

CHAPTER 7

APPOINTMENT AND ROLES OF ELECTION AGENT, ELECTION EXPENSE AGENTS, POLLING AGENTS AND COUNTING AGENTS

PART I : GENERAL

7.1 This chapter deals with the appointment of agents at an election and their roles.

7.2 A candidate should think carefully before selecting any of his agents. He should choose persons suitable for the task. They will be viewed as his representatives and their conduct may affect the public's perception of him.

PART II : TYPES AND NUMBERS OF AGENTS

7.3 If he so wishes, a candidate may appoint the following agents to assist him in an election:

- (a) **1** election agent [s 23(1) of the EAC (EP) (EC) Reg];
- (b) **any number** of election expense agents [s 23 of the ECICO and s 25 of the EAC (EP) (EC) Reg] [*Amended in September 2006*];

- (c) not more than **2** polling agents for **each polling station** other than a dedicated polling station situated in a prison in respect of the EC subsector for which he is nominated [s 42(3) and (5A) of the EAC (EP) (EC) Reg];

- (d) **1** polling agent for **each dedicated polling station** situated in a prison other than a maximum security prison [s 42(5A) of the EAC (EP) (EC) Reg]; and
(For arrangements regarding admission of election agents or polling agents to dedicated polling stations situated in prisons, please refer to paras. 7.12 to 7.15 and paras. 7.24 to 7.27 below.)

- (e) not more than such number of counting agents as will be specified by the EAC [s 64(2) of the EAC (EP) (EC) Reg].

[Amended in January 2010]

PART III : QUALIFICATIONS

7.4 The election, polling and counting agents should be holders of the Hong Kong identity card and have attained the age of 18 years [ss 23(2), 42(4) and 64(3) of the EAC (EP) (EC) Reg] while an election expense agent needs to be a person who has attained the age of 18 years [s 25(1) of the EAC (EP) (EC) Reg].

PART IV : CIVIL SERVANTS ACTING AS AGENTS

7.5 Civil servants, other than Directorate Officers, Administrative Officers, Police Officers and Information Officers and those officers acting in the above grades and ranks with a view to substantive appointment thereto, may act as agents or assist in electioneering activities provided that they are not already appointed by the CEO as polling or counting staff, that there is no conflict of interest with their official duties, that no use of public resources is involved, and that no government uniform is worn. However, to avoid any unfairness, semblance of unfairness or conflict of interest, civil servants who work in a subsector or have extensive contacts with the public in a subsector are well advised not to accept appointment by a candidate in the subsector to be his agent. Civil servants who are allowed to participate in electioneering activities, including the seeking of election donations, for any candidate should not use or be seen to use any public resources in such activities.

PART V : ELECTION AGENT

Appointment

7.6 A candidate may appoint **1** election agent to assist him and to act on his behalf in an election [s 23(1) of the EAC (EP) (EC) Reg]. The appointment may be made at any time after a candidate hands in his own nomination form.

7.7 The candidate must give notice of such appointment to the RO for the subsector for which the candidate is nominated [s 23(3) of the EAC (EP)

(EC) Reg]. The notice must be in the specified form and signed by both the candidate and the agent [s 23(5) and (6) of the EAC (EP) (EC) Reg]. The appointment will not be effective until the notice of appointment is received by the RO [s 23(4) of the EAC (EP) (EC) Reg].

7.8 However, before the notice of appointment is received, the acts of the election agent purported to be appointed by the candidate and the expenses incurred by any purported agent for promoting the election of the candidate or for prejudicing the election of another candidate or other candidates may be treated as the candidate's own acts and election expenses. It is **important** to note that it is an **illegal conduct** for any person other than a candidate or a candidate's election expense agent to **incur such expenditure** [s 23 of the ECICO].

Revocation

7.9 The appointment of an election agent may be revoked by the candidate at any time. The candidate must also give notice of the revocation in writing to the RO. A revocation of an appointment of an election agent will not be effective until such notice is received by the RO [s 23(8), (9) and (10) of the EAC (EP) (EC) Reg].

7.10 If an election agent passes away or has his appointment revoked, the candidate may appoint another election agent. In such a case, the candidate must give notice of the replacement appointment in the specified form to the RO in accordance with para. 7.7 above [s 23(11), (12) and (13) of the EAC (EP) (EC) Reg]. If the new election agent wishes to observe the poll at a dedicated polling station situated in a prison (other than a maximum security prison), he is required to follow the arrangements set out in paras. 7.12 to 7.15 below. *[Amended in January 2010]*

Notification

7.11 Not later than 5 days after the expiration of the nomination period, and thereafter as required, each validly nominated candidate or his election agent will receive from the RO a notice containing the details of all the election agents appointed by all candidates for the subsector concerned [s 24 of the EAC (EP) (EC) Reg]. The RO will also display outside his office a notice of the particulars of the election agents [s 24(5) of the EAC (EP) (EC) Reg].

Role of an Election Agent

7.12 A duly appointed election agent ranks in the **most important position** amongst all kinds of agents of a candidate. He has the **authority to do everything a candidate is authorised to do** for the purposes of the election, **except:**

- (a) anything a candidate is required to do in relation to his nomination;
- (b) to withdraw the candidate's candidature;
- (c) to incur election expenses unless he has been so authorised (i.e. as an election expense agent at the same time) by the candidate;
- (d) to authorise an election expense agent to incur election expenses;
and
- (e) to be present in a dedicated polling station situated in a maximum security prison.

[S 23(14) and (15) of the EAC (EP) (EC) Reg] *[Amended in September 2006 and January 2010]*

IMPORTANT :

An election agent is, along with the candidate, responsible for the management of the campaign. A candidate is responsible for all the acts of his election agent. If the election agent fails in his duties, he may contravene the law, and in particular, the ECICO, and may commit criminal offences for which the candidate may also be liable, with serious consequences. An election agent will need to be authorised by a candidate to incur election expenses. If so authorised, the election agent becomes also an election expense agent. [See Part VI of this chapter.]

7.13 Candidates and their election agents are entitled to be present at the counting of the votes and are normally allowed admission to all polling stations. Due to security reasons, only candidates may enter dedicated polling stations situated in maximum security prisons to observe the poll. An election agent, who wishes to observe the poll at a dedicated polling station situated in a prison other than a maximum security prison, must lodge an application in the specified form with the CEO at least one week before the polling day. The election agent may not be present at that dedicated polling station unless the CCS has given consent to his presence. If the CCS refuses to give consent to the application lodged, he will notify the candidate or his election agent as soon as practicable. [S 23(15) and (18) of the EAC (EP) (EC) Reg] *[Amended in January 2010]*

7.14 The CCS may, on an application lodged during the week before the polling day, give consent if he is satisfied that a person imprisoned or held in custody by the CSD, who is entitled to vote for the relevant subsector at the dedicated polling station concerned, is admitted or transferred to the prison

concerned during that week and the application is lodged without undue delay after the admission or transfer. The REO will post and update on its website the number of registered voters/ARs who are imprisoned or held in custody in individual prisons every working day starting from three weeks before the polling day and on the Saturday immediately before the polling day for candidates' reference. [S 23(17) of the EAC (EP) (EC) Reg] *[Added in January 2010]*

7.15 No election agent may be present at a dedicated polling station situated in a prison if a polling agent has already been appointed by the same candidate for that polling station. [S 23(16) of the EAC (EP) (EC) Reg] *[Added in January 2010]*

7.16 The PRO of a polling station may regulate the number of candidates and their agents to be admitted to the polling station at any one time, for the purpose of maintaining order in the polling station and ensuring that the polling is conducted smoothly. **Whilst inside a polling station or a counting station, the provisions to be observed by polling agents and counting agents are also applicable to candidates and their election agents.** They are therefore advised to familiarise themselves also with the guidelines set out in Parts VII and VIII of this chapter.

PART VI : ELECTION EXPENSE AGENTS

Authorisation

7.17 A candidate may authorise any number of election expense agents to incur election expenses on his behalf in an election.

7.18 The authorisation shall be in writing on a specified form and state the name, identity document number and address of the election expense agent, and must specify the maximum amount of election expenses the agent may incur [s 25(2) and (3) of the EAC (EP) (EC) Reg]. It should be signed by both the candidate and the agent [s 25(4) of the EAC (EP) (EC) Reg]. A copy of the authorisation must be lodged with the relevant RO, or the CEO if the RO has not been appointed, by the candidate [s 25(5) of the EAC (EP) (EC) Reg].

7.19 The authorisation is not effective until it has been received by the relevant RO or the CEO as the case may be. Before the authorisation is received, no election expense should be incurred by a person purported to be authorised in the authorisation as an election expense agent. It is also important to note that it is an illegal conduct for any person other than a candidate or a candidate's election expense agent to incur such expenses [s 23 of the ECICO]. The expenses so incurred may also be counted as the candidate's election expenses.

Revocation

7.20 The authorisation of an election expense agent may be revoked by a candidate at any time. The candidate must give notice of the revocation as soon as possible in writing to the RO, or the CEO if the RO has not been appointed. The RO or the CEO, as the case may be, will only regard a revocation as effective when he receives the notice [s 25(10) of the EAC (EP) (EC) Reg]. The election expenses already incurred will still be counted as election expenses of the candidate.

Role of Election Expense Agents

7.21 An election expense agent is authorised to incur election expenses

on behalf of a candidate. He must not incur election expenses in excess of the amount specified in the form of authorisation; otherwise he commits a criminal offence [s 23(4) of the ECICO].

Candidate's Duty to Know the Details of Election Expenses Incurred by His Election Expense Agents

7.22 Every candidate is under a **duty**, subject to criminal penalty for breach, to submit to the CEO a return and declaration of his election expenses and donations with supporting vouchers not later than 30 days after the publication in the Gazette of the result of the election, or not later than 30 days after the declaration of the termination of the election proceedings under the relevant electoral law, or not later than 30 days after the declaration of the failure of the election under the relevant electoral law [s 37 of the ECICO and Part IV of Chapter 16]. For the efficient and effective discharge of his duty, the candidate should **make sure** that his election expense agents will keep account of all election expenses incurred on his behalf and will provide to him, as soon as practicable but not later than the same 30-day period, a detailed statement of expenditure in which each item of expenditure of \$100 or above has to be supported by an invoice and a receipt. If any item of expenditure incurred by the election expense agents is paid or defrayed or contributed to by a donation, the candidate should **make sure** that they will provide him with a statement stating the expenses. If an item is not explicit in monetary terms, it should be assessed at a reasonable value; and if any item is more than \$1,000, it should be supported by a copy of receipt issued to a donor (in a specified form signed by the donor). Without such statements and vouchers provided by the election expense agents, the candidate will no doubt have difficulty in discharging his duty to file the return and declaration of election expenses and donations, which **may render him liable for a criminal offence**. *[Amended in September 2006]*

Public Inspection of Authorisation

7.23 The RO or the CEO, as the case may be, will make available for public inspection all copies of authorisations submitted by candidates until the expiration of the period for which copies of the election return lodged by the candidates are available for inspection, ie up to the first anniversary of the date on which the result of the election is published. This offers the public and other candidates an opportunity to scrutinise the amount of election expenses [s 26 of the EAC (EP) (EC) Reg].

PART VII : POLLING AGENTS

Appointment

7.24 A candidate may appoint **not more than 2 polling agents** for each polling station (other than a dedicated polling station situated in a prison) in respect of the subsector for which he is nominated. A candidate may appoint only one polling agent for a dedicated polling station situated in a prison subject to the consent of the CCS. No polling agent may be appointed if the CCS has given consent to the presence of the election agent of that candidate in that polling station. No polling agent may be appointed for a dedicated polling station situated at a maximum security prison. [S 42(3) and (5A) of the EAC (EP) (EC) Reg] *[Amended in January 2010]*

7.25 The appointment of a polling agent for a polling station not situated in a prison shall be made on a specified form. The candidate must give notice of such appointment in writing signed by him to the CEO at least **1 week** before the polling day [s 42(5) and (8) of the EAC (EP) (EC) Reg]. Where a

candidate appoints a polling agent after the above deadline, he is required to give notice of the appointment to the PRO of the polling station for which that agent has been appointed. Such a notice must be given by the candidate or the election agent **personally** by delivering the notice of appointment to the PRO (or the Deputy PRO or an Assistant PRO) at the relevant polling station on the polling day and before the agent concerned enters the polling station [s 42(6) of the EAC (EP) (EC) Reg]. The appointment will not be effective until the notice of appointment is received by the CEO or the PRO, as the case may require [s 42(7) of the EAC (EP) (EC) Reg]. *[Amended in January 2010]*

7.26 For the appointment of a polling agent for a dedicated polling station situated in a prison other than a maximum security prison, the candidate must lodge an application in a specified form with the CEO at least one week before the polling day. The appointment will not be effective unless the CCS consents to the appointment. If the CCS refuses to give consent to the application lodged, he will notify the candidate or his election agent as soon as practicable. [S 42(5A) and (5C) of the EAC (EP) (EC) Reg] *[Added in January 2010]*

7.27 The CCS may, on an application lodged during the week before the polling day, give consent if he is satisfied that a person imprisoned or held in custody by the CSD, who is entitled to vote for the relevant subsector at the polling station concerned, is admitted or transferred to the prison concerned during that week and that the application is lodged without undue delay after the admission or transfer. The REO will post and update on its website the number of registered voters/ARs who are imprisoned or held in custody in individual prisons every working day starting from three weeks before the polling day and on the Saturday immediately before the polling day for candidates' reference. [S 42(5B) of the EAC (EP) (EC) Reg] *[Added in January 2010]*

Revocation

7.28 The appointment of a polling agent may be revoked by the candidate at any time. The candidate must also give notice of revocation in writing and in the specified form to the CEO before polling day or to the PRO (other than a PRO of a dedicated polling station in prison) on the polling day in the same manner as specified in paragraph 7.25 [s 42(10) and (11) of the EAC (EP) (EC) Reg]. A revocation of an appointment of a polling agent will not be effective until the notice thereof is received by the CEO or the PRO (other than a PRO of a dedicated polling station situated in a prison), as the case may be [s 42(12) of the EAC (EP) (EC) Reg]. For the revocation of a polling agent appointed for a dedicated polling station in a prison, the candidate must give a notice in the specified form to the CEO. If a replacement polling agent is appointed and he wishes to observe the poll at a dedicated polling station in a prison (other than a maximum security prison), he is required to follow the arrangements set out in paras. 7.24 to 7.27 above. *[Amended in January 2010]*

Role of a Polling Agent

7.29 Polling agents are appointed **to assist a candidate in observing the conduct of the poll** to detect impersonation or irregularity at polling stations.

Provisions which the Polling Agents should be Aware of

7.30 On behalf of each candidate, only 1 polling agent may be admitted at any one time to the polling station for which he has been appointed [s 44(6) of the EAC (EP) (EC) Reg]. He is required to stay and keep his movements within the area designated for observation of the poll and not outside. Where a

candidate or his election agent is present within a polling station, a polling agent of that candidate will not be allowed to be present at the same time within the polling station [s 44(7) of the EAC (EP) (EC) Reg]. [See also Part IV of Chapter 5 regarding the admission of candidates, election agents and polling agents to the polling station.] *[Amended in January 2010]*

7.31 Before entering a polling station, every person, other than a voter/AR, a police officer, an officer of the CSD or an officer of a law enforcement agency or a member 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 92 of the EAC (EP) (EC) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a polling station will observe the secrecy of the vote of the voter and, in particular, not to divulge which voter/AR has voted for which candidate. *[Amended in January 2010]*

7.32 On attending the polling station for which he has been appointed, a polling agent shall report to the PRO and produce his identity card and the Declaration of Secrecy completed by him for inspection [s 44(10) of the EAC (EP) (EC) Reg].

7.33 The following will occur before, during and after the poll on the polling day:

(a) Before

- (i) Before the commencement of the polling, the PRO will inform the candidates or their agents (either election agent or polling agent) if they are present, the number of ballot papers in his (the PRO's) possession, showing them the

books of ballot papers not yet issued to any voter (“**UNISSUED** ballot papers”).

- (ii) The PRO will show the empty ballot boxes to such persons before proceeding to lock and seal them.

(b) During

- (i) In the course of polling, the PRO will show to each candidate or his election or polling agent, who is present at the relevant time, any abandoned ballot papers that have been issued or any torn pieces of such ballot papers found lying anywhere in the polling station (“**UNUSED** ballot papers”). Such ballot papers will not be put into a ballot box and will not be counted at the counting of votes. [Ss 59 and 77 of the EAC (EP) (EC) Reg]

- (ii) Where a person, representing himself to be a particular voter entered on the register, applies for any ballot paper after a person has been issued with any ballot paper as such a voter, he may be issued with a ballot paper with the word “**TENDERED**” endorsed on the front. Such ballot paper will not be counted at the counting of votes. [Ss 58 and 77 of the EAC (EP) (EC) Reg]

- (iii) Any voter 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 ballot paper. Such spoiled ballot paper will be endorsed on the front with the word “**SPOILT**” and will be kept by the PRO. The spoiled ballot papers will not be

counted at the counting of votes. [Ss 60 and 77 of the EAC (EP) (EC) Reg]

(c) After

The PRO will, in the presence of persons present, lock the flap on the lid of the ballot boxes and seal it. He will also inform each candidate or his agent who is present of the number of the following types of ballot papers in his possession: unissued ballot papers, unused ballot papers, and spoilt ballot papers.

7.34 Generally speaking, a polling agent may observe all proceedings in the polling station for which he has been appointed and record his observations but shall not do anything that may interfere with the conduct of the poll. A polling agent **MAY**-

- (a) leave the polling station at any time during the poll in which case his place may be taken by a candidate, an election agent or another polling agent appointed to attend at the polling station [see para. 7.30];
- (b) observe the locking and sealing of empty ballot boxes before the poll commences and the locking and sealing of the ballot boxes at the close of poll;

NOTE :

A polling agent who signs the sealing certificate of a ballot box as witness is required to write his name in block letters beneath his signature for easy identification. Candidates are advised to keep a

list of their own polling agents to facilitate checking when the sealing certificate is broken at the counting station.

- (c) observe the issue of ballot papers to voters and ARs and the crossing out of the relevant entries from the copy of the register of voters, subject to the condition that they cannot interfere with the work of the polling staff;
- (d) where there is reasonable ground for questioning the bona fides of a voter/AR, ask the PRO to put the following prescribed questions (subject to necessary modifications) to that person at the time of his application for a ballot paper (but not afterwards):
 - (i) Are you the person registered in the subsector FR now in effect for this subsector, as follows (reads the whole of the relevant entry in the register)?
 - (ii) Have you already voted for this subsector?

NOTE :

The person will not be issued with any ballot paper unless he has answered the questions to the satisfaction of the PRO. [S 51(5) of the EAC (EP) (EC) Reg]

- (e) where there is a reasonable cause to believe that a person who has applied for a ballot paper has engaged in impersonation, declare it to the PRO for appropriate action before that person leaves the polling station. This may possibly lead to the arrest of the person. The polling agent must however undertake in writing to

substantiate the charge in a court of law [s 52 of the EAC (EP) (EC) Reg].

[Amended in January 2010]

7.35 Inside a polling station, a polling agent **MUST NOT**:

- (a) interfere with or attempt to influence any voter/AR.
- (b) speak to or communicate with any voter/AR if the RO, the ARO, the PRO or any polling officer has given direction to him not to do so, or interfere with or attempt to interfere with any ballot boxes, ballot papers, the marked copy of the register or other relevant election materials. In this regard, a polling agent should station within the designated area demarcated by red adhesive tape, and must not enter, or move close to, the restricted zone delineated with yellow tapes about 1 metre, or 2 metres if the configuration allows, around the voting compartments. Moreover, it is most improper for a polling agent to ask a voter/AR about his identity card number, let alone check a voter/AR's identity card.
- (c) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of any voter/AR. A polling agent should read and observe carefully the provisions governing the secrecy of voting issued with the form of Declaration of Secrecy.
- (d) exhibit or leave or distribute any campaign material.
- (e) without reasonable excuse, display any badge, emblem, clothing or head-dress which:

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

[Amended in September 2006]

- (f) use a mobile telephone or any telephone or paging machine or any other form of electronic communication device if the RO, the ARO, the PRO or any polling officer has given direction to him not to do so.

[S 45 of the EAC (EP) (EC) Reg]

7.36 A polling agent must not misconduct himself in or in the vicinity of a polling station 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 area. If he fails to leave immediately, 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 a law enforcement agency if the polling station is a dedicated polling station; or

- (c) any other person authorized in writing by the RO or the PRO to remove him.

The person so removed may not re-enter the polling station during that day except with the permission of the RO or the PRO [s 46 of the EAC (EP) (EC) Reg]. *[Amended in January 2010]*

Other Useful Information for Polling Agents

7.37 Most of the persons admitted to a polling station will be wearing identifications (eg badges). Candidates, their election agents and polling agents will be required to wear an identification device issued by the RO or the PRO for identification. If in doubt, a polling agent may enquire with the PRO as to the identities of the persons inside the polling station. No attempt, however, should be made to obtain information as to the identity of any voter/AR who is about to vote or has voted. [S 93(8) of the EAC (EP) (EC) Reg]

7.38 There may be voters with a disability who have been permitted to vote in the polling station specifically designated for the purpose. Candidates or their agents can make inquiries with the RO for information.

7.39 Only the PRO, the Deputy PRO or an Assistant PRO may, in the presence of one of the Polling Officers as a witness, help a voter who claims he is unable to read or write or incapacitated by visual deficiency or other physical cause to mark a ballot paper to indicate the choice of the voter [s 57 of the EAC (EP) (EC) Reg]. The responsible officer should inform the candidates or their agents who are present when such a request for assistance is received. A candidate or his polling agent in the polling station may request the PRO, the Deputy PRO or an Assistant PRO to choose a particular Polling Officer who is not working at the issuing counter as the witness, but the final decision as to which Polling Officer should be the witness remains with the PRO, Deputy PRO

or Assistant PRO. An incapacitated voter's relatives, friends or any other persons are in no circumstances allowed to accompany the voter in the course of voting.

7.40 In each polling station, a number of **templates** are made available for the use of the visually impaired voter, if he chooses, to facilitate him to mark his vote on the ballot paper [s 57(3) of the EAC (EP) (EC) Reg]. The template contains the following features:

- (a) the template for each subsector is of the same width as the ballot paper and it is as long as, if not longer than, the ballot paper;
- (b) the template contains embossed numbers or numbers in braille starting with the first numeral (or code + numeral) in a sequence assigned to the candidates on the top followed downwards by other numerals in that sequence, and on the right hand side against each of the number is a round hole;
- (c) the **left hand top corner** of the ballot paper and the template is cut so as to enable the voter to place the template on top of the face of the ballot paper in the proper direction; and
- (d) when the template is placed properly on the ballot paper, each embossed or brailled number corresponds with the candidate number, and each of the holes on the template corresponds with the circle on the ballot paper against the candidate number. The number of candidates in the EC subsector equals the number of holes under which there is the ballot paper.

The choice of candidate is made by the visually impaired voter by shading the oval, or pressing the chop with a “✓” sign provided on the circle, as the case may be, (through the holes on the template) against the candidate’s number. Whenever it is necessary, the polling staff will help the visually impaired voter to identify the different ballot papers before the voter proceeds to mark his vote.

7.41 No person may canvass or display any election propaganda material relating to any candidates or the election within a polling station. Candidates and their agents should not bring electioneering literature into the polling station or leave them there and should remove any promotional badges, emblems, clothing or head-dress before entering. A person must not use a sound amplifying system or device for any purpose within the NCZ; nor should he use such system or device or conduct any activities (eg lion dance), for canvassing, so that the sound emitted by it can be heard in the NCZ [s 40(14) of the EAC (EP) (EC) Reg]. Also a person must not stay or loiter in the NSZ without the express permission of the PRO. [S 41 of the EAC (EP) (EC) Reg] Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of the PRO, or the RO, or a member of the EAC, commits an offence [s 45(2) of the EAC (EP) (EC) Reg]. Normally such permission is only granted to members of the media or government photographers for publicity purposes. Polling agents should also read Parts I – VI of Chapter 5 on all matters relating to polling and in particular, paras. 5.30 and 5.31 for activities that are prohibited, and the consequences of conducting such activities, in a polling station. *[Amended in September 2006]*

7.42 If a candidate or his election or polling agent has any complaint about whatever happens inside a polling station, he should follow the procedures laid down in para. 20.9 of Chapter 20.

PART VIII : COUNTING AGENTS

Appointment

7.43 A candidate may appoint not more than such number of counting agents as will be specified by the EAC [s 64(2) of the EAC (EP) (EC) Reg]. The same persons may, but need not, be appointed also as polling agents.

7.44 The appointment should be made on a specified form [s 64(8) of the EAC (EP) (EC) Reg]. The candidate must give notice of such appointment in writing to the RO at least **1 week** before the polling day [s 64(4) and (5)(a) of the EAC (EP) (EC) Reg]. Where a candidate appoints a counting agent after the above deadline, the notice of the appointment must be given by the candidate or the election agent **personally** by delivering the notice of appointment to the RO (or ARO) during the period from the commencement of the poll to the conclusion of the count, but before the agent concerned enters the counting station [s 64(6) of the EAC (EP) (EC) Reg]. The appointment will not be effective until the notice of appointment is received by the RO [s 64(7) of the EAC (EP) (EC) Reg]. *[Amended in September 2006]*

Revocation

7.45 The appointment of a counting agent may be revoked by the candidate at any time. The candidate must also give notice of revocation in writing and in the specified form to the RO [s 64(9) and (10) of the EAC (EP) (EC) Reg]. Any such notice given after the commencement of the poll shall be given by the candidate or his election agent **personally** by delivering the notice to the RO (or ARO) [s 64(11) of the EAC (EP) (EC) Reg]. A revocation of an

appointment of a counting agent will not be effective until the notice thereof is received by the RO [s 64(12) of the EAC (EP) (EC) Reg].

Role of Counting Agents

7.46 Counting agents are appointed to attend at the counting station **to observe the breaking of the seals on the ballot boxes, the sorting, separation and counting of ballot papers and the counting of votes recorded on the valid ballot papers.** This arrangement ensures the transparency of the counting process and is conducive to openness and fairness. [See Part VII of Chapter 5.]

Provisions which the Counting Agents should be Aware of

7.47 Before the counting commences, 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 92 of the EAC (EP) (EC) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a counting station will observe the secrecy of the vote of the voter. Members of the public present within the area designated by the CRO (Subsectors) or the RO will not be required to make a Declaration of Secrecy.

7.48 On attending the counting station, a counting agent shall report to the relevant RO and produce his identity card and the Declaration of Secrecy completed by him for inspection [s 92(2) of the EAC (EP) (EC) Reg].

7.49 Generally speaking, counting agents are entitled to be present throughout the count to observe the counting proceedings. They will be allowed

by the RO to stay close and around the counting table to monitor the count. Nevertheless, they must not handle any ballot papers. A counting agent **MAY**:

- (a) observe the opening of the ballot boxes for the relevant subsector by the RO or AROs;
- (b) inspect any papers other than ballot papers taken from the ballot boxes before they are disposed of;
- (c) observe the conduct of the count by counting officers including how individual votes are counted; and
- (d) observe, where he wishes, the packing of ballot papers by the counting officers and the RO at the conclusion of the count.

7.50 A counting agent **MUST NOT**:

- (a) handle, separate or arrange ballot papers; and
- (b) misconduct himself in or in the vicinity of a counting station or fail to obey any lawful order of the CRO (Subsectors) or the RO in-charge of the subsector, as the case may be; otherwise he commits an offence punishable with a fine and imprisonment and may be ordered by the CRO (Subsectors) or the RO to leave the area. If he fails to leave immediately, he may be removed by a police officer or by any other person authorised in writing by the CRO (Subsectors) or the RO to remove him. The person so removed may not re-enter the counting station except with the permission of the CRO (Subsectors) or the RO, as the case may be.
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Other Useful Information for Counting Agents

7.51 Counting agents should read Part VII of Chapter 5 on all matters relating to counting and in particular, paras. 5.40 and 5.41 for activities that are prohibited and the consequences of conducting such activities within the counting station.