

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 The law and guidelines referred to in this chapter apply to candidates or a list of candidates in a GC election as they apply to a candidate of any other kind of constituency. Wherever there are special features applicable to a **GC list**, they will be expressed in the relevant context.

7.3 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 and his election.

PART II : TYPES AND NUMBERS OF AGENTS

7.4 If he so wishes, a candidate or a GC list may appoint the following agents to assist him/it in an election:

- (a) **1** election agent [s 23(1), (2) and (3) of the EAC (EP) (LC) Reg];

- (b) **any number** of election expense agents;
- (c) not more than **2** polling agents for **each polling station** in respect of the GC, the ordinary FC [FCs specified in s 20(1)(e) to (zb) of the LCO] or SFC [FCs specified in s 20(1)(a) to (d) of the LCO] for which he is nominated [s 42(3), (4) and (5) of the EAC (EP) (LC) Reg]; and
- (d) not more than such number of counting agents as will be specified by the EAC [s 66(2) of the EAC (EP) (LC) Reg].

PART III : QUALIFICATIONS OF AGENTS

7.5 The election, polling and counting agents should be holders of Hong Kong identity card and have attained the age of 18 years [ss 23(5), 42(7) and 66(4) of the EAC (EP) (LC) Reg] while an election expense agent needs to be a person who has attained the age of 18 years [s 25(5) of the EAC (EP) (LC) Reg].

PART IV : CIVIL SERVANTS ACTING AS AGENTS

7.6 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, and 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 or semblance of unfairness or conflict of interest, civil servants who work in a constituency or have extensive contacts with the public in a constituency are well advised not to accept appointment by a candidate in the constituency to be his agent. Civil servants who are allowed to participate in electioneering activities, including the seeking of election donations, for any candidates should not use or be seen to use any public resources in such activities.

PART V : ELECTION AGENT

Appointment

7.7 A candidate (or a GC list) may appoint **1** election agent to assist him and to act on his behalf in an election [s 23(1), (2) and (3) of the EAC (EP) (LC) Reg]. The appointment may be made at any time after a candidate hands in his own nomination form.

7.8 The candidate must give notice of such appointment to the RO for the relevant FC/SFC or GC for which the candidate is nominated [s 23(6) of the EAC (EP) (LC) Reg]. The notice must be in the specified form and signed by both the candidate and the agent (in the case of a GC list, the notice must be signed by all the candidates on the list and be given to the RO by any one of the candidates on the list) [s 23(9) of the EAC (EP) (LC) Reg]. The appointment will not be effective until the notice of appointment is received by the RO [s 23(7) of the EAC (EP) (LC) Reg].

7.9 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

7.10 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. In the case of a GC list, a notice of revocation must be signed by all the candidates on the list and be given to the RO by any one of the candidates on the list. A revocation of an appointment of an election agent will not be effective until such notice is received by the RO. [S 23(11), (12) and (13) of the EAC (EP) (LC) Reg.]

7.11 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. 7.8 above. In the case of a GC list, all the candidates on the list may jointly appoint a replacement [s 23(14), (15) and (16) of the EAC (EP) (LC) Reg].

Notification

7.12 Not later than 10 days after the expiration of the nomination period, and thereafter as required, each validly nominated candidate/GC list or his/its election agent will receive from the RO a notice containing the details of all the election agents appointed by all candidates for the constituency concerned. In the case of a GC list, the RO can serve the notice to any one of

the candidates on the list or the election agent of the list [s 24(1), (2), (4), (5) and (6) of the EAC (EP) (LC) Reg]. The RO must also display outside his office a notice of the particulars of the election agents [s 24(7) of the EAC (EP) (LC) Reg.]

Role of an Election Agent

7.13 A duly appointed election agent ranks in a **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 save where he has been so authorised by the candidate; and
- (d) to authorise a person as an election expense agent to incur election expenses.

[S 23(17) and (18) of the EAC (EP) (LC) Reg.]

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 or his list's 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.]

7.14 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 in respect of the constituency concerned. However, 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 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

7.15 A candidate may authorise any number of election expense agents to incur election expenses on his behalf in an election. All the candidates on a GC list must jointly authorise the election expense agent to incur election expenses on behalf of the list, for any expenditure incurred for promoting the election of any candidate on the GC list or for prejudicing the election of another candidate or list of candidates must necessarily be incurred for the promotion or benefit of all candidates on the whole list. Each

candidate on the GC list must authorise the other fellow candidate(s) on the same GC list as his election expense agent(s), or otherwise none of the other fellow candidates can lawfully incur election expenses for him, or for the whole list which includes him [s 23 of the ECICO]. For details of the special features applicable to the GC list, see Part VII of Chapter 16.

7.16 The authorisation shall be in writing on a specified form and state the name, identity document number and residential address of the election expense agent, and must specify the maximum amount of election expenses the agent may incur [s 25(6) and (7) of the EAC (EP) (LC) Reg]. It should be signed by both the candidate and the agent (in the case of a GC list, the authorisation must be signed by all the candidates on the list) [s 25(8) of the EAC (EP) (LC) Reg]. A copy of any authorisation must be lodged with the RO for the constituency, or the CEO if the RO has not been appointed, by the candidate [s 25(9) of the EAC (EP) (LC) Reg].

7.17 The authorisation is not effective until it has been received by the RO or the CEO as the case may be [s 25(11) of the EAC (EP) (LC) Reg]. 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

7.18 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. In the case of a GC list, the notice must be signed by all the

candidates on the list and be given by any one of the candidates on the list. [S 25(14) and (15) of the EAC (EP) (LC) Reg]. The RO or the CEO, as the case may be, will only regard a revocation as effective when he receives the notice [s 25(16) of the EAC (EP) (LC) Reg]. The election expenses already incurred will still be counted as election expenses of the candidate/list of candidates.

Role of Election Expense Agents

7.19 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

7.20 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 60 days after the publication in the Gazette of the result of an election [s 37 of the ECICO and see 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 60 days 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 the 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** under s 38 of the ECICO. A candidate and his election expense agents should familiarise themselves with Part VI of Chapter 16 if he is eligible to apply for financial assistance to partly offset his election expenses.

Public Inspection of Authorisation

7.21 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 [s 41 of the ECICO]. This offers the public and other candidates an opportunity to scrutinise the amount of election expenses [s 26 of the EAC (EP) (LC) Reg].

PART VII : POLLING AGENTS

Appointment

7.22 A candidate (or a GC list) may appoint **not more than 2 polling agents** for each polling station in respect of the constituency for which he is nominated [s 42(3), (4) and (5) of the EAC (EP) (LC) Reg].

7.23 The appointment should 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 date of election [s 42(8) and (11) of the EAC (EP) (LC) Reg]. In the case of a GC list, the notice must be signed by all the candidates on the list and be given to the CEO by any one of the candidates on the list [s 42(11) of the EAC (EP) (LC) 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 notice must be given by the candidate (or in the case of a GC list, any one of the candidates on the list) or the election agent **personally** by delivering the notice of appointment to the PRO at the relevant polling station on polling day and before the agent concerned enters the polling station [s 42(9) of the EAC (EP) (LC) Reg]. The appointment will not be effective until the notice of appointment is received by the CEO or the PRO, as the case may be [s 42(10) of the EAC (EP) (LC) Reg].

Revocation

7.24 The appointment of a polling agent may be revoked by the candidate at any time. The candidate (or in the case of a GC list, any one of the candidates on the list) must also give notice of revocation in writing and in the specified form, to the CEO before polling day or to the PRO on polling day in the manner specified in the preceding paragraph [s 42(13) and (14) of the EAC (EP) (LC) Reg]. In the case of a GC list, a notice of revocation must be signed by all the candidates on the list [s 42(13) of the EAC (EP) (LC) Reg]. A revocation of an appointment of a polling agent will not be effective until notice thereof is received by the CEO or the PRO, as the case may be [s 42(15) of the EAC (EP) (LC) Reg].

Role of Polling Agents

7.25 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

7.26 Although 2 polling agents may be appointed by a candidate for each polling station, only 1 polling agent per candidate may be admitted at any one time to the polling station for which he has been appointed [s 44(6) of the EAC (EP) (LC) Reg]. He is required to stay and keep his movements within and not outside the area designated for observation of the poll. 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) (LC) Reg].

NOTE :

The PRO of a polling station may regulate the number of candidates, election agents and polling 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 polling is conducted smoothly. A notice will be displayed outside each polling station to inform all concerned about the capacity of the area designated inside the polling station for candidates and their agents to observe the poll. Admission will be on a first-come-first-served basis. In order that as many candidates, election agents and polling agents as possible will have a chance to attend at the polling station to observe the conduct of the poll, any candidate, election agent or polling agent who has been

admitted to the polling station will only be allowed to stay in there for one hour. Thereafter he must leave the polling station unless the designated area is not yet full and no other candidate, election agent or polling agent is waiting to be admitted. The fact that a candidate, election agent or polling agent has left after attending at a polling station will not preclude him from being admitted to the polling station again, on a first-come-first-served basis and subject to the capacity of the designated area not being exceeded. Everyone admitted is required to sign in with the time of entry written down by him. Each person queuing outside the polling station will be issued with a number chit to record the order of his application to get into the designated area; and when the turn of his number is reached, the number will be called, but if he is not there at that time, he will be automatically discounted from the queue and he will have to get another number chit when he returns. The bearer of the chit with a number next after the absentee's number will be allowed to get in instead.

7.27 Before entering a polling station, every person, other than an elector/AR or a police officer 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 95 of the EAC (EP) (LC) 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 elector and, in particular, not to divulge which elector/AR has voted for which candidate or GC list.

7.28 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) (LC) Reg].

7.29 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 elector (“**UNISSUED** ballot papers”).
- (ii) The PRO will show such persons the empty ballot boxes 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 paper will not be put into a ballot box and will not be counted at the counting of votes. [Ss 61 and 80 of the EAC (EP) (LC) Reg].
- (ii) Where a person, representing himself to be a particular elector/AR entered on the register, applies for any ballot

paper after a person has been issued with any ballot paper as such an elector/AR, 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 60 and 80 of the EAC (EP) (LC) Reg.]

- (iii) Any elector/AR 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 62 and 80 of the EAC (EP) (LC) Reg.]

(c) After

- (i) 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 spoiled ballot papers.
- (ii) For GCs, candidates and their counting agents, if present, may stay inside the polling station to observe the conversion of the venue into a counting station and then the count that will commence upon the completion of the conversion.

- (iii) For FCs/SFCs, up to 2 persons being candidates competing in the FCs/SFCs (or their respective agents), if they so wish, will be allowed to accompany the PRO in the delivery of the ballot boxes from the polling station to the central counting station under police escort. Where there are more than 2 such persons remaining at the polling station, the PRO will draw lots to determine which 2 candidates or their respective agents will participate in the delivery. Other FC/SFC 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. Thereafter, all of them, except those 2 persons who are to participate in the delivery, must leave the polling station.

7.30 Generally speaking, a polling agent may observe all proceedings in the polling station 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. 7.26 above];
- (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 the 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 electors and ARs and the crossing out of the relevant entries from the copy of the register of electors, 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 an elector/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 final register now in effect for this GC and/or FC/SFC (as appropriate), as follows (reads the whole of the relevant entry in the register)?
 - (ii) Have you already voted for this or any other GC and/or FC/SFC (as appropriate) in this election?

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(3) and (4) of the EAC (EP) (LC) Reg.]

- (e) where there is 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) (LC) Reg.]

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

- (a) interfere with or attempt to influence any elector/AR;
- (b) speak to or communicate with any elector/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 an elector/AR about his identity card number, let alone check an elector/AR's identity card;
- (c) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of any elector/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 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 which has given consent to its registered name or emblem to be printed on any ballot paper for that election; or
- (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) (LC) Reg.]

7.32 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 police officer or by 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 during that day except with the permission of the RO or the PRO. [S 46 of the EAC (EP) (LC) Reg.]

Other Useful Information for Polling Agents

7.33 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 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 elector/AR who is about to vote or has voted. [S 44 of the EAC (EP) (LC) Reg.]

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

7.35 Only the PRO, the Deputy PRO or an Assistant PRO may, in the presence of one of the polling officers as a witness, help an elector 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 elector [s 59 of the EAC (EP) (LC) 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 elector's relatives, friends and any other persons are in no circumstances allowed to accompany the elector in the course of voting.

7.36 In each polling station designated for an election in respect of a GC or an FC, a number of **templates** are made available for the use of the visually impaired elector, if he chooses, to facilitate him to mark his vote on the ballot paper [s 59(3) of the EAC (EP) (LC) Reg]. The template contains the following features:

- (a) the template for each constituency is of the same width and length as 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 or list of candidates of the constituency 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 elector 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 over the ballot paper, each embossed or brailled number corresponds with the candidate number or the GC list number in the constituency; and each of the holes on the template corresponds with the circle on the ballot paper against the candidate/list number. The number of candidates/lists in the constituency equals the number of holes under which there is ballot paper.

In the case of an election in respect of a GC or an ordinary FC which adopts the “list system of proportional representation” or “first past the post voting system”, the visually impaired elector should apply the chop (with a “✓” sign) provided on the circle through the hole on the template against the candidate/list number(s). In the case of an election for one of the 4 SFCs which adopts the “preferential elimination system”, the visually impaired elector should mark numbers starting from 1 on the ballot paper through the hole against the candidate numbers of his choice, in descending order of preference. Whenever it is necessary, the polling staff will help the visually

impaired elector to identify the different ballot papers before the elector proceeds to mark his vote.

7.37 No person may canvass or display any election propaganda material relating to any candidates/GC lists 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 and emblems 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. Also a person must not stay or loiter in the NSZ without the express permission of the PRO. [S 41 of the EAC (EP) (LC) 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 for the constituency, 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 45(2) of the EAC (EP) (LC) 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. 5.38 and 5.39 for activities that are prohibited, and the consequences of doing such activities, in a polling station.

7.38 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

7.39 A candidate (or a GC list) may appoint not more than such number of counting agents as will be specified by the EAC to attend at the count [s 66(1) and (2) of the EAC (EP) (LC) Reg]. The same persons may, but need not, be appointed also as polling agents.

7.40 The appointment should be made on a specified form. In the case of a GC list, the appointment must be made jointly by all the candidates on the list [s 66(7) of the EAC (EP) (LC) Reg]. The candidate (or in the case of a GC list, any one of the candidates on the list) must give notice of such appointment in writing to the RO at least **1 week** before the date of election [s 66(5) of the EAC (EP) (LC) Reg]. Where a candidate appoints a counting agent after the above deadline, the notice of the appointment must be given by the candidate (or in the case of a GC list, any one of the candidates on the list) or the election agent **personally** by delivering the notice of appointment to the PRO (or the RO in the central counting station) 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 66(6) of the EAC (EP) (LC) Reg]. The appointment will not be effective until the notice of appointment is received by the RO or the PRO, as the case may be [s 66(8) of the EAC (EP) (LC) Reg].

Revocation

7.41 The appointment of a counting agent may be revoked by the candidate (or in the case of a GC list, all the candidates on the list) at any time. The candidate (or in the case of a GC list, any one of the candidates on the list)

must also give notice of revocation in writing and in the specified form to the RO [s 66(9) and (10) of the EAC (EP) (LC) Reg]. Any such notice given after the commencement of the poll shall be given by the candidate (or in the case of a GC list, any one of the candidates on the list) or his election agent **personally** by delivering the notice to the PRO (or the RO in the central counting station) [s 66(11) of the EAC (EP) (LC) Reg]. A revocation of an appointment of a counting agent will not be effective until notice thereof is received by the RO or the PRO, as the case may be [s 66(12) of the EAC (EP) (LC) Reg].

Role of Counting Agents

7.42 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.

Provisions which the Counting Agents should be aware of

7.43 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 95 of the EAC (EP) (LC) 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 elector and, in particular, not to divulge which elector has voted for which candidate or GC list. Members of the public present within the area designated by the PRO or the CRO or the RO will not be required to make a Declaration of Secrecy.

7.44 On attending the counting station, a counting agent shall report to the relevant PRO in the case of a GC, and the relevant RO in the case of an FC/SFC and produce his identity card and the Declaration of Secrecy completed by him for inspection [s 68(4) of the EAC (EP) (LC) Reg].

7.45 Generally speaking, counting agents are entitled to be present throughout the count to observe the relevant counting proceedings. They will be allowed by the PRO or the RO to stay close to, and round the counting tables to monitor the count. Nonetheless, they must not handle any ballot papers. A counting agent **MAY**:

- (a) observe the opening of the ballot boxes for the relevant constituency by the PRO, 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 ballot papers relating to a constituency are separated from those relating to other constituencies and how individual votes are counted; and
- (d) observe, where he wishes, the packing of ballot papers by the counting officers and PRO or the RO, as the case may be, at the conclusion of the count.

7.46 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 PRO or the CRO or the RO, as the case may be, otherwise he commits an offence punishable with a fine and imprisonment and may be ordered by the PRO or the CRO 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 PRO or the CRO or the RO to remove him. The person so removed may not re-enter the counting station except with the permission of the PRO or the CRO or the RO, as the case may be. [S 69 of the EAC (EP) (LC) Reg]

7.47 Counting agents should read Part VII of Chapter 5 on all matters relating to counting and in particular, paras. 5.49 and 5.52 for activities that are prohibited and the consequences of doing such activities, within the counting station.