

CHAPTER 2

GEOGRAPHICAL CONSTITUENCIES

PART I : DESCRIPTION

2.1 This chapter describes the GCs and the features relating to electoral procedure that electors of GCs may need to know. Electors of the FCs may refer to Chapter 3 : Functional Constituencies for details regarding the FCs.

2.2 In the general election for the third term of the LegCo, the 5 GCs are to return 30 of the 60 members of the LegCo, as follows:

- (a) the Hong Kong Island GC to return 6 members;
- (b) the Kowloon East GC to return 5 members;
- (c) the Kowloon West GC to return 4 members;
- (d) the New Territories East GC to return 7 members; and
- (e) the New Territories West GC to return 8 members.

PART II : REGISTRATION OF ELECTORS

Eligibility to Vote

2.3 Only a registered elector is eligible to vote at a LegCo election. A registered elector is a person whose name appears on the final register of GC which is in force at the time of election as compiled and published by the Electoral Registration Officer (“ERO”) under the LCO. An elector may vote at an election in respect of the GC within which his residential address as entered in the final register is located. [S 48 of the LCO.]

Qualifications for Registration as an Elector

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

- (a) he has to be aged 18 years or above as at 25 July next following his application for registration;
- (b) he is a permanent resident of Hong Kong;
- (c) he ordinarily resides in Hong Kong and the residential address in his application for registration is his only or principal residence in Hong Kong;
- (d) he holds an identity document or has applied for a new identity document or a replacement identity document; and
- (e) he is not disqualified from being registered as an elector by virtue of s 31 of the LCO.

2.5 An individual who is **already registered** in the existing final register of GCs **need not apply** to be registered as an elector in a GC any further as his name and residential address will be repeated in the next register (a provisional register). However, he is not entitled to be an elector in the next register of GCs if he has ceased to ordinarily reside in Hong Kong, or no longer resides at the residential address recorded against his name in the existing register and the ERO does not know his new principal residential address in Hong Kong.

[Ss 24, 27, 28, 29 and 30 of the LCO.]

Disqualifications

2.6 A natural person is disqualified from being registered as an elector and voting at an election for a GC if he:

- (a) has ceased to be eligible to be a permanent resident of Hong Kong;
- (b) has, in Hong Kong or 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 polling day, is serving a sentence of imprisonment;
- (d) is or has been convicted of the following offences within 3 years before the polling day:
 - (i) of having engaged in corrupt or illegal conduct in contravention of the ECICO, or

- (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201) (“POBO”), or
- (iii) of any offence prescribed by regulations in force under the EACO, eg the provision of false information to the ERO;
- (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 any armed forces.

[Ss 31 and 53 of the LCO.]

Roll-over of Electors

2.7 If an **individual** is **registered in the existing GC final register**, his name and residential address will be repeated in the next provisional register for GCs and he **does not need to make any application for registration**, unless he is not eligible to be an elector because:

- (a) he is dead;
- (b) he is not a permanent resident of Hong Kong;
- (c) he does not ordinarily reside in Hong Kong; or
- (d) he has changed his only or principal residence and his new address is not known to the ERO.

Application for Registration

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

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

2.10 The ERO will process the application forms after they have been received. An applicant who qualifies for registration will be allocated to the relevant GC on the basis of his residential address. Closer to the polling day, he will also be allocated to the appropriate polling station on the basis of his residential address and he will be notified in writing. The ERO will send written inquiries to applicants to seek information or proof if the information on their applications is incomplete or incorrect. Applicants who are not qualified for registration will also be informed of the result, by registered mail.

2.11 The name and residential address of all eligible applicants will be entered in the registers of electors.

Change of Residential Address

2.12 It will not be necessary for a registered elector to re-apply for registration every year unless he has changed his residential address. In such a case, he **must notify** the ERO **of his new address** in Hong Kong to ensure that he will be registered in the current register of electors. **If he fails to do so,**

his name and address may be removed from the register, and he will not be entitled to vote at subsequent elections.

2.13 If the elector has emigrated overseas and ceased to be a permanent resident of Hong Kong or ceased to ordinarily reside in Hong Kong, his name may also be removed from the register of electors.

Changes of Other Personal Particulars

2.14 Any registered elector who has changed his other particulars (eg name), or has ceased to be a permanent resident of Hong Kong or ceased to ordinarily reside in Hong Kong, should also notify the ERO.

2.15 An elector can 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 elector wishes to have the alteration of his particulars effected in the next final register of electors, he **must notify** the ERO as soon as possible and **latest by 29 June in a non DC election year**. An elector who has reported change of particulars will be sent a notice by the ERO showing his updated electoral record. [S 11(4) and (5) of the EAC (ROE) (GC) Reg.]

The Provisional Register

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

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

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

The provisional register will be **available for public inspection** at the Registration and Electoral Office (“REO”) and District Offices as specified in the Gazette notice of publication for a period after its publication and before the appeal deadline referred to in para. 2.18 below. [Ss 12 and 13 of the EAC (ROE) (GC) Reg.]

The Omissions List

2.17 At the same time when the provisional register for GCs is published, the ERO will also publish an omissions list, containing the names and residential addresses of persons who have been formerly registered as GC electors. These particulars are struck out from the provisional register and proposed to be omitted from the next final register, based on the information received by the ERO who is satisfied on reasonable grounds that these persons are no longer eligible to be registered or have been disqualified. [S 32(4)(a) and (b) of the LCO and ss 9 and 10 of the EAC (ROE) (GC) Reg.]

Appeals – Objections and Claims

2.18 Members of the public may lodge with the ERO objections as regards entries in the relevant provisional register **not later than 29 June in a non 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. Cases of objections and claims will be referred to the Revising Officer for consideration. The Revising Officer, who is a member of the Judiciary, will rule on each objection or claim and decide on the inclusion, exclusion or correction of the

entry concerned in the relevant final register. [S 34 of the LCO and Part III of the EAC (ROE) (GC) Reg.]

The Final Register

2.19 The final register for GCs will be published **not later than 25 July in a non DC election year**. It includes the entries in the relevant provisional register, the updated names and residential addresses of electors who have applied to alter their particulars not later than 29 June of that year, and the names and residential addresses of those who were subject to a notice of objection or claim, updated and corrected to reflect the decisions of the Revising Officer as appropriate. The ERO will have also taken the opportunity to delete those entries of electors who are known to be dead and to correct any mistakes in the provisional register. This final register remains valid until the publication of the final register in the following year. The final register in force will be available for public inspection at the REO and facilities will be available at District Offices for the public to search for information in the register. [S 20 of the EAC (ROE) (GC) Reg.]

IMPORTANT :

Information relating to a person contained in any register of electors or in any extract of any register of electors **can only be used for election-related purposes** under the electoral legislation. Any **abuse** or **misuse** of such information is an **offence** punishable with a fine at level 2 (up to \$5,000) and imprisonment for 6 months [s 22(3) of the EAC (ROE) (GC) Reg].

PART III : THE VOTING SYSTEM

2.20 Different voting systems apply to elections of GCs and different FCs. For GCs, the list system of proportional representation applies [s 49 of the LCO].

2.21 A poll will be taken in respect of a GC to return members for that constituency if the number of validly nominated candidates contesting the election is more than the number of members to be returned for the constituency. Where no more candidates have been validly nominated than the number of members to be returned for the constituency, the validly nominated candidates will be declared elected by the Returning Officer (“RO”). In such a case, polling in respect of the constituency will not be necessary and electors of the constituency concerned should not attend the relevant polling stations since they no longer need to vote. If no candidates were validly nominated or the number validly nominated was less than the number of members to be returned for the constituency, the RO must declare the election to have failed or, as the case may be, to have failed to the extent that the number of candidates validly nominated was less than the number of members to be returned. [S 46(1) and (2) of the LCO.] A by-election will then be necessary.

2.22 In the list system of proportional representation, the nomination of candidates is to be by way of a list in a nomination form specified by the EAC to contain the names of one or more candidates for a GC as a group, and if more than one name, the names have to be ranked in the order of priority of the group. After the RO of the relevant GC has determined the eligibility of the candidates on a nomination list, only the eligible candidates whose priority on the list is above or equals the number of vacancies in the GC will be allowed to remain as candidates, and other candidates on the same list who rank after

those prior candidates will have their names excluded from the nomination list. If, after the close of nominations but before the date of the election, proof is given to the satisfaction of the RO that a candidate whose name appears on a list of candidates has died or is disqualified from being nominated as a candidate, the RO must strike out the name of that candidate from the list. After striking out a name from a list of candidates, the RO must not add the name of any other person to the list. If no name remains on the list of candidates, the RO must reject the list. [S 38 of the LCO.]

2.23 At a GC election, an elector is entitled to cast a **single vote for a list** (as shown on the ballot paper) and not for an individual candidate. The number of valid votes cast for the election of the GC will be divided by the number of vacancies to be elected for that GC to arrive at the quota of votes. Each list that gets the quota will have one candidate on the list elected. When not all the vacancies are filled by applying the quota, then the filling of the remaining seat or seats will be decided by the largest remainder of valid votes cast for each list after the deduction of the quota or a number of quotas of votes cast for that list. If there are votes cast for a list that exceed the quota or quotas necessary to return all the candidates in the list, the list will be treated as having no further votes remaining. [S 49 of the LCO.] For example, in a GC to elect 5 LegCo members, ie with 5 vacancies, where the number of valid votes cast is 1 million and there are 6 lists with varying number of candidates, the voting system operates in the following manner:

The quota of votes required to elect 1 candidate = $1,000,000 \div 5 = 200,000$

The valid votes cast for the 6 lists, eg:

<u>List 1</u>	<u>List 2</u>	<u>List 3</u>	<u>List 4</u>	<u>List 5</u>	<u>List 6</u>
Candidate A	Candidate F	Candidate J	Candidate M	Candidate O	Candidate Q
Candidate B	Candidate G	Candidate K	Candidate N	Candidate P	
Candidate C	Candidate H	Candidate L			
Candidate D	Candidate I				
Candidate E					
290,000	270,000	80,000	120,000	30,000	210,000
votes	votes	votes	votes	votes	votes

(votes cast for each of the Lists)

Step 1

No. of candidates in each List returned for satisfying the quota with the remainder votes:

<u>List 1</u>	<u>List 2</u>	<u>List 3</u>	<u>List 4</u>	<u>List 5</u>	<u>List 6</u>
Candidate A	Candidate F	None	None	None	Candidate Q
90,000	70,000	80,000	120,000	30,000	10,000
votes	votes	votes	votes	votes	votes
					(treated as no votes remaining)

(On applying the quota, 200,000 votes for List 1 enables Candidate A, being the first candidate in the priority ranking of List 1, to be elected. On the same basis, Candidate F on List 2 and Candidate Q on List 6 are elected. The remainder votes for List 1 and List 2 are then used to compare with the votes not meeting the quota cast for the other lists.)

Step 2

No. of candidates in each List returned by applying the remainder votes:

<u>List 1</u>	<u>List 2</u>	<u>List 3</u>	<u>List 4</u>	<u>List 5</u>	<u>List 6</u>
Candidate B	None	None	Candidate M	None	None

(Candidate M has the highest remainder of 120,000 votes, and candidate B has the next highest remainder of 90,000 votes. There are only 2 available vacancies after applying the quota in step 1, and they are filled by these 2 candidates whose lists have the highest 2 remainder votes in step 2. The rest of the candidates are not elected.)

2.24 If it is found that 2 or more lists have the equal largest number of remaining votes and the number of those lists exceeds the number of members remaining to be returned at that stage, the RO must determine the result by drawing lots. The member/members will be returned from the list/lists on which the lot falls [s 49(11) of the LCO].

2.25 When the drawing of lots has to be used to determine the result, 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 RO. The candidate or the representative of a candidate list 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) or representative(s) of candidate list(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 or the representative of a candidate list if such candidate or representative 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 obtains 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 are different, then the candidate who obtains the largest number will win. If, on the other hand, 2 or more of the candidates have obtained the same larger number and the remaining candidate(s) has/have obtained a smaller number, there must be a second draw. Only those candidates who have obtained 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 numbers, 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 N candidates having an equal number of votes and there are less than N vacancies to be filled.

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

2.27 If, after the counting of votes is finished but before the result of an election for a GC is declared, proof is given to the satisfaction of the RO

that a candidate on a list who was successful at the election has died or is disqualified from being elected, the RO must not declare that candidate as elected. If there is another candidate or there are other candidates on the same list who has not or have not been returned for the constituency, the candidate is to be returned or a candidate is to be returned according to the order of priority on the list in place of the deceased or disqualified candidate. If there is no other candidate on the same list who can be returned, the RO must publicly declare that the election has failed or has failed to the extent that the number of candidates returned at the election for the constituency was less than the number of members to be returned for the constituency. [Ss 46A(4), 49(14), (15) and (16) of the LCO and s 83(2)(a) and (b)(i) of the EAC (EP) (LC) Reg.]