

CHAPTER 3

REGISTRATION OF VOTERS AND VOTING SYSTEM

PART I : GENERAL

3.1 According to the CEEO, the EC shall be constituted on 1 February in the year in which the term of office of the CE is to expire, and a subsector ordinary election will be held to elect members of the EC for a new term of office of the EC (see paras. 1.3 - 1.4 of Chapter 1). Subsector by-elections will be conducted, if necessary, to fill any vacancy in the EC membership before the EC is required to elect a new CE if a vacancy arises during the term of office of the CE. *[Amended in September 2006]*

3.2 Members of the EC from the religious subsector are returned by nomination. For any vacancy in the EC membership in the religious subsector, a supplementary nomination will be arranged to fill the vacancy, if necessary.

PART II : REGISTRATION OF VOTERS FOR SUBSECTORS

Eligibility to Vote

3.3 Only a registered voter for a subsector, ie a person whose name appears on the subsector FR which is in force at the time of the subsector election is eligible to vote at a subsector election to elect members of the EC for that subsector. A corporate voter may vote at a subsector election only by

its authorised representative (“AR”). [S 28 of the Schedule to the CEEO.]
[Amended in September 2006]

Qualification for Registration as a Voter

3.4 There are 2 kinds of voters for most of the subsectors of the EC: natural persons (ie individuals) and bodies (ie corporate voters). An individual is eligible to be registered as a voter for a subsector only if he is registered as an elector for a GC or is eligible to be registered as an elector for a GC and has applied to be so registered. A corporate voter is required to select an eligible individual to be its AR for the purpose of casting its vote at the election, otherwise it cannot vote [s 28(3) of the Schedule to the CEEO]. An individual is eligible to be appointed as an AR of a corporate voter only if he:

- (a) is registered, or eligible to be and has applied to be registered, as an elector of a GC;
- (b) has a substantial connection with the corporate voter;
- (c) is not registered, and has not applied to be registered, as a voter for the subsector of the corporate voter; and
- (d) is not disqualified from being registered or voting under s 31 or 53 of the LCO.

[S 13(2) of the Schedule to the CEEO.]

An AR of a corporate voter is not eligible to be selected as the AR of another corporate voter. An AR must be registered with the ERO. **A corporate voter is required to give notice of appointment of its AR to the ERO in its**

application form for registration as a corporate voter. It may thereafter from time to time appoint a replacement AR by sending a specified form to reach the ERO not later than 14 days before the polling day of its subsector. If the ERO is satisfied that the AR is dead or seriously ill or physically or mentally incapacitated, the deadline of 14 days for replacement is extended to 3 working days before the relevant polling day. [S 20 of the EAC (ROE) (FCSEC) Reg.]

3.5 An elector of an FC is eligible to become a voter of the corresponding subsector or, in respect of the education, tourism and DCs FCs, the appropriate one of the two corresponding subsectors.

3.6 Except a person who is only eligible to be registered in any one of the 5 optional subsectors in para. 2.3(f) of Chapter 2 but not in any of the other subsectors, every person who is registered as a voter for a subsector with the same name as an FC must be registered for that FC and vice versa. The individual/corporate voter cannot choose to be registered only in a subsector but not an FC, or only registered in an FC but not a subsector [s 12(10)(a) and (b) of the Schedule to the CEEEO].

3.7 An individual/corporate voter is not entitled to be registered for more than one subsector. He/it is only entitled to be registered for the subsector which is corresponding to the FC (“corresponding subsector”) in which he/it is registered. But if a person/corporate voter is eligible to be registered in one or more of the 5 optional subsectors and also eligible for any corresponding subsector, then he/it is eligible to choose between one of the 5 optional subsectors or the corresponding subsectors.

3.8 A list showing the 28 FCs and 38 EC subsectors, the relationship between them, and whether a choice is available to the voter, etc is shown in **Appendix F** for easy reference.

Disqualifications from Voting

3.9 A person registered as a voter for a subsector is disqualified from voting at a subsector election for that subsector if he:

- (a) has ceased to be eligible to be registered as a voter for that subsector;
- (b) has in Hong Kong, or in any other place, been sentenced to death or imprisonment (by whatever name called) and has not either served the sentence or any substitute sentence or received a free pardon;
- (c) on the date of the relevant subsector election, is serving a sentence of imprisonment;
- (d) is or has been convicted within 3 years before the polling day:
 - (i) of having engaged in corrupt conduct or illegal conduct in contravention of the ECICO;
 - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201) (“POBO”); or
 - (iii) of any offence prescribed by the EAC Regulations;
- (e) 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
- (f) is a member of the armed forces of the People’s Republic of

China or any other country or territory.

[S 30 of the Schedule to the CEEO.] *[Added in September 2006]*

Roll-over of Voters

3.10 A subsector FR takes effect on the date of its publication and continues to have effect until the publication of the next subsector FR. [S 15 of the Schedule to the CEEO.]

Application for Registration

3.11 The registration of voters is undertaken in accordance with the provisions of the EAC (ROE) (FCSEC) Reg.

3.12 A person (either an individual or a body) 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 PR to be published not later than 15 June in each year other than a DC ordinary election year (or 15 August for a DC election year), his application form must have been received by the ERO on or before 16 May in that year (or 16 July for a DC election year). [S 19 of the EAC (ROE) (FCSEC) Reg.] *[Amended in September 2006]*

3.13 A voter 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. If the voter wishes to have the alteration of his particulars effected in the FR of voters for the current year, he must notify the ERO on or before 29 June if the current year is not a DC election year (or 29 August if the current year is a DC election year). *[Amended in September 2006]*

The Provisional Register and the Omissions List

3.14 The PR of voters for subsectors will be published by the ERO not later than 15 June in each year in a non DC election year (or 15 August for a DC election year). It includes:

- (a) the names and addresses of those eligible voters whose names appear in the subsector register or FC register, as the case may be, currently in force, updated and corrected by the ERO based on reported or available information;
- (b) the names and addresses of the eligible new applicants who have applied for registration in the FC or subsector concerned on or before 16 May of that year (or 16 July for a DC election year);
and
- (c) the names of the ARs of the corporate voters.

This PR is available for public inspection at the REO and some of the District Offices of the Home Affairs Department not later than 29 June in a non DC election year (or 29 August for a DC election year) [s 29 of the EAC (ROE) (FCSEC) Reg]. *[Amended in September 2006]*

3.15 At the same time when the subsector PR was published, the ERO also publishes an omissions list in respect of the subsectors containing the names and addresses of persons who were formerly registered as subsector voters, but are taken out from the PR and proposed to be omitted from the next FR, based on the information received by the ERO who is satisfied on reasonable grounds that the persons concerned are no longer eligible to be registered or are disqualified. The names and addresses of the persons included in the omissions list will not appear in the PR [s 24 of the EAC (ROE) (FCSEC) Reg]. The time and place where the PR and the omission list can be

inspected will be published in the Gazette and in newspapers. Publication of the PR is done by publication of that notice. The ERO may also make available for public inspection a specific part of the PR at a specified place. The ERO may require persons who want to inspect the PR to produce an identity card. [Ss 25(1) and (2) and 29 (4), (5) and (6) of the EAC (ROE) (FCSEC) Reg.] *[Amended in September 2006]*

Objections and Claims

3.16 Members of the public may lodge with the ERO objections as regards entries in the subsector PR not later than 29 June in a non DC election year (or 29 August for 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 respect of the entry or any omission concerning himself/itself. Cases of objections and claims will be referred to the Revising Officer for consideration. The Revising Officer will rule on each objection or claim and decide on the inclusion, exclusion, or correction of the entry concerned in the FR. [Ss 30 and 31 of the EAC (ROE) (FCSEC) Reg.] *[Amended in September 2006]*

The Final Register

3.17 The subsector FR is to be published not later than 25 July in a non DC election year (or 25 September for a DC election year). It will include the entries in the PR, the updated names and addresses of voters who have applied to alter their particulars on or before 29 June in that year (or 29 August for a DC election year), and the names and 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 remove those entries of voters who are known to be dead and to correct any mistakes in the PR. The FR for the subsectors will be valid

until the publication of the next FR. It will be available for public inspection at the REO and some of the District Offices of the Home Affairs Department. [S 38 of the EAC (ROE) (FCSEC) Reg.] The time and place where the FR can be inspected will be published in the Gazette and in newspapers. The publication of the notice is to be taken as the publication of the FR. The ERO may make available for public inspection a specific part of the FR at a specified place and may require persons who wish to inspect the FR to produce his identity card. [Ss 38(1), (2), (4), (4A) and (6) of the EAC (ROE) (FCSEC) Reg.] *[Amended in September 2006]*

IMPORTANT :

Information relating to a person contained in any register of voters or in any extract of any register of voters **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 42(3) of the EAC (ROE) (FCSEC) Reg].

PART III : THE VOTING SYSTEM FOR SUBSECTOR ELECTIONS

3.18 The voting system adopted for the EC subsector elections is the simple or relative majority system, commonly known as the “first past the post” system [s 29(1) of the Schedule to the CEEO]. A voter may vote for as many candidates as the number of members allocated to a subsector at subsector ordinary elections, or the number of members to be returned at the by-elections, and no more. In the case of a single vacancy to be filled, the candidate that obtains the highest number of votes will be elected. In the case of 2 or more vacancies, the candidates elected will be the candidate that obtains

the highest number of votes followed by the candidate with the second highest number of votes, and so on, until all vacancies have been filled.

3.19 In the event that there is still one more vacancy to fill and the remaining successful candidates have the same number of votes, the RO will have to arrange the drawing of lots to determine which one of these candidates should be elected to fill the last vacancy. *[Amended in September 2006]*

3.20 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. The RO would draw the lot on behalf of the candidate if the latter is absent at the time of drawing lots.

- (a) Where there is only 1 vacancy to be filled and there are 2 candidates, the candidate who draws the larger number from 1 to 10 will be the winner. 1 is the smallest number and 10 is the largest number.
- (b) Where there is only 1 vacancy to be filled and 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.

- (c) Where there are 3 candidates having an equal number of votes and there are only 2 vacancies to be filled, if the 3 candidates have obtained respectively the largest, the larger and the smallest numbers, the 2 candidates who have obtained the largest and the larger numbers should be successful in getting the 2 vacancies, and the remaining candidate will fail. If the 3 candidates have obtained respectively 2 larger equal and 1 smaller numbers, then again the 2 candidates who have obtained the larger equal numbers will be the winners to fill the 2 vacancies. If the 3 candidates have obtained respectively a larger and 2 equal smaller number, the candidate who has obtained the larger number will be successful and the remaining 2 candidates will participate in a second draw. The same principle will apply where there are more than 3 candidates having an equal number of votes and the number of vacancies to be filled is less than the number of candidates. *[Amended in September 2006]*

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

3.22 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 or one of the successful candidates has passed away or has been disqualified from being elected, then the RO should not declare that candidate as elected. His place will then be taken by another candidate who has not yet been returned, if any, or a remaining candidate with the next highest number of votes, if any.