

CHAPTER 5

POLLING AND COUNTING ARRANGEMENTS

PART I : THE VENUE

5.1 The Chief Electoral Officer (“CEO”) may designate a place as the main polling station, a dedicated polling station⁴ or the counting station. Subject to the availability of suitable venues, both the main polling station and the counting station will be set up at the same location, or locations in close proximity to each other, with accessibility to electors with disability [s 18 of the EP(CEE)Reg]. *[Amended in January 2010]*

5.2 If both the main polling station and the counting station are set up at the same location, the venue will be partitioned into two parts, ie the main polling station and the counting station. Within the counting station, there will be a counting zone, seating areas for the electors, the candidate(s) and his/their agents, and an area for members of the public to observe the counting of votes [s 46 of the EP (CEE) Reg]. *[Amended in January 2010]*

5.3 An area outside each polling station will be designated as the No Canvassing Zone (“NCZ”) and No Staying Zone (“NSZ”), the boundaries of which will be determined by the RO. All candidates will be notified of these zones before the polling day [s 23 of the EP (CEE) Reg]. The RO or the PRO may also vary the NCZ or the NSZ [see Chapter 14: Prohibition Against Canvassing Activities Outside Polling Station]. *[Amended in January 2007 and January 2010]*

⁴ A dedicated polling station means a place situated inside penal institutions or other suitable places at which registered electors, who are imprisoned or held in custody by the law enforcement agencies on the polling day, will be allocated to vote.

PART II : VOTING AND COUNTING

Contested Election

5.4 In a contested election where there is more than one validly nominated candidate, different rounds of voting may need to be held on the polling day, and generally the first round of voting will start at 9 am and close at 11 am (except for dedicated polling stations situated in penal institutions – please see paragraph 5.5 below). Thereafter the count will start. If none of the candidates obtains an absolute majority of valid votes, another round of voting will be held. This round will start at 2 pm and close at 3 pm. The count will follow thereafter. If again none of the candidates obtains an absolute majority, the third round of voting will be held. This round will start at 7 pm and close at 8 pm. Again, the count will follow thereafter. In the event that there is a need for the fourth round or further rounds, it will be held on the following day [s 17(3) of the EP (CEE) Reg]. For details of the voting system, please refer to Part I of Chapter 4. *[Amended in January 2010]*

5.5 Due to security reasons, different polling hours may be appointed for dedicated polling stations situated in penal institutions and there is a need to separate some persons imprisoned or held in custody from others inside the penal institutions. The Commissioner of Correctional Services (“CCS”) will assign a time slot during the polling hours of a dedicated polling station situated in a penal institution to an elector allocated to that polling station to vote, and inform the elector of the time slot assigned. The CCS must assign time slots so as to give the electors a reasonable opportunity to vote. An elector to whom a time slot is assigned may only cast his vote during that time slot (see para. 5.24 below) [s 17(7) to (11) of the EP (CEE) Reg]. *[Amended in January 2007 and January 2010]*

Uncontested Election

5.6 In an uncontested election where there is only one validly nominated candidate, the time for conducting the poll will be published in the gazette notice and in the polling notice sent to electors. The polling arrangements in respect of the dedicated polling station are similar to those for a contested election as set out in para. 5.5 above. For details on the voting system, please refer to Part II of Chapter 4. *[Added in January 2007 and amended in January 2010]*

Polling Notice

5.7 For both contested and uncontested elections, at least 10 days before the polling day, the REO will issue to each elector a polling notice. The polling notice details the polling date, the address of the polling station allocated to him, and the time of the first 3 rounds of voting at a contested election or the time of voting at an uncontested election. Along with the polling notice, there will be a location map of the polling station, detailed voting instructions and procedures on how the poll and the count will be conducted. To allow electors who will be serving a sentence of imprisonment on the polling day to receive the polling notices as early as possible, the REO will send the polling notice to the prison address as far as practicable [s 19 of the EP (CEE) Reg]. *[Amended in January 2007 and January 2010]*

5.8 In both contested and uncontested elections, the RO shall give notice in writing to a candidate or the election agent or any counting agent of the time of counting of votes. *[Added in January 2007]*

PART III : INSIDE AND OUTSIDE THE POLLING STATION

5.9 The Presiding Officer (“PRO”) will be responsible for maintaining peace and order inside a polling station, the NCZ and the NSZ. At the main polling station, there will be police officers and members of the Civil Aid Service present to provide assistance whenever necessary. For dedicated polling stations, the PRO will be assisted by officers of the CSD or other law enforcement agencies. *[Amended in January 2010]*

5.10 About 15 minutes before the commencement of the poll, the PRO will notify the candidate(s), his/their election agent(s) and polling agents, if present, that the ballot boxes will be locked and sealed. He will then show such persons that the ballot boxes are empty before proceeding to lock and seal them. Candidate(s) and his/their agents may observe the locking and sealing of the ballot boxes [s 29 of the EP (CEE) Reg]. For security reasons,

- (a) only a maximum of 2 candidates may be present to observe the locking and the sealing of the ballot boxes at a dedicated polling station situated inside a maximum security prison; and
- (b) a maximum of 2 candidates, election agents or polling agents may be present to observe the locking and the sealing of the ballot boxes at a dedicated polling station situated in a prison other than a maximum security prison.

Admission of candidates, election agents or polling agents to the aforesaid dedicated polling stations to observe the locking and sealing of ballot boxes will be on a **first-come-first-served basis**. [See also Chapter 7 on the procedures for applying for the presence of election agents or polling agents in dedicated polling stations situated in prisons.] *[Amended in January 2010]*

5.11 The PRO will also inform and show to the candidate(s), his/their election agent(s) and polling agents, if they are present, the number of unissued ballot papers which are in his possession.

5.12 Where circumstances permit, the PRO will arrange an enlarged copy of the Introduction to Candidates published by the REO to be displayed outside the main polling station or inside a dedicated polling station to facilitate easy reference by electors [s 22(3) of the EP (CEE) Reg]. A NCZ will be designated outside the polling station to ensure the free and safe passage of electors into the polling station. A notice of the declaration of a NCZ and a map or plan showing the boundary of the area will be put up at or near the polling station. A NSZ in which no one is allowed to stay or loiter will also be designated immediately outside the entrance and exit of a polling station to avoid any obstruction of entry and exit. *[Amended in January 2007 and January 2010]*

5.13 On the polling day, a person must not:

- (a) engage in canvassing for votes (including suggesting not to vote for any candidate in the case of a contested election, or suggesting not to vote in support of the candidate in the case of an uncontested election) in a NCZ; *[Amended in January 2007]*
- (b) use a sound amplifying system or device for any purpose in the NCZ without lawful authority;
- (c) conduct any activity for canvassing for votes, so that the sound of the activity can be heard in the NCZ; *[Amended in January 2007]*
- (d) without reasonable excuse, display in the NCZ any propaganda material relating to any candidate or the election of the CE;

- (e) stay or loiter in the NSZ without the express permission of the PRO;
- (f) fail to comply with a lawful direction given by the RO or the PRO in a NCZ or NSZ;
- (g) cause an obstruction to any person who is in the zone and on his way to vote; or
- (h) otherwise misconduct himself in a NCZ or NSZ.

5.14 If a person contravenes the requirements in para. 5.13 above, he may be (a) required by the RO or PRO to produce his identity card for inspection and (b) ordered by the RO or PRO to leave the zone. If he fails to leave immediately, he may be removed by a police officer or by any other person authorised in writing by the RO or PRO, or an officer of the CSD or any law enforcement agency if the NCZ or NSZ is determined in relation to a dedicated polling station. The person so removed may not re-enter the relevant zone except with the permission of the RO or PRO. *[Amended in January 2010]*

5.15 A person who violates the provisions in paras. 5.13 and 5.14 commits an offence and will be liable to a fine at level 2 (up to \$5,000) and imprisonment for 3 months [ss 24 and 82 of the EP (CEE) Reg].

PART IV : ADMISSION TO THE POLLING STATION

5.16 Other than electors, the following persons may also be admitted to a polling station:

- (a) a member of the EAC;
- (b) the RO;
- (c) an Assistant Returning Officer (“ARO”);
- (d) the CEO;
- (e) the PRO;
- (f) a polling officer;
- (g) a candidate;
- (h) an election agent (this does not apply to dedicated polling stations situated in maximum security prisons);
- (i) a polling agent appointed for the polling station (this does not apply to dedicated polling stations situated in maximum security prisons);
- (j) a public officer on duty at the polling station;
- (k) a police officer and a member of Civil Aid Service on duty at the polling station;
- (l) a child who accompanies an elector to the main polling station for the purpose of voting (if the PRO considers that the child should not be left unattended while that elector is inside the polling station and will not disturb or cause inconvenience to any person in the main polling station);

- (m) a person authorised by a member of the EAC or the CEO, subject to the conditions as imposed in the authorisation; or
- (n) a person authorised in writing by the RO for liaison purposes.

[S 26 of the EP (CEE) Reg] *[Amended in January 2007 and January 2010]*

A notice will be displayed at the entrance to the main polling station other than dedicated polling stations to show that only the above persons and electors may be allowed to enter. *[Amended in January 2010]*

5.17 For each candidate, only 1 such person may be present in a dedicated polling station (other than that situated inside a maximum security prison) to observe the poll at any one time: a candidate, his election agent or his polling agent. For security reasons,

- (a) only a maximum of 2 candidates may be present at any one time to observe the poll at a dedicated polling station situated inside a maximum security prison; and
- (b) a maximum of 2 candidates, election agents or polling agents may be admitted to a dedicated polling station situated in a prison other than a maximum security prison at any one time.

Admission to the dedicated polling station is on a **first-come-first served basis**. Observers will have to take turn in case more than two candidates/agents intend to observe the poll at the same time. The PRO may regulate the number of people entering the dedicated polling stations. [See also Chapter 7 : Appointment and Roles of Election Agent, Election Expense Agents, Polling Agents and Counting Agents.] *[Added in January 2010]*

5.18 Except for an elector, a police officer, an officer of the CSD, an officer of any law enforcement agency or a member of the Civil Aid Service on duty, all other persons permitted to enter a polling station are required to sign a **Declaration of Secrecy** on a specified form and observe the provisions governing the secrecy of voting [s 69 of the EP (CEE) Reg]. *[Amended in January 2010]*

PART V : CONDUCT INSIDE THE POLLING STATION

5.19 Inside the polling station, there will be a number of ballot paper issuing desks and voting compartments. On arrival at the polling station, an elector can approach the ballot paper issuing desks to obtain his ballot paper by producing his identity document for verification of his identity by the polling staff manning the desk. The polling staff will call out the name of the elector as stated in the entry in the copy of the register of electors and cross out the name and the identity document number of that entry, before issuing a ballot paper to the elector. At the time of issuing the ballot paper, the polling staff will also supply an elector with a chop with a “✓” sign.

5.20 No record will be made as to which particular ballot paper is given to an elector. For control purpose regarding the total number of ballot papers issued, the counterfoil of each ballot paper bears a serial number on its front. The serial number on the counterfoil will not, however, be recorded or related to the particular elector to whom the ballot paper is issued.

5.21 If there is reasonable ground for questioning the bona fides of an elector, the PRO shall ask him the following questions at the time of his application for a ballot paper (but not afterwards):

- (a) Are you the person registered in the EC FR as follows (reads the

whole of the relevant entry in the register)?

(b) Have you already cast a vote in this round of voting? (for a contested election)

or

Have you already cast a vote? (for an uncontested election)

A person will not be issued with any ballot paper unless he has answered the questions to the satisfaction of the PRO [s 32 of the EP (CEE) Reg].
[Amended in January 2007]

5.22 Where there is reasonable cause to believe that a person has committed an offence of impersonation of an elector, the PRO may request the police officer on duty at the polling station to arrest that person. If the polling station is a dedicated polling station, the PRO may request the officer of the CSD or the law enforcement agency to remove the person concerned from the polling station and report the case to the police [s 33 of the EP (CEE) Reg].
[Amended in January 2010]

5.23 If a person representing himself to be a particular elector applies for a ballot paper after another person has been issued a ballot paper on the basis that he is that particular elector, he may be issued with a tendered ballot paper. Such ballot paper will not be counted at the counting of votes [ss 38 and 50 of the EP (CEE) Reg].

5.24 If for a reason considered justified by the PRO, an elector cannot cast his vote after a ballot paper has been issued to him, he may, with the permission of the PRO, hand back the ballot paper to the PRO and return later to cast his vote. For a dedicated polling station situated in a prison, the elector has to return to cast his vote within the existing or newly assigned time slot. If after having been issued with a ballot paper, an elector becomes incapacitated by physical illness and has left the polling station without casting

his vote, he may return to the polling station to cast his vote before the close of that round of voting at a contested election or the close of poll at an uncontested election, provided that before he left the polling station, his ballot paper has been retrieved by the PRO. For a dedicated polling station situated in a prison, the elector has to return to cast his vote within the existing or newly assigned time slot. Under either of the above circumstances, the following actions must be taken by the PRO and/or the CCS:

- (a) the PRO must keep that ballot paper in his custody and return it, in the presence of a police officer for the main polling station and an officer of the CSD or of the concerned law enforcement agency for a dedicated polling station, to the elector in question when the latter returns before the close of that round of voting at a contested election or the close of poll at an uncontested election to cast his vote. But if at the close of that round of voting at a contested election or the close of poll at an uncontested election, the elector has not returned, the PRO shall endorse the ballot paper with the word “UNUSED” and deal with it accordingly [s 35 of the EP (CEE) Reg]; and/or
- (b) the CCS must, as far as practicable, assign to an elector of a dedicated polling station situated in a prison a new time slot during the polling hours appointed for the polling station and notify the elector of the time slot. *[Amended in January 2007 and January 2010]*

5.25 The PRO would need to keep a ballot paper left in the polling station in his custody in the circumstances described in para. 5.24 above only when he knows which elector had left the ballot paper behind. Otherwise, a ballot paper found to be left in the polling station should be regarded as “unused” and would not be counted. However, if an elector who has been issued with a ballot paper chooses not to cast his vote and leaves the polling

station and returns later to claim that or another ballot paper, the PRO may issue a tendered ballot paper to the elector **ONLY IF** he is not certain that the elector is the one who has been issued with a ballot paper earlier. *[Amended in January 2007]*

5.26 Ballot papers which have been issued (whether marked or unmarked) are sometimes abandoned or found left behind by electors in the voting compartments or lying on the floor of the polling station, or otherwise not used. The intention of the electors is not clear in such cases. Any person who discovers such a ballot paper is required to hand it to the PRO. Such a ballot paper will be endorsed on the front with the word **“UNUSED”** (unless it is not reasonably practicable to do so) and will be kept by the PRO. In no circumstances will the ballot paper be put into a ballot box. Such a ballot paper will not be counted at the counting of the votes [ss 39 and 50 of the EP (CEE) Reg].

5.27 Upon obtaining his ballot paper, the elector should then proceed to any one of the voting compartments to mark his ballot paper. *[Amended in January 2007]*

5.28 An elector must use the chop supplied to mark his choice of candidate on the ballot paper at a contested election or his choice of “support” or “not support” at an uncontested election. He should then fold the ballot paper, face inside, before coming out of the voting compartment and insert the folded ballot paper into the ballot box located near the exit of the polling station. *[Amended in January 2007]*

5.29 Any elector who has inadvertently torn or damaged his ballot paper or has made an error in marking his ballot paper may ask the PRO to exchange it for a new one. Such spoilt ballot papers will be endorsed on the front with the word **“SPOILT”** and will be kept by the PRO. The spoilt ballot papers will not be counted at the counting of the votes. *[Amended in January 2007]*

5.30 An elector may seek help from the polling staff to mark his ballot paper if he finds it necessary (see para. 7.34 of Chapter 7).

5.31 **The ballot is secret. No one can force a person to vote or not to vote for any particular candidate at a contested election** [s 13 of the ECICO], **or to vote or not to vote in support of the candidate at an uncontested election. Also no one is required to tell which candidate he has voted for or is about to vote for at a contested election, or whether or not he has voted or is about to vote in support of the candidate at an uncontested election.** A person who, without lawful authority, requires or purports to require an elector to disclose the name of, or any particular relating to, the candidate for whom the elector voted at a contested election or disclose whether or not he has voted in support of the candidate at an uncontested election commits an offence and will be liable to a fine at level 2 (up to \$5,000) and imprisonment for 6 months [ss 78 and 82 of the EP (CEE) Reg]. *[Amended in January 2007]*

5.32 No one shall, at any time, disclose the identity of an elector at a dedicated polling station to protect the elector's privacy and safety. Anyone who makes such disclosure commits an offence punishable by a fine at level 2 (up to \$5,000) and imprisonment up to 6 months [s 70(1) (aa) of the EP (CEE) Reg]. *[Added in January 2010]*

5.33 After casting their votes, electors at the main polling station may proceed to the counting station to observe the count, or leave the venue. In a contested election, electors at the main polling station are however encouraged to observe the count and stay until the counting result is known so that they can proceed to the polling station for the second round of voting and so on if required (please see para. 5.4). If any additional round of voting is required, the RO will make a public announcement through the electronic media. Electors who have left the main polling station should keep a close watch on such an announcement and return to the main polling station in time to cast

their votes. Alternatively, they may enquire through the REO hotline about the need to return for another round of voting if they do not have access to the electronic media. *[Amended in January 2007 and January 2010]*

5.34 An elector, who has cast his vote in a dedicated polling station in the first round of voting, will be informed by the CCS or the head of the law enforcement agency concerned if an additional round of voting is required. The CCS will also assign a time slot to an elector allocated to vote at a dedicated polling station situated in a prison to cast his vote in the next round of voting. *[Added in January 2010]*

5.35 In a polling station, no person shall:

- (a) engage in canvassing for votes (including suggesting not to vote for any candidate in case of a contested election, or suggesting not to vote in support of the candidate in the case of an uncontested election); *[Amended in January 2007]*
- (b) without reasonable excuse, display any propaganda material relating to any candidate or the election;
- (c) fail to obey any lawful order of the RO or PRO;
- (d) disrupt the poll or disturb or cause inconvenience to any person;
or
- (e) misconduct himself,

otherwise he commits an offence punishable with a fine and imprisonment and may be (a) required by the RO or PRO to produce his identity card for inspection, and (b) ordered by the RO or PRO to leave the polling station. An elector must cast his vote without undue delay. If an elector who is allocated to vote at a dedicated polling station fails to cast his vote without undue delay,

the RO or the PRO may order him to leave the polling station immediately. If a person fails to leave immediately, he may be removed by:

- (a) a police officer if the polling station is the main polling station; or
- (b) an officer of the CSD or other law enforcement agency if the polling station is a dedicated polling station; or
- (c) any other person authorised in writing by the RO or PRO to remove him.

The person so removed may not re-enter the polling station except with the permission of the RO or PRO [ss 27 and 82(1) of the EP (CEE) Reg].
[Amended in January 2010]

5.36 Only the following persons may communicate with electors inside a polling station:

- (a) a member of the EAC;
- (b) the RO and an ARO;
- (c) the CEO;
- (d) the PRO and other polling staff;
- (e) public officers, police officers and members of the Civil Aid Service on duty at the polling station;
- (f) an officer of the CSD or other law enforcement agency on duty at a dedicated polling station;

- (g) a person authorised in writing by the RO for liaison purposes;
and
- (h) a person authorised in writing by a member of the EAC or the CEO.

[S 27 of the EP (CEE) Reg] *[Amended in January 2007 and January 2010]*

5.37 No person shall use a mobile telephone, paging machine or any other communication device to communicate with any other person, in the polling station during the polling hours, contrary to a direction of the RO, ARO, PRO or any polling officer not to do so. Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of the PRO, the RO or a member of the EAC, commits an offence and will be liable to a fine at level 2 (up to \$5,000) and imprisonment for 6 months [ss 27 and 82 of the EP (CEE) Reg]. Normally such permission is only granted to members of the media or government photographers for publicity purposes. *[Amended in January 2007]*

5.38 After the close of poll, the PRO will lock the flap on the lid of the ballot boxes and seal it. Candidate(s) and his/their agents can accompany the PRO in the delivery of the ballot boxes from a polling station to the counting station.

PART VI : THE COUNT

5.39 The count will be conducted in the presence of the candidate(s), or his/their election agents or counting agents, if they are present. The ballot box(es) at the dedicated polling station(s) will be delivered to the counting station under police escort. Such ballot box(es), together with the ballot box(es) at the main polling station, will then be unsealed and opened by the RO, witnessed by all those present in the counting zone. The ballot papers cast at all polling stations will be mixed and the count will be conducted manually by counting staff. *[Amended in January 2010]*

5.40 Only the following persons may be present at the counting of votes:

- (a) a member of the EAC;
- (b) the RO, an ARO and counting staff;
- (c) the CEO;
- (d) candidate(s), his/their election agent(s) and counting agents;
- (e) an elector;
- (f) public officers, police officers and members of the Civil Aid Service on duty at the counting station; and
- (g) a person authorised in writing by a member of the EAC or the CEO, subject to the conditions as imposed in the authorisation.

Candidate(s) and his/their agents must not go into the restricted zone. Any member of the public may observe the counting of the votes from an area at the

counting station set apart for that purpose by the RO unless the RO considers that his presence may:

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

[S 46 of the EP (CEE) Reg] *[Amended in January 2007]*

5.41 Before entry, every person authorised to be present at a counting station, other than an elector, the police officers and members of the Civil Aid Service on duty, must make a **Declaration of Secrecy** on a specified form and observe the provisions governing the secrecy of voting [s 69 of the EP (CEE) Reg]. Members of the public present within the public area will not be required to make a Declaration of Secrecy.

5.42 The valid ballot papers will be placed in separate plastic and transparent boxes on the table according to the choices marked by the electors on the ballot papers and counted manually. Questionable ballot papers, if any, will be put aside. The RO will then gather together all candidates or their election/counting agents at a contested election, or, the only validly nominated candidate or his election/counting agents at an uncontested election to witness his determination on the validity of these questionable ballot papers. For details of the procedure, see Part VII below. Thereafter, the valid votes obtained by each/the candidate will be counted. **At no time should a candidate, his election agent or counting agent touch any ballot papers.** At the end of the count, the ballot paper account will be verified by checking against the summation of valid votes cast for individual candidates at a contested election, or valid “support” and “not support” votes cast for the only validly nominated candidate at an uncontested election, as well as invalid ballot

papers. *[Amended in January 2007]*

5.43 When the ballot paper account has been verified, the RO will declare the election result. He shall display a notice of the result of the election at a prominent place immediately outside the counting station and shall also publish the notice in the Gazette as soon as practicable [s 55 of the EP (CEE) Reg and s 28 of the CEEEO].

5.44 Subject to the availability of funds and physical arrangement of the venue, the entire counting process will be broadcast live on the radio, the television and the internet at <http://www.info.gov.hk>. There will also be press coverage.

5.45 Except with the express permission of the RO or a member of the EAC, as the case may be, any person who undertakes photographing, filming and video or audio recording in a counting zone commits an offence [ss 47(2) and 82(1) of the EP (CEE) Reg].

5.46 In a counting station, no person shall:

- (a) fail to obey any lawful order of the RO;
- (b) without reasonable excuse, display any propaganda material relating to any candidate or the election;
- (c) use a sound amplifying system or device for any purpose without lawful authority or the express permission of the RO;
- (d) disrupt the counting of votes or disturb or cause inconvenience to any person; or
- (e) misconduct himself,

otherwise he commits an offence punishable with a fine and imprisonment and may be (a) required by the RO to produce his identity card for inspection, and (b) ordered by the RO to leave the counting station. The RO may also require a person to produce his identity card for inspection and order the person to leave the counting station if the person conducts himself in such a way that the purpose of his presence is not that for which he was authorised or permitted to enter or remain in the counting station. If he fails to leave immediately, he may be removed by a police officer or by any other person authorised in writing by the RO. The person so removed may not re-enter the counting station except with the permission of the RO [ss 47 and 82(1) of the EP (CEE) Reg].

PART VII : RULES RELATING TO COUNTING

Clearly Invalid Ballot Papers

5.47 A ballot paper is invalid if:

- (a) it is endorsed on the front with the word “TENDERED”;
- (b) it is endorsed on the front with the word “SPOILT”;
- (c) it is endorsed with the word “UNUSED”; or
- (d) it is unmarked.

These ballot papers will be set aside as invalid on the spot. They will not be counted and will not be treated as questionable ballot papers. A candidate, an election agent or a counting agent may inspect these ballot papers but is not

entitled to make representations to the RO concerning these ballot papers. [S 50 of the EP(CEE) Reg] *[Amended in January 2007]*

Questionable Ballot Papers

5.48 Ballot papers with doubtful validity in the following areas are set aside as questionable ballot papers. A questionable ballot paper will be decided as invalid if in the opinion of the RO:

- (a) it has any writing or mark by which the elector can possibly be identified;
- (b) it is substantially mutilated;
- (c) it is not marked in accordance with s 36(1)(b) of the EP(CEE) Reg, ie
 - (i) in the case of a contested election, not marked by giving a single “✓” in the circle opposite the name of the candidate of his choice on the ballot paper; or
 - (ii) in the case of an uncontested election, not marked by giving a single “✓” in the circle opposite the word “SUPPORT” or “NOT SUPPORT” on the ballot paper; or
- (d) it is void for uncertainty.

[S 50 of the EP(CEE) Reg] *[Added in January 2007]*

5.49 A ballot paper which appears to the **counting staff** to be one which should or may not be valid or which should or may not be counted for

any of the reasons set out in the preceding paragraph will be placed aside as **questionable ballot paper**. The validity of all questionable ballot papers shall be decided by the RO [s 51(2) of the EP (CEE) Reg]. Before the RO makes his decision, a candidate, his election agent or counting agent is allowed to inspect questionable ballot papers so set aside, in the presence of the RO and, in a contested election, other candidates or their election or counting agents who are present. The candidate(s), his/their election agent(s) or counting agent(s) may also make representations to the RO [s 51(1)(b) of the EP (CEE) Reg]. After considering the representations, the RO must make his decision on the validity of the questionable ballot paper. *[Amended in January 2007]*

5.50 The decision of the RO in regard to any question arising in respect of any ballot paper shall be **final** [s 51(8) of the EP (CEE) Reg], and may be questioned only by an election petition [s 33 of the CEE0]. Evidence will be kept in the following manner:

- (a) Where the RO decides that a questionable ballot paper is not to be counted, he will endorse the words “rejected” and “不獲接納” on the front of the ballot paper. If a candidate, his election agent or counting agent objects to the rejection, the RO will endorse the words “rejection objected to” and “反對此選票不獲接納” on the front of the ballot paper [s 51(4) of the EP (CEE) Reg].
- (b) If a candidate, his election agent or counting agent objects to the decision of the RO to count a ballot paper, the RO will endorse the words “acceptance objected to” and “反對此選票獲接納” on the front of the ballot paper [s 51(5)(b) of the EP (CEE) Reg].

[Amended in January 2007]

PART VIII : DISPOSAL OF DOCUMENTS

5.51 As soon as practicable after the RO has ascertained the result of the poll in an election, he will seal all the relevant documents and ballot papers into packets. Candidate(s) and his/their agents may observe the packaging, if they wish [s 56 of the EP (CEE) Reg].

5.52 The RO will deposit these sealed packets together with the nomination form(s), notices of appointment of agents, etc with the CEO for safe custody for 6 months before they are destroyed [ss 57 and 59 of the EP (CEE) Reg].

5.53 **Except pursuant to a court order** in relation to an election petition or a criminal proceeding, **no person may inspect any ballot paper in the custody of the CEO** [s 58 of the EP (CEE) Reg].