

CHAPTER 2

REGISTRATION OF ELECTORS AND VOTING SYSTEM

PART I : REGISTRATION OF ELECTORS

Eligibility to Vote

2.1 For the DC election, only a registered elector is eligible to vote. A registered elector is a person whose name appears on the final register of geographical constituencies (“GCs”) which is in force at the time of election as compiled and published by the Electoral Registration Officer (“ERO”) under the LCO. A person may only vote in respect of the DC constituency for which the person is registered as an elector in the register. [S 29(3) of the DCO] *[Amended in September 2007 and January 2010]*

Qualifications for Registration as an Elector for DC Election [ss 24, 27, 28, 29, 30 and 31 of the LCO]

2.2 To qualify for registration as an elector in a GC, an individual has to satisfy all the following requirements:

- (a) in a year in which a DC ordinary election is to be held (“DC election year”), he has to be aged 18 years or above as at 25 September next following his application for registration;
- (b) he is a permanent resident of Hong Kong;

- (c)(i) he ordinarily resides in Hong Kong and the residential address in his application for registration is his only or principal residence in Hong Kong; or
- (ii) if he is a person serving a sentence of imprisonment and at the time of the application does not have a home in Hong Kong outside the prison, the following prescribed address is deemed to be the person's only or principal residence in Hong Kong for the purpose of voter registration:
 - (1) the last dwelling-place in Hong Kong at which the person resided and which constituted his sole or main home; or
 - (2) the residential address of the person last recorded by the Immigration Department under the Registration of Persons Regulations (Cap 177A) if the person cannot provide any proof on his last dwelling place in Hong Kong [s 28(1A) and (1B) of the LCO]. *[Amended in January 2010]*
- (d) he holds an identity document or has applied for a new identity document or a replacement identity document; and
- (e) he is not disqualified from being registered as an elector by virtue of s 31 of the LCO.

2.3 A person who is **already registered** in the existing final register of GCs under the LCO will be automatically registered as an elector for a DC constituency. He **does not need to apply** to be so registered. [S 29(3) of the

DCO] However, he is not entitled to be registered as an elector in the next register of GCs if:

- (a) he has ceased to ordinarily reside in Hong Kong, or no longer resides at the residential address recorded against his name in the existing register and the ERO does not know his new principal residential address in Hong Kong; or
- (b) he was an imprisoned person who used his last dwelling-place in Hong Kong at which he resided or the address last recorded under the Registration of Persons Regulations (Cap 177A) as the address for registration of an elector and who had served his sentence of imprisonment and left the prison without reporting his new residential address to the ERO [s 9(2A) of the EAC (ROE) (GC) Reg]. *[Amended in January 2010]*

Disqualifications [s 30 of the DCO]

2.4 An elector is disqualified from voting at the DC election if he:

- (a) has ceased to be eligible to be registered as an elector for the GC (see paras. 2.2 and 2.3 above);
- (b) is found for the time being under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his property and affairs; or
- (c) is a member of any armed forces.

[Amended in September 2007 and January 2010]

Application for Registration as GC electors for DC Election

2.5 The registration of GC electors is undertaken in accordance with the provisions of the EAC (ROE) (GC) Reg.

2.6 A person may send in his application for voter registration on the specified form to the ERO any time in the year. However, for inclusion of his name in the final register of GCs to be published not later than 25 September in a DC election year, his application form must have been received by the ERO **not later than 16 July** in that year. [S 4 of the EAC (ROE)(GC) Reg]

2.7 The ERO will process the application forms after they have been received. The ERO will send written inquiries to applicants to seek information or proof if the information on their applications is incomplete or incorrect. An applicant who qualifies for registration will be allocated to the relevant constituency on the basis of his residential address. Applicants who are not qualified for registration will also be informed of the result by registered mail. *[Amended in January 2010]*

2.8 The name and residential address of all eligible applicants will be entered in the registers of electors. *[Added in January 2010]*

Change of Residential Address and other Personal Particulars

2.9 It will not be necessary for a registered elector to re-apply for registration every year. However, if a registered elector has changed his residential address, he **must notify** the ERO **of his new address** in Hong Kong to ensure that he will be registered in the current register of electors. *[Amended in January 2010]*

2.10 Apart from residential address, any registered elector who has changed his other personal particulars (eg name, telephone numbers and email address) should also report such change to the ERO. *[Amended in January 2010]*

2.11 An elector should notify the ERO of any change of any of his particulars in writing or by sending in a new registration form with the altered particulars. In order to allow the alteration of his particulars to be effected in the next final register of electors, he **must notify** the ERO as soon as possible and the latest by **29 August in a DC election year** [s 17(9)(a)(i) of the EAC (ROE) (GC) Reg]. An elector who has reported change of particulars will be sent a notice by the ERO showing his updated electoral record. *[Amended in January 2010]*

2.12 If the elector has **failed to update the ERO of his new address in Hong Kong**, or if he has emigrated overseas or ceased to be ordinarily resided in Hong Kong, **his name and particulars may be removed from the register of electors**. *[Added in January 2010]*

The Provisional Register

2.13 The provisional register for GCs will be published **not later than 15 August in a DC election year**. It includes:

- (a) the names and addresses of those electors whose names appear in the existing final register for GC currently in force, updated and corrected by the ERO based on reported or available information; and

- (b) the names and addresses of the eligible new applicants who have applied for registration in the constituency concerned on or before 16 July of that year.

The provisional register will be **available for public inspection** at the Registration and Electoral Office (“REO”) and various other places, such as local District Offices, as specified in the Gazette notice of publication for a period after its publication and before the appeal deadline referred to in para. 2.16 below. Upon request by a person imprisoned or held in custody by a law enforcement agency, the ERO may make available, at a penal institution or the premises of a law enforcement agency as the case may be, a copy of the provisional register for his inspection if the ERO considers it appropriate to do so. The ERO may require persons who want to inspect the provisional register to produce an identity document and complete a form furnished by him. [Ss 12 and 13 of the EAC (ROE) (GC) Reg] *[Amended in January 2010]*

The Omissions List

2.14 At the same time when the provisional register for GCs is published, the ERO will also publish an omissions list, containing the names and residential addresses of persons formerly registered as GC electors, which are struck out from the provisional register and proposed to be omitted from the next final register, based on the information received by the ERO who is satisfied on reasonable grounds that the concerned persons are no longer eligible to be registered or have been disqualified. For an imprisoned person who used his last dwelling-place in Hong Kong at which he resided or the address last recorded under the Registration of Persons Regulations (Cap 177A) as the address for registration as an elector, if the ERO is satisfied on reasonable grounds that he has served his sentence of imprisonment and left the prison without reporting his new residential address to the ERO, the ERO must enter his name and address on the omissions list according to the procedures

prescribed in the relevant legislation. [S 9(2A) of the EAC (ROE) (GC) Reg]
[Amended in January 2010]

2.15 The names and residential addresses of the persons included in the omissions list will not appear on the provisional register [s 32(4)(a) and (b) of the LCO and ss 9 and 10 of the EAC (ROE) (GC) Reg].

Appeals – Objections and Claims

2.16 Members of the public may lodge in person with the ERO objections as regards entries in the relevant provisional register **not later than 29 August in a DC election year**. On or before that date, a dissatisfied applicant or a person whose name has been included in the omissions list may lodge a claim in person with the ERO in respect of the entry or any omission concerning himself. To facilitate a person imprisoned or held in custody by a law enforcement agency to make such an objection or claim, he is allowed to deliver a notice of objection or claim to the ERO by post. Cases of objections and claims will be referred to the Revising Officer for consideration. The Revising Officer, who is a member of the Judiciary, will rule on each objection or claim and decide on the inclusion, exclusion, or correction of the entry concerned in the relevant final register. [S 34 of the LCO and Part III of the EAC (ROE) (GC) Reg] *[Amended in January 2010]*

The Final Register

2.17 The final register for GCs is to be published **not later than 25 September in a DC election year**. It includes the entries in the relevant provisional register, the updated names and residential addresses of electors who have applied to alter their particulars not later than 29 August of that year, and the names and residential addresses of those who were subject to a notice of objection or claim, updated and corrected to reflect the decisions of the

Revising Officer as appropriate. The ERO will also take the opportunity to delete those entries of electors who are known to be dead and to correct any mistakes in the relevant provisional register. This final register remains valid until the publication of the relevant final register in the following year. The final register in force will be available for public inspection at the REO and local District Offices. Upon request by a person imprisoned or held in custody by a law enforcement agency, the ERO may make available at a penal institution or the premises of a law enforcement agency as the case may be a copy of the final register for his inspection if the ERO considers it appropriate to do so. The ERO may require persons who want to inspect the final register to produce an identity document and complete a form furnished by him. [S 20 of the EAC (ROE) (GC) Reg] *[Amended in January 2010]*

IMPORTANT :

Information relating to a person contained in any register of electors or in any extract of any register of electors **can only be used for election-related purposes** under the electoral legislation. Any **abuse** or **misuse** of such information is an **offence** punishable with a fine at level 2 (up to \$5,000) and imprisonment for 6 months [s 22 of the EAC (ROE)(GC) Reg].

PART II : THE VOTING SYSTEM

2.18 A poll will be taken in respect of a DC constituency to return a member for that constituency if there are 2 or more validly nominated candidates contesting the election. Where there is only 1 validly nominated candidate for a constituency, he will be declared elected. In such a case, polling in respect of the constituency will not be necessary and electors of the

constituency concerned should not attend the relevant polling stations since they no longer need to vote.

2.19 The voting system adopted for the DC election is the simple majority or relative majority system, commonly known as the **“first past the post”** system [s 41(2) of the DCO]. The system means, simplistically, that only **1 vote** will be allowed to be cast by any elector in favour of **1 of the candidates** whose name appears on the ballot paper and that the candidate who obtains the largest number of votes cast will be elected. In the event that more than 1 candidate has the equal highest number of votes, the Returning Officer (“RO”) will have to draw lots to determine which one of these candidates should be elected to fill the vacancy.

2.20 When the successful candidate has to be determined by the drawing of lots, 10 table-tennis balls each marked with a number from 1 to 10 will be put into an empty opaque bag, to be provided by the REO. Each candidate is to draw 1 ball from the bag. The number marked on the ball should be noted by the RO and the ball should be put back into the bag. The other candidate(s) will draw in the same way. The candidate on whom the lot falls is to be returned at the election.

- (a) Where there are 2 candidates, the candidate who draws the larger number from 1 to 10 will be the winner.
- (b) Where there are more than 2 candidates, if in the first draw, the numbers drawn by the candidates are different, then the candidate who draws the largest number will win. If, on the other hand, 2 or more of the candidates have drawn the same larger number and the remaining candidate(s) has/have drawn a smaller number, there must be a second draw. As the system of voting for the election is “first past the post”, only those candidates who have

drawn the same larger number in the first draw will participate in the second draw.

2.21 As soon as practicable after the result of the elections has been determined, the RO should publicly declare the successful candidate as elected.

2.22 In the event that before the declaration of the result of the elections, proof is given to the RO's satisfaction that the successful candidate for a constituency has passed away or has been disqualified from being elected, then the RO should not declare that candidate as elected and should declare that the election to have failed for that constituency [s 81 of the EAC (EP) (DC) Reg].

