

CHAPTER 4

POLLING AND COUNTING ARRANGEMENTS

PART I : BEFORE THE POLL

4.1 The CEO may designate a place as a polling station, a dedicated polling station⁵, a ballot paper sorting station⁶ or a counting station. The CEO may also designate the same place as a polling station and a counting station. If there are 2 or more counting stations for a constituency, he will designate the polling station at which the largest number of electors are to vote as the **dominant counting station**. He will also designate a polling station at which less than 200 electors are to vote as a **small polling station**. If 2 or more polling stations have been designated for a constituency and at least 1 of them is a small polling station, a special polling station⁷ or a dedicated polling station, he will designate 1 polling station as a **main counting station** for the purpose of counting the votes cast at the polling station, the small polling station(s), the special polling station(s) and/or the dedicated polling station(s). The aggregate of the electors to vote at the polling station to be designated as the main counting station and the electors to vote at the small polling station must not be less than 200. [S 31(1), (1A), (1B), (1C), (1CA), (1D), (1E) and 32 of the EAC (EP) (DC) Reg] The RO will, at least 1 working day before the polling day, give notice in writing to each candidate of the place or places

⁵ 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 polling day, will be allocated to vote.

⁶ A ballot paper sorting station may be set up to sort ballot paper received from the dedicated polling stations according to each constituency before they are delivered to the respective main counting stations for counting of votes.

⁷ A special polling station is one accessible to electors with disability. Such electors will normally be small in number (see also para. 4.6 below).

at which vote counting and, where applicable, at which sorting of ballot papers received from the dedicated polling stations is to take place for the constituency contested by the candidates [s 2(3), 65(3) and (4) of the EAC (EP) (DC) Reg].
[Amended in August 2008 and January 2010]

4.2 An area outside the 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. The RO may also authorise the Presiding Officer (“PRO”) to vary the NCZ or NSZ on the polling day. [S 43 of the EAC (EP) (DC) Reg] [See Chapter 13: Prohibition Against Canvassing Activities Outside Polling Station.]

4.3 A polling station for a constituency is normally situated within the boundaries of the constituency, but where there are no suitable premises for use within the constituency, polling stations will have to be designated in nearby areas outside the constituency. Where circumstances require, non-permanent structures may be designated as polling stations. The polling stations designated for the constituencies are localised in the sense that an elector of a particular constituency will be assigned to a polling station close to his principal residence as shown on the final register of electors, save for registered electors imprisoned or held in custody by the law enforcement agencies who will be assigned to vote at the appropriate dedicated polling stations [s 33(3) and (4) of the EAC (EP) (DC) Reg]. *[Amended in January 2010]*

4.4 About 10 days before the polling day, poll cards notifying electors of contested constituencies of the date, time and place of the poll will be sent to their registered address or correspondence address (if any). To allow electors who will be serving a sentence of imprisonment on the polling day to receive the poll cards as early as possible, the REO will send the poll

cards to their prison address as far as practicable. [S 34 of the EAC (EP) (DC) Reg] *[Amended in January 2010]*

4.5 In the case where there is only 1 validly nominated candidate for a constituency, the candidate will be declared elected [s 23 of the EAC (EP) (DC) Reg]. Electors in respect of such a constituency do not need to vote, and a notice to that effect will be sent to them. The polling stations designated for the constituency will not be used for polling in respect of that constituency.

4.6 An elector **may vote only at the polling station allocated to him** by the CEO. Many of the polling stations are accessible to persons with a disability including those who have difficulty in walking. An elector with a disability finding it difficult for him to access the polling station allocated to him may **at least 5 days** before the polling day apply to the CEO for re-allocation of a polling station specifically designated for such electors (“special polling station”) [s 35 of the EAC (EP) (DC) Reg]. Whether the polling station allocated to an elector is accessible to persons with mobility difficulty will be specified clearly in the location map attached to the poll card sent to each elector, together with a note indicating that if any elector allocated to this polling station has any difficulty in mobility and wishes to vote at a special polling station, he may apply to the CEO for re-allocation. If a special polling station is re-allocated to him, then he can vote only at that polling station. If circumstances permit, free Rehabus service will also be arranged to take those electors to the special polling station. In case circumstances require, the CEO may allocate to an elector an alternative polling station, in addition to or in substitution of the one originally allocated to him. Electors concerned can make enquiries with the REO on this subject by telephone or facsimile. *[Amended in September 2007]*

4.7 Due to security reasons, 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. 4.18 below). [S 30(2A), (2B), (3A) and (5) of the EAC (EP) (DC) Reg] *[Added in January 2010]*

PART II : INSIDE THE POLLING STATION

4.8 The poll normally starts at 7:30 am and ends at 10:30 pm. For security reasons, dedicated polling stations situated in prisons normally open from 9:00 am to 4:00 pm. About 15 minutes before the commencement of polling, the PRO at a polling station will show the candidates, their election agents or polling agents, if they are present, the empty ballot boxes before proceeding to lock and seal them. Candidates concerned or their agents may observe the locking and the sealing of the ballot boxes. For each candidate, only 1 such person may be present to observe the locking and the sealing of the ballot boxes: a candidate, his election agent or his polling agent. 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 6 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]*

4.9 For a small polling station or a special polling station where the votes cast will not be counted therein, a notice about the venue for the counting for the votes will be displayed by the PRO outside the station. For a dedicated polling station, a notice providing information on the ballot paper sorting station (if any) and the main counting station will be displayed inside the station [s 42(1B) of the EAC (EP) (DC) Reg]. The PRO will also inform and show to the candidates, their election agents or polling agents, if they are present, the number of unissued ballot papers relating to the constituency, which are in his possession.

PART III : OUTSIDE THE POLLING STATION

4.10 Where circumstances permit, the PRO will arrange an enlarged copy of the relevant Introduction to Candidates published by the REO to be displayed outside the polling station, or if it is a dedicated polling station inside the polling station to facilitate easy reference by electors [s 46(1A) of the EAC (EP) (DC) Reg]. A NCZ will be designated outside each polling station to ensure the free and safe passage of electors into the polling station. Door-to-door canvassing and, for the purpose of such canvassing, the display of any propaganda material, eg any badge, emblem, clothing or head-dress, which may promote or prejudice the election of a candidate or candidates at the election, or makes direct reference to a body any member of which is standing as a candidate in the election or a prescribed body the registered name or

registered emblem of which has been printed on any ballot paper for the election, will be allowed on the storeys above or below street level in a building within a NCZ other than a building in which there is a polling station, provided that permission has been obtained for entry to the building for canvassing votes, and that obstruction is not posed to electors and no sound amplifying device is used [s 43(14) and (15) of the EAC (EP) (DC) Reg]. Apart from this, the RO or the PRO of the relevant polling station will allow no other canvassing activities within a NCZ except for static display of election advertisements that are authorised. 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/exit of a polling station to avoid any obstruction of entry/exit. [See Chapter 13: Prohibition Against Canvassing Activities Outside Polling Stations.] *[Amended in September 2007, August 2008 and January 2010]*

- 4.11 On the polling day, a person must not:
- (a) other than the door-to-door canvassing activities stated in para. 4.10 above, engage in canvassing votes (including suggesting not to vote for any candidate) within the NCZ;
 - (b) use a sound amplifying system or device for any purpose within the NCZ;
 - (c) use a sound amplifying system or device or conduct any activity (eg lion dance) for canvassing votes so that the sound emitted by it can be heard in the NCZ;
 - (d) without reasonable excuse, display in the NCZ any propaganda material, eg 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 a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election;
- (e) stay or loiter in the NSZ without the express permission of the PRO;

otherwise he commits an offence with a maximum penalty of a fine at level 2 (up to \$5,000) and imprisonment for 3 months [ss 43 and 48 of the EAC (EP) (DC) Reg]. *[Amended in September 2007]*

PART IV : ADMISSION TO THE POLLING STATION

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

- (a) the PRO and other polling staff;
- (b) members of the EAC;
- (c) the CEO;
- (d) the ROs and Assistant Returning Officers (“AROs”) for the relevant constituency;

- (e) public officers on duty at the polling station, including police officers and members of the Civil Aid Service;
- (f) officers of the CSD and other law enforcement agencies on duty at dedicated polling stations;
- (g) candidates and election agents of the relevant constituency^{Note};
- (h) polling agent(s) appointed for the polling station (this does not apply to dedicated polling stations situated in maximum security prisons^{Note});
- (i) public officers authorised in writing by the CEO;
- (j) any person authorised in writing by a member of the EAC;
- (k) a person authorised in writing by the RO for liaison purposes; and
- (l) a child who accompanies an elector to the polling station for the purpose of voting (if the PRO considers that the child should not be left unattended while that elector is in the polling station and the child will not disturb or cause inconvenience to any person in the polling station).

[S 47 of the EAC (EP) (DC) Reg] *[Amended in September 2007 and January 2010]*

A notice will be displayed at the entrance to polling stations other than dedicated polling stations that only the above persons and electors may be allowed to enter.

NOTE (para. 4.12(g) and (h)):

- (a) For the purpose of maintaining order in the polling station, the PRO may regulate the number of electors, candidates, election agents and polling agents to be admitted to the polling station at any one time.
- (b) For each candidate, only 1 such person may be present in the polling station to observe the poll at any one time: a candidate, his election agent or his polling agent. A notice will be displayed outside each polling station showing the capacity of the designated area inside the polling station for candidates, their election agent or polling agents to observe the poll.
- (c) Admission of candidates, election agents and polling agents will be on a **first-come-first-served basis**. In order that as many candidates, election agents and polling agents as possible will have the chance to observe the poll at the polling station, any candidate, election agent or polling agent who has been admitted to the polling station can only stay for 1 hour. He must then leave the polling station unless there is no other candidate, election agent or polling agent waiting for admission. He can apply for re-admission into the polling station again on a first-come-first-served basis.
- (d) Anyone on admission into a polling station has to sign and enter his time of entry on a log sheet. A candidate, election agent or polling agent who has to queue outside the polling station for his turn to observe the poll at the

designated area will be given a number chit that indicates the order of admission. The polling staff will call out the number to admit the holder of the number chit concerned. If the holder concerned is not present at the time, his place will be taken over by the person next in line. He who has lost his place due to his absence will have to obtain a new number chit when he returns.

- (e) For security reasons, 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 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. 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 6: Appointment and Roles of Election Agent, Election Expense Agents, Polling Agents and Counting Agents.]

[Amended in January 2010]

4.13 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 93 of the EAC (EP) (DC) Reg]. *[Amended in January 2010]*

PART V : CONDUCT INSIDE THE POLLING STATION

4.14 On arrival at the polling station, an elector should show to the polling staff at the ballot paper issuing desks his identity card or such other identity document or documents, which show the identity card/document number, name and photograph of the elector, to the satisfaction of the PRO. The polling staff will check the elector's identity document against the entries on the register of electors to ascertain if the elector is registered in respect of the constituency. If so, 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. No record will be made as to which particular ballot paper is given to an elector.

4.15 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.

4.16 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 final register now in effect for this constituency, as follows (reads the whole of the relevant entry in the register)?

- (b) Have you already voted for this or any other constituency in this election?

A person will not be issued with any ballot paper unless he has answered the questions to the satisfaction of the PRO. [S 54 of the EAC (EP) (DC) Reg]

4.17 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 55 of the EAC (EP) (DC) Reg]. *[Amended in January 2010]*

4.18 If an elector has been issued with a ballot paper but chooses not to take it, he cannot return to the polling station later on and claim for that or another one. If for a reason considered justified by the PRO, an elector who has not marked the ballot paper issued to him, 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 has become incapacitated by physical illness and has left the polling station without marking his ballot paper, he may return to the polling station to cast his vote before the close of the poll, provided that before he leaves 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 re-issue it, in the presence of a police officer for polling stations other than a dedicated polling station or 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 poll to cast his vote. But if at the close of poll, the elector has not returned, the PRO shall endorse the ballot paper with the word “UNUSED”; such ballot paper shall not be counted [s 56(A) of the EAC (EP) (DC) 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 September 2007 and January 2010]

4.19 The PRO would need to keep a ballot paper left in the polling station in his custody in the circumstances described in para. 4.18 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.

4.20 When issued with a ballot paper, an elector will also be provided with a cardboard to which a chop with a “✓” sign is attached. In a DC ordinary election or where the CEO considers it appropriate in a by-election, an envelope (on which the name and the number of the relevant DC constituency will be marked by the polling staff on issue of the ballot paper) will be provided to an elector of a dedicated polling station to enclose his marked ballot paper to facilitate the subsequent sorting of the ballot paper in a ballot paper sorting station while preserving the secrecy of vote. The elector should then immediately proceed to one of the voting compartments where he should affix the chop to give a single “✓” in the circle opposite the name of the candidate of his choice on the ballot paper. No other mode of marking the ballot paper is allowed. The elector should then fold the ballot paper. An

elector of a dedicated polling station should fold the ballot paper so that the marked side is faced inside and put the folded ballot paper into the aforesaid envelope (if such envelope is provided) [s 57(2), (2A) and (4) of the EAC (EP) (DC) Reg]. *[Amended in January 2010]*

4.21 Immediately after an elector comes out of the voting compartment, he should put his marked ballot paper as folded or the envelope containing his marked ballot paper, as the case may be, into the sealed ballot box as directed by the polling staff and return the cardboard and the chop to the polling staff, after which the elector should leave the polling station immediately [s 57(2), (2A) and (4) of the EAC (EP) (DC) Reg]. *[Amended in January 2010]*

NOTE :

An elector must not remove a ballot paper from a polling station. It is an offence under s 57(5) of the EAC (EP) (DC) Reg for a person to bring out a ballot paper from a polling station. Any person who removes a ballot paper from a polling station with an intent to deceive may commit an offence under s 17(1)(c) of the ECICO and may be prosecuted. It will also be a corrupt conduct under s 17(1)(d) of the ECICO if any person, without lawful authority, destroys, defaces, takes or otherwise interferes with a ballot paper at the election.

4.22 A visually impaired elector who so requests will be provided with a **template** to facilitate his marking of the ballot paper without any assistance from anyone. The template should be returned to the polling staff after use [s 59(3) of the EAC (EP) (DC) Reg]. [For details about the template, see para. 6.40 of Chapter 6.]

4.23 An elector who is unable to mark a ballot paper to indicate the choice of candidate (eg being unable to read or write or incapacitated by visual deficiency or other physical cause) may ask the PRO, Deputy PRO or Assistant PRO to mark the ballot paper on his behalf. The marking of the ballot paper will be made to show the elector's choice in the presence of one of the Polling Officers as a witness. [S 59 of the EAC (EP) (DC) Reg]

4.24 **The ballot is secret. No one can force a person to vote or not to vote for any particular candidate** [s 13 of the ECICO]. **Also no one is required to tell which candidate he has voted for or is going to vote for.** 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 has voted is guilty of a criminal offence and will be liable to a fine at level 2 (up to \$5,000) and imprisonment for 6 months [s 48 of the DCO and s 94 of the EAC (EP) (DC) Reg]. *[Amended in September 2007]*

4.25 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 94(1A) of the EAC (EP) (DC) Reg]. *[Added in January 2010]*

4.26 Any elector who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him may ask the PRO to exchange it for another unmarked ballot paper. 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. [Ss 62 and 78 of the EAC (EP) (DC) Reg]

4.27 Where a person, representing himself to be a particular elector entered on the register, applies for any ballot paper after a person has been

issued with any ballot paper as such an elector, he may be issued with a ballot paper with the word '**TENDERED**' endorsed on the front. Such a ballot paper shall not be counted at the counting of the votes. [Ss 60 and 78 of the EAC (EP) (DC) Reg] However, if an elector who has been issued with a ballot paper chooses not to cast his vote and leaves the polling station and a person 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 person is the elector who had been issued with a ballot paper earlier, and he answers the appropriate questions set out in para. 4.16 to the satisfaction of the PRO. *[Amended in September 2007 and August 2008]*

4.28 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 61 and 78 of the EAC (EP) (DC) Reg]

4.29 Inside a polling station, an elector must not interfere with or attempt to influence any other elector, specifically:

- (a) speak to or communicate with any other elector contrary to a direction of the RO, ARO, PRO, Deputy PRO, Assistant PRO or any polling officer not to do so;
- (b) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of another elector;

- (c) exhibit or distribute any campaign material;
- (d) without any reasonable excuse, display any propaganda material, eg 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 a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election;
- (e) use a mobile telephone or any telephone or paging machine or any other form of electronic communication device contrary to a direction of the RO, ARO, PRO, Deputy PRO, Assistant PRO or any polling officer not to do so.

If a person contravenes any of the above prohibitions, he commits an offence and will be liable to a fine at level 2 (up to \$5,000) and imprisonment for 3 or 6 months, as the case may be [ss 48(7) and 94 of the EAC (EP) (DC) Reg].

[Amended in September 2007 and August 2008]

4.30 A person must not misconduct himself at a polling station or its vicinity or fail to obey any lawful order of the RO or the PRO; otherwise he commits an offence punishable with a fine and imprisonment and may be ordered by such officer to leave the polling station or the vicinity of the polling station. A person misconducts himself if he disrupts the poll or disturbs or causes inconvenience to any person in the polling station. 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 as ordered by the RO or the PRO, he may be removed by:

- (a) a police officer if the polling station is not a dedicated polling station; or
- (b) an officer of the CSD or the law enforcement agency if the polling station is a dedicated polling station; or
- (c) any other person authorised in writing by the RO or the PRO to remove him.

The person so removed may not re-enter the polling station on that day except with the permission of the RO or the PRO [s 49(2A) and (3) of the EAC (EP) (DC) Reg]. *[Amended in January 2010]*

4.31 Only the following persons may speak to or communicate with electors within a polling station:

- (a) the PRO and other polling staff;
- (b) members of the EAC;
- (c) the CEO;
- (d) the ROs and AROs for the relevant constituency;
- (e) 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 ROs for liaison purposes; and
- (h) any person authorised in writing by a member of the EAC.

[S 48(1) and (6) of the EAC (EP) (DC) Reg] *[Amended in September 2007 and January 2010]*

4.32 No person may canvass or display any election advertisement within a polling station. Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of the PRO, the RO for the constituency or constituencies for which the polling station is used 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 [s 48(2) and (9) of the EAC (EP) (DC) Reg]. Normally such permission is only granted to members of the media or government photographers for publicity purposes. *[Amended in September 2007]*

PART VI : CLOSE OF POLL

A Polling Station which is also a Counting Station

4.33 At the close of poll, a notice will be displayed by the PRO outside the polling station (which is also designated as a counting station) to inform the public that the poll has been closed and that the station is being arranged for the counting of votes and will be open to them when such

arrangements are completed. Electors who intend to vote but are not at the door of their designated polling station by the close of poll will not be allowed in afterwards. A candidate, and his election agent, a counting agent and a polling agent may stay in the polling station while it is closed for the preparation for the counting of votes. The ballot boxes will be locked and sealed by the PRO in the presence of the candidates and their agents, if they are present. The PRO will also inform them of the numbers of unissued ballot papers, spoilt ballot papers and unused ballot papers in his possession. All such ballot papers and the marked copies of the register will then be made up into sealed packets. [S 63(1), (1A) and (2) of the EAC (EP) (DC) Reg] *[Amended in September 2007 and January 2010]*

4.34 The sealed ballot boxes and sealed packets of unissued ballot papers etc will be kept by the PRO until the counting of votes begins [see Part VII below].

A Polling Station which is not a Counting Station

4.35 At the close of poll, a notice will be displayed by the PRO outside the polling station other than a dedicated polling station to inform the public that the poll has been closed. A candidate, his election agent and a polling agent may stay in the polling station while it is closed. The following persons may stay in a dedicated polling station while they are closed:

- (a) a candidate, his election agent and a polling agent may stay in a dedicated polling station not situated in a prison;
- (b) a maximum of 2 candidates, election agents or polling agents may stay in a dedicated polling station situated in a prison other than a maximum security prison; and

- (c) a maximum of 2 candidates may stay in a dedicated polling station situated in a maximum security prison.

[S 63A(2A) and (2) of the EAC (EP) (DC) Reg]

Electors who intend to vote but are not at the door of their designated polling station by the close of poll will not be allowed in afterwards. The ballot boxes will be locked and sealed by the PRO in the presence of the candidates and their agents, if they are present. The PRO will also inform them of the numbers of unissued ballot papers, spoilt ballot papers and unused ballot papers in his possession. All such ballot papers and the marked copies of the register will then be made up into sealed packets. [S 63A(1) and (2) of the EAC (EP) (DC) Reg] *[Amended in January 2010]*

4.36 For small polling stations and special polling stations which have not been designated as counting stations, the PRO will deliver the sealed ballot boxes, the sealed packets of unissued ballot papers and the ballot paper accounts etc to the main counting station under police escort. The PRO of the dedicated polling stations will deliver the sealed ballot boxes, the sealed packets of unissued ballot papers and the ballot paper account etc to the respective ballot paper sorting station(s) or the main counting station, as the case may be, under police escort [s 63A(4) of the EAC (EP) (DC) Reg]. *[Amended in January 2010]*

4.37 Not more than 2 candidates or their agents, if they so wish, will be allowed to participate in the delivery. Where there are more than 2 of them wishing to participate in the delivery, the PRO will draw lots to determine which 2 persons will participate. Candidates and their agents are allowed to remain in the polling station only until they see that the police escort for the delivery is available, and thereafter all of them, except those 2 persons who are to participate in the delivery, must leave the polling station. *[Amended in September 2007 and January 2010]*

PART VII : SORTING OF BALLOT PAPERS

Conduct at the Ballot Paper Sorting Station

4.38 In a DC ordinary election or where the CEO considers it appropriate in a by-election, ballot paper sorting station(s) will be set up for sorting ballot papers received from dedicated polling stations according to each constituency before the ballot papers are delivered to the respective main counting stations for the counting of votes. The PRO of a ballot paper sorting station may determine the time at which the sorting of ballot papers is to begin, which must be a time after the poll has closed at all the dedicated polling stations situated in prisons and may be a time before the poll has closed at all the other polling station(s). Before the polling day, candidates will be informed of the expected time of the commencement of the sorting of ballot papers at the ballot paper sorting station(s). [Ss 2(3), 63A(4) and 65(2A) of the EAC (EP) (DC) Reg] *[Added in January 2010]*

4.39 Only the following persons may be present at the sorting of ballot papers:

- (a) the ROs, AROs, PROs, Deputy PROs, Assistant PROs and counting staff for the relevant constituencies;
- (b) members of the EAC;
- (c) the CEO;
- (d) candidates and their election agents and counting agents of the relevant constituencies;

- (e) police officers and members of the Civil Aid Service on duty at the ballot paper sorting station;
- (f) public officers authorised in writing by the CEO;
- (g) any person authorised by the RO or the PRO; and
- (h) any person authorised in writing by a member of the EAC.

The PRO will designate a restricted area where the counting staff will sort the ballot papers. Candidates and their agents must not go into the restricted area. Any member of the public may observe the sorting of ballot papers from the public area designated by the PRO unless the PRO considers that his presence may:

- (a) cause disorder or disturbance in the ballot paper sorting station;
or
- (b) prejudice the secrecy of individual votes.

[Ss 2(3) and 68 of the EAC (EP) (DC) Reg] *[Added in January 2010]*

4.40 Before entry, every person authorised to be present at a ballot paper sorting station, other than 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 [ss 2(3) and 93 of the EAC (EP) (DC) Reg]. Members of the public present within the public area will not be required to make a Declaration of Secrecy. *[Added in January 2010]*

4.41 Except with the express permission of the relevant PRO, the RO for the constituency or constituencies for which the ballot paper sorting station is used or a member of the EAC as the case may be, any person who undertakes photographing, filming and video or audio recording within the restricted area of a ballot paper sorting station during the period commencing from the time at which the sorting of ballot papers is to begin and ending upon the completion of the sorting commits an offence [ss 2(3), 69 and 70 of the EAC (EP) (DC) Reg]. *[Added in January 2010]*

4.42 A person must not misconduct himself in or in the vicinity of a ballot paper sorting station or fail to obey any lawful order of the PRO; otherwise he commits an offence punishable with a fine and imprisonment and may be ordered by the PRO to leave the area. A person misconducts himself if he disrupts the sorting of ballot paper or disturbs or causes inconvenience to any person in the sorting station. The PRO may also order a person to leave the ballot paper sorting station if the person behaves himself in such way that the purpose of his presence is not that for which he was authorised or permitted to enter or remain in the ballot paper sorting 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 PRO to remove him. The person so removed may not re-enter the ballot paper sorting station on that day except with the permission of the PRO [ss 2(3), 69 and 70 of the EAC (EP) (DC) Reg]. *[Added in January 2010]*

Sorting of Votes

4.43 The PRO will sort the envelopes containing the marked ballot papers in the presence of the candidates, their election agents or counting agents, if they are present. The PRO will check whether ballot boxes and sealed packets are properly sealed. The seal on the ballot box will be broken by the PRO in the presence of the candidates, their election agents or counting

agents, if they are present at the time. The ballot box will then be opened and the contents emptied onto a sorting table. After the PRO has opened the ballot box, the candidates, their election agents or counting agents may request to inspect any papers, other than the envelopes which contain the marked ballot papers, taken out from the ballot boxes before they are disposed of. **At no time should a candidate, his election agent or counting agent touch any envelopes.**

4.44 The PRO of a ballot paper sorting station will:

- (a) open the ballot boxes received from the dedicated polling stations;
- (b) count and record the number of envelopes in each ballot box;
- (c) verify the ballot paper account;
- (d) prepare a statement on the result of the verification;
- (e) sort the envelopes according to each constituency;
- (f) record the number of envelopes according to each constituency;
- (g) prepare a statement on the number of envelopes recorded;
- (h) make into separate bundles the sorted envelopes together with the relevant statement on the number of envelopes recorded;
- (i) place each bundle in a separate receptacle and seal it in the presence of those present at the counting zone; and
- (j) arrange the receptacles to be delivered to the PROs of respective main counting stations of the relevant constituencies.

PART VIII: THE COUNT

Conversion of Polling Station into Counting Station

4.45 A polling station, other than a small polling station, a special polling station or a dedicated polling station which has not been designated as a counting station, will be converted to a counting station for the purpose of conducting the count and making known the results to the candidates and their agents present. Where the same place is designated as both a polling station and a counting station, the PRO of the polling station is to be regarded as the PRO of the counting station [s 37 of the EAC (EP) (DC) Reg]. The PRO, assisted by his Deputy PROs, Assistant PROs and counting staff, will be responsible for the conversion and the conduct of the count. Before the counting of votes begins, a notice will be displayed outside the counting station to inform the public the time that the station is open to them to observe the counting of votes [s 65(8) of the EAC (EP) (DC) Reg]. The telephone number of a polling officer who may be contacted by agents should also be shown on such a notice to facilitate communication between agents and the station staff. *[Amended in January 2010]*

Conduct at the Counting Station

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

- (a) the ROs, AROs, PROs, Deputy PROs, Assistant PROs and counting staff for the relevant constituencies;
- (b) members of the EAC;

- (c) the CEO;
- (d) candidates and their election agents and counting agents of the relevant constituencies;
- (e) police officers and members of the Civil Aid Service on duty at the counting station;
- (f) public officers authorised in writing by the CEO;
- (g) any person authorised by the RO or the PRO; and
- (h) any person authorised in writing by a member of the EAC.

The PRO will designate a restricted zone inside the counting zone where the counting staff will count the votes. Candidates and their agents must not go into the restricted zone. Any member of the public may observe the counting of the votes from an area (“the public area”) at the counting station set apart for that purpose by the PRO unless the PRO considers that his presence may:

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

[S 68 of the EAC (EP) (DC) Reg]

4.47 Before entry, every person authorised to be present at a counting station, other than 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 93 of the EAC (EP) (DC) Reg].

Members of the public present within the public area will not be required to make a Declaration of Secrecy.

4.48 Except with the express permission of the relevant PRO, the RO for the constituency or constituencies for which the counting station is used or a member of the EAC, as the case may be, any person who undertakes photographing, filming and video or audio recording within a counting zone of a counting station during the period commencing from the time at which the counting of the votes is to begin at the zone and ending upon the completion of the counting and re-count, if any, at the zone commits an offence [s 69 of the EAC (EP) (DC) Reg].

4.49 A person must not misconduct himself in or in the vicinity of a counting station or fail to obey any lawful order of the PRO; otherwise he commits an offence punishable with a fine and imprisonment and may be ordered by the PRO to leave the area. A person misconducts himself if he disrupts the counting of votes or disturbs or causes inconvenience to any person in the counting station. The PRO may also order a person to leave the counting station if the person conducts himself in such 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 PRO to remove him. The person so removed may not re-enter the counting station during that day except with the permission of the PRO [ss 69 and 70 of the EAC (EP) (DC) Reg].

Counting of Votes

4.50 The PRO will conduct the count in the presence of the candidates, their election agents or counting agents, if they are present. The PRO will check whether ballot boxes and sealed packets are properly sealed. The seal

on the ballot box will be broken by the PRO in the presence of the candidates their election agents or counting agents, if they are present at the time. The ballot box will then be opened and the contents emptied onto a counting table. After the PRO has opened the ballot box, the candidates, their election agents or counting agents may request to inspect any papers other than ballot papers taken out from the ballot boxes before they are disposed of. **At no time should a candidate, his election agent or counting agent touch any ballot papers.**

4.51 The PRO other than the PRO of a main counting station, a dedicated polling station or a ballot paper sorting station will:

- (a) sort the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate plastic and transparent boxes on the table;
- (b) separate and put aside the invalid and questionable ballot papers, if any;
- (c) determine the validity of questionable ballot papers;
- (d) count the valid votes obtained by each candidate;
- (e) verify the ballot paper account; and
- (f) compile the final counting results.

[Ss 74, 75 and 76 of the EAC (EP) (DC) Reg] *[Amended in January 2010]*

- 4.52 The PRO of a main counting station will:
- (a) count and record the number of ballot papers in each ballot box of the polling station designated as the main counting station and of such ballot box that has been delivered from the small polling stations, special polling stations and/or dedicated polling stations and verify the ballot paper account;
 - (b) open the envelopes in each receptacle received from a ballot paper sorting station, count and record the number of ballot papers and verify the statement on the number of envelopes in the receptacle(s) prepared by the PRO of the ballot paper sorting station where such station has been set up in a DC ordinary election or in a by-election as considered appropriate by the CEO;
 - (c) mix the ballot papers of the polling station designated as the main counting station together with the ballot papers that have been delivered from the small polling stations and/or, special polling stations, and ballot paper sorting stations or dedicated polling stations as the case may be;
 - (d) sort the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate plastic and transparent boxes on the table;
 - (e) separate and put aside the invalid and questionable ballot papers, if any;
 - (f) determine the validity of questionable ballot papers;

- (g) count the valid votes obtained by each candidate; and
- (h) compile the final counting results.

[Ss 74, 75 and 76 of the EAC (EP) (DC) Reg] *[Amended in January 2010]*

Invalid Ballot Papers

4.53 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is not marked with the chop provided;
- (c) it is endorsed on the front with the word “SPOILT”;
- (d) it is endorsed on the front with the word “TENDERED”;
- (e) it is endorsed on the front with the word “UNUSED”; and
- (f) votes are given for more than 1 candidate.

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 PRO concerning these ballot papers. [S 78 of the EAC (EP) (DC) Reg] *[Amended in September 2007]*

Questionable Ballot Papers

4.54 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 PRO:

- (a) it has any writing or mark by which the elector can possibly be identified;
- (b) it is not marked by affixing the chop to give a single “✓” in the circle opposite the name of the candidate of the elector’s choice on the ballot paper, and the elector’s intention is unclear. (However, the PRO may count that ballot paper if he is satisfied that the elector’s intention is clear);
- (c) it is substantially mutilated; or *[Amended in September 2007]*
- (d) it is void for uncertainty.

When deciding on the validity of the ballot papers in (a) above, the PRO will make reference to the judgment made by the Court on an election petition case (HCAL 127/2003). In that case, the Court ruled that the handwritten tick found on the ballot paper in question in the said election petition was considered a mark by which the elector could possibly be identified. The validity of ballot papers with any other writing or mark will remain to be determined by the PRO on a case-by-case basis. [S 79(1), (2) and (3) of the EAC (EP) (DC) Reg]

4.55 The validity of all questionable ballot papers shall be decided by the PRO [s 79(2) of the EAC (EP) (DC) Reg]. Before the PRO makes his decision, a candidate or his election agent or counting agent, if present at the

counting zone, may inspect the questionable ballot papers as set aside, in the presence of the PRO and other candidates or their election or counting agents who are present. A candidate or his election agent or counting agent may object to the acceptance or rejection of a questionable ballot paper by making his objection known to the PRO who will decide whether the ballot paper (or the vote recorded thereon) is valid or to be rejected and, in the latter event, endorse on the ballot paper the word “rejected”. [S 79(4) of the EAC (EP) (DC) Reg] *[Amended in September 2007]*

4.56 A candidate or his election agent or counting agent may object to the rejection of a ballot paper by the PRO, in which case the PRO shall add to the endorsement the words “rejection objected to”. Questionable ballot papers which are accepted by the PRO but objected to by a candidate or his election agent or counting agent will be marked “acceptance objected to”. [S 79(4) and (5) of the EAC (EP) (DC) Reg]

4.57 The decision of the PRO in regard to any question arising in respect of any ballot paper shall be **final** [s 80 of the EAC (EP) (DC) Reg], and may only be questioned by an election petition [s 49 of the DCO]. [See Part II of Chapter 5.]

Counting Arrangements

4.58 The counting of the votes will proceed continuously, as far as possible, until the counting is completed. In the event that more than 1 candidate has the equal highest number of votes, the RO will have to draw lots to determine which one of these candidates should be elected to fill the vacancy [see para. 2.20 for the procedures for drawings of lots]. *[Amended in September 2007]*

Constituencies with 1 Counting Station

4.59 For a constituency with only 1 counting station, after the count, the PRO will make known the result to the relevant candidates or their election or counting agents present. Such a candidate or his election agent may request the PRO for the constituency to re-count the votes and the relevant PRO shall comply with any such request unless in his opinion it is unreasonably made. [S 80A of the EAC (EP) (DC) Reg]

Constituencies with 2 or More Counting Stations

4.60 For a constituency with 2 or more counting stations, the counting station serving the largest number of registered electors will be designated by the CEO as the dominant counting station. Candidates and their election or counting agents of that constituency should be present at this station.

4.61 When vote counting is completed at any one of the counting stations for the constituency, the relevant PRO will inform the candidates or their election or counting agents present of the counting result. Any such candidate or his election agent or his counting agent may request the PRO to re-count the votes and the PRO shall comply with the request unless in his opinion it is unreasonably made. In the case of a counting station other than the dominant counting station, where there is no request for a re-count, or where the request for a re-count is rejected, 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 PRO, the PRO shall report to the PRO of the dominant counting station the counting results. If a candidate or his election agent present at the dominant counting station requests the PRO of that counting station to re-count all the votes of all the counting stations for the constituency, the PRO will decide whether the request should be acceded to. If he decides that such a re-count is reasonable in the circumstances, he will inform the

PROs of the other counting stations for the constituency to conduct a re-count at their respective counting stations, and he will conduct a re-count at the dominant counting station at the same time. The PRO of each of the other counting stations will make known the result of the re-count at his counting station to the candidates or their election or counting agents present at that counting station and shall report the same to the PRO of the dominant counting station who shall inform the candidates or their election or counting agents present at the dominant counting station of all such re-count results. [S 80B of the EAC (EP) (DC) Reg] *[Amended in August 2008]*

PART IX : DECLARATION OF RESULT

4.62 For a constituency with only 1 counting station, the PRO shall report to the RO for the constituency the final counting or re-count result. The RO shall declare the candidate with the highest number of votes as elected. [Ss 80A (7) and 81 of the EAC (EP) (DC) Reg]

4.63 For a constituency with 2 or more counting stations, the PRO of each of the counting stations shall report to the RO for the constituency the final counting or re-count result of his counting station. If the PRO is not the PRO of the dominant counting station, he shall also report to the PRO of the dominant counting station the final counting or re-count result of his counting station. The PRO of the dominant counting station shall report to the RO the total of the final counting or re-count results of all the counting stations for the constituency. After tallying the total of the final counting or re-count results with all the final counting or re-count results reported from individual counting stations for the constituency, the RO shall declare the candidate with the highest number of votes as elected. [Ss 80B(7), 80B(12) and 81 of the EAC (EP) (DC) Reg]

4.64 In the event that more than 1 candidate have equal highest numbers of votes, the RO shall determine the result of the election by drawing lots. He shall use the means of contact of such candidates provided in their nomination forms to request them to be present at his office or any other place as determined by him for conducting the drawing of lots and such candidates shall comply as soon as possible. If the RO fails to contact such a candidate, the RO may draw lots on behalf of the candidate. He shall declare the candidate on whom the lot falls as elected. He shall display a notice of the result of the election at a prominent place outside his office and shall also publish the notice in the Gazette within 10 days of the declaration of the result [ss 80C and 82 of the EAC (EP) (DC) Reg].

PART X : DISPOSAL OF DOCUMENTS

4.65 As soon as practicable after the PRO has ascertained the result of the poll in an election, he will seal all the relevant documents and ballot papers into packets. Candidates and their agents may observe the packaging, if they wish. [S 83 of the EAC (EP) (DC) Reg]

4.66 These sealed packets of documents will be sent to the RO by the PRO. The RO will deposit these sealed packets together with the nomination forms, notices of appointment of agents, etc with the CEO for safe custody for 6 months before they are destroyed. [Ss 84 and 86 of the EAC (EP) (DC) Reg]

4.67 **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 85 of the EAC (EP) (DC) Reg]

