

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. The polling stations designated for the GCs will be used also for polling for the 24 ordinary FCs and 4 SFCs (a combined polling arrangement). The 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.

5.2 The CEO may 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 (not being a small polling station) as a main counting station for the purpose of counting the votes of the small polling station [s 28(1A), (1B) and (1C) 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 is to take place for the constituency contested by the candidates. *[Amended in July 2008]*

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.

The Combined Polling Arrangements

5.5 Combined polling arrangements will be made so as to convenience all electors. The arrangements are for providing a one-stop service to each and every elector, no matter whether he is entitled to vote in the GC, an ordinary FC or an SFC, or two or more of them, so that 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 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, 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, 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.]

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, electors of contested constituencies will be sent poll cards, addressed to their last addresses known to the REO, notifying them of the date, time and place of the poll [s 31 of the EAC (EP) (LC) Reg]. 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.

5.11 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]

PART II : INSIDE THE POLLING STATION

5.12 About 15 minutes before the commencement of polling, which is at **7:30 am** on the polling day, the PRO at a polling station will show the candidates, their election agents and polling agents, if they are present, the empty ballot boxes before proceeding to lock and seal them. Candidates concerned and their agents may observe the locking and the sealing of the ballot boxes. For a small polling station, a notice about the venue for the counting of votes will be displayed by the PRO outside the station.

5.13 The PRO will also inform and show to the candidates, their election agents and polling agents, if they are present, the number of unissued ballot papers relating to the constituency, which are in his possession.

5.14 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).

5.15 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

5.16 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 to facilitate easy reference by electors. 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 and July 2008]*

- 5.17 On the polling day, a person must not:
- (a) other than the door-to-door canvassing activities stated in para. 5.16 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

5.18 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) candidates and election agents of the relevant constituency;
- (h) polling agents for the polling station (only one at a time in respect of each candidate);
- (i) public officers authorised in writing by the CEO;
- (j) any person authorised in writing by a member of the EAC;
- (k) a person authorised in writing by the RO for liaison purposes;
and

- (1) 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.]

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

NOTE :

For the purpose of ensuring that polling takes place smoothly and efficiently, 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. Only one such person may be present in the polling station: a candidate or his election agent or his polling agent. [See also Chapter 7 : Appointment and Roles of Election Agent, Election Expense Agents, Polling Agents and Counting Agents.]

5.19 Except for an elector or a police officer on duty 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].

PART V : CONDUCT INSIDE THE POLLING STATION

5.20 The polling stations designated for the 5 GCs which will also serve the 24 ordinary FCs and 4 SFCs will have polling arrangements designed to convenience 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.

5.21 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.

5.22 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.

5.23 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].

5.24 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 [s 52 of the EAC (EP) (LC) Reg].

5.25 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. 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. Under either of the above circumstances, the PRO must keep that ballot paper in his custody and re-issue it, in the presence of a police officer, 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].

5.26 The PRO would need to keep a ballot paper left in the polling station in his custody in the circumstances described in para. 5.25 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.

5.27 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.

5.28 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).

5.29 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.

5.30 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.

5.31 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.

5.32 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 [s 59(3) of the EAC (EP) (LC) Reg]. [For details about the template, see para. 7.36 of Chapter 7.] The template should be returned to the polling staff after use.

5.33 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].

5.34 **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.

5.35 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].

5.36 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. 5.23 to the satisfaction of the PRO. *[Amended in July 2008]*

5.37 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].

5.38 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]

5.39 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. If he fails to leave immediately as ordered by the RO or the PRO, 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].

5.40 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) a person authorised in writing by the ROs for liaison purposes;
and
- (g) any person authorised in writing by a member of the EAC.

[S 45(1) and (6) of the EAC (EP) (LC) Reg.]

5.41 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

5.42 Polling will close at **10:30 pm**, and electors who intend to vote but are not at the door of their designated polling station by that time 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.

5.43 The polling stations set up for each of the 5 GCs (except the small polling stations) will be converted to counting stations for the purpose of conducting the count. 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.

A Polling Station other than a Small Polling Station

5.44 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, and 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]*

5.45 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. 5.53 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 Small Polling Station

5.46 At the close of poll, a notice will be displayed by the PRO outside the polling station to inform the public that the poll has been closed. A candidate and his election agent and polling agent may stay in the polling station while it is closed.

5.47 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 FC/SFC ballot boxes, 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. 5.53 and 5.63 below for details]. 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 such persons 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.

PART VII : THE COUNT

5.48 A polling station, other than a small 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. 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]*

Conduct at the Counting Station

5.49 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.]

5.50 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.

5.51 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].

5.52 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 during 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**

5.53 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 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 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, or their election or counting agents, if they are present. **At no time should a candidate, his election agent or counting agent touch any ballot papers.**

5.54 The PRO other than the PRO of a main counting 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.

5.55 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;
- (b) 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;
- (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.

[Ss 74A and 75 of the EAC (EP) (LC) Reg.]

Invalid Ballot Papers

5.56 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

5.57 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]*

5.58 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].

5.59 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].

5.60 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

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

5.62 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. 5.56 to 5.60 above will be followed by the RO [s 79A of the EAC (EP) (LC) Reg]. *[Amended in July 2008]*

5.63 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].

5.64 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. 5.63 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].

5.65 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 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]*

5.66 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

5.67 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.

5.68 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.

5.69 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

5.70 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

5.71 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. 5.57 above [s 81(2) and (3) of the EAC (EP) (LC) Reg].

5.72 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.

5.73 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].

5.74 If a candidate or his election agent or counting agent object 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].

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

5.76 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 VIII : DECLARATION OF RESULT

(a) For GCs

5.77 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].

5.78 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

5.79 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 IX : DISPOSAL OF DOCUMENTS

5.80 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].

5.81 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].

5.82 **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].