

CHAPTER 5

POLLING AND COUNTING ARRANGEMENTS

PART I : BEFORE THE POLL

5.1 For each of the 5 GCs, a number of polling stations situated within the GC will be designated. Dedicated polling stations will also be set up inside penal institutions or other suitable places. Registered electors and ARs of corporate electors who are imprisoned or held in custody by the law enforcement agencies on polling day will be allocated to vote at dedicated polling stations. The polling stations (including dedicated polling stations) will be used for polling for the GCs, the 24 ordinary FCs and the 4 SFCs (a combined polling arrangement). The polling stations (other than small polling stations (see para. 5.2 below) and dedicated polling stations) will be converted to counting stations for counting the GC ballot papers. A central counting station will be set up for counting the ordinary FC and SFC ballot papers and any misplaced GC ballot papers found in FC/SFC ballot boxes at the central counting station. *[Amended in January 2010]*

5.2 The CEO may designate a place as a polling station, a dedicated polling station, a ballot paper sorting station⁵ or a counting station. The CEO may also designate the same place as a polling station and a counting station. He will designate a polling station at which less than 500 electors are assigned to vote as a **small polling station**. He will designate 1 polling station (other than a small polling station or a dedicated polling

⁵ A ballot paper sorting station may be set up to sort GC ballot papers received from the dedicated polling stations according to each GC before they are delivered to the respective main counting stations for counting of votes.

station) as a **main counting station** for the purpose of counting the GC ballot papers cast at the polling station, the small polling station(s) and/or the dedicated polling station(s) [s 2(6), 28(1), (1A), (1B), (1BA) and (1C) and 30 of the EAC (EP) (LC) Reg]. The RO will, at least 1 working day before the polling day, give notice in writing to each candidate of the place or places at which vote counting and where applicable, at which sorting of ballot papers received from the dedicated polling stations is to take place for the constituency contested by the candidates [ss 2(6), 65(2A), (3) and (5) of the EAC (EP) (LC) Reg]. *[Amended in July 2008 and January 2010]*

5.3 An area outside the polling station will be designated as the No Canvassing Zone (“NCZ”) and No Staying Zone (“NSZ”), the boundaries of which will be determined by the RO. All candidates will be notified of these zones before the polling day [s 40 of the EAC (EP) (LC) Reg]. The RO may also authorise the PRO to vary the NCZ or NSZ on the polling day [s 40(11A) of the EAC (EP) (LC) Reg]. [See Chapter 14 : Prohibition Against Canvassing Activities Outside Polling Stations.] *[Amended in July 2008]*

5.4 A polling station for a GC is normally situated within the boundaries of the constituency, but where there are no suitable premises for use within the GC, polling stations will have to be designated in nearby areas outside the constituency. Where circumstances require, non-permanent structures may be designated as polling stations. The polling stations designated for the 5 GCs are localised in the sense that an elector of a particular GC will be assigned to a polling station close to his principal residence as shown on the final register of electors, save for registered electors imprisoned or held in custody by the law enforcement agencies who will be assigned to vote at the appropriate dedicated polling stations. [S 30(4) and (4A) of the EAC (EP) (LC) Reg] *[Amended in January 2010]*

The Combined Polling Arrangements

5.5 Combined polling arrangements will be made for the convenience of all electors. Whether an elector is entitled to vote in a GC, an ordinary FC or an SFC, or two or more of them, he needs only to attend **1** polling station to cast all his votes. There are the following scenarios:

- (a) an elector who is only entitled to cast a GC vote: he will be allocated to a polling station designated for that GC or a dedicated polling station as appropriate for casting his GC vote;
- (b) an ordinary FC/SFC elector or AR of a corporate elector of one of the ordinary FCs/SFCs: he will be allocated to the polling station designated for his GC or a dedicated polling station as appropriate, in which he can at the same time cast his GC vote, his ordinary FC/SFC elector vote or his ordinary FC/SFC AR vote; and
- (c) an elector of an ordinary FC/SFC who may be at the same time an AR of another ordinary FC/SFC: he will be allocated to the polling station designated for his GC or a dedicated polling station as appropriate, in which he can at the same time cast his GC vote, his ordinary FC/SFC vote as elector and his ordinary FC/SFC vote as AR.

[S 30 of the EAC (EP) (LC) Reg] *[Amended in January 2010]*

5.6 Owing to the fact that combined polling arrangements are used, special arrangements regarding poll cards, ballot papers, cardboards and ballot boxes may be required, so as to help prevent confusion and mistake at

polling, avoid breaking the secrecy of the vote, and facilitate sorting of ballot papers at the count.

5.7 The **ballot papers** for each of the 5 GCs, each of the 24 ordinary FCs and each of the 4 SFCs will be made easily distinguishable by way of one or more of the following ways, namely, size, colour, colour pattern and code. This will help prevent confusion and mistake at polling, and will facilitate sorting of ballot papers at the count. The **poll card** (notifying the elector/AR of the polling station he must attend to cast his vote or votes) sent to the elector/AR shortly before the polling day will bear the same colour as that used for the cardboard referred to in para. 5.9 below, depending on the number of ballot papers he is entitled to be issued to him in the polling station.

5.8 **Different types of ballot boxes** are provided in a polling station for receiving the GC ballot papers and the FCs/SFCs ballot papers (mixed). *[Amended in July 2008]*

5.9 In order to ensure that no elector or AR will leave the polling station with any ballot paper, a **colour cardboard** will be given to him at the same time when ballot paper(s) are issued to him. The colour of the cardboard depends on how many ballot papers are issued to the elector according to his entitlement: **white** for an elector issued with one ballot paper, **red** for one issued with 2 ballot papers and **blue** for one issued with 3 ballot papers.

[Please see **Appendix D** for details of the combined polling arrangements mentioned in the preceding 5 paragraphs.]

5.10 About 10 days before the polling day, poll cards notifying electors of contested constituencies of the date, time and place of the poll will be sent to their registered address or correspondence address (if any).

To allow electors and ARs of corporate electors who will be serving a sentence of imprisonment on the polling day to receive the poll cards as early as possible, the REO will send the poll cards to their prison address as far as practicable. [S 31 of the EAC (EP) (LC) Reg] *[Amended in January 2010]*

5.11 In the case where the number of validly nominated candidates for a constituency does not exceed the number of vacancies, the candidate(s) will be declared elected [s 46 of the LCO]. Electors in respect of such a constituency do not need to vote, and a notice to that effect will be sent to them. The polling stations designated for the constituency will not be used for polling in respect of that constituency.

5.12 An elector (and an AR of a corporate elector) **may vote only at the polling station allocated to him** by the CEO. Many of the polling stations are accessible to persons with a disability including those who have difficulty in walking. An elector with a disability finding it difficult for him to access the polling station allocated to him may **at least 5 days** before the polling day apply to the CEO for re-allocation of a polling station specifically designated for such electors (“special polling station”) [s 33 of the EAC (EP) (LC) Reg]. Whether the polling station allocated to an elector is accessible to persons with mobility difficulty will be specified clearly in the location map attached to the poll card sent to each elector, together with a note indicating that if any elector allocated to this polling station has any difficulty in mobility and wishes to vote at a special polling station, he may apply to the CEO for re-allocation. If a special polling station is re-allocated to him, then he can vote only at that polling station. If circumstances permit, free Rehabus service will also be arranged to take those electors to the special polling station. In case circumstances require, the CEO may allocate to an elector an alternative polling station, in addition to or in substitution of the one originally allocated to him [s 30(4A) of the EAC (EP) (LC) Reg]. Electors concerned can make enquiries with the

REO on this subject by telephone or facsimile. *[Amended in October 2007]*

5.13 Due to security reasons, there is a need to separate some persons imprisoned or held in custody from others inside the penal institutions. The Commissioner of Correctional Services (“CCS”) will assign a time slot during the polling hours of a dedicated polling station situated in a penal institution to an elector allocated to that polling station to vote, and inform the elector of the time slot assigned. The CCS must assign time slots so as to give the electors a reasonable opportunity to vote. An elector to whom a time slot is assigned may only cast his vote during that time slot (see para. 5.27 below). [S 27(2A), (2B), (3A) and (4A) of the EAC (EP) (LC) Reg] *[Amended in January 2010]*

PART II : INSIDE THE POLLING STATION

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

- (a) only a maximum of 2 candidates may be present to observe the locking and the sealing of the ballot boxes at a dedicated polling station situated inside a maximum security prison; and

- (b) a maximum of 2 candidates, election agents or polling agents may be present to observe the locking and the sealing of the ballot boxes at a dedicated polling station situated in a prison other than a maximum security prison.

Admission of candidates, election agents or polling agents to the aforesaid dedicated polling stations to observe the locking and sealing of ballot boxes will be on a **first-come-first-served basis**. [See also Chapter 7 on the procedures for applying the presence of election agents or polling agents in dedicated polling stations situated in prisons.] *[Amended in January 2010]*

5.15 For a small polling station where the votes cast will not be counted therein, a notice about the venue for the counting of votes will be displayed by the PRO outside the station. For a dedicated polling station, a notice providing information on the ballot paper sorting station (if any) and the main counting station will be displayed inside the station [s 39(1B) of the EAC (EP) (LC) Reg]. The PRO will also inform and show to the candidates, their election agents or polling agents, if they are present, the number of unissued ballot papers relating to the constituency, which are in his possession. *[Amended in January 2010]*

5.16 In the polling stations, there will be different sets of ballot papers and ballot boxes to prevent confusion and mistake. For ballot papers, there will be 29 different sets, 1 for the particular GC for which the polling station is designated, 1 for each of the 24 FCs and 1 for each of the 4 SFCs. For ballot boxes, there will be 2 different sets, 1 to hold the ballot papers cast for the GCs and the other to hold the ballot papers cast for the FCs/SFCs (mixed).

5.17 The GC and FC ballot papers are easily distinguishable by different colour patterns, sizes or code numbers, at the back and/or in the front, to facilitate easy identification in the polling and counting process.

PART III : OUTSIDE THE POLLING STATION

5.18 Where circumstances permit, the PRO will arrange an enlarged copy of the relevant Introduction to Candidates published by the REO to be displayed outside the polling station, or if it is a dedicated polling station inside the polling station to facilitate easy reference by electors [s 43(1A) of the EAC (EP) (LC) Reg]. A NCZ will be designated outside each polling station to ensure the free and safe passage of electors into the polling station. Door-to-door canvassing and, for the purpose of such canvassing, the display of any propaganda material, eg any badge, emblem, clothing or head-dress, which may promote or prejudice the election of a candidate or candidates at the election, or makes direct reference to a body any member of which is standing as a candidate in the election or a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election [see paras. 4.38 to 4.42 above], will be allowed on the storeys above or below street level in a building within a NCZ other than a building in which there is a polling station, provided that permission has been obtained for entry to the building for canvassing votes, obstruction is not posed to electors and no sound amplifying device is used. Apart from this, the RO or the PRO of the relevant polling station will allow no other canvassing activities or display of EAs within a NCZ except for static display of EAs that are authorised. A notice of the declaration of a NCZ and a map or plan showing the boundary of the area will be put up at or near the polling station. A NSZ in which no one is allowed to stay or loiter will also be designated immediately outside the entrance/exit of a polling station to avoid any obstruction of entry/exit. [See Chapter 14 : Prohibition Against Canvassing Activities outside Polling Stations.] *[Amended in October 2007, July 2008 and January 2010]*

- 5.19 On the polling day, a person must not:
- (a) other than the door-to-door canvassing activities stated in para. 5.18 above, engage in canvassing votes (including suggesting not to vote for any candidate) within the NCZ; *[Amended in October 2007]*
 - (b) use a sound amplifying system or device for any purpose within the NCZ;
 - (c) use a sound amplifying system or device, or conduct any activity (eg lion dance) for canvassing votes, so that the sound emitted by it can be heard in the NCZ;
 - (d) without reasonable excuse, display in the NCZ any propaganda material, eg any badge, emblem, clothing or head-dress, which:
 - (i) may promote or prejudice the election of a candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or
 - (e) stay or loiter in the NSZ without the express permission of the PRO;

otherwise he commits an offence with a maximum penalty of a fine at level 2 (up to \$5,000) and imprisonment for 3 months [ss 40, 41 and 45 of the EAC (EP) (LC) Reg]. *[Amended in October 2007]*

PART IV : ADMISSION TO THE POLLING STATION

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

- (a) the PRO and other polling staff;
- (b) the Chief Returning Officer (“CRO”);
- (c) ROs and Assistant Returning Officers (“AROs”) for the relevant constituency;
- (d) members of the EAC;
- (e) the CEO;
- (f) public officers on duty at the polling station, including police officers and members of the Civil Aid Service;
- (g) officers of CSD and other law enforcement agencies on duty at dedicated polling stations;
- (h) candidates and election agents of the relevant constituency^{Note};
- (i) polling agent(s) appointed for the polling station (this does not apply to dedicated polling stations situated in maximum security prisons)^{Note};
- (j) public officers authorised in writing by the CEO;

- (k) any person authorised in writing by a member of the EAC;
- (l) a person authorised in writing by the RO for liaison purposes;
and
- (m) a child who accompanies an elector to the polling station for the purpose of voting (if the PRO considers that the child should not be left unattended while that elector is in the polling station and the child will not disturb or cause inconvenience to any person in the polling station). *[Amended in October 2007]*

[S 44 of the EAC (EP) (LC) Reg] *[Amended in January 2010]*

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

NOTE (para. 5.20 (h) and (i)):

- (a) For the purpose of maintaining order in the polling station, the PRO may regulate the number of electors, candidates, election agents and polling agents to be admitted to the polling station at any one time.
- (b) For each candidate, only 1 such person may be present in the polling station to observe the poll at any one time: a candidate, his election agent or his polling agent. A notice will be displayed outside each polling station showing the capacity of the designated area inside the polling station for candidates, their election agent or polling agents to observe the poll.

- (c) Admission of candidates, election agents and polling agents will be on a **first-come-first-served basis**. In order that as many candidates, election agents and polling agents as possible will have the chance to observe the poll at the polling station, any candidate, election agent or polling agent who has been admitted to the polling station can only stay for 1 hour. He must then leave the polling station unless there is no other candidate, election agent or polling agent waiting for admission. He can apply for re-admission into the polling station again on a first-come-first served basis.

- (d) Anyone on admission into a polling station has to sign and enter his time of entry on a log sheet. A candidate, election agent or polling agent who has to queue outside the polling station for his turn to observe the poll at the designated area will be given a number chit that indicates the order of admission. The polling staff will call out the number to admit the holder of the number chit concerned. If the holder concerned is not present at the time, his place will be taken over by the person next in line. He who has lost his place due to his absence will have to obtain a new number chit when he returns.

- (e) For security reasons, only a maximum of 2 candidates may be present at any one time to observe the poll at a dedicated polling station situated inside a maximum security prison, and a maximum of 2 candidates, election agents or polling agents may be admitted to a dedicated polling station situated in a prison other than a maximum security prison at any one time.

Observers will have to take turn in case more than two candidates/ agents intend to observe the poll at the same time. The PRO may regulate the number of people entering the dedicated polling stations. [See also Chapter 7 : Appointment and Roles of Election Agent, Election Expense Agents, Polling Agents and Counting Agents.]

[Amended in January 2010]

5.21 Except for an elector, a police officer, an officer of the CSD, an officer of any law enforcement agency or a member of the Civil Aid Service on duty, all other persons permitted to enter a polling station are required to sign a **Declaration of Secrecy** on a specified form and observe the provisions governing the secrecy of voting [s 95 of the EAC (EP) (LC) Reg].

[Amended in January 2010]

PART V : CONDUCT INSIDE THE POLLING STATION

5.22 The polling stations designated for the 5 GCs which will also serve the 24 ordinary FCs and 4 SFCs will have polling arrangements designed for the convenience of electors. Inside each of such polling stations, a notice will be displayed to inform electors that polling for the relevant GC, all the 24 ordinary FCs and all the 4 SFCs is being held concurrently, and that an elector will be issued with 1, 2 or 3 **different ballot papers**, depending on his entitlement. **The ballot papers** issued to the elector so entitled **will be issued at the same time**. Therefore, such an elector who wishes to exercise the right to cast any of his votes will have to do so at the **same visit** to the polling station.

5.23 On arrival at the polling station, an elector or AR should show to the polling staff at the ballot paper issuing desk his identity card or such other identity document or documents, which show the identity card/document number, name and photograph of the elector, to the satisfaction of the PRO. The polling staff will check the elector/AR's identity document against the entries on the copy of register of electors to ascertain if the elector/AR is registered in respect of both the GC, and one or two of the 24 ordinary FCs and the 4 SFCs. If so, the polling staff will inform him accordingly. The polling staff will call out the name of the elector/AR as stated in the entry in the copy of the composite or annotated register of electors and cross out the name and the identity document number of that entry, before giving him either 1 or 2 or 3 different ballot papers, as appropriate. An elector/AR may be asked to check his own entry on the register to ensure that he has been given the correct ballot paper(s). No record will be made as to which particular ballot paper is given to an elector/AR.

5.24 For control purpose regarding the total number of ballot papers issued, the counterfoil of each ballot paper bears a serial number on its front. The serial number on the counterfoil will not, however, be recorded or related to the particular elector to whom the ballot paper is issued.

5.25 If there is reasonable ground for questioning the bona fides of an elector, the PRO shall ask him the following questions at the time of his application for a ballot paper (but not afterwards):

(a) Are you the person registered in the final register of electors now in effect for this GC and/or FC/SFC (as appropriate), as follows (reads the whole of the relevant entry in the register)?
[Amended in October 2007]

(b) Have you already voted for this or any other GC and/or

FC/SFC (as appropriate) in this election?

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].

5.26 Where there is reasonable cause to believe that a person has committed an offence of impersonation of an elector, the PRO may request the police officer on duty at the polling station to arrest that person. If the polling station is a dedicated polling station, the PRO may request the officer of the CSD or the law enforcement agency to remove the person concerned from the polling station and report the case to the police [s 52 of the EAC (EP) (LC) Reg]. *[Amended in January 2010]*

5.27 If an elector has been issued with a ballot paper but chooses not to take it, he cannot return to the polling station later and claim for that or another one. If for a reason considered justified by the PRO, an elector who has not marked the ballot paper issued to him, may, with the permission of the PRO, hand back the ballot paper to the PRO and return later to cast his vote. For a dedicated polling station situated in a prison, the elector has to return to cast his vote within the existing or newly assigned time slot. If, after having been issued with a ballot paper, an elector has become incapacitated by physical illness and has left the polling station without marking his ballot paper, he may return to the polling station to cast his vote before the close of poll, provided that before he leaves the polling station, his ballot paper has been retrieved by the PRO. For a dedicated polling station situated in a prison, the elector has to return to cast his vote within the existing or newly assigned time slot. Under either of the above circumstances, the following actions must be taken by the PRO and/ or the CCS:

- (a) the PRO must keep that ballot paper in his custody and re-issue it, in the presence of a police officer for polling stations other than a dedicated polling station or an officer of the CSD or of the concerned law enforcement agency for a dedicated polling station, to the elector in question when the latter returns before the close of poll to cast his vote. But if at the close of poll, the elector has not returned, the PRO shall endorse the ballot paper with the word “**UNUSED**”; such ballot paper should not be counted [ss 61 and 80 of the EAC (EP) (LC) Reg]; and/ or

- (b) the CCS must, as far as practicable, assign to an elector of a dedicated polling station situated in a prison a new time slot during the polling hours appointed for the polling station and notify the elector of the time slot.

[Amended in January 2010]

5.28 The PRO would need to keep a ballot paper left in the polling station in his custody in the circumstances described in para. 5.27 above only when he knows which elector had left the ballot paper behind. Otherwise, a ballot paper found to be left in the polling station should be regarded as “unused” and would not be counted.

5.29 When issued with ballot paper(s), an elector/AR will also be provided with a cardboard to which a chop with a tick “✓” is attached. Persons who are supplied with one ballot paper will be required to carry a **white** cardboard to show that they have only one ballot paper. Persons who are issued with 2 ballot papers will be required to carry a **red** cardboard, and those who are issued with 3 ballot papers will be required to carry a **blue** cardboard. This arrangement is to facilitate control and monitoring so that no person can take away any ballot paper from the polling station. The

cardboard will be collected by the polling staff after the elector/AR has inserted his ballot paper(s) into the ballot box(es) before leaving the polling station.

5.30 After being issued with the ballot paper(s)/the cardboard to which a chop with a tick “✓” is attached, the elector/AR should immediately proceed to one of the voting compartments where he should mark his ballot paper(s) to indicate his choice of candidate(s). The manner in which a ballot paper should be marked for the GC, the 24 ordinary FCs and the 4 SFCs will be different, depending on the applicable voting system. An elector/AR should read carefully the instructions given on the ballot paper and follow the instructions in marking his choice of candidate(s).

5.31 Briefly, in respect of a GC ballot paper to which the list system of proportional representation is applicable, the elector has only one vote and he must affix the chop supplied to give only one “✓” against the list containing one or more candidates’ names (as opposed to an individual candidate’s name) of his choice in the circle provided. In respect of a ballot paper regarding the 24 ordinary FCs to which the first past the post voting system applies, the elector/AR is entitled to cast one vote and must indicate his choice of candidate of the relevant FC by giving one “✓” against the candidate of his choice in the circle provided, save in the Labour FC which has 3 vacancies to fill, then the elector may give a “✓” against the names of up to 3 candidates. The ballot paper regarding the 4 SFCs to which the preferential elimination voting system applies will have all the candidates’ names printed on it together with circles against each name for the elector or the AR of the corporate elector to mark his choices of preference. He must mark the ballot paper to indicate his preference, by writing **Arabic numerals** in the circle opposite the names of the candidates, in descending order of preference, ie:

- (a) writing “1” in the circle opposite the name of the candidate of his first preference (“first preference vote”);
- (b) writing “2” in the circle opposite the name of the candidate of his second preference;

and so on. **An elector/AR must mark a first preference vote.** He may, if he wishes, mark second, third and subsequent preferences for as many candidates as are indicated on his ballot paper.

5.32 For an elector of the GC, after he has marked the ballot paper(s) to indicate his choice of the list of candidate, he should **keep the ballot paper as folded to conceal the marking(s) thereon.** For an elector/AR of the FCs/SFCs, he must **not fold his ballot paper** before inserting it face down into the ballot box.

5.33 Immediately after an elector/AR has come out of the voting compartment, he should insert the GC ballot paper into the ballot box designated for the GC ballot papers and the FC/SFC ballot paper(s) face down into the ballot boxes designated for the FC/SFC ballot papers as directed by the polling staff. The elector/AR should then return the cardboard and the chop to the polling staff and leave the polling station immediately. *[Amended in July 2008]*

NOTE :

An elector/AR must not remove a ballot paper from a polling station. It is an offence under s 54(6) of the EAC (EP) (LC) Reg for a person to bring out a ballot paper from a polling station. Any person who removes a ballot paper from a polling station with an intent to deceive may commit an offence under s 17(1)(c) of the ECICO and may be prosecuted. It will also be a corrupt conduct under s 17(1)(d) of the ECICO

if any person, without lawful authority, destroys, defaces, takes or otherwise interferes with a ballot paper at the election.

5.34 A visually impaired elector who so requests will be provided with a **template** to facilitate his marking of the ballot paper without any assistance from anyone. The template should be returned to the polling staff after use [s 59(3) of the EAC (EP) (LC) Reg]. [For details about the template, see para. 7.41 of Chapter 7.]

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

5.36 **The ballot is secret. No one can force a person to vote or not to vote for any particular candidate** [s 13 of the ECICO]. **Also no one is required to tell which candidate he has voted for or is going to vote for.** A person who, without lawful authority, requires or purports to require an elector to disclose the name of, or any particular relating to, the candidate for whom the elector voted commits an offence [s 60 of the LCO]. S 96 of the EAC (EP) (LC) Reg prohibits a number of acts which may infringe the secrecy of the vote during the polling and counting process. If a person contravenes any of the acts prohibited under this section, he commits an offence and will be liable to a fine at level 2 (up to \$5,000) and imprisonment for 6 months.

5.37 No one shall, at any time, disclose the identity of an elector at a dedicated polling station to protect the elector's privacy and safety. Anyone who makes such disclosure commits an offence punishable by a fine at level 2 (up to \$5,000) and imprisonment up to 6 months [s 96(1A) of the EAC (EP) (LC) Reg]. *[Added in January 2010]*

5.38 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 unmarked ballot paper. Such spoiled ballot papers 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 the votes [ss 62 and 80 of the EAC (EP) (LC) Reg].

5.39 Where a person, representing himself to be a particular elector or AR of a corporate elector entered on the register, applies for any ballot paper after a person has been issued with any ballot paper as such an elector or AR, he may be issued with a ballot paper with the word “**TENDERED**” endorsed on the front. Such a ballot paper shall not be counted at the counting of the votes [ss 60 and 80 of the EAC (EP) (LC) Reg]. However, if an elector or AR who has been issued with a ballot paper chooses not to cast his vote and leaves the polling station and a person returns later to claim for that or another ballot paper, the PRO may issue a tendered ballot paper to the elector **ONLY IF** he is not certain that the person is the elector who had been issued with a ballot paper earlier, and he answers the appropriate questions set out in para. 5.25 to the satisfaction of the PRO. *[Amended in July 2008]*

5.40 Ballot papers which have been issued (whether marked or unmarked) are sometimes abandoned or found left behind by electors/ARs in the voting compartments or lying on the floor of the polling station, or otherwise not used. The intention of the electors/ARs is not clear in such cases. Any person who discovers such a ballot paper is required to hand it to the PRO. Such a ballot paper will be endorsed on the front with the word “**UNUSED**” (unless it is not reasonably practicable to do so) and will be kept by the PRO. In no circumstances will the ballot paper be put into a ballot box. Such a ballot paper will not be counted at the counting of the votes [ss 61 and 80 of the EAC (EP) (LC) Reg].

- 5.41 Inside a polling station, an elector/AR must not:
- (a) interfere with or attempt to influence any other elector/AR;
 - (b) speak to or communicate with any other elector/AR contrary to a direction of the RO, ARO, the PRO or any polling officer not to do so;
 - (c) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of another elector/AR;
 - (d) exhibit or distribute any campaign material;
 - (e) without any reasonable excuse, display any propaganda material, eg any badge, emblem, clothing or head-dress, which:
 - (i) may promote or prejudice the election of a candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or
 - (f) use a mobile telephone or any telephone or paging machine or any other form of electronic communication device contrary to a direction of the RO, ARO, the PRO or any polling officer not to do so.

If a person contravenes any of the above prohibitions, he commits an offence and will be liable to a fine at level 2 (up to \$5,000) and imprisonment for 3

or 6 months, as the case may be [s 45(7) and 96 of the EAC (EP) (LC) Reg].
[Amended in October 2007 and July 2008]

5.42 A person must not misconduct himself at a polling station or its vicinity or fail to obey any lawful order of the RO or the PRO; otherwise he commits an offence punishable with a fine and imprisonment and may be ordered by such officer to leave the polling station or the vicinity of the polling station. A person misconducts himself if he disrupts the poll or disturbs or causes inconvenience to any person in the polling station. An elector/AR must cast his vote without undue delay. If an elector/AR who is allocated to vote at a dedicated polling station fails to cast his vote without undue delay, the RO or the PRO may order him to leave the polling station immediately. If a person fails to leave immediately as ordered by the RO or the PRO, he may be removed by:

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

The person so removed may not re-enter the polling station on that day except with the permission of the RO or the PRO [s 46(2A) and (3) of the EAC (EP) (LC) Reg]. *[Amended in January 2010]*

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

- (a) the PRO and other polling staff;

- (b) the ROs and AROs for the relevant constituency;
- (c) members of the EAC;
- (d) the CEO;
- (e) police officers and members of the Civil Aid Service on duty at the polling station;
- (f) an officer of the CSD or other law enforcement agency on duty at a dedicated polling station;
- (g) a person authorised in writing by the ROs for liaison purposes;
and
- (h) any person authorised in writing by a member of the EAC.

[S 45(1) and (6) of the EAC (EP) (LC) Reg] *[Amended in January 2010]*

5.44 No person may canvass or display any EA within a polling station. Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of a member of the EAC or the PRO, or the express permission in writing of the RO for the constituency or constituencies for which the polling station is used, 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) and (7)(a) of the EAC (EP) (LC) Reg]. Normally such permission is only granted to members of the media or government photographers for publicity purposes. *[Amended in October 2007 and July 2008]*

PART VI : CLOSE OF POLL

5.45 Electors who intend to vote but are not at the door of their designated polling station by the close of poll will not be allowed in afterwards. At the close of poll, the ballot boxes will be locked and sealed by the PRO in the presence of the relevant candidates and their agents, if they are present. The PRO will also inform them the numbers of unissued ballot papers, spoilt ballot papers and unused ballot papers in his possession. All ballot papers which are unissued, spoilt or unused and the marked copies of the registers will then be made up into sealed packets in respect of each constituency. *[Amended in January 2010]*

5.46 Polling stations (except the small polling stations and dedicated polling stations) will be converted to counting stations for the purpose of conducting the count for GC votes. A central counting station will be set up to conduct the count for the 24 ordinary FCs and 4 SFCs and for any misplaced GC ballot papers found in FC/SFC ballot boxes at the central counting station. *[Amended in January 2010]*

A Polling Station which is also a Counting Station

5.47 At the close of poll, a notice will be displayed by the PRO outside the polling station (which is also designated as a counting station) to inform the public that the poll has been closed and that the station is being arranged for the counting of GC votes and will be open to them when such arrangements are completed. A candidate, an election agent, a polling agent and a counting agent of the candidate may stay in the polling station while it is closed for the preparation for the counting of GC votes. *[Amended in October 2007 and July 2008]*

5.48 The sealed ballot boxes and sealed packets of unissued ballot papers etc will be kept by the PRO until the counting of the GC votes begins, when all GC ballot boxes will be opened and all ballot papers inside will be put on the counting table. For the counting of FC/SFC votes, the sealed ballot boxes and sealed packets of unissued ballot papers, together with any FC/SFC ballot papers found to have been misplaced in GC ballot boxes [see para. 5.64 below] etc will be delivered to the central counting station. 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 Deputy PRO/Assistant PRO in the delivery of the ballot boxes from the polling station to the central counting station. Where there are more than 2 such persons wishing to participate in the delivery, the PRO will draw lots to determine which 2 persons will participate. 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 may either leave the polling station or stay to observe the count in the public area.

A Polling Station which is not a Counting Station

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

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

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

[S 63A(2) and (2A) of the EAC (EP) (LC) Reg] *[Amended in January 2010]*

5.50 For the small polling stations which have not been designated as counting stations for GC votes, the sealed ballot boxes, the sealed packets of unissued ballot papers and ballot paper accounts, etc for the GCs and FCs/SFCs will be first delivered to the main counting station by the PRO/Deputy PRO under police escort. The PRO of a dedicated polling station will deliver the sealed GCs and FCs/ SFCs ballot box(es), the sealed packets of unissued ballot papers and the ballot paper accounts etc under police escort to:

- (a) the PRO of the ballot paper sorting station concerned in the case of a LC general election or by-election in which such a ballot paper sorting station has been set up;
- (b) the PRO of the main counting station concerned in the case of a LC by-election in respect of a GC in which no ballot paper sorting station has been set up; or
- (c) the RO of the counting station concerned in the case of a LC by-election in respect of a FC.

[s 63A(4) of the EAC (EP) (LC) Reg] *[Amended in January 2010]*

The FC/SFC ballot boxes at the main counting stations and the ballot paper sorting stations, together with any misplaced FC/SFC ballot papers found inside the GC ballot boxes, will then be delivered to the central counting station for counting [see paras. 5.64 and 5.73 below for details].

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

PART VII : SORTING OF BALLOT PAPERS

Conduct at the Ballot Paper Sorting Station

5.52 In a LC general election or, where the CEO considers it appropriate in a LC by-election, ballot paper sorting station(s) will be set up for sorting GC ballot papers received from dedicated polling stations according to each GC before the GC ballot papers are delivered to the respective main counting stations for the counting of votes. The PRO of a ballot paper sorting station may determine the time at which the sorting of ballot papers is to begin, which must be a time after the poll has closed at all the dedicated polling stations situated in prisons and may be a time before the poll has closed at all the other polling station(s). Before the polling day, candidates will be informed of the expected time of the commencement of the sorting of ballot papers at the ballot paper sorting station(s). [Ss 2(6), 28(1)(c), 63A(4) and 65(2A) of the EAC (EP) (LC) Reg] *[Added in January 2010]*

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

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

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

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

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

[Ss 2(6) and 68 of the EAC (EP) (LC) Reg] *[Added in January 2010]*

5.54 Before entry, every person authorised to be present at a ballot paper sorting station, other than the police officers and members of the Civil Aid Service on duty, must make a **Declaration of Secrecy** on a specified

form and observe the provisions governing the secrecy of voting [ss 2(6) and 95 of the EAC (EP) (LC) Reg]. Members of the public present within the public area will not be required to make a Declaration of Secrecy. *[Added in January 2010]*

5.55 Except with the express permission of the relevant PRO, the RO for the constituency or constituencies for which the ballot paper sorting station is used or a member of the EAC as the case may be, any person who undertakes photographing, filming and video or audio recording within the restricted area of a ballot paper sorting station during the period commencing from the time at which the sorting of GC ballot papers is to begin and ending upon the completion of the sorting commits an offence [ss 2(6), 68A(1) and (2) of the EAC (EP) (LC) Reg]. *[Added in January 2010]*

5.56 A person must not misconduct himself in or in the vicinity of a ballot paper sorting station or fail to obey any lawful order of the PRO; otherwise he commits an offence punishable with a fine and imprisonment and may be ordered by the PRO to leave the area. A person misconducts himself if he disrupts the sorting of GC ballot paper or disturbs or causes inconvenience to any person in the sorting station. The PRO may also order a person to leave the ballot paper sorting station if the person behaves himself in such way that the purpose of his presence is not that for which he was authorised or permitted to enter or remain in the ballot paper sorting station. If he fails to leave immediately, he may be removed by a police officer or by any other person authorised in writing by the PRO to remove him. The person so removed may not re-enter the ballot paper sorting station on that day except with the permission of the PRO [ss 2(6), 68A and 69 of the EAC (EP) (LC) Reg]. *[Added in January 2010]*

Sorting of Votes

5.57 The PRO will sort the GC ballot papers in the presence of the candidates, their election or counting agents, if they are present. The PRO will check whether GC ballot boxes and sealed packets are properly sealed. The seal on the ballot box will be broken by the PRO in the presence of the candidates, their election or counting agents, if they are present at the time. The ballot box will then be opened and the contents emptied onto a sorting table. After the PRO has opened the ballot box, the candidates, their election or counting agents may request to inspect any papers, other than the marked ballot papers, taken out from the ballot boxes before they are disposed of. **At no time should a candidate, his election agent or counting agent touch any ballot papers.** *[Added in January 2010]*

5.58 The PRO of a ballot paper sorting station will:

- (a) open the GC ballot boxes received from dedicated polling stations;
- (b) count and record the number of GC ballot papers in each GC ballot box;
- (c) verify the ballot paper account;
- (d) prepare a statement on the result of the verification;
- (e) sort the GC ballot papers according to each GC;
- (f) record the number of GC ballot papers according to each GC;
- (g) prepare a statement on the number of GC ballot papers recorded;

- (h) make into separate bundles the sorted GC ballot papers together with the relevant statement on the number of GC ballot papers recorded;
- (i) place each bundle in a separate receptacle and seal it in the presence of those presence at the counting zone;
- (j) arrange the receptacles to be delivered to the PROs of the respective main counting stations of the relevant GCs; and
- (k) deliver, or arrange to deliver, to the central counting station the FC ballot box(es), the sealed packets of unissued FC ballot papers and the relevant ballot paper accounts received from the dedicated polling stations.

[Ss 70 and 74AA of the EAC (EP) (LC) Reg] *[Added in January 2010]*

PART VIII : THE COUNT

Conversion of Polling Station into Counting Station

5.59 A polling station, other than a small polling station or a dedicated polling station which has not been designated as a counting station for GC votes, will be converted to a counting station for the purpose of conducting the count for GC votes and making known the counting results to the candidates and their agents present. Where the same place is designated as both a polling station and a counting station, the PRO of the polling station is to be regarded as the PRO of the counting station [s 34 of the EAC (EP) (LC) Reg]. The PRO, assisted by his Deputy PROs, Assistant PROs and counting staff, will be responsible for the conversion and the conduct of

the count. Before the counting of votes begins, a notice will be displayed outside the counting station to inform the public the time that the station is expected to be open to them to observe the counting of votes [s 65(5A) of the EAC (EP) (LC) Reg]. The telephone number of a polling officer who may be contacted by agents should also be shown on such a notice to facilitate communication between agents and the station staff. For FC/SFC votes, a central counting station will be set up to conduct the count and announce the election results. The RO for each FC, assisted by his AROs and counting staff will be responsible for the conduct of the count. An RO will be designated for each of the 5 GCs. The 5 ROs will be stationed at the central counting station. Each RO will be assisted by a number of AROs to compile the final election results of the respective GC by adding up counting results from polling stations under his charge. *[Amended in October 2007 and January 2010]*

Conduct at the Counting Station

5.60 Only the following persons may be present at the counting of votes at the counting zone of a counting station or the central counting station:

- (a) the ROs, AROs, PROs, Deputy PROs, Assistant PROs and counting staff for the relevant constituencies;
- (b) the CRO;
- (c) members of the EAC;
- (d) the CEO;
- (e) police officers and members of the Civil Aid Service on duty at the counting station;

- (f) candidates and their election agents and counting agents of the relevant constituencies;
- (g) public officers authorised in writing by the CEO;
- (h) any person authorised by the CRO, the RO or the PRO; and
- (i) any person authorised in writing by a member of the EAC.

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

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

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

5.61 Before entry, every person authorised to be present at a counting station, other than the police officers and members of the Civil Aid Service on duty, must make a **Declaration of Secrecy** on a specified form and observe the provisions governing the secrecy of voting [s 95 of the EAC (EP) (LC) Reg]. Members of the public present within the public area will not be required to make a Declaration of Secrecy.

5.62 Except with the express permission of the relevant PRO or CRO or RO or a member of the EAC, as the case may be, any person who

undertakes photographing, filming and video or audio recording within a counting zone of a counting station during the period commencing from the time at which the counting of the votes is to begin at the zone and ending upon the completion of the counting and re-count, if any, at the zone commits an offence [s 68A(1) and (2) of the EAC (EP) (LC) Reg].

5.63 A person must not misconduct himself in or in the vicinity of a counting station or fail to obey any lawful order of the PRO or the CRO or the RO; 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. A person misconducts himself if he disrupts the counting of votes or disturbs or causes inconvenience to any person in the counting station. The PRO or the CRO or the RO may also order a person to leave the counting station if the person conducts himself in such a way that the purpose of his presence is not that for which he was authorised or permitted to enter or remain in the counting station. If he fails to leave immediately, he may be removed by a police officer or by any other person authorised in writing by the PRO or the CRO or the RO to remove him. The person so removed may not re-enter the counting station on that day except with the permission of the PRO or the CRO or the RO [ss 68A and 69 of the EAC (EP) (LC) Reg].

(a) **Counting of GC votes**

5.64 The PRO will check whether all the ballot boxes are properly sealed. The seal on each GC ballot box will then be broken by the PRO in the presence of the candidates or their election agents or counting agents, if they are present at the time. All GC ballot boxes will then be opened and the contents emptied onto a counting table. The candidates and their election agents or counting agents may request to inspect any papers other than ballot papers taken out from the ballot boxes before they are disposed of. If the PRO identifies any misplaced FC/SFC ballot papers, the PRO will seal

the misplaced FC/SFC ballot papers and then arrange to deliver them, together with the sealed FC/SFC ballot boxes, to the relevant RO of the central counting station for counting. The PRO will then conduct the count of the GC ballot papers in the presence of the candidates, their election agents or counting agents, if they are present. **At no time should a candidate, his election agent or counting agent touch any ballot papers.**

[Amended in January 2010]

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

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

[S 74A and 75 of the EAC (EP) (LC) Reg] *[Amended in January 2010]*

5.66 The PRO of a main counting station will:

- (a) count and record the number of ballot papers in each ballot box of the polling station designated as the main counting station

and of such ballot box that has been delivered from the small polling stations and dedicated polling stations (in the case of a LC by-election in which no ballot paper sorting station has been set up) and verify the ballot paper account;

- (b) count and record the number of ballot papers in each receptacle received from a ballot paper sorting station (which will be set up in a LC general election or, where the CEO considers it appropriate in a LC by-election) and verify the ballot paper account;
- (c) mix the ballot papers of the polling station designated as the main counting station together with the ballot papers that have been delivered from the small polling stations and ballot paper sorting stations or dedicated polling stations as the case may be;
- (d) sort the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate transparent boxes on the table;
- (e) separate, count and put aside the invalid and questionable ballot papers, if any;
- (f) determine the validity of questionable ballot papers;
- (g) count the valid votes obtained by each candidate; and
- (h) compile the final counting results.

Invalid Ballot Papers

5.67 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is not marked with the chop provided;
- (c) it is endorsed on the front with the word “SPOILT”;
- (d) it is endorsed on the front with the word “TENDERED”;
- (e) it is endorsed on the front with the word “UNUSED”; and
- (f) votes are given for more than one list of candidates for a GC (eg by marking a “✓” each against 2 lists of candidates).

These ballot papers will be set aside as invalid on the spot. They will not be counted and will not be treated as questionable ballot papers. A candidate, an election agent or a counting agent may inspect but is not entitled to make representations to the PRO concerning these ballot papers [s 80 of the EAC (EP) (LC) Reg]. *[Amended in October 2007 and July 2008]*

Questionable Ballot Papers

5.68 Ballot papers with doubtful validity in the following areas are set aside as questionable ballot papers. A questionable ballot paper will be decided as invalid if in the opinion of the PRO:

- (a) it has any writing or mark by which the elector can possibly be identified;

- (b) it is not marked by affixing the chop to give a single “✓” in the circle opposite the list of candidates of the elector’s choice on the ballot paper, and the elector’s intention is unclear. (However, the PRO may count that ballot paper if he is satisfied that the elector’s intention is clear);
- (c) it is substantially mutilated; or
- (d) it is void for uncertainty.

When deciding on the validity of the ballot papers in (a) above, the PRO will make reference to the judgment made by the Court on an election petition case (HCAL 127/2003). In that case, the Court ruled that the handwritten tick found on the ballot paper in question in the said election petition was considered a mark by which the elector could possibly be identified. The validity of ballot papers with any other writing or mark will remain to be determined by the PRO on a case-by-case basis [s 81(2) and (3) of the EAC (EP) (LC) Reg]. *[Amended in October 2007]*

5.69 The validity of all questionable ballot papers shall be decided by the PRO after considering the representations, if any, concerning the ballot papers by the candidate or his election agent or counting agent. Before the PRO makes his decision, a candidate or his election agent or counting agent, if present at the counting zone, may inspect the questionable ballot papers as set aside, in the presence of the PRO and other candidates or their election or counting agents who are present. A candidate or his election agent or counting agent may object to the acceptance or rejection of a questionable ballot paper by making his objection known to the PRO who has decided whether the ballot paper (or the vote recorded thereon) is valid or to be rejected and, in the latter event, endorse on the ballot paper the word “rejected” [s 81 of the EAC (EP) (LC) Reg].

5.70 A candidate or his election agent or counting agent may object to the rejection of a ballot paper by the PRO, in which case the PRO shall add to the endorsement the words “rejection objected to”. Questionable ballot papers which are accepted by the PRO but objected to by a candidate or his election agent or counting agent will be marked “acceptance objected to” [s 81 of the EAC (EP) (LC) Reg].

5.71 The decision of the PRO in regard to any question arising in respect of any ballot paper shall be **final** [s 82 of the EAC (EP) (LC) Reg], and may only be questioned by an election petition [s 61 of the LCO] [see Part II of Chapter 6].

Counting Arrangements

5.72 The counting of the votes will proceed continuously, as far as possible, until the counting is completed.

5.73 When vote counting is completed at any one of the counting stations for the constituency, the relevant PRO will inform the candidates or their election or counting agents present of the counting results. Any such candidate or his election agent or his counting agent may request the PRO to re-count the votes and the PRO shall comply with the request unless in his opinion it is unreasonably made. Where there is no request for a re-count or where the request for a re-count is rejected or the re-count is completed and there is no request for a further re-count or the request for a further re-count has been rejected by the PRO, the PRO shall report to an ARO for the constituency at the central counting station of the counting results. Any misplaced GC ballot papers found in FC/SFC ballot boxes at the central counting station and delivered to the relevant RO will be counted by the RO. The validity of any questionable ballot papers will be determined by the RO. Candidates, their election agents or counting agents present may raise objection to the acceptance or rejection of a questionable ballot paper. The RO’s decision on the validity of the ballot paper is final. The counting

arrangement as set out in paras. 5.67 to 5.71 above will be followed by the RO [s 79A of the EAC (EP) (LC) Reg]. *[Amended in July 2008]*

5.74 After the ARO has been notified of the results of the counting of votes of all the counting stations in the constituency in his charge, he shall inform the RO for the constituency of the results who shall then inform the candidates or their election agents or counting agents at the central counting station of the results. If a candidate or his election agent at the central counting station requests the RO to re-count all the votes of all the counting stations for the constituency, the RO will decide whether the request should be acceded to. If he decides that such a re-count is reasonable in the circumstances, he will inform the PROs of all the counting stations for the constituency to conduct a re-count at their respective counting stations [s 79A of the EAC (EP) (LC) Reg].

5.75 When the RO makes known to the candidates or their election agents or counting agents the counting results of all the counting stations for the GC, he must also make known to them the estimated number of GC ballot papers estimated to be misplaced in FC/SFC ballot boxes (the estimated number will be based on the information in the ballot paper account). Candidates and their election agents may at that point request a re-count of the votes of all counting stations for a GC without having to wait for the counting results of any misplaced GC ballot papers [see para. 5.74 above]. Alternatively, they may at that point request a re-count of the votes of all the counting stations together with the votes of the misplaced GC ballot papers after the latter votes are counted. The RO will not entertain the alternative request if the estimated number of misplaced GC ballot papers is **less** than the difference between the remaining numbers of votes cast for any two lists of candidates (in which case the counting results of the misplaced GC ballot papers will not affect the overall election results of the GC in question) [s 79A of the EAC (EP) (LC) Reg].

5.76 The PRO of each of the counting stations will make known the result of the re-count at his counting station to the candidates or their election agents or counting agents present at that counting station and shall report the same to the ARO for the constituency at the central counting station who shall inform the RO for the constituency of the results of the re-count of all the counting stations in his charge. The RO shall add such results and the result of the counting of the votes recorded on the misplaced GC ballot papers found in FC/SFC ballot boxes, and shall inform the aggregate result to the candidates or their election agent or counting agents. If a candidate or his election agent requests the RO for a re-count of the votes of the misplaced GC ballot papers, the RO shall comply with the request unless in his opinion, it is unreasonably made [s 79A of the EAC (EP) (LC) Reg]. *[Amended in July 2008]*

5.77 If at any time, it appears to the Commission that a counting station (“first counting station”) assigned for the counting of votes cast at a polling station (“polling station concerned”) in respect of a GC is no longer available or suitable for the counting to take place or continue to take place for reasons other than those referred to in s 2(3) of Schedule 2 to the EAC (EP) (LC) Reg, (*ie the occurrences of a typhoon or other climatic condition of a serious nature; riot, open violence or other occurrences of public danger; or an occurrence which appears to the Commission to be a material irregularity relating to the election, the poll or count*), the Commission may direct that the counting is to take place or continue to take place at another counting station (“new counting station”) specified by the CEO. The RO must give notice to the candidate ranking first in priority on each list of candidates for the constituency of the time and place at which the counting is to take place or continue to take place. Where such direction is given by the Commission, the PRO of that station must arrange the ballot boxes (whether opened or un-opened) and receptacles, if any, together with the ballot papers (whether counted or not), any un-issued ballot papers, tendered ballot papers, ballot paper account, verification of a ballot paper account or

re-verification of a ballot paper account, and any other relevant election materials to be transferred to the new counting station. Any person who may be present at the first counting station or polling station concerned may also be present with the PRO when the PRO makes any of the aforesaid arrangement. [Ss 65(7A) and 75A of the EAC (EP) (LC) Reg] *[Amended in July 2008]*

(b) Counting of FC/SFC votes

5.78 The FC/SFC ballot boxes will first be delivered to the central counting station, together with any FC/SFC ballot papers found to have been misplaced in GC ballot boxes, and will be given into the charge of the relevant RO. Each ballot box will then be checked to see if it is properly sealed. The seal on the ballot box will be broken by the relevant RO in the presence of the relevant candidates or their election agents or counting agents, if they are present at the time. The ballot box will then be opened and the contents emptied onto a counting table. Any misplaced GC ballot papers found will be sealed and then delivered to the RO of the relevant GC for counting. **At no time should a candidate, his election agent or counting agent touch any ballot papers.**

5.79 There will be a large number of sorting/counting zones for the ordinary FCs and SFCs. The ballot papers (but not the votes marked on them) for the ordinary FCs/SFCs from each of the polling stations will first be counted for verification of the ballot paper accounts by the counting staff. Such ballot papers will be separately bundled with the respective verified ballot paper account.

5.80 The ordinary FC/SFC ballot papers in each of the sorting/counting zones will be sorted to make up separate bundles for each constituency. Each bundle of ballot papers which is required to be delivered to another sorting/counting zone will be placed in a separate

receptacle and sealed under observation by persons present at the counting station. Bundles belonging to the same constituency will be allocated to the AROs and their staff for transferring them to the counting zones in respect of the relevant constituency for the counting of votes marked on them under the supervision of the RO of the ordinary FC/SFC. The ballot papers for the same ordinary FC/SFC from not less than 2 of the polling stations will first be mixed before counting.

Invalid Ballot Papers

5.81 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is endorsed on the front with the word “TENDERED”;
- (c) it is endorsed on the front with the word “SPOILT”;
- (d) it is endorsed on the front with the word “UNUSED”;
- (e) in respect of an ordinary FC ballot paper, it is not marked with the chop provided;
- (f) for an ordinary FC, votes are marked for more than the number of vacancies to be filled (in respect of the Labour FC, a ballot paper is invalid if more than 3 votes are marked on it; in respect of the other 23 FCs, a ballot paper is invalid if more than 1 vote is marked on it);
- (g) in respect of a SFC ballot paper, it is not marked by Arabic numerals;

- (h) for a SFC, votes are marked with a first preference for 2 or more candidates (whether or not the elector marks second, third or subsequent preferences); and
- (i) for a SFC, votes are not marked with a first preference (whether or not the elector marks second, third or subsequent preferences).

[S 80 of the EAC (EP) (LC) Reg]

Ballot papers from (a) to (i) will be set aside as invalid on the spot. They will not be counted and will not be treated as questionable ballot papers. A candidate, an election agent or a counting agent may inspect but not entitled to make representations to the RO concerning these ballot papers [s 80 of the EAC (EP) (LC) Reg]. *[Amended in October 2007 and July 2008]*

Questionable Ballot Papers

5.82 Other ballot papers with doubtful validity are set aside as questionable ballot papers. A questionable ballot paper will be decided as invalid if in the opinion of the RO:

- (a) it has any writing or mark by which the elector or AR can possibly be identified;
- (b) for an FC, the vote is not marked by affixing the chop to give a single “✓” in the circle opposite the name of the candidate of the elector’s or AR’s choice on the ballot paper, and the elector’s or AR’s intention is unclear. For a SFC, the Arabic numeral is not entered in the circle opposite the name of the candidate of the elector’s or AR’s choice on the ballot papers and the elector’s or AR’s intention is unclear. However, the RO may count that ballot paper if he is satisfied that the elector’s or AR’s intention is clear; *[Amended in July 2008]*

- (c) it is substantially mutilated; or
- (d) it is void for uncertainty.

Regarding the validity of the ballot papers in (a) above, please also refer to the court judgment on an elector petition case detailed in para. 5.68 above [s 81(2) and (3) of the EAC (EP) (LC) Reg].

5.83 For a SFC, where an elector marks on his ballot paper the same preference other than the first preference for two or more candidates, only the preference vote or votes prior in sequence to that preference shall be valid. Where an elector marks on his ballot paper preferences which are not in a consecutive sequence, only the preference vote or votes which appear before the break in sequence shall be valid.

5.84 The validity of all questionable ballot papers shall be decided by the RO of the relevant constituency. Before the RO makes his decision, a candidate or his election agent or counting agent, if present at the counting zone, may inspect and make representations to the RO on the questionable ballot papers, in the presence of other candidates or their election or counting agents who are present. After considering the representation, if any, the RO should decide on the validity of the questionable paper. If he rejects the ballot paper, he must endorse the word “rejected” on the front of the ballot paper. A candidate or his election agent or counting agent may object to the acceptance or rejection of a questionable ballot paper by making his objection known to the RO [s 81 of the EAC (EP) (LC) Reg].

5.85 If a candidate or his election agent or counting agent objects to the rejection of a ballot paper by the RO, the RO shall add to the endorsement the words “rejection objected to”. Questionable ballot papers which are accepted by the RO but objected to by a candidate or his election agent or counting agent will be marked “acceptance objected to” [s 81 of the EAC (EP) (LC) Reg]. The decision of the RO in regard to any question arising in respect of any ballot paper shall be **final** [s 82 of the EAC (EP)

(LC) Reg], and may only be questioned by an election petition [s 61 of the LCO] [see Part II of Chapter 6].

5.86 The counting of the votes will proceed continuously, as far as possible, until the counting is completed.

5.87 When vote counting is completed for the relevant constituency of the FC/SFC, the relevant RO will inform the candidates and their election or counting agents present of the counting result. Any such candidate or his election agent may request the RO to re-count the votes and the RO shall comply with the request unless in his opinion it is unreasonably made. Where there is no request for a re-count or where the request for a re-count is rejected or the re-count is completed and there is no request for a further re-count or the request for a further re-count has been rejected by the RO, the RO will inform the candidates and their agents of the counting results [s 79 of the EAC (EP) (LC) Reg].

PART IX : DECLARATION OF RESULT

(a) For GCs

5.88 The PRO of each of the counting stations shall report to an ARO for the constituency the final counting or re-count result of his counting station. After tallying the total of the final counting or re-count results with all the final counting or re-count results reported from individual counting stations for the constituency, the RO shall apply the list system of proportional representation and accordingly declare the successful candidates as elected [s 83 of the EAC (EP) (LC) Reg].

5.89 In the event that 2 or more lists have the equal largest number of remaining votes and the number of those lists exceeds the number of vacancies to be filled, the RO shall determine the result of the election by

drawing lots at the central counting station. He shall use the means of contact of such candidates provided in their nomination forms to request them to be present at the central counting station for conducting the drawing of lots and such list of candidates shall comply as soon as possible. If the RO fails to contact such a list of candidates, the RO may draw lots on behalf of the list of candidates [see para. 2.25 for detailed procedures for drawing of lots]. He shall declare the candidate on whose list the lot falls as elected. He shall display a notice of the result of the election at a prominent place outside the central counting station and shall also publish the notice in the Gazette within 10 days of the declaration of the result.

(b) For FCs/SFCs

5.90 When the counting of votes and re-counts, if any, are completed and a result obtained, the RO for the relevant constituency shall declare the successful candidate(s) elected for the constituency concerned. In respect of the 24 ordinary FCs, in the event that a vacancy is still to be filled for a constituency and the most successful candidates have an equal number of votes, the RO will determine the result of the election by drawing lots at the central counting station. For the SFC, if the remaining candidates after the final stage of counting have an equal number of votes, the RO will determine the result of the election by drawing lots at the central counting station [see para. 2.25 for detailed procedures for drawing of lots]. He shall declare the candidate on which the lot falls as elected. The RO for the relevant constituency shall display a notice of result of the election of the constituency in a prominent place outside the central counting station. The result of the election will also be published in the Gazette within 10 days of the declaration of the result [s 83 and 84 of the EAC (EP) (LC) Reg].
[Amended in July 2008]

PART X : DISPOSAL OF DOCUMENTS

5.91 As soon as practicable after the PRO has ascertained the result of the poll in an election, he will seal all the relevant documents and ballot papers into packets. Candidates and their agents may observe the packaging, if they wish [s 85 of the EAC (EP) (LC) Reg].

5.92 These sealed packets of documents will be sent to the RO by the PRO. The RO will deposit these sealed packets together with the nomination forms, notices of appointment of agents, etc with the CEO for safe custody for 6 months before they are destroyed [ss 86 and 88 of the EAC (EP) (LC) Reg].

5.93 **Except pursuant to a court order** in relation to an election petition or a criminal proceeding, **no person may inspect any ballot paper in the custody of the CEO** [s 87 of the EAC (EP) (LC) Reg].

