballot paper account

(b) after counting the votes in accordance with section 76, verify the number of ballot papers so counted by comparing it with the ballot paper account prepared under section 64 and prepare a statement in writing as to the result of the verification.

* other than a Presiding Officer of a main counting station

(1A) A presiding officer in charge of a counting zone of a main counting station must—

- (a) count and record the number of ballot papers in each ballot box under his or her charge; 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.

counting station

(2) The Presiding Officer of a main counting station must mix the ballot papers of the polling station designated as the main counting station together with the ballot papers that have been delivered from one or more small polling stations to the main counting station before counting the votes at the main counting station.

P. 23

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[Subsidiary]

(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 (Cap. 547).

~~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 "重演" 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.~~

☆ (5) In the course of counting in accordance with subsection (4)—

(a) any ballot paper—

- (i) which appears to have any writing or mark by which the elector can possibly be identified;
 - (ii) which appears to be not marked in accordance with section 58(2);
 - (iii) which appears to be substantially mutilated; or
 - (iv) which appears to be void for uncertainty, is questionable and shall be separated and forwarded to the Presiding Officer to decide whether the vote should be counted in accordance with section 79; and
- (b) any ballot paper described in section 78(1)(b), (c), (d), (f), (g) and (i) shall be separated and shall not be counted pursuant to section 78.

↑ the Presiding Officer considers that the elector can possibly

▽(g) a ballot paper which is not marked in accordance with section 58(1);

□ Presiding Officer

■ ; or

▲ (i) which contains votes for more than 1 candidate.

■ (2) A candidate, an election agent or a counting agent is not entitled to inspect and make representations to the Presiding Officer concerning a ballot paper referred to in subsection (1)(b), (c), (d), (f), (g) and (i).

P.24

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[Subsidiary]

(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 "垂廢" 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.

Presiding Officer

Presiding Officer to make decisions on questionable ballot papers

(1) If a ballot paper is forwarded to the Presiding Officer under section 76(5)(a), a candidate, an election agent or a counting agent, if present at the counting zone, may inspect and make representations to the Presiding Officer concerning the ballot paper.

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

- (a) is valid and the vote shall be counted; or
- (b) shall not be counted pursuant to section 78 for—

- (i) having on it any writing or mark by which, in that Officer's opinion, the elector can possibly be identified;
- (ii) subject to subsection (3), being a ballot paper not marked in accordance with section 58(2);
- (iii) being a ballot paper which is substantially mutilated; or
- (iv) being void for uncertainty.

(3) In the case of a ballot paper which is not marked in accordance with section 58(2), if the Presiding Officer is satisfied that the intention of the elector is clear notwithstanding the deviation from the requirement in section 58(2), the Presiding Officer may count that ballot paper.

questionable

Presiding Officer's

referred to in section 78(1)

possibly

and

(i) a ballot paper which contains votes for more than 1 candidate.

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80. ~~Returning Officer's decision on a ballot paper to be final~~

Subject to section 49 of the District Councils Ordinance (Cap. 547), the decision of the Returning Officer on a ballot paper is final.

↑ Presiding Officer's decision on a ballot paper to be final

↑ Presiding Officer

80A. Result of the counting of votes and re-count: one counting station

(1) This section applies where there is only one counting station for a constituency.

(2) After the votes are counted under section 76, the Presiding Officer must make known the result of the counting of votes to the candidates who are present at the counting zone.

(3) If the candidates are not present, the Presiding Officer is to make known the result to their election agents or counting agents, if those agents are present at the counting zone.

(4) A candidate who is present at the counting zone when the votes are counted or re-counted, or an election agent who is so present, may request the Presiding Officer to count again the counted votes or re-counted votes.

(5) If a request is made under subsection (4), that Presiding Officer must comply with the request unless the Officer is of the opinion that the request is unreasonable.

(6) After a counting of votes or re-count is completed, nothing further is to be done until each candidate who is present at the completion of the counting of votes or re-count, or the election agent of each candidate if present at the completion of the counting of votes or re-count, is given a reasonable opportunity to make a request for a re-count.

P.26

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FROM R.E.O.

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[Subsidiary]

P.27

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↑ which is not the dominant counting station

(7) Where there is no request for a re-count or such request is rejected by the Presiding Officer or the re-count is completed and there is no request for a further re-count or the request for a further re-count has been rejected by the Presiding Officer, the Presiding Officer must report to the Returning Officer for the constituency the result of the counting of votes and re-count (if any).

80B. Result of the counting of votes and re-count:
2 or more counting stations

(1) This section applies where there are 2 or more counting stations for a constituency.

(2) After the votes are counted under section 76, the Presiding Officer of the relevant counting station must make known the result of the counting of votes at that counting station to the candidates who are present at the counting zone.

(3) If the candidates are not present, the Presiding Officer is to make known the result to their election agents or counting agents, if those agents are present at the counting zone.

(4) A candidate who is present at the counting zone when the votes are counted or re-counted, or an election agent or a counting agent who is so present, may request the Presiding Officer to count again the counted votes or re-counted votes.

(5) If a request is made under subsection (4), that Presiding Officer must comply with the request unless the Officer is of the opinion that the request is unreasonable.

(6) After a counting of votes or re-count is completed, nothing further is to be done until each candidate who is present at the completion of the counting of votes or re-count, or the election agent or counting agent of each candidate if present at the completion of the counting of votes or re-count, is given a reasonable opportunity to make a request for a re-count.

(7) Where there is no request for a re-count or such request is rejected by the Presiding Officer or the re-count is completed and there is no request for a further re-count or the request for a further re-count has been rejected by the Presiding Officer, the Presiding Officer of each counting station must report to the Presiding Officer of the dominant counting station and the Returning Officer for the constituency the result of the counting of votes and re-count (if any).

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(8) After the Presiding Officer of the dominant counting station has been notified of the results of the counting of votes of all the counting stations for the constituency, that Officer must make known the results to the candidates or their election agents or counting agents who are present at the dominant counting station. If a candidate or his or her election agent who is present at the dominant counting station requests the Presiding Officer of that counting station to re-count all the votes of all the counting stations for the constituency, that Officer must comply with the request unless the Officer is of the opinion that the request is unreasonable.

(9) If the Presiding Officer of the dominant counting station decides to comply with the request referred to in subsection (8), that Officer must conduct a re-count at the dominant counting station and inform the Presiding Officers of the other counting stations for the constituency to conduct a re-count at their respective counting station at the same time.

(10) The Presiding Officer of each of the other counting stations for the constituency must make known the result of the re-count at that Officer's counting station to the candidates or their election agents or counting agents who are present at the relevant counting stations and must report that result to the Presiding Officer of the dominant counting station.

(11) The Presiding Officer of the dominant counting station must inform the candidates or their election agents or counting agents who are present at the dominant counting station of all the re-count results.

(12) The Presiding Officer of the dominant counting station must report to the Returning Officer for the constituency the result of the counting of votes and re-count (if any) of all the counting stations ~~including the dominant counting station~~ for such constituency.

80C. Determination of result in the event of equality of votes

(1) If in relation to a constituency, 2 or more of the most successful candidates have an equal number of votes, the Returning Officer for the constituency must determine the result of the election by drawing lots as provided in section 41(3) of the District Councils Ordinance (Cap. 547).

(2) In order to invite the candidates referred to in subsection (1) to be present at the office of the Returning Officer for the constituency for conducting the drawing of lots under section 41(3) of the District Councils Ordinance (Cap. 547), the Returning Officer must use the means of contact provided by those candidates on their nomination forms.

(3) If the Returning Officer fails to contact a candidate under subsection (2), that Officer may draw lots on behalf of the candidate.

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[Subsidiary]

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 (Cap. 547).

(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 (Cap. 547).

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 (Cap. 547) 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

↑ in that Officer's office

↑ that Officer's office

Presiding Officer to seal ballot papers in packets

Presiding Officer

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- (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.

Presiding Officer

~~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.

~~84. Chief Electoral Officer to receive ballot papers, accounts, packets, etc.~~

- (1) As soon as practicable after declaring the result of the election, the Presiding Officer must send to the Returning Officer for the constituency—
 - (a) the ballot paper account and verification of the ballot paper account;
 - (b) the statement referred to in section 79(6); and
 - (c) the sealed packets made up under section 83.
- (2) As soon as practicable after preparing the notice of the result of the election, the Returning Officer for the constituency must send to the Chief Electoral Officer—
 - (a) the documents referred to in subsection (1)(a), (b) and (c);
 - (b) a copy of the notice of the result of the election;
 - (c) all nomination forms;
 - (d) the notices of withdrawal of candidature (if any);
 - (e) the notices of appointment of election agents, polling agents and counting agents and copies of authorizations of election expense agents; and
 - (f) any other documents relating to the election specified by the Commission.

(3) In this section, Presiding Officer does not include Presiding Officer of a small polling station which is not designated as a main counting station.

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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.

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 (Cap. 547) 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.

Returning Officer may perform functions through Assistant Returning Officers and Presiding Officers

(1A) A Returning Officer may perform any act which that Officer is required or authorized to perform under section 43(7) and (8) through a Presiding Officer.

or

election agent,

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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 (Cap. 547) 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 (Cap. 547), under section 33(1) of that Ordinance.

~~(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 purpose of—~~

~~(a) sealing in packets all the ballot papers in the ballot box or boxes without separating, sorting or counting them or counting the votes; and~~

~~(b) separating and sealing the following in 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.~~

~~(5) As soon as practicable after sealing the ballot papers referred to in subsection (3), the Presiding Officer must deliver to the Returning Officer for the constituency all the sealed packets and the ballot box or boxes.~~

[Subsidiary]

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.

↑
or Presiding Officer

(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.

□ and

↑

(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).~~

P. 33

TO SCA/EAST WING

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[Subsidiary]

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.

↑ before

[Subsidiary]

(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).

↑ before

(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 copies of election returns lodged by candidates are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554). (10 of 2000 s. 47)

(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.~~

△ (9A) Before displaying, distributing or otherwise using an election advertisement, the candidate must deposit with the Returning Officer a copy of the written consent referred to in section 27(1) or (2) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

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

- (a) which is a printed material—
 - (i) of or smaller than A4 size, that is, 30 cm x 21 cm;
 - (ii) contained in a single sheet of paper; and
 - (iii) bearing upon it the printer's name and address, number of copies printed and date of printing;
- (b) 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.

★ (14) Any unauthorized election advertisement may be seized, disposed of, destroyed, covered or obliterated by the Returning Officer or any person authorized by that Officer.

□ badge, carrier bag, clothing or head-dress

(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.

[Subsidiary]

SCHEDULE 1

(ss. J, 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

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(Subsidiary)

- (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 (Cap. 547), the procedure specified in this section is to be complied with.

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

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

[Subsidiary]

(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 (Cap. 547), 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 (Cap. 547), 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 unopened) and receptacles, if any, together with the ballot papers (whether counted or not), any unissued 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.

↑ Presiding Officer

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 (Cap. 547).

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