

ELECTORAL AFFAIRS COMMISSION

REPORT ON THE 1998 LEGISLATIVE COUNCIL ELECTIONS

**Submitted to
the Honourable Tung Chee Hwa
the Chief Executive of the Hong Kong Special Administrative Region
of the People's Republic of China
24th August 1998**

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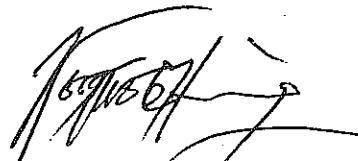
24 August 1998

The Honourable TUNG Chee Hwa
The Chief Executive of the
Hong Kong Special Administrative Region
of the People's Republic of China
Chief Executive's Office
Hong Kong

Dear Mr TUNG,

Pursuant to section 8(1) of the Electoral Affairs Commission Ordinance, we have the pleasure in submitting to you the enclosed report on the 1998 Legislative Council Elections.

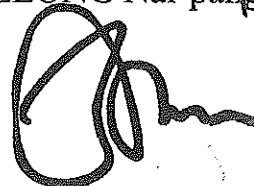
Yours sincerely,



WOO Kwok-hing, Chairman



Norman LEUNG Nai-pang, Member



Ms Elizabeth SHING Shiu-ching, Member

ABBREVIATIONS

AR	authorised representative
ARO	Assistant Returning Officer
AROs	plural of ARO
ARs	plural of AR
the Association	Hong Kong Social Workers Association
BEC	Boundary and Election Commission
CAB	Constitutional Affairs Bureau
Cap	Chapter of the Laws of Hong Kong
CAS	Civil Aid Service
CC	the Complaints Committee established by the EAC
CCS	Central Counting Station
CEO	Chief Electoral Officer
the Chief Executive	the Chief Executive of the HKSAR
CIPO	Corrupt and Illegal Practices Ordinance (Cap 288)
the Commission	the Electoral Affairs Commission
CPPCC	Chinese People's Political Consultative Conference
DBCAs	District Board Constituency Areas
D of J	Department of Justice
DPRO	Deputy Presiding Officer
DPROs	plural of DPRO
EA	election advertisement

EAC	Electoral Affairs Commission
EAC (EP) Reg	Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation
the EAC Guidelines	the Guidelines on Election-related Activities in respect of the 1998 Legislative Council Elections
EAC (NAC) Reg	Electoral Affairs Commission (Nominations Advisory Committee) Regulation
the EAC Ordinance	the Electoral Affairs Commission Ordinance
EAC (R) (FCSEC) Reg	Electoral Affairs Commission (Registration) (Electors for Functional Constituencies) (Voters for Subsectors) (Members of Election Committee) (Legislative Council) Regulation
EAC (ROE) (GC) Reg	Electoral Affairs Commission (Registration of Electors) (Geographical Constituencies) (Legislative Council) Regulation
EAs	plural of EA
EC	Election Committee
ERO	Electoral Registration Officer
FC	functional constituency
FCs	plural of FC
FR	Final Register
FRs	plural of FR
FSD	Fire Services Department
GC	geographical constituency
GC list	GC list of candidates
GCs	plural of GC

the Guidelines	the EAC Guidelines
HAB	Home Affairs Bureau
HAD	Home Affairs Department
HKIC	Hong Kong Identity Card
HKSAR	Hong Kong Special Administrative Region
ICAC	Independent Commission Against Corruption
ICACO	Independent Commission Against Corruption Ordinance (Cap 204)
ISD	Information Services Department
LegCo	Legislative Council
the LegCo Ord	the Legislative Council Ordinance
MAC	Mutual Aid Committee
MACs	plural of MAC
Members	Members of the Legislative Council
NAC	Nominations Advisory Committee
NACs	plural of NAC
NCZ	No Canvassing Zone
NCZs	plural of NCZ
NPC	The National People's Congress
NSZ	No Staying Zone
OC	Owners Corporation
OCs	plural of OC

OMR	optical mark recognition
the Ordinance	the Electoral Affairs Commission Ordinance
para	paragraph
paras	plural of para
PA System	Public Address System
PHMSO	Public Health and Municipal Services Ordinance
PLC	Provisional Legislative Council
POBO	Prevention of Bribery Ordinance (Cap 201)
PR	Provisional Register
PRO	Presiding Officer
PROs	plural of PRO
PRs	plural of PR
REO	Registration and Electoral Office
RO	Returning Officer
ROs	plural of RO
RTHK	Radio Television Hong Kong
s	section
ss	sections

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CHAPTER 1

INTRODUCTION

1.1 Two enactments govern the elections required for the establishment of the Legislative Council (“LegCo”) of the Hong Kong Special Administrative Region (“HKSAR”) and direct the course of the elections, namely, the Legislative Council Ordinance (“the LegCo Ord”) and the Electoral Affairs Commission Ordinance (“the EAC Ordinance” or “the Ordinance”).

1.2 The LegCo Ord came into operation on 3 October 1997 to provide for the constitution, convening and dissolution of LegCo as well as to provide for the election of its Members.

1.3 Section 4(2) of the LegCo Ord provides that the first term of office of LegCo is to begin on 1 July 1998. By a notice published in the Gazette on 2 January 1998, the Chief Executive of the HKSAR (“the Chief Executive”) specified 24 May 1998 as the day for holding a general election to elect Members for the first term of office of LegCo. There were to be 60 Members of LegCo and they would be returned by the general election by way of the following:

- (a) five geographical constituencies (“GCs”), electing 20 Members in total;

- (b) 28 functional constituencies (“FCs”) of which the Labour FC was to return three Members whereas each of the remaining 27 FCs was to return one Member; and
- (c) the Election Committee (“EC”), returning 10 Members.

1.4 Detailed provisions about the constituencies (ie, GCs and FCs) and the EC are made in the LegCo Ord. The 28 FCs and the qualifications of their electors are set out in Schedule 1 to that Ordinance. There are to be no more than 800 members of the EC. These members are composed of representatives from four sectors consisting of a total of 38 subsectors. Apart from the members of the Provisional Legislative Council (“PLC”) and the Hong Kong deputies to the National People’s Congress (“NPC”), both of whom are ex-officio members of the EC, and representatives of the Religious subsector who are to be nominated by designated bodies of the Religious subsector, other members of the EC are to be elected by the voters of the remaining 35 subsectors. The identity of the 38 subsectors and their constituents can be found in Schedule 2 to the LegCo Ord. The elections of the 35 subsectors took place, as specified by the Gazette notice given by the Chief Executive, on 2 April 1998. The GCs are, as the name indicates, geographically based, and the delineation of their boundaries is to be recommended by the Electoral Affairs Commission (“EAC” or “the Commission”). Each GC is to return not less than three and not more than five Members to LegCo.

1.5 Different voting systems apply to elections of different constituencies, the EC and the subsectors, namely,

- (a) for GCs, the list system of proportional representation;
- (b) for the FCs specified in Parts 1 and 2 of Schedule 1 to the LegCo Ord (**Appendix I**), referred to as special FCs, the preferential elimination system of voting; and
- (c) for the FCs specified in Part 3 of Schedule 1 to the LegCo Ord (**Appendix I**), ie, the 22 FCs, and the EC and the subsectors, the first past the post voting system.

1.6 According to the list system of proportional representation which applies to the election in respect of all GCs, the nomination of candidates is to be by way of a list in a nomination form specified by the EAC to contain the names of one or more candidates for a GC as a group, and if more than one name, the names have to be ranked in the order of priority of the group. After the Returning Officer (“RO”) of the GC has determined the eligibility of the candidates on a nomination list, only the eligible candidates whose priority on the list is above or equals the number of vacancies in the GC will be allowed to remain as candidates, and other candidates on the same list who rank after those prior candidates will have their names excluded from the nomination list. See s 38(2), (3) and (9) of the LegCo Ord. At a GC election, an elector is entitled to cast a single vote for a list (as shown on the ballot paper) and not for an individual candidate. The number of valid votes cast for the election of the GC will be divided by

the number of vacancies to be elected for that GC to arrive at the quota of votes. Each list that gets the quota will have one candidate on the list elected. When not all the vacancies are filled by applying the quota, then the filling of the remaining seat or seats will be decided by the largest remainder of votes cast for each list after the deduction of the quota or a number of quotas of votes cast for that list. If there are votes cast for a list that exceed the quota or quotas necessary to return all the candidates in the list, the list will be treated as having no further votes remaining. See s 49 of the LegCo Ord.

1.7 According to the preferential elimination voting system which applies to all the FCs specified in Parts 1 and 2 of Schedule 1 to the LegCo Ord (**Appendix I**), ie, the six Special FCs, an elector in such an FC is entitled to cast a single vote. The vote is transferable amongst the candidates nominated for the election, with the elector marking his preference or preferences for those candidates on the ballot paper against one or more of those candidates in descending order. In order to be elected, a candidate must obtain an absolute majority of the valid votes. If no candidate obtains an absolute majority of the votes at a particular stage of the counting of votes, the candidate with the least number of votes is to be eliminated at that stage, and that candidate's votes are to be transferred to the candidates then remaining in accordance with the next available preferences marked on the ballot papers. This process is to continue until one candidate obtains an absolute majority over the other candidate or candidates then remaining. See s 50 of the LegCo Ord.

1.8 According to the first past the post voting system which applies to the EC, the subsectors and all FCs save those six Special FCs, an elector/voter is entitled to vote for as many candidates as there are vacancies and no more. The candidate who obtains the greatest number of votes will be elected, followed by the next candidate who has the next greatest number of votes, and so on, until all the vacancies are filled. Out of the 22 FCs, only the Labour FC has three seats to be filled and electors of that FC can therefore vote for up to three candidates. In each of the remaining 21 FCs, only one seat is to be filled and the elector can only vote for one candidate. For the EC, however, the elector must vote for the exact number of candidates as there are vacancies, no less and no more, or otherwise his votes will become invalid.

1.9 The EAC was established under the provisions of the EAC Ordinance which came into operation on 29 August 1997. The EAC consists of three members who were appointed by the Chief Executive on 29 September 1997. The appointments are for a period of three years. Under s 4 of the EAC Ordinance, the functions of the EAC are broadly as follows:

- (a) to make recommendations regarding the delineation of the GCs;
- (b) to supervise the registration of electors;
- (c) to make regulations regarding electoral procedure and arrangements; and
- (d) to conduct and supervise elections.

1.10 In connection with the above functions, in accordance with ss 4 and 6 of the EAC Ordinance, the EAC

- (a) is to conduct and supervise promotional activities relating to registration of electors;
- (b) is to regulate the procedure at an election;
- (c) is to keep under review matters referred to above and in the preceding paragraph;
- (d) is to report to the Chief Executive on any matter relating to elections; and
- (e) may issue guidelines relating to the conduct or supervision of or procedure at an election, the activities of a candidate, his agents or any other person, relating to election expenses or the display or use of election advertisements (“EAs”) or other publicity material, and relating to the procedure for making a complaint relating to the guidelines.

1.11 More specifically, s 8 of the EAC Ordinance provides that within three months of the conclusion of an election, the EAC shall make a report to the Chief Executive on matters relating to that election in respect of which the Commission has any function under the EAC Ordinance or any other ordinance. It also provides that the report shall include a report on any

complaint made to the Commission in connection with the election. The general election having taken place on 24 May and concluded on 25 May 1998, this report is due by 24 August 1998 in conformity with the statutory provision.

1.12 The importance of the work of the EAC and the heavy responsibilities it shoulders are encapsulated in the statutory requirement that the EAC is generally to make arrangements, take such steps or do such other things as it considers appropriate for the purpose of ensuring that elections are conducted **openly, honestly and fairly**. As the general election was for returning Members to the first term of LegCo after Hong Kong reunified with China, not only the community of Hong Kong paid great attention to the course and development of the election, considerable overseas interest had been generated. Events concerning the election and leading up to it were followed closely locally and internationally. It is hoped that this report would, apart from fulfilling its statutory functions, bear witness, if not serving as the official record, of this part of Hong Kong's history.

CHAPTER 2

SCOPE OF THE REPORT

2.1 The EAC Ordinance prescribes that the EAC is to report on matters relating to the election in respect of which it has any function under the Ordinance or any other ordinance, including a report on any complaint made to the EAC in connection with the election.

2.2 Broadly speaking, the EAC's work relating to the first LegCo general election involves the following aspects:

- (a) delineation of GCs;
- (b) registration of electors;
- (c) making regulations for electoral procedure;
- (d) issuing guidelines on election-related activities;
- (e) making arrangements, in the main for polling and counting, for the conduct of the EC subsector elections on 2 April 1998 and the general election on 24 May 1998;
- (f) dealing with complaints on election-related matters; and
- (g) supervising the conduct of both of the elections.

2.3 While these functions would have to be performed for the purpose of ensuring that the elections are conducted fairly, openly and honestly, the EAC is also obliged to keep under review all the matters concerning elections. The review is significant in that defects and flaws, if any, in the electoral procedure and arrangements are to be rectified and improvements are to be considered and put in place, wherever possible. This report therefore describes the work the EAC did, examines how that work fared, details how it dealt with complaints, and sets out how it has reviewed all matters relating to any of its work or functions.

CHAPTER 3

PREPARATIONS FOR THE ELECTIONS

- Section 1 : Establishment of the EAC
- Section 2 : Functions and Work of the EAC
- Section 3 : Delineation of Geographical Constituencies
- Section 4 : Other Preparations

Section 1 : Establishment of the EAC

3.1 While the LegCo Ord makes provisions for the establishment of LegCo, the EAC Ordinance provides for the formation of the EAC for the express purpose of ensuring that the elections and process for the establishment of LegCo are open, fair and honest.

3.2 Upon the appointment of its three members on 29 September 1997, the EAC started to work immediately and expeditiously in preparation for the first batch of elections in the HKSAR. Its members always bore in mind that whatever they did or planned to do, they must fulfill the statutory aim of openness, fairness and honesty.

Section 2 : Functions and Work of the EAC

3.3 The EAC is entrusted with the following functions, chronologically, in preparation for the general election to elect Members to LegCo:

- (a) provisionally delineating GCs so as to consult the public before making recommendations on the delineation of GCs to the Chief Executive;
- (b) making regulations for the registration of electors and voters;
- (c) proposing guidelines on election-related activities for public consultation so that public representations can be taken into account in finalising the guidelines;
- (d) making electoral procedure regulations; and
- (e) conducting elections and supervising the conduct of elections.

3.4 Last but not least, the Commission shall submit a report on the elections which shall include a report on any complaint related to the elections to the Chief Executive.

Section 3 : Delineation of Geographical Constituencies

3.5 The LegCo Ord provides that there are to be five GCs each to return not more than five and not less than three Members to LegCo. In accordance with the criteria set out in the EAC Ordinance, the EAC provisionally delineated five constituencies which were put forward for consulting the public for a period of two weeks from 11 to 24 October 1997. After the public representations had been fully taken into account, the EAC reported to the Chief Executive with its recommendations on the delineation of the GCs on 31 October 1997. The recommendations were endorsed by the Chief Executive in Council and the EAC's report was tabled at the PLC. The five GCs and the number of Members to be elected by each of them are as follows:

- (a) Hong Kong Island to return four Members
- (b) Kowloon East to return three Members
- (c) Kowloon West to return three Members
- (d) New Territories East to return five Members
- (e) New Territories West to return five Members

The public representations on the provisional recommendations, the reasons for the recommendations and the maps showing the demarcation of the

boundaries of the five GCs can be found in the EAC's report of 31 October 1997.

Section 4 : Other Preparations

3.6 There were many other items of work in preparation for the elections, including making regulations for the registration of electors for the general election and of voters for the EC subsector elections, supervising the process in the registration of electors and voters, making regulations for electoral procedure, issuing guidelines regarding election-related activities, and generally making electoral arrangements for the conduct of elections. Each of these items would be dealt with in detail in the later chapters of this report.

CHAPTER 4

REGISTRATION OF ELECTORS AND VOTERS

- Section 1 : Qualifications
- Section 2 : Registration Regulations
- Section 3 : The Registration Drive
- Section 4 : The Voter Registration Week
- Section 5 : Publication of the Registers
- Section 6 : Appeals
- Section 7 : Numbers of Electors

Section 1 : Qualifications

4.1 The LegCo Ord provides for qualifications for eligibility to be registered as electors for the 1998 LegCo elections. An individual is eligible to be registered as an elector for a GC if he is a permanent resident of Hong Kong, ordinarily resides in Hong Kong, provides the address of his only or principal residence in his application, reaches 18 years of age on or before 31 March 1998 and holds an identity document [see ss 27, 28, 29 and 30 of the LegCo Ord]. The only significant difference between the present qualifications and those applicable before the reunification of Hong Kong with China is the added requirement of being a permanent resident of Hong Kong. The consequence is that a number of persons who used to be electors

on the registers of electors in force on 30 June 1997 but who were not Hong Kong permanent residents were required to be excluded from the 1998 registers.

4.2 The qualifications for FC electors are similar to those applicable to former elections, based on membership of professional or trade organisations in the relevant FC or having close connection with it. The first requirement for being an FC elector is that the person must be a GC elector. The LegCo Ord also provides for 28 FCs, eight of which are new ones which replaced the nine functional constituencies introduced in 1995 popularly called “the 9 new FCs”. Moreover, instead of the 1995 electors all being individuals, the 1998 electorate consists of both natural persons and corporate bodies. Eighteen of the 28 FCs consist of corporate electors. A corporate elector is required to cast its vote through an authorised representative (“AR”) who is a natural person and a GC elector appointed by the corporate elector to vote on its behalf. For those FCs under the 1995 legislation which have remained where individual voting is replaced by corporate voting, registration of AR was necessary. A person who is qualified to be an elector of more than one FC can only become an elector of one of the FCs. In some cases, he has a choice, but in some others, he is only entitled to be registered in a particular FC without any choice in spite of his double or treble qualifications. The availability of a choice or otherwise can be seen in **Appendix I**. An FC elector cannot be an AR for the same FC.

4.3 The EC is to consist of 800 members. The members of the PLC and Hong Kong deputies to the NPC are ex-officio members of the EC, and the EC members from the Religious subsector are to be nominated by the

constituent organisations of that subsector. The other EC members are to be elected by voters of other subsectors. There are altogether 38 subsectors, whose identity can be found in **Appendix I**. Apart from the three categories named above being three of the subsectors, each of the remaining 35 subsectors would return their own representatives on the EC by way of election. Out of these 35 subsectors, 28 correspond with the 26 FCs in name and composition, save for the Education FC and the Tourism FC (see items 11 and 27 in **Appendix I**). The electors of an FC are also qualified to be voters of the corresponding subsector. Those entitled to vote in a GC or an FC in the LegCo general election are called “electors”, as distinguished from those entitled to vote in the subsector elections who are called “voters”. Similar to the FC situation, there are also corporate voters in a number of subsectors who can only cast their votes through an AR. A corporate body which is a corporate elector of an FC and also a corporate voter of the corresponding subsector must appoint the same individual as its AR to cast its vote in both the FC and subsector elections. Thus, registration of eligible individuals as ARs of corporate electors/voters was required. An elector of an FC who is or has become an EC member is not entitled to vote in the FC. However, an ex-officio EC member who is also eligible to be an elector of an FC has a choice between being an FC elector or EC member. An FC elector or EC member must also be a GC elector.

4.4 Taking all the above qualification provisions into account, a permanent resident of Hong Kong who ordinarily resides in Hong Kong and who has reached the age of 18 years is entitled to be a GC elector. He can, if he so qualifies, also be an FC elector and also an AR of another FC. Alternatively, he can be an EC member if he so qualifies or if he is returned by the election of one of the subsectors, but in such a case, he can no longer

be entitled to vote in his FC, save that if he is an ex-officio EC member, he can have a choice to become an FC elector instead, if he so qualifies. In simple terms, a person can be

- (a) a GC elector only, voting for the GC in which his only or principal place of residence is situate;
- (b) a GC elector and an FC elector, having two votes;
- (c) a GC elector and an FC AR, having two votes, one for himself and the other for the corporate elector of which he is AR;
- (d) a GC elector and an FC elector and an AR of another FC, having three votes in total;
- (e) a GC elector and an EC member, having two votes; or
- (f) a GC elector and an EC member as well as an AR of an FC, having three votes altogether.

4.5 Regarding the 35 subsectors, if he so qualifies, a natural person can be a voter of one of the subsectors, and in addition he can also be an AR of a corporate voter of another subsector.

Section 2 : Registration Regulations

4.6 Two sets of regulations were made for the purpose of setting out the procedure relating to the registration of electors. The EAC (Registration of Electors) (Geographical Constituencies) (Legislative Council) Regulation (“EAC (ROE) (GC) Reg”) governs the registration of electors for the GCs. The EAC (Registration) (Electors for Functional Constituencies) (Voters for Subsectors) (Members of Election Committee) (Legislative Council) Regulation (“EAC (R) (FCSEC) Reg”) caters for the registration of electors of the FCs, members of the EC, and voters for the subsectors.

4.7 In order to convenience potential electors for FCs and potential voters for subsectors and to facilitate their registration, the EAC (R) (FCSEC) Reg makes provisions for a notification process, consisting mainly of the following measures:

- (a) Public authorities and representative organisations are required by the Electoral Registration Officer (“ERO”) to provide names and identities of all persons (individuals and bodies) whose membership in such representative organisations qualifies them to become FC electors and subsector voters.
- (b) According to the information obtained, the ERO sends a notification to the individual who is on the GC register of electors in force on 30 June 1997 (and has remained eligible for a GC) but not registered in any FC, setting out the name of one of the 28 FCs and the corresponding subsector in which he is eligible to be

registered as elector and voter. A similar notification is to be sent to a body whose particulars were included in the 1997 Provisional Register (“PR”) as electors of the 20 FCs which were on that PR and which have been retained by the LegCo Ord. The notification will also ask these corporate electors to appoint an AR. If the person is only eligible to be registered in one of the seven subsectors without a corresponding FC, then the notification will set out the name of the relevant subsector. If the individual or body does not respond by 16 January 1998 to decline registration, he or it will be registered in the FC and its corresponding subsector or the subsector specified in the notification.

- (c) If, however, the ERO has information that a person (individual or body) eligible to be registered in an FC is also eligible to be registered in one of the following six subsectors, the notification will state that he/it will be registered in that subsector, not the corresponding subsector. The reason is that each of the six subsectors has a very small electorate. The six subsectors are (i) Chinese People’s Political Consultative Conference (“CPPCC”), (ii) Employers’ Federation of Hong Kong, (iii) Hong Kong and Kowloon Provisional District Boards, (iv) Hong Kong Chinese Enterprises Association, (v) New Territories Provisional District Boards, and (vi) Hotel.

- (d) Where there is a choice, the notification will also state the options available to the potential elector/voter.

- (e) Whatever is stated in the notification is subject to the person's own wish: he/it can elect to (i) decline registration altogether, or (ii) be registered in an FC and a subsector for which he/it is eligible and is allowed to choose.

4.8 The notification is to the effect that the person notified will, without further ado, be registered as the elector and/or voter of the FC and/or subsector as specified in the notice, unless he or it replies to say that he or it does not wish to be registered at all. This notification procedure saved time and effort on the part of those who wished to be registered. However, the procedure was not applicable to those whose names did not appear in the relevant registers that were in force on 30 June 1997 or did not appear in the information sought from public authorities or umbrella organisations. They had to make an application for registration themselves.

Section 3 : The Registration Drive

4.9 While the registration of FC electors and subsector voters was partially simplified by the notification procedure, there was a registration drive mainly aimed at registration of GC electors.

4.10 The two regulations for registration of electors and voters for all

the constituencies, the EC and the subsectors came into force in early November 1997. The registration deadline was 16 January 1998. During the period from early November 1997 till mid January 1998, a registration drive was conducted under the auspices of the Home Affairs Bureau (“HAB”) and overseen by the EAC. Many government departments participated in the drive, notably the Home Affairs Department (“HAD”), Constitutional Affairs Bureau (“CAB”), Information Services Department (“ISD”), Radio Television Hong Kong (“RTHK”) and the Registration and Electoral Office (“REO”). The highlight was a large scale household visit exercise carried out in December 1997 during which all of the two million households in the HKSAR were visited. Conventional methods such as distributing the application forms at convenient outlets throughout the territory and setting up of mobile registration counters were also used.

4.11 A large scale publicity programme was adopted to support the registration drive. The EAC set up a Working Group on Publicity in early October 1997 to coordinate the efforts of government bureaux and departments in the planning and implementation of publicity and promotional activities relating to voter registration for the LegCo election. Publicity started with urging people who were qualified as permanent residents of Hong Kong to apply early for verification of such status, for under the new electoral law only Hong Kong permanent residents are entitled to vote. Following this, intensive publicity was launched through means such as television and radio announcements of public interest, newspaper advertisements and posters to encourage eligible members of the public to register as electors. The Chairman of the EAC also took every opportunity to appear on television and radio programmes and meeting with the media in order to spread the word. The main theme was to lay emphasis on the fact

that this was the first LegCo election after the establishment of the HKSAR.

4.12 A total of about 579,000 registration application forms were returned to the REO by the registration deadline of 16 January 1998.

Section 4 : The Voter Registration Week

4.13 A particular feature of the registration drive was the Voter Registration Week organised by the HAD. A total of 30,000 voter registration ambassadors who were mainly students were recruited for the campaign. During the week from 6 to 12 December 1997, these ambassadors paid visits to the two million households in the territory to encourage and help residents to register as electors. A total of 347,000 registration application forms were collected in the week. The estimated total cost for the exercise was \$56 million.

4.14 Apart from assisting citizens to register as electors, the ambassadors in their green vests going round every corner of Hong Kong helped enhance public awareness of the approaching election and the necessity for registering as electors. Moreover, the involvement of about 30,000 students in the exercise has an educational impact, and has undoubtedly aroused the civic consciousness in them and in their relatives, school-mates and friends.

Section 5 : Publication of the Registers

4.15 The LegCo Ord provides for the publication annually of a PR and a Final Register (“FR”) of electors. Detailed arrangements for their publication are provided for in the EAC (ROE) (GC) Reg and the EAC (R) (FCSEC) Reg. For 1998, the PR and FR must be published not later than 15 February and 15 March 1998 respectively. In fact, the PR was published on 13 February and the FR on 13 March 1998. The FR of members of the EC was published on 9 April 1998, seven days after the EC subsector elections held on 2 April 1998.

4.16 As provided for in the LegCo Ord, compilation of the 1998 PR was based on the PR that was in force on 30 June 1997 but excluding those electors who were no longer entitled to be registered and including new electors who were mainly recruited through the registration drive. At the time when the PR was published, an omissions list was also published. The omissions list contained the names and particulars of those electors on the 1997 register who were no longer eligible to be registered and the entries relating to whom would be omitted from the next FR, eg, non-Hong Kong permanent residents and those whom the ERO believed were dead. Both the PR and the omissions list were available for public inspection so that anyone who opposed to any entry could lodge an objection and anyone who claimed to be entitled but did not appear in the PR or appeared on the omissions list might raise a claim.

4.17 During the period for public inspection of the PR, and in fact from time to time afterwards, the REO received some complaints from electors against their personal data being available to others. They were dissatisfied that their particulars were liable to public inspection in the PR and the FR or were later made available to candidates and their campaigning agents for electioneering purposes. Allowing public inspection of the registers is to make the registration process transparent and facilitate mutual policing amongst citizens. Providing a candidate with a list of electors/voters of the constituency or subsector for which he runs is to enable him to pass election information including his platform to them. Otherwise, the candidate will not be able to limit his resources to the electorate with which he is concerned. The disclosure of the elector's data relating to the above purposes is an integral part of our system to ensure a fair, open and honest election. The EAC is of the view that the practices should continue. However, the EAC also appreciates the public sentiment on this privacy issue, and will review whether lesser personal details of the elector could be shown in the published registers or in materials made available to candidates without compromising the integrity of the system.

Section 6 : Appeals

4.18 Since the publication of the PRs of electors and voters on 13 February 1998, many people were interested and paid visits to the REO to inspect them. The period for lodging objections and claims commenced. By the deadline of 21 February 1998, a total of 188 appeals had been received. They were forwarded to the Revising Officers who very

efficiently and expeditiously made their determination on all the appeals by 28 February 1998. A breakdown of the nature of the appeals can be found in an analysis of the appeals prepared by the REO, at **Appendix II(A)**. The ERO also took the opportunity to seek and obtain the approval of the Revising Officer to revise 4,606 entries relating to 4,570 electors/voters, with breakdown at **Appendix II(B)**. The reasons for the revisions are set out in the following two paragraphs.

4.19 Relating to GCs, the ERO's revisions were regarding those persons whose applications for registration had been rejected on the ground that they were not permanent residents of Hong Kong. The ERO received confirmation from the Immigration Department after the publication of the PR that they had become permanent residents, and they should therefore be included in the FR.

4.20 In the case of FCs and subsectors, the revisions mainly consisted of the following categories of persons:

- (a) a person who had been rolled over from the previous register for registration in an FC in the PR, but was not registered in any subsector for which he was eligible because the notification sent to him was returned undelivered and he had not made an application of his own accord: on the basis of information supplied by the relevant public authorities or representative organisations, he was eligible to be registered in the FC and the corresponding subsector, and therefore his particulars should be entered into the subsector register so as to give effect to the legislative intention expressed in s 8 of Schedule 2 to the LegCo

Ord that a person registered as an elector for an FC should be registered as a voter for the corresponding subsector (or other appropriate subsector where applicable);

- (b) a person who had been rolled over from the previous register for registration in an FC in the PR but was not registered in any subsector by the notification procedure because his eligibility was in doubt before the statutory deadline of 2 January 1998 for sending notifications: the relevant public authorities or representative organisations later confirmed that he was eligible to be registered in the FC and corresponding subsector and his particulars should therefore be entered into the subsector register;

- (c) a person who had been rolled over from the previous register for registration in an FC in the PR but was found no longer eligible to be registered in the relevant FC on the basis of information supplied by the relevant public authorities or representative organisations was sent an inquiry letter by registered mail to ascertain his eligibility. The letter was returned undelivered because of outdated address. As a result of the voter registration drive, his residential address was subsequently updated. However, because the statutory deadline of 31 December 1997 for sending inquiry letters had already passed, it had not been possible to initiate an FC inquiry again. His name was thus included in the FC PR despite his FC eligibility was in doubt: before the submission was made to the Revising Officer, the person concerned had been informed in writing by registered post

to this new address of the ERO's intention to remove him from the FC register with the consent of the Revising Officer and had been given an opportunity to make representation but had not done so; his particulars should not be included in the FC FR; and

- (d) a person who had ceased to be eligible to be registered in the CPPCC subsector, or one who became eligible to be registered in this subsector, after 16 January 1998: the appointments for the new term of the CPPCC was made on 23 January 1998, and the entire electorate base for this subsector had changed. The new appointees should be registered, while those outgoing members of the CPPCC, who were no longer eligible to cast their votes in this subsector, should be removed from the register.

Section 7 : Numbers of Electors

4.21 The Voter Registration Drive that spanned about two months resulted in 579,000 application forms for registration as GC electors having been received by the REO. A number of the applications were from persons whose particulars were already on the register in force on 30 June 1997, and some others recorded a change of address or other particular of such existing electors. Eventually, a total of 307,373 new electors were recruited. Reduced by the number of former electors who were omitted from the FR because of death, having moved to an unknown address, or becoming ineligible, etc, the net increase came to 264,027.

4.22 The positions of the 1998 FRs in respect of the GC, FC, EC and EC subsectors are as follows:

- (a) the GC FR contains about 2,795,000 electors;
- (b) the EC subsector FR comprises about 143,000 voters (see the breakdown at **Appendix III**);
- (c) the FC FR records about 139,000 electors (see the breakdown at **Appendix IV**); and
- (d) the EC FR has 800 members (see the breakdown at **Appendix V**).

CHAPTER 5

ELECTORAL PROCEDURE AND ARRANGEMENTS

- Section 1 : Making Regulations and Proposed Guidelines
- Section 2 : Public Consultation
- Section 3 : PLC's Scrutiny
- Section 4 : The Regulation and the Guidelines
- Section 5 : The Nominations Advisory Committees
- Section 6 : Nomination Papers
- Section 7 : Spots for Display of Election Advertisements
- Section 8 : Introductory Leaflets, Audio Tapes and Poll Cards
- Section 9 : Enlarged Copy of Introductory Leaflet
- Section 10 : Polling Stations, their Number and Locations
- Section 11 : No Canvassing Zone and No Staying Zone
- Section 12 : Polling Arrangements
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- Section 14 : Electronically Assisted Polling and Counting
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- Section 16 : Openness and Transparency
- Section 17 : Public Visit of Polling Stations and Sample Polling Stations
- Section 18 : Simple or Complex Electoral System
- Section 19 : Journalists' Own Monitor of the Media

Section 1 : Making Regulations and Proposed Guidelines

5.1 In the past several years, regulations on electoral procedure and arrangements had been made first before the guidelines on election-related activities were finalised. The EAC adopted a different approach this time in that it consulted the public first on its proposed guidelines before finalising the electoral regulations. This made the process more transparent and enabled the EAC to have the public's views on various topics for its consideration and, if thought fit, adoption into the regulations which formed the backbone of the guidelines. The proposed guidelines were published on 18 December 1997. Public consultation took place between 18 and 31 December 1997. After fully reflecting on the public representations, the EAC made the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation ("EAC (EP) Reg") and the Electoral Affairs Commission (Nominations Advisory Committees) Regulation ("EAC (NAC) Reg") on 12 January 1998. The Guidelines on Election-related Activities in respect of the 1998 LegCo Elections ("the Guidelines" or "the EAC Guidelines") were eventually published on 28 February 1998.

Section 2 : Public Consultation

5.2 An important feature of the consultation exercise was the public forum held on 30 December 1997 close to the end of the consultation period. In the forum, those attended were allowed to raise questions and make points that interested them. The EAC would answer queries and seek the views of those present on the points raised. This enabled the EAC to discuss the

topics with those present, and those who might be affected by the proposed guidelines would have an opportunity of addressing the EAC. The advantage of the forum over paper representations is that when a topic is raised, the matter is open to the floor and everyone who is present can have a discussion on merit, while a written representation may raise a point which is not touched upon by any other representations. A forum enables many different views on a topic to be made known and discussed at the same time.

5.3 In preparation for the public consultation, the proposed guidelines were made available for collection at the 18 District Offices and the REO. Moreover, arrangements were made to send the proposed guidelines or particular chapters of them to organisations which might have special interest on the subjects. These organisations included the PLC, Provisional Urban Council, Provisional Regional Council, Provisional District Boards, political parties or bodies, mass media organisations, umbrella or representative organisations of FCs and tertiary and post-secondary academic institutions.

5.4 At the close of the consultation period on 31 December 1997, the EAC received a total of 23 written representations. The major issues of concern raised at the public forum held on 30 December 1997 were similar to those contained in the written representations. Most of the views received related to the polling arrangements on the election day, the design of ballot papers, admission of polling agents into the polling station, no canvassing zones (“NCZs”) and electioneering at private premises.

5.5 Some of the views expressed, however, were targeted at issues which were outside the ambit of the EAC. These included the amount of election deposit for nomination, the maximum scale of election expenses, dates for holding election and the requirement of notifying the Police prior to the holding of election meetings and public processions.

5.6 The most significant change made to the proposed guidelines related to polling arrangements. The EAC adopted the main-stream of the public views which aimed at the utmost convenience to electors. The polling arrangements were improved while measures were taken to safeguard the secrecy of the vote:

- (a) A one-stop service would be provided to all electors and ARs so that each of them would only need to attend one polling station to cast all the votes which he or she was entitled to cast (see paras 4.4 and 4.5 of Chapter 4 on the number of votes a person may have).
- (b) Envelopes would be provided to the appropriate elector or AR for the purpose of concealing his vote or votes. As a polling station was to cater for electors of a GC and all FCs or for members of the EC and electors of GCs and all FCs to cast their votes, the number of the ballot papers of certain constituencies to be issued by that polling station might be so few as to make them easily linked to the related electors. A risk was appreciated that if an elector was amongst only a few in a particular constituency who had cast their votes at a certain polling station, his ballot paper would be easily identified to be

his and the marking he made on the ballot paper might be unintentionally divulged during the counting process. Envelopes would prevent this because envelopes still containing ballot papers from more than one polling station would be mixed before the ballot papers are taken out for counting.

Section 3 : PLC's Scrutiny

5.7 After fully considering the public representations, the EAC made the EAC (EP) Reg which was gazetted on 16 January 1998. The PLC formed a subcommittee to scrutinise the regulation. A total of four subcommittee meetings were held and amendments were made by the PLC on 25 February 1998 to various provisions of the regulation, as follows:

- (a) Electors and ARs of the corporate electors of the six Special FCs are to cast all the votes to which they are entitled at a GC polling station close to their place of residence. The six Special FCs are the Urban Council FC, Regional Council FC, Heung Yee Kuk FC, Agriculture and Fisheries FC, Insurance FC and Transport FC, and each of them has a small electorate.

- (b) Holders of an identity card who have attained the age of 18 years but have not registered as a GC elector can be appointed as election agents, polling agents or counting agents.

- (c) Anyone of the candidates on a GC list, instead of the candidate ranking first in priority on the list, can serve notice on the RO.
- (d) The candidate numbering system on the ballot papers is improved to ensure that no two candidates will have the same prefix and number.
- (e) Presiding Officers of polling stations (“PROs”) are empowered to permit a child accompanying an elector to enter a polling station.

Section 4 : The Regulation and the Guidelines

5.8 Shortly after the passage of the EAC (EP) Reg by the PLC on 25 February 1998, the EAC published the Guidelines on 28 February 1998. The Guidelines explains in simple language a number of important provisions of that Regulation, major provisions of other electoral laws and various guidelines set by the EAC relating to election-related activities of candidates and their agents.

5.9 To allow interested parties to have sufficient time to familiarise themselves with the Guidelines before the commencement of the nomination period for the subsector elections on 13 March 1998, copies of the Guidelines or the relevant chapters were promptly sent to members of the three tiers of representative government, various organisations including umbrella or

representative organisations, members of the mass media, tertiary institutions, schools, building management companies, Mutual Aid Committees (“MACs”) and Owners Corporations (“OCs”), etc. Sufficient copies were also made available for distribution to members of the public at District Offices and the REO. The Guidelines were also uploaded onto the EAC homepage for easy reference by members of the public through the Internet.

Section 5 : The Nominations Advisory Committees

5.10 Four Nominations Advisory Committees (“NACs”) were appointed, and their appointments were gazetted on 13 February 1998. The NACs provided advisory service on the eligibility for nomination as candidates, to prospective candidates as well as RO. Each NAC was a senior counsel or barrister with not less than 10 years practising experience, namely, Mr Lawrence LOK Ying-kam, SC, Mr WONG Ching-yue, SC, Mr HO Bing-kwan and Mr Ronald TANG Hon-biu. They were appointed to tender advice in respect of both the subsector elections and the general election, starting from 16 February to 28 April 1998.

Section 6 : Nomination Papers

5.11 The nomination papers used for the candidates of the 12 FCs specified in s 37 of the LegCo Ord differed from those used for the GC list of candidates because GC candidates must not possess a right of abode in any foreign country whereas the restriction did not apply to candidates

of the 12 FCs. The restriction had no application to candidates for the subsectors either. For the general election, therefore, save for the 12 FCs, the nomination papers designed by the EAC contained a declaration to the effect that the declarant had no foreign right of abode. There were, however, several incidents in which candidates nominated for a GC did not pay adequate heed to the restriction on the right of abode and subsequently had to withdraw their candidature or had their nominations ruled invalid by the RO. The incidents brought to light the possibility of false declaration and the cases concerned have been referred to the Police for investigation.

Section 7 : Spots for Display of Election Advertisements

5.12 To provide a fair start amongst candidates and to ensure that spots were available for the display of EAs during the election periods, for the subsector elections and the general election, opportunity was taken at a press conference on 27 February 1998 held for announcing the publication of the Guidelines to give notice to affected persons. The notice was to the effect that the persons or organisations who had various kinds of advertisements displayed should have them removed by 7 March 1998, or otherwise the authorities would clear them starting from 8 March 1998. It was stressed that the authorities might recoup the clearance expenses from the person concerned or even prosecute him for breach of the Public Health and Municipal Services Ordinance (“PHMSO”) and the Lands (Miscellaneous Provisions) Ordinance. If the publicity material removed amounted to an EA, the clearance expenses and the fine, if any, would be treated as election expenses and must be included in the candidate’s return

and declaration of election expenses. Clearance did take place on 8 March 1998, and thereafter it was difficult to find a public place with any poster or banner.

5.13 Suitable spots at public places in all districts were identified by the GC ROs who were District Officers for use by candidates, in the subsector elections and the general election, to display their EAs.

5.14 For the EC subsector elections, more than 70,000 public designated display spots all over the territory were made available for allocation to the subsector candidates. On average, around 1,800 display spots were allocated to each of the 35 subsectors for use by their candidates. Owing to the limited voter size of the subsector elections and the fact that subsector voters were concentrated at certain places in most cases, very few candidates made use of the spots for display of EAs. In practice, pamphlets and handbills mailed to voters were used by candidates instead as a more cost-effective means of advertising. In the light of the experience, there are merits in reviewing the need for allocation of display spots to subsector candidates in future elections.

5.15 As for the general election, more than 70,000 display spots were set aside for allocation to candidates in the GCs, FCs and the EC. On average, 700 spots were allocated for each FC and the EC. The remaining 50,000 spots were allocated for the use of GC lists of candidates. Similar to the EC Subsector elections, utilisation of display spots by FC and EC candidates was low. Consideration will be given to re-adjusting the number of designated spots for these candidates in future elections.

5.16 All the spots were allocated to candidates of each constituency or the EC by the drawing of lots at the briefing sessions for candidates held respectively on 21 March and 25 April 1998. Immediately following the allocation, the RO issued to candidates concerned an all-in-one blanket authorisation covering all the required written authorisations from all relevant Government authorities for display of EAs at the spots allocated. The use of a blanket authorisation proved to be very successful and to some extent alleviated the administrative burden on both the candidates and relevant Government departments.

Section 8 : Introductory Leaflets, Audio Tapes and Poll Cards

5.17 As in previous elections, the REO published an introductory leaflet to enable candidates to introduce themselves and their platforms and mailed it together with the poll card to each elector. The opportunity was taken to print the front page of the leaflet in the same colour pattern as that of the ballot paper for the relevant constituency and bearing the same alphabetical code as that used for the constituency. This would give electors an early taste and feel of the colour pattern and the code.

5.18 Candidates who wished to make use of the leaflet were required to provide the REO with a completed grid paper for inclusion into the publication. They were free to use whatever design and language for their introductory message. Although candidates had been reminded that there were electors who were familiar with only either Chinese or English and that they were equally entitled to be informed of the candidates' platforms, a

number of candidates used only Chinese with the consequence that, in a few cases, electors who could not read the language complained. Since the EAC considers that candidates should have the absolute freedom as to how to express themselves and how to present themselves to the electors, it opines that the freedom should not be curtailed.

5.19 Although the introductory leaflet showed the photographs of the candidates in full colour, the introductory messages were printed in black and white. This arrangement had caused some confusion to candidates as they were mistaken that their introductory message would bear colours. In the light of the experience, the EAC will consider, subject to other technical considerations, making available the whole publication in full colour so that candidates, if they so wish, could put down alongside their introductory message and their party logo according to their own design.

5.20 In accordance with the EAC (EP) Reg, the REO sent to each elector a poll card to notify the elector or AR of the polling station allocated to him for casting his vote(s). To avoid possible confusion under the combined polling arrangements, the back of the poll card bore different colours depending on the number of votes the elector concerned was entitled to cast at the polling station. The poll card was accompanied by a voting guide which set out in great detail the voting procedure as well as the legal requirements and restrictions which an elector should know when casting his vote(s) in a polling station.

5.21 For the benefit of electors who were visually impaired or could not read, REO produced a quantity of audio tapes which recorded the information contained in the official introductory leaflets. The tapes were made available to those in need through voluntary agencies. To supplement this measure, a specially designed voice-interactive telephone hotline system was set up whereby members of the public could obtain the recorded information about candidates easily and conveniently over the phone.

Section 9 : Enlarged Copy of Introductory Leaflet

5.22 A measure to strengthen the information system at polling stations under the combined polling arrangements was also introduced for the first time. In every polling station designated for a GC at which FC electors and ARs would also cast their FC votes, apart from displaying enlarged copies of introductory leaflets for the GC concerned on a notice board, there was a rotary rack at about the entrance to hang enlarged copies of the introductory leaflets in respect of the 18 FC elections that were contested. Electors casting their votes could easily and conveniently refer to the copies for information before entering a polling station.

Section 10 : Polling Stations, their Number and Locations

5.23 Combined polling arrangements were made in the general election and the EC subsector elections. The sole purpose of the arrangements was to provide a one-stop service to each and every elector.

Under the arrangements, an elector needed only to attend ONE polling station to cast all his votes.

5.24 In the EC subsector elections, there were in total 96 polling stations. For the general election held on 24 May 1998, there were altogether 496 polling stations, four of which were EC polling stations serving the 800 electors in the EC election. The four EC polling stations were respectively located on Hong Kong Island, in Kowloon and in the eastern part and western part of the New Territories. The remaining 492 polling stations, which were designated for the five GCs, were scattered throughout the territory, 92 for the Hong Kong Island GC, 79 for the Kowloon East GC, 67 for the Kowloon West GC, 117 for the New Territories East GC and 137 for the New Territories West GC.

Section 11 : No Canvassing Zone and No Staying Zone

5.25 To maintain smooth and safe passage for electors and to ensure that electors would not be unduly harassed on their way to polling stations, a “No Canvassing Zone Scheme” was adopted for both the subsector elections on 2 April 1998 and the general election on 24 May 1998. The ROs concerned were required to determine an area outside each polling station as an NCZ and an area within that zone as a “no staying zone” (“NSZ”). The candidates concerned were notified of the NCZ and the NSZ with sketch maps before the polling day. On polling day, the RO was required to display a notice showing the areas of the NCZ and the NSZ at or near the polling station. All canvassing activities are prohibited in an NCZ and no person is allowed to stay or loiter in an NSZ. The PRO was empowered to

keep order in these zones.

5.26 In designating the two zones, the ROs took into account the location of the polling station and the local geographical conditions in order to ensure that the measures could effectively serve their intended purposes. In certain cases, candidates concerned or their agents were not entirely satisfied with the arrangements and opined that the designated zones were too large and caused difficulties to their canvassing activities. The matter will have to be reviewed by the EAC in consultation with GC ROs before the next round of elections.

5.27 Some candidates queried whether door-to-door canvassing activities in residential floor of blocks located within the NCZ should be allowed. Having regard to the underlying principle that designation of NCZ was to maintain a free and clear passage for electors to polling stations, that the NCZ was supposed only to apply to public places unless otherwise specified and the fact that household visits on election day could promote awareness of the election, EAC considered that such activities should not be banned so long as they did not pose any obstruction to electors attending polling stations. The issue will be reviewed and clearly explained in the guidelines for future elections.

Section 12 : Polling Arrangements

5.28 As explained in Section 10 above, the combined polling arrangements were put in place to convenience all electors, providing them with a one-stop service. In simple terms, an elector only needed attend

ONE polling station to cast all the votes he was entitled to cast during the same visit. In the general election, there were in total 492 GC polling stations which were primarily designated to serve GC electors. Under the combined polling arrangements, a GC elector could attend the polling station allocated to him (a polling station close to his registered address) to cast his GC vote and his FC votes, if any, in the capacity of an FC elector and/or AR. In addition to the GC polling stations, there were four polling stations dedicated for use by the 800 EC electors. For these four polling stations, an electronically assisted polling system was introduced for the first time whereby an EC elector might attend ANY ONE of the four stations to cast his EC vote, GC vote and his FC vote (in the capacity of an AR), if any.

5.29 Owing to the combined polling arrangements being used, special measures regarding poll cards, ballot papers, envelopes, cardboards and ballot boxes were taken, so as to help prevent confusion and mistake at polling, safeguard the secrecy of the vote and facilitate sorting of ballot papers at the count. The back of the poll card bore different colours depending on the number of votes the elector concerned was entitled to cast at the polling station. The ballot papers for each of the five GCs, each of the 22 FCs, each of the six Special FCs and of the EC were made easily distinguishable by way of one or more of the following ways, namely, size, colour, colour pattern and code. Envelopes were provided to the elector/AR in a polling station when he was issued with a ballot paper in respect of a constituency for which the polling station was not designated, because the number of such ballot papers was not expected to be numerous and, if not concealed by the envelope, the votes marked on the ballot papers might be exposed. The EC elector was also provided with a larger envelope to conceal the vote marked on the EC ballot paper issued to him, so that that

ballot paper would be preserved unfolded and intact for being run through a computer programmed to scan it for reading and counting the votes marked on it. A colour cardboard was provided to an elector when ballot papers were issued to him. The colour of the cardboard depended on the number of ballot papers issued according to his entitlement: white for one ballot paper, red for two ballot papers and blue for three ballot papers. Different colour ballot boxes were also used for electors to deposit their GC, FC and EC ballot papers separately, to facilitate sorting and counting.

Section 13 : The Ballot Paper

5.30 There were suggestions that photographs and team or party names of candidates and logos of political organisations should be included on the ballot paper for the GC election. However, the EAC declined to adopt any of the suggestions, as they were undesirable or impracticable in the circumstances, for the following reasons:

- (a) There is no exclusivity in team or party names. If candidates on a GC list of candidates (“GC list”) would like to adopt a particular name for the list on the ballot paper, and another candidate or GC list wishes to adopt the same or similar name, then there can hardly be any fair way for the EAC to decide who should be allowed to use that name.

- (b) Allowing logos and names of political organisations to be used on the ballot paper would cause unfairness to independent candidates, because whatever team name or logo the independents or individuals use, the public would not be too familiar with it. The political parties have all along advertised their names and logos, eg on placards and posters displayed everywhere in the streets, and any new logos or names would not compare well, as far as familiarity to the public is concerned, with the well publicized party names or logos.

- (c) If team names on the ballot paper are allowed, there could not be any justifiable reason to deny independent candidates describing themselves as “independent”. If there are more than one independent candidate contesting the same constituency, allowing all such candidates to describe themselves on the ballot paper similarly as “independent” would confuse the electors.

- (d) Admittedly, it would sometimes be easier for electors to recognize candidates by way of photographs than by names. But in the short time available between the close of nomination and the printing of the ballot papers, there is a danger that if there is any mistake in matching the photograph of one of the numerous candidates against his name on the ballot paper, the dire consequence of having the election annulled may result, a consequence that the EAC can ill afford.

- (e) Moreover, photographs too small will not help electors. Large photographs on the other hand will make the ballot paper too large to manage. Alternative measures to assist the elector in the identification of the candidates were available. The Government published a magazine on the general election which included the photographs of all candidates. Enlarged copies of the candidates' introductory leaflets (complete with photographs) were also displayed outside each polling station and copies of the introductory leaflets were compiled in an album in each polling station for the electors to consult.

The EAC will, however, keep the suggestions under review to see if any can be adopted for future elections.

Section 14 : Electronically Assisted Polling and Counting

5.31 As explained in Section 12, an electronically assisted polling system was employed for the EC election held on 24 May 1998. Under the arrangements, an EC elector may attend any one of the four EC polling stations to cast his votes. Each of these four polling stations was equipped with on-line computer terminals for polling staff to check and verify the electoral status of a person attending, namely, whether he was a registered EC member and whether he had voted. Once an elector had voted, an entry would be made so that his having voted would be shown on the computers in all the four stations. This was to prevent double voting and personation.

5.32 In accordance with the stipulated voting procedure, an EC elector could mark not more and not less than 10 votes on an EC ballot paper and such a marking process was considered to be prone to mistakes. To assist electors in checking whether their ballot paper had been validly marked, and also whether the markings on the ballot paper reflected their actual choice, each voting compartment in an EC polling station was provided with an Optical Mark Recognition (“OMR”) machine. When the elector inserted his EC ballot paper through the OMR machine, the validity of the markings would be indicated on the monitor, assisted by green or red, as the case may be. On the pressing of a button, the numbers and names of the candidates chosen would be displayed. Those who discovered mistakes on their ballot paper could apply for a replacement after returning the unwanted one to the PRO.

5.33 The OMR machines were used during the count for the EC election and also for the subsector elections, to check if the ballot papers were validly marked and help counting the number of ballot papers.

5.34 Sessions of mock polling were held for EC members, providing them with an opportunity to check if the computer-run OMR machines were operating satisfactorily and with integrity and to acquire hands-on experience in marking and validating EC ballot papers.

Section 15 : Counting Arrangements

5.35 Hall 3 on Level 7 and Hall 1 on Level 2 of the Hong Kong Convention and Exhibition Centre were used as the Central Counting Station

(“CCS”) for the subsector elections and the general election respectively.

5.36 Immediately after the close of polling at 10:30 pm for the subsector elections on 2 April 1998 and for the general election on 24 May 1998, all ballot boxes from the polling stations were delivered by the respective PROs and escorted by a police officer to the CCS.

5.37 For the subsector elections, 12 counting zones of different sizes were set up to cater for the sorting and counting of ballot papers for the 31 contested subsectors. Upon the announcement through the Public Address System (“PA System”), the ballot boxes of each polling station for the same subsector, which were temporarily stored at the ballot box deposit area in the CCS, were delivered to a designated counting zone and opened by the RO. The number of ballot papers taken out was then verified against the ballot paper account prepared by the PRO. The counted ballot papers from a polling station were then sealed in PVC bags and passed to the Central Processing Point for storing. Counting of votes for each subsector commenced upon the collection of the counted ballot papers from each of the polling stations for the subsector being complete. Each ballot paper was first visually screened whether any marking or writing was on it. The validity or otherwise of questionable ballot papers was determined by the RO after candidates present had been invited to inspect them. Counting of the votes on the ballot papers was done through the use of OMR machines. In case a valid ballot paper could not be read by the OMR, the votes on it were keyed in by the operators.

5.38 The counting arrangements for the LegCo general election were made in the light of the experience gained from those used for the subsector elections. For GC election, there were six counting zones, one for each of the five GCs and the EC. The 18 contested FCs were grouped in the GC counting zones each of which was to cover three to four FCs. Upon arrival of the ballot boxes at the ballot box deposit area of the respective counting zone, counting staff concerned delivered the boxes to the counting table under the direction of the GC RO. All the ROs and Assistant Returning Officers (“AROs”) and the counting supervisor would open these ballot boxes for the sorting, verification and separation of the ballot papers. After the verification process, the counted GC ballot papers would be placed into plastic bag(s) under security label and delivered to the ballot paper deposit areas of the respective counting zones for temporary storage. When the GC RO decided to commence counting of votes, he would direct his staff to obtain not less than two bags of ballot papers at a time to a counting table. These ballot papers would first be mixed and sorted according to the different lists marked on them, followed by manual counting. This is termed a segment-count. Any questionable ballot papers would be put aside for determination for validity by the GC RO when candidates present were invited to inspect them. When the votes marked on all ballot papers had been counted and the sums of all the segment-counts obtained, the GC RO applied the largest remainder formula to reach the election result and declare it.

5.39 For the FC ballot papers, they were separated in the GC counting zones and verified against the respective ballot paper accounts returned from each polling station. These ballot papers were grouped and sealed into plastic bags under security label and then delivered to the ballot paper deposit

area of the respective FC counting zones for temporary storage. When the FC RO decided to commence counting, he would liaise with the GC RO to obtain some counting tables to start the count. The validity of questionable ballot papers was also determined by the RO concerned with the candidates present being invited to inspect these ballot papers. When the count was completed, the RO would declare the result.

5.40 For the count in respect of the EC, OMR machines were used to read the ballot papers for validity, count their number and calculate the votes marked on them. Candidates present were invited to inspect the questionable ballot papers before the RO made a determination on validity. Votes of valid ballot papers, if they could not be read by the OMR machine, would be keyed into the computer manually. After the election result was obtained the RO would declare it.

5.41 In order to make the counting process transparent and enable candidates and their agents to keep track of the ballot papers from each of the polling stations during the process of sorting and counting, they were given every opportunity to know the following information by way of the relevant records or copies of them being made available for their inspection, either upon request or by having the records or copies posted on a notice board at the counting zone:

- (a) the number of ballot papers belonging to each constituency from a polling station, eg, GC, FC and the EC after sorting and verification of ballot paper account -- the verifications of ballot paper account prepared by the RO;

- (b) the number of questionable ballot papers which were determined to be invalid and those determined valid and the votes marked on the valid ones in favour of each of the candidates or GC lists -- the record of questionable ballot papers prepared by the RO;
- (c) the number of ballot papers marked in favour of each candidate or list of candidates for a constituency as well as the questionable ballot papers -- segment-count records prepared by the RO; and
- (d) the eventual result based on the addition of all the votes recorded on the segment-count records.

Section 16 : Openness and Transparency

5.42 Candidates, their election agents and polling agents were, subject to any necessary measures to regulate attendance and to maintain order in a polling station, permitted to enter and remain in polling stations to observe all polling proceedings and record their observations.

5.43 To ensure that the conduct of the poll would not be interfered with by the presence of candidates and their agents, they had to stay within a designated area while observing the process. The designated area would usually be placed behind the ballot paper issuing desks, so that the monitoring persons might be close enough to witness the issue of ballot

papers to electors, but too far away to speak to or interfere with electors.

5.44 A notice was displayed outside each polling station to inform all concerned about the capacity of the designated area. Admission was on a first-come first-served basis. In order that as many candidates, election agents and polling agents as possible would have a chance to attend at the polling station to observe the conduct of the poll, anyone who had been admitted to the designated area would only be allowed to stay for one hour. Thereafter he had to leave the polling station unless the designated area was not yet full and no other candidate, election agent or polling agent was waiting to be admitted. The fact that such a person had left after attending would not preclude him from being admitted to the polling station again, on a first-come first-served basis and subject to the capacity of the designated area not being exceeded. Everyone admitted was required to sign in and write down the time of entry. Each person queuing outside the polling station would be issued with a number chit to record the order of his application to get into the designated area; and when the turn of his number was reached, the number would be called, but if he was not there at that time, he would be automatically discounted from the queue and he would have to get another number chit when he returned. The bearer of the chit with a number next after the absentee's number would be allowed to get in instead.

5.45 There was also a high degree of openness and transparency in the counting station. Candidates and their agents were allowed to wander and stay along the designated corridors surrounding the counting tables to observe at close distance the counting process. For the general election, copies of records of verification of ballot paper account and segment-count were put up at notice boards at each counting zone. Candidates and their

agents could check the records and copy from them.

5.46 A section of the counting station with seating capacity of 2,300 and 1,500 for the subsector elections and the general election respectively, was set aside as public gallery to accommodate the press, the candidates, their agents and members of the public. For the general election, another 400 seats were provided in the lobby just outside the CCS as a second public gallery. Mega television walls were arranged at all public galleries to provide live broadcast of the entire counting process.

5.47 It was recorded that 129 candidates, 283 agents and 44 members of the public had attended the counting station in the subsector elections. During the count for the general election, 148 candidates, 345 agents and 370 members of the public attended.

Section 17 : Public Visit of Polling Stations and Sample Polling Stations

5.48 The EAC (EP) Reg generally prohibits persons other than electors casting their votes and staff on duty from entering polling stations. Government officials who need to get into polling stations for whatever purpose requires an authorisation either from the Chief Electoral Officer (“CEO”) or from a member of the EAC. Non-government officials would only be allowed in with the authorisation of a member of the EAC. Members of the media are subject to the same rules as to admission, and no photographing or filming of the inside of the polling station is allowed without the permission of the PRO. This has been the rule since election

was introduced in Hong Kong.

5.49 In the LegCo general election, many visitors from foreign countries, be they political figures or members of the media, were interested. Some of them openly requested to be admitted into our polling stations so as to watch the polling process. Normally, this would not be objectionable. However, when a request was first reported in the newspapers in October 1997, it was said to be for the purpose of monitoring Hong Kong's elections. The Chief Executive made known the Government stance that there was no question of anyone other than the Hong Kong authorities monitoring or supervising our elections, but people were welcome to observe how our elections were conducted. The EAC shared the same view.

5.50 The EAC is an independent, apolitical and neutral statutory body imposed and conferred the function and power to solely supervise the elections. The authority to supervise or monitor the elections must end with the EAC, perhaps subject to the general monitor by members of the public. Permitting monitoring by anyone else would defeat the statutory aim of the establishment of the EAC and allow the usurpation of the EAC's powers.

5.51 The EAC, being apolitical and neutral, would not allow politicians, local and foreign alike, to make use of any privilege granted by the EAC in connection with their observation of the elections for obtaining political advantage in their own country. Otherwise, the EAC would be seen as not apolitical and impartial.

5.52 The episode created great political sensitivity. As usual the EAC wishes at all times to avoid getting embroiled in the political sphere.

If the EAC allowed foreigners to be admitted into polling stations and restricted areas of the counting station, it might be construed as allowing foreigners to come to monitor the elections with the following possible ramifications:

- (a) affecting the principle of Hong Kong people running Hong Kong;
- (b) undermining the independence of the EAC as the EAC would no longer be considered as having the last say in supervising the elections; and
- (c) affecting the trust people have in the EAC as being independent, apolitical and neutral, as they would think that the EAC has succumbed to pressure exerted by foreigners.

5.53 The EAC can ill afford any of such suspicions being aroused or entertained by the public. It would be very difficult for people, especially those untrained in electoral matters, to distinguish between monitoring and observation. The EAC's predecessor (ie, the Boundary and Election Commission ("BEC")) did not have any practice, or indeed any occasion, of allowing foreigners to enter polling stations. If the EAC were to start such a practice, it might be prone to be misunderstood as allowing foreign monitoring. Those who so misunderstand might distrust the EAC's integrity. Some people might, on the other hand, think that the EAC had been misled into allowing foreigners to monitor our elections under the disguise of the

EAC's foreign counterparts merely coming to observe and to exchange ideas, which would create doubts in the EAC's sagacity and ability.

5.54 In order to avoid any suspicion or aggravation of the sensitive situation the EAC, by a meeting held on 20 February 1998, decided against authorising any foreign visitors to enter into polling stations or any restricted area of the counting station. If EAC's foreign counterparts (and for that matter, foreign politicians) visited Hong Kong for the purpose of observing the LegCo elections, the EAC should upon request provide assistance to them to enable them to understand the election and electoral arrangements, eg, to provide them with copies of EAC's publications as well as means of contact with candidates, political parties and government officials, and to brief them on electoral matters they desired to know. However, they would have to make their own observation of the election in whatever manner they thought fit, similar to the position of any member of the public in Hong Kong. They would not be allowed entry into polling stations, so that the treatment to foreigners would be no different from treatment to members of the Hong Kong public. All these were for the purpose of ensuring that the public would not misunderstand that the EAC allowed foreign supervision.

5.55 The reasons that were advocated for providing foreign visitors with preferential treatment were:

- (a) complying with protocol and courtesy;
- (b) enabling visitors to learn from the EAC or advising the EAC if they saw anything that could be improved; and
- (c) making the electoral process transparent even to the foreign eye.

5.56 The main argument in favour of allowing foreign visitors to get into polling stations was similarly based on suspicion, in that if they were not allowed in, they might suspect that the EAC had something to hide, or the elections conducted by the EAC was not fair or honest. That would damage Hong Kong's image and the image of the elections and of the EAC. It may be difficult at first sight to see any difference between the suspicion that might be caused by the EAC allowing foreign visitors into polling stations and the suspicion that might otherwise be caused by the EAC's refusal to do so, or the effect of the two different kinds of suspicion. However, it would be easier to clear the suspicion as to what happens inside a polling station access to which is denied to the foreigner, because candidates and polling agents are allowed in. If foreign visitors are interested, they can ask the candidates and polling agents as to whatever happened within polling stations. After all, if there is anything untoward, there is little doubt that candidates and their agents will complain. In the end, it is far better to adopt the policy of not giving preferential treatment to foreign visitors.

5.57 To enhance the openness of the election, two polling stations, one for the GC which could be used also by FC electors and ARs and the

other for the EC which could be used by GC electors and FC ARs, were opened for public observation before the polling day, on Friday 22 May and Saturday 23 May 1998, so that members of the public and members of the media had the opportunity to inspect the layout of those polling stations and the facilities provided in each of them. Photographs and films were allowed inside the polling stations. At the same time, foreign observers who were desirous of having a look at the polling stations were given the same opportunity as members of the media and of the Hong Kong public, to pay a visit to these polling stations. The added effect was that because of the media coverage when these two polling stations were opened, publicity about the approaching election on 24 May 1998 was widened.

Section 18 : Simple or Complex Electoral System

5.58 It was extensively reported that some members of the media and academia labelled the electoral system as difficult or complex. There might be a number of reasons for those who called the system complex to do so. The voting system of list proportional representation was introduced the first time in Hong Kong, and the name was unfamiliar to anyone except perhaps those who study politics or voting systems. The Chinese translation of the name “比例代表名單投票制” is accurate, but traditionally there has never been any Chinese name or Chinese characters used for any electoral system, and a new name, translated from English, rather than helping the public to be familiar with the system, mystified it. Nobody in the 1995 or earlier elections ever criticized the then election systems as being complicated. No survey was conducted in 1995 or before as to whether people understood

“first past the post” or “simple majority”. Everybody in those days seemed to have fully understood those voting systems and others like “preferential elimination” and “single transferable voting system”. This time round, however, there were criticisms that the voting system of “list proportional representation” was complicated. It should be noted that when the proportional representation system was first introduced through the LegCo Ord, back in September 1997, there were voices saying that it was an unfair system. In the months starting from January 1998, because of a survey conducted by an academic institution reporting that most people surveyed responded that they did not understand that system, all the criticisms converged upon complexity. Whatever the motive of the criticisms on complexity, the feared consequence was that many electors might be frightened off the polling station. Anyone who had only a marginal interest in the election might keep off the election because the alleged complexity of the voting system would be a ready pretext or excuse for staying at home or at work and not to bother about something which he was told that he did not understand.

5.59 The electoral system is provided for in the LegCo Ord whilst the EAC is tasked to make electoral arrangements including the manner in which an elector is to cast his vote. The EAC, an independent, apolitical and neutral body, is to operate under the electoral system, complex or simple, fair or otherwise, good or bad, but it is responsible for ensuring that elections are conducted fairly, openly and honestly and devising the manner in which electors are to cast their votes. For fear that the reported assertion might create distrust or disinterest in the electorate, the EAC felt obliged to proffer explanations and clarifications that electors could cast their vote in a very simple manner. The Chairman took every opportunity when he faced the

media to state that voting was, as was the fact, extremely simple and easy: “Just mark a tick in the circle next to the list of candidates of your choice. Never mind about the name of the ‘list proportional representation’ voting system, never mind why it was introduced, and you don’t need to understand how candidates should arrange their placements on the list so as to obtain optimum benefit out of the system. You don’t need to understand the system. Simply go to the polling station, get your ballot paper, and tick the list of candidates of your choice.” The Chairman was criticized for fooling the public, based on a quote out of context: “You don’t have to understand the election system.” This led him to accept the invitations of the media more often, in order to have more opportunities to explain to the public that the system was simple and easy for electors, and assured them that insofar as they cast their vote, their vote would have its intended effect, in the hope that their confidence in the voting system would not be damaged and they would attend the polls.

5.60 The Chairman’s frequent appearance in electronic media programmes and the acceptance of a large number of print media invitations for interviews also led to criticism, in that as chairman of the independent, apolitical and neutral EAC, he should not have been concerned with the electoral systems and controversies involving the fairness or otherwise of the systems. The criticisms were based on an incomplete understanding or non-appreciation of the reason for the publicity activities. The Chairman never commented on the fairness or otherwise of the electoral system or voting systems, which were not designed by the EAC. The Chairman never made any remark on political issues. Despite the possibility of getting embroiled in heated arguments, the Chairman was of the view, shared by the EAC, that the EAC was duty-bound to disabuse the electors of the allegation

that the list proportional representation system or how to vote was difficult to understand. It was felt that the impression created by media reporting of the survey results that few people could name the system or understand it was misleading the public to make them feel that casting their votes would involve difficult comprehension. The Chairman had to employ his endeavours to explain that voting was but very simple, just by marking a tick in the circle against the list of candidates of the elector's choice.

5.61 The matter was best summarised in a report of an interview of the Chairman by *Am Cham*, recorded in its May 1998 edition. "I was recently criticized ... that the electoral systems were none of my business and I should not have defended the government on the electoral systems. But I did not! I never did. My defense is toward people attacking the voting system as being too complicated. That I don't like. ... What I say is, they've missed my point and misunderstood. The voting system is not complicated. Don't frighten off electors. I am not defending this as a good or bad system."

5.62 At least there was, however, one positive consequence from the criticisms. The public's awareness of, if not interest in, the voting system and the election was enhanced.

Section 19 : Journalists' Own Monitor of the Media

5.63 On 5 May 1998, there was a press release by the Hong Kong

Journalists Association about the establishment of an “Independent Panel to Monitor the Media during the May 1998 Legislative Council Elections”.

The focus was in effect to monitor and assess how the media was complying with the standards and requirements laid down by the EAC. It announced that it would take action, if it saw fit, on any improprieties or misconduct of the media, or by political parties or candidates. It would also report on, inter alia, the effectiveness and scope of the EAC Guidelines for the media during the election. Several problems were envisaged:

- (a) the Panel might take action against the media, political parties or candidates without first letting the EAC know, creating the possibility that the EAC disagrees with the Panel’s view upon subsequent complaint made by dissatisfied or affected parties, which might lead to the EAC publishing a public censure against the Panel if it ought to do so; and
- (b) at the very least, the EAC would be forced to investigate the basis of the Panel’s decision in order to answer queries from the media or the public whether the decision is correct.

It was therefore thought appropriate that the Panel should consult the EAC insofar as it wished to take any public action against anyone relating to elections.

5.64 The EAC Chairman met with representatives of the Panel on 13 May 1998 when the EAC Chairman expressed the concerns of the

Commission. It was stressed that the Panel did not need to agree with the EAC's views, but at least it would have those views in mind for consideration. The EAC did not wish to affect the independence of the Panel but rather wished to have an opportunity for the two bodies to discuss their viewpoints and any disagreement before a decision was taken by either to avoid misunderstanding or embarrassment. The EAC also wished, in appropriate cases, to consult the Panel for its views on media activities in relation to electioneering so as to have the perspective of people in the same field. The meeting reached the following conclusions:

- (a) Whenever there was a case on which the Panel might wish to take any action which would become public, it should first let the EAC know, when there should be discussions between the Panel and the EAC so that each would be apprised of the other's views. This would enable the parties to have discussions which would help them reach a fairer and better conclusion, and that the parties would be able to know each other's positions before announcing its own independent decision.
- (b) The EAC might, on a confidential basis, seek assistance from the Panel on the latter's views relating to one or more complaint cases relating to the media vis à vis the election, and the Panel promised to render such assistance.
- (c) A channel of communication was to be set up for the purposes of (a) and (b).

5.65 In actual fact, however, subsequent to the meeting there has been

no issue requiring consultation between the EAC and the Panel.

CHAPTER 6

THE GUIDELINES

- Section 1 : The Public Consultation and Representations
- Section 2 : The Contents of the Guidelines
- Section 3 : The Quality, Efficacy and Effectiveness of the Guidelines
- Section 4 : Review of the Guidelines

Section 1 : The Public Consultation and Representations

6.1 The EAC is empowered under s 6(1) of the EAC Ordinance to issue guidelines relating to election-related activities. The guidelines may cover the activities of candidates, their agents and others in connection with an election, matters regarding election expenses and the display of publicity materials, and complaints procedure.

6.2 As explained in Section 2 of Chapter 5, the EAC issued the proposed guidelines on 18 December 1997 and invited members of the public to make representations to the EAC in the period between 18 and 31 December 1997 and to attend a public forum on 30 December 1997 to express their views on the proposed guidelines.

6.3 Having fully taken into account the representations received during the period and the PLC's amendment to the EAC (EP) Reg, the EAC

issued the Guidelines on 28 February 1998. The EAC felt that the time of publication and distribution of the Guidelines was such that any interested party would have sufficient notice of the Guidelines well before 13 March 1998, the commencement date of the nomination period for the EC subsector elections.

Section 2 : The Contents of the Guidelines

6.4 The format of the EAC Guidelines comprising 17 chapters followed closely that of the guidelines issued for the 1995 LegCo election. However, various revisions to the 1995 guidelines were made and many new additions were introduced to cater for the list voting system for the GC election, the EC subsector elections and the different kinds of constituencies in the LegCo elections. All the electoral procedure and arrangements that were newly adopted, set out in some detail in Chapter 5 of this report, were incorporated. A separate chapter (Chapter 2) was created for the easy reference to the GC election, so that those who were interested only in that election would be relieved of reading the materials giving a general introduction to the whole of the electoral system introduced by the LegCo Ord, consisting of five GCs, 28 FCs which included six Special FCs, the EC, 38 subsectors, and the different voting systems applicable to them. This introduction is contained in Chapter 1 of the Guidelines, which with its four appendices, covers 98 pages.

6.5 In the light of comments made by members of the public in respect of the proposed guidelines during public consultation from 18 to 31 December 1997 and members of the PLC Subcommittee on Subsidiary

Legislation relating to the LegCo Elections in respect of the EAC (EP) Reg at its meetings on 23 January and 5, 9 and 13 February 1998, the following major changes were made:-

- (a) There would be two kinds of polling stations. One was designated for GCs which would also be used for polling for the 28 FCs; another kind was designated for the EC which would also be used for polling for the 28 FCs and 5 GCs to which the EC electors belonged.
- (b) Special polling arrangements regarding poll cards, ballot papers, envelopes, cardboards and ballot boxes would be made to tie in with the new combined polling arrangements.
- (c) An enlarged copy of the introductory leaflets of the candidates would be displayed outside the polling stations to facilitate easy reference by electors.
- (d) A colour "Election Special" would be published by the Government before the election day to publicize the LegCo elections and all validly nominated candidates.
- (e) For serving notices on or receiving notices from the RO, any candidate on a GC list or his election agent was allowed to perform such functions.

- (f) A child who accompanied an elector to the polling station for the purpose of voting might also be admitted to a polling station if the PRO considered that the child should not be left unattended while the elector was inside the polling station.

- (g) An elector/polling agent would commit an offence if he spoke to or communicated with any other elector, or used a mobile phone or any telephone or page machine or any other form of electronic communication device inside a polling station provided that the PRO had given him direction not to do so.

- (h) The election, polling and counting agents would only need to be holders of Hong Kong Identity Card (“HKIC”) and aged 18 years instead of the originally proposed requirement of being a GC elector.

Section 3 : The Quality, Efficacy and Effectiveness of the Guidelines

6.6 After the LegCo elections on 24 May 1998, comments and suggestions relating to both the subsector elections and the general election were sought from candidates, ROs, PROs and Counting Supervisors on various aspects of the electoral arrangements, including the Guidelines. While there is no dispute that the document is very comprehensive and covers most aspects relevant to the elections, some candidates and ROs share the view that the Guidelines are too bulky and contain too many details which

are not easy to digest. As the purpose of publication of the Guidelines is to let candidates as well as intended candidates know what they are expected of their conduct in election campaigning under the electoral law and the consequences which they would have to bear in case of breach, the document is necessarily lengthy in order to ensure that nothing essential is left out. However, in view of the feedback from candidates and to make the Guidelines more user-friendly, consideration will be given to enhance the format of the Guidelines by building in an index to facilitate quick reference and easy retrieval of information. Perhaps, subject to technical considerations, the Guidelines may also be made available to candidates and ROs in an interactive format by means of a computer CD-ROM.

6.7 Some candidates who had responded in the questionnaire survey conducted by the REO suggested that “election expenses” was among the matters most difficult to understand which they had to deal with. Very briefly, candidates would easily get confused about what would or would not constitute election expenses, and would therefore be unwittingly subject to the declaration requirement and the election expenses ceiling. Such was particularly the case with a joint EA promoting two or more candidates where sharing of election expenses was involved. A few candidates have pointed out that staff of REO could not in some cases readily offer a concrete and consistent answer on slightly more complex questions of election expenses. There is certainly some truth in the allegation as the issues relating to election expenses are very often complicated requiring deliberation and careful examination of all surrounding circumstances and, in some cases, the advice of a lawyer. While the underlying principle is that everything has to be handled in a fair and reasonable manner, there can never be a simple answer in dealing with details in each case. In case of doubt, as the Guidelines

advise, it remains the onus of the candidate to consult his own lawyer in order to ensure that he complies with the relevant legal requirements. However, to achieve some sort of consistency in interpretation, it is perhaps worthwhile to consider including in the Guidelines a set of examples showing the proper way to handle and declare election expenses for reference by candidates as well as ROs . Since the Independent Commission Against Corruption (“ICAC”) is the enforcement agency with the required experience and expertise, the department will be invited to make a contribution in this respect.

6.8 The reservations adumbrated above aside, it is believed that the Guidelines did serve the useful purposes for which they were intended. The publication is a comprehensive collection of various aspects of electoral law, regulation, procedure and practices that candidates and their agents ought to know, expressed in simple language for easy reference. It contains indications as to when the EAC or other government authorities may interfere, providing a yardstick for candidates and agents against which to weigh and gauge their electioneering activities. It enables members of the public, and the electorate in particular, who are interested to have ready access to information on electoral law, practice and procedure. Above all, the Guidelines impart ideas of openness, fairness and honesty to those who are concerned with elections, and hopefully imbue them with such principles which are the express aim and spirit of the EAC Ordinance.

Section 4 : Review of the Guidelines

6.9 The Guidelines have been reviewed in the light of experience

gathered from the LegCo elections and the comments and suggestions from various parties concerned. They may need to be revised to incorporate the improvements referred to in Chapter 10.

CHAPTER 7

THE FORMATION OF THE ELECTION COMMITTEE THE SUBSECTOR ELECTIONS ON 2 APRIL 1998

- Section 1 : The Sectors and Subsectors
- Section 2 : The Publicity for the Elections
- Section 3 : The Electorates
- Section 4 : The Nomination of Candidates
- Section 5 : The Polling
- Section 6 : The Count
- Section 7 : The Results and Members of the EC

Section 1 : The Sectors and Subsectors

7.1 There are the following four sectors in the EC, each comprising 200 members of the EC:

- (a) industrial, commercial and financial;
- (b) the professions;
- (c) labour, social services and religious; and
- (d) political, including members of the PLC, Hong Kong deputies to the NPC, representatives of Hong Kong members of the National Committee of the CPPCC, and representatives of district-based organisations.

7.2 The four sectors are subdivided into 38 subsectors. The sectors and subsectors, and the number of members of the EC that are to represent them are set out in Schedule 2 to the LegCo Ord which is reproduced in **Appendix VI** for easy reference. Members of the EC from 35 of the subsectors are to be returned by election. Three subsectors do not require election: the NPC subsector and the PLC subsector since the Hong Kong deputies to the NPC and the members of the PLC are ex-officio members of the EC, and the Religious subsector's EC members are to be returned by way of nomination.

Section 2 : The Publicity for the Elections

7.3 An inter-departmental steering group chaired by the CAB coordinated publicity activities for both the subsector elections and the general election. Regarding the subsector elections, it was considered that a targeted approach rather than an all-out campaign should be adopted to reach out to a small electorate of 143,000. Separate briefings were held for voters of different subsectors. A leaflet highlighting the important role of the 800 EC members to be returned by the subsector voters in the first LegCo elections held in May 1998 and appealing for the support of the voters in casting their votes was sent to every voter.

7.4 There were criticisms that publicity was not adequate and that some prospective candidates might have missed the nomination period. But 1,098 valid nominations were received at the end of the day with only four subsectors being uncontested.

7.5 Probably owing to the relatively small size of the electorate, although the subsector elections was the first of its kind in the HKSAR, there was not too much media interest in it.

Section 3 : The Electorates

7.6 About 143,000 voters are registered in the FR for the 35 subsectors that require election to return EC members. A breakdown of the number of these voters by sector and subsectors can be found at **Appendix III**.

Section 4 : The Nomination of Candidates

7.7 The fact that NACs were appointed to provide advice to prospective candidates and ROs on the qualifications for nomination for the subsectors was publicised upon the making of the EAC (NAC) Reg on 12 January 1998. Altogether 22 prospective candidates and 7 ROs sought advice in respect of nomination for the subsector elections.

7.8 A total of 1,074 nominations were received by the ROs of all the 35 subsectors during the nomination period from 13 March to 20 March 1998. Of the nominees, eight subsequently withdrew their candidature before close of nomination and another eight nominees had their nominations ruled invalid by the ROs. While the reasons for invalidation of the eight

nominations were varied, a few of them were found not qualified for being GC electors. As a result, there remained a total of 1,058 candidates validly nominated for the 35 subsectors whose EC members were to be returned by way of election. The candidates for four of the 35 subsectors were returned uncontested. Since 117 EC members were either ex-officio or nominated by the Religious subsector, and four subsectors returning 95 EC members were uncontested, there were 963 candidates remaining to contesting in 31 subsectors for 588 seats in the EC.

Section 5 : The Polling

7.9 The polling day for the subsector elections took place, as specified by notice published in the Gazette by the Chief Executive, on Thursday 2 April 1998, a working day.

7.10 As the electorate in most of the subsectors was relatively small and concentrated in certain locations, a total of 96 polling stations were designated. A breakdown of the number of polling stations for each subsector is shown at **Appendix VII**. A one-stop service was provided to each voter in that when he attended the polling station allocated to him he was entitled to cast his own vote for that subsector and also his vote for another subsector as AR on behalf of a corporate voter, if that was the case.

7.11 For the EC subsector elections, in view of the large number of candidates contesting, a “mark-sense” ballot paper was used to facilitate the counting of votes. The voter needed to fill out an oval against the name of

the candidate of his choice instead of marking any symbol to record his choice. The ballot paper bore the name of the subsector or sub-subsector at the upper-right corner and was printed in different colours to facilitate easy distinction.

Section 6 : The Count

7.12 Centralised counting at a CCS was provided for the count. The layout of the counting station had to be arranged to cater for the 18 ROs for the 31 subsectors, the size of the electorate and the number of contested candidates. With these in mind, 12 counting zones of three different sizes were designated.

7.13 In order to tie in with one-stop polling arrangement, a central processing point had to be designated in the CCS to hold the ballot papers for each subsector collected from the polling stations which served more than one subsector. When all the ballot papers for each subsector had been collected, the ballot papers were then redistributed to the RO concerned for the counting of votes.

7.14 The ballot papers were first visually screened by the counting staff to detect whether any markings were found thereon which might render the ballot papers questionable, eg, where the identity of the voter might be revealed, or the votes could not be read by the OMR machine. After this screening process, the ballot papers were fed into the OMR machine for

computer reading and tabulation. The OMR machine with the computer could read the shaded ovals, record the number of votes, and add up the total. Any ballot paper not properly marked but was determined valid by the RO would have the votes on it manually keyed into the computer. Manual input was also necessary for those ballot papers that were wrinkled which the OMR machine was not expected to read properly.

7.15 The entire counting process took a longer period of time to complete than originally expected. It was anticipated that as the count would be done with the assistance of computerised OMR machines, counting time that would normally be required by manual counting would be substantially curtailed. The delay was identified to be attributable to one or more of the following causes:

- (a) Insufficiency of communication between the counting zones, the Ballot Boxes Deposit Area and the Central Processing Point and Control Panel. The absence of progress report from each counting zone to the Central Processing Point and Control Panel caused confusion and delay in the Control Panel instructing delivery of ballot boxes to the counting zone. There were occasions when some counting staff were busily engaged whereas others were idle.
- (b) Some voters were not familiar with the correct marking of the ballot papers, such as not shading the ovals fully, making marks close to the circumference of the ovals, etc thereby creating two problems. The ROs needed to spend a lot of time in determining the validity of the questionable ballot papers which

were not properly marked and the manual input of the votes on the ballot papers that were determined valid or could not properly be read by the OMR machine took a considerable time to complete.

7.16 The experience gained from the counting exercise for the EC subsector elections enabled better planning and improvement to be made to the count for the general election on 24 May 1998 which eventually proved to be a success.

Section 7 : The Results and Members of the EC

7.17 A total of 353 ballot papers were rejected by the ROs as invalid in the subsector elections. An analysis of these ballot papers classifying the reasons for rejection is at **Appendix VIII**.

7.18 The results of the EC subsector elections containing all the valid votes cast are shown in **Appendix IX**. The election results after the count regarding each of the contested elections were announced through the PA system at the CCS.

7.19 In respect of the EC subsector elections, the notices of the election results were published by the respective ROs in the Gazette on 27 March 1998 (regarding the uncontested subsectors) and 9 April 1998 (regarding the contested subsectors).

7.20 Thus, the 800-member EC was formed, consisting of the following:

- (a) 77 ex-officio members;
- (b) 40 members nominated by the Religious subsector;
- (c) 95 returned uncontested from four subsectors; and
- (d) 588 returned from 31 subsectors after the subsector elections held on 2 April 1998.

CHAPTER 8

THE LEGISLATIVE COUNCIL GENERAL ELECTION

- Section 1 : The Constituencies and the Election Committee
- Section 2 : The Publicity for the Election
- Section 3 : The Electorates
- Section 4 : The Nomination of Candidates
- Section 5 : The Polling
- Section 6 : The Ballot Papers
- Section 7 : The Downpour and Remedial Measures
- Section 8 : Supply of Ballot Papers to Polling Stations
- Section 9 : The Card Shortage
- Section 10 : The Count
- Section 11 : The Marking of Ballot Papers of the Special FCs
- Section 12 : Hiccup in the Count
- Section 13 : The Record-Breaking Turnout
- Section 14 : Arguments Over the Impact of the Commemorative Cards
- Section 15 : The Results

Section 1 : The Constituencies and the Election Committee

8.1 The general elections held on Sunday 24 May 1998 was for returning 60 Members to the LegCo from the following constituencies:

- (a) 20 Members from five GCs;
- (b) 30 Members from 28 FCs; and
- (c) 10 Members from the EC.

8.2 The five GCs are as follows:

- (a) Hong Kong Island to return four Members;
- (b) Kowloon East to return three Members;
- (c) Kowloon West to return three Members;
- (d) New Territories East to return five Members; and
- (e) New Territories West to return five Members.

8.3 Out of the 28 FCs, the Labour FC was to return three Members whereas all other 27 FCs were to return one Member each. The 28 FCs are as follows:

- (i) Urban Council;
- (ii) Regional Council;
- (iii) Heung Yee Kuk;
- (iv) Accountancy;
- (v) Agriculture and Fisheries;
- (vi) Architectural, Surveying and Planning;
- (vii) Commercial (First);
- (viii) Commercial (Second);
- (ix) Education;
- (x) Engineering;
- (xi) Finance;

- (xii) Financial Services;
- (xiii) Health Services;
- (xiv) Import and Export;
- (xv) Industrial (First);
- (xvi) Industrial (Second);
- (xvii) Information Technology;
- (xviii) Insurance;
- (xix) Labour;
- (xx) Legal;
- (xxi) Medical;
- (xxii) Real Estate and Construction;
- (xxiii) Social Welfare;
- (xxiv) Sports, Performing Arts, Culture and Publication;
- (xxv) Textiles and Garment;
- (xxvi) Tourism;
- (xxvii) Transport; and
- (xxviii) Wholesale and Retail.

8.4 The EC shall have 800 members to be composed of representatives from four sectors divided into 38 subsectors. Apart from three subsectors, the remaining EC members are to be elected. Members of PLC and the Hong Kong deputies to the NPC are ex-officio EC members, and the Religious subsector is to return their EC members by way of nomination by its representative organisations. For details about the subsector elections held on 2 April 1998 and the formation of the EC, please see Chapter 7.

Section 2 : The Publicity for the Election

8.5 A massive publicity drive with multifarious advertising tools was conducted in the run-up to the election immediately following the subsector elections.

8.6 Cyberspace was used for the first time to publicise the election. The election page posted record high visits of 38,964 by the time when election results were announced on 25 May 1998.

8.7 New publicity stunts included a pair of commemorative cards, the first one of which, say Card A, was distributed to all registered GC electors by being included in the envelope containing the poll card and introductory leaflet of candidates mailed about 10 days before polling day. The second of the cards, ie Card B, was promised to be handed out at polling stations to electors who had cast their votes. The cards bear different artistic expressions of the HKSAR on the face, with a description of the main features of the first LegCo election on the back. A Hongkong Post's souvenir cover was also introduced and a hand-back service for a special postmark was provided on 23 May 1998 to publicise the election. The same designer was commissioned to make the designs of the commemorative cards and the souvenir cover, and all the three items would complement each other. A full-colour booklet, "1998 Election Special", was also published by the Government, containing a brief introduction to the electoral system and all the candidates running for election.

8.8 The Chairman frequently appeared in television and radio programmes, accepted interviews by the print media and participated in public speaking engagements, in order to obtain free publicity on electoral topics, with the aim to arouse awareness and interest in the election. Altogether, the Chairman attended 10 press conferences, 13 television programmes, 15 briefings and stand-up sessions, 15 phone-in programmes, nine radio programmes and 23 interviews and gave 12 talks. Whenever circumstances permitted, the Chairman accepted all invitations from members of the electronic and print media and various organisations, insofar as the purpose was to answer questions concerning electoral law, procedure and arrangements or to give an introduction to or explanations on electoral topics of current interest.

8.9 Candidates had ample opportunities to present their platforms at numerous forums organised by RTHK, Commercial Radio, Asia Television Limited, Cable TV, District Offices and various organisations. The frequency of the forums was so great that some candidates found it hard-pressed to attend all of them.

Section 3 : The Electorates

8.10 The numbers of electors in the FRs published on 13 March 1998 for the GC and FC and on 9 April 1998 for the EC were as follows:

- (a) about 2,795,000 electors for the GCs;
- (b) about 139,000 electors for the 28 FCs (breakdown at Appendix

- IV**); and
- (c) 800 members of the EC (see breakdown in para 7.20 of Chapter 7 and at **Appendix V**).

Section 4 : The Nomination of Candidates

8.11 Prospective candidates and ROs sought advice on nomination qualifications from the NACs. Altogether the REO received 10 applications for advice from prospective candidates, and 8 applications from ROs.

8.12 During the nomination period for the general election from 9 to 24 April 1998, the ROs received a total of 34 nomination lists (consisting of 83 candidates) in respect of GCs, 63 nominations in respect of the 28 FCs and a total of 29 nominations for the EC election. Of the 83 candidates nominated for the GCs, two withdrew their candidature before the close of nomination, leaving only 81 candidates validly nominated. In respect of the 28 FCs, there was one withdrawal and two nominations ruled invalid. In the EC election, four nominees withdrew their candidature. As a result, there were 166 validly nominated candidates contesting in the elections. All the five GCs were contested. As there was only one candidate each in 10 FCs, the candidates for these FCs were returned uncontested. 50 candidates vied for 20 seats in LegCo in 18 FCs, consisting of three seats for the Labour FC and one seat each for the other 17 FCs. There were 25 candidates running for the 10 LegCo seats for the EC.

Section 5 : The Polling

8.13 On election day, 496 polling stations were open for business, four specifically designated for the EC election, and 492 for the GC election. An FC elector and/or AR could cast his FC votes in either the EC or GC polling station allocated to him. Every elector could therefore attend the allocated polling station and cast all his votes during one visit. Fifteen hours were provided for polling, from 7:30 am to 10:30 pm.

Section 6 : The Ballot Papers

8.14 To avoid confusion and possible irregularity which might occur with the combined polling arrangements, ballot papers were designed to enable easy identification and to facilitate sorting. Very briefly, the ballot paper for the GC showed black characters printed on white paper with a colour instruction box pointing at the circles in which an elector had to put in a tick to indicate his choice of list of candidates. Each list with the name(s) of its candidate(s) on the ballot paper was included in a box which was divided from other boxes containing other lists. The distinctive list number which was allocated to each list by the drawing of lots was included prominently. The ballot paper for each of the FCs bore similar design (though the wording in the instruction box differed) but was printed in a colour pattern to make it easily distinguishable. The ballot papers for each constituency bore the alphabetical code assigned to it so as to provide an added distinction from those for other constituencies.

8.15 For the EC election, a “mark-sense” ballot paper was used to facilitate counting of votes in view of the comparatively larger number of candidates contesting the election, so that OMR machines could be used to read and count the votes.

Section 7 : The Downpour and Remedial Measures

8.16 The election started with the gloom of a rainy day and ended when the record turnout brightened everyone’s heart.

8.17 The raining condition became worse since the opening of the polling stations. It was reported at around 11:30 am that seven polling stations in the northern part of the New Territories encountered difficulty because of the heavy rain. Two of these stations were in the Yuen Long District, one in Sha Tau Kok, one in Fanling and three in Sheung Shui. Altogether they served a total of 6,594 electors. Some of these stations were flooded, while others which remained dry had one or more of their access routes filled with water so deep that approach by electors without vehicles might be denied. The Government started to take measures to help by arranging transportation for the electors who were stranded to attend these polling stations. An emergency meeting with the Secretary for Constitutional Affairs, Mr Michael SUEN, was held at 2:30 pm. Pending the meeting, the red rainstorm signal was hoisted, at 12:45 pm, and the downpour was extremely heavy when members of the EAC came to the meeting at the Hong Kong Convention and Exhibition Centre through the Eastern Harbour Crossing, especially on the Eastern Corridor.

8.18 The emergency meeting was attended by Mr Suen, Mr David LAN (Secretary for Home Affairs), members of the EAC, Mrs Shelley LAU (Director of Home Affairs), Dr H K LAM (Director of the Hong Kong Observatory), Ms CHANG King-yiu (Deputy Secretary for Security), Mr TSANG Kwong-yu (Acting Director of Fire Services), Mr John Collier (Director of Drainage Services), Mr Thomas CHAN (Director of Information Services), Mrs WONG LEUNG Kam-shan of the Hong Kong Police Force, Mr LUI Hau-tuen (the Chief RO), the CEO and other government officials. Mr Suen and the EAC agreed that the poll should not be postponed unless it was absolutely necessary, for example, if the black rainstorm signal was raised. The Chairman of the EAC put forward the EAC's four alternatives for the meeting to consider, depending on the circumstances and requirement:

- (a) An alternative polling station was to be provided for the polling station that was affected by the inclement weather.

- (b) The affected polling stations be closed and the poll at those stations adjourned until the morning of Monday, the following day. The ballot boxes, ballot papers and all other election materials be kept at the polling station in a secure manner until the resumed poll. This would have the benefit of not allowing too much time to elapse that would otherwise enlarge the security problem. Other polling stations, which were not affected by the rain, would continue to operate and the ballot papers cast be delivered as normal to the CCS at the conclusion of the poll. Arrangements would have to be made with the Hong Kong Convention and Exhibition Centre for the CCS to be used for another day, to await the conclusion of the resumed

poll.

- (c) In case of a black rainstorm signal, all polling stations in the whole territory would have to be closed. The rest of the procedure and requirement would be the same as set out in (b) above. However, because of the delay caused to polling, electors or a majority of them who had not yet cast their votes would face a different situation because instead of a Sunday, they had to attend polling stations on a Monday, a working day. The EAC would, for the purpose of enabling electors to have equal treatment, urge the Chief Executive to allow civil servants the morning off on Monday so as to enable them to cast their votes, and request the Chief Executive to appeal to employers throughout Hong Kong to provide the same convenience to their employees.

- (d) The worst scenario would be to close all polling stations territory-wide and resume the polling on the following Sunday. This was the most undesirable alternative that should be avoided if at all possible, for the sake of security of election materials. The longer the ballot boxes and ballot papers were left unattended, the higher would be the risk that they might be tampered with.

8.19 Dr H K LAM, Director of the Hong Kong Observatory, provided relief to all attending the meeting by telling them that the rain belt was moving eastward away from Hong Kong. At the time of the meeting, it had reached the eastern part of Hong Kong and approaching Sai Kung. The trend was quite steady and the main thrust of the rain belt was to leave the territory soon. In other words, the worst was over.

8.20 The meeting was informed that out of the seven polling stations affected, only one had actual problem in that it was flooded ankle-deep and there was a power failure. It was decided that for this polling station M0930 at Wang Chau Public School, Wang Chau Heung, Yuen Long, an alternative polling station M0401 at Yuen Long Long Ping Estate Tung Koon Primary School, Phase 1, Long Ping Estate, Yuen Long should be allocated, so that electors who had been assigned to M0930 would be provided with the added convenience of attending M0401. In the meantime, the Fire Services Department (“FSD”) would send a lighting tender to provide emergency power to M0930. It was learned very soon later that power at that polling station had resumed.

8.21 Mr Suen and the Chairman met with the media at 3:30 pm and announced the alternative polling station arrangement. The electronic media were enlisted to help spread the message over the television and the radio, and the television and radio announcers on duty at the press centre were requested to propagate the arrangement immediately.

8.22 Trouble created by the bad weather seemed to have disappeared until shortly past 8 pm when the Chairman was informed that the access road to polling station N1001 at TKL Ling Ying Public School, Chow Tin Village,

Ta Kwu Ling was blocked by flooding. Some of the electors assigned to that polling station had in fact been evacuated from their homes because of the flood. An alternative polling station N1004 at Sha Tau Kok Government Secondary School, Sha Tau Kok was provided in accordance with the arrangement as stated in the preceding paragraph. When two electors of N1001 attended another polling station and insisted on casting their votes in the latter, the request was refused, for on principle it would be wrong to allow any elector to choose his own polling station according to where he happened to be. This would make monitor difficult, both for the polling staff and the candidates and their agents.

8.23 After the public announcement at 3:30 pm, the Chairman and Mr Norman LEUNG resumed their respective polling station visit programmes, which should have started at 2:30 pm. Mr Norman LEUNG also took upon himself to cover the programme of Ms Elizabeth SHING which should have been completed by the early part of the afternoon had she not been required to attend the emergency meeting. Ms Shing was, as planned a long time ago, catching a plane in the early evening.

8.24 While the Chairman was visiting polling station M1802 at Toi Shan Public School, Demarcation District 111, Wang Toi Shan Village, Pat Heung, Yuen Long, Mrs Shelley LAU, the Director of Home Affairs, came and informed the Chairman of a touching sight that electors were treading sand bags to cast their votes. Agreeing with Mrs Lau that the matter should be recorded, the Chairman and Mrs Lau attended polling station M1702 at Hoi Ming School, San Tin, Yuen Long. Upon the Chairman and the PRO giving authorisation, the cameraman of Asia Television Limited, the only cameraman present at the polling station, went into the polling station to

make a film recording. The polling station was situated at the bottom of a slope. The floor was flooded and sand bags were used to make drier ground. Sand bags, two-deep, were piled in a line to form a corridor leading from the entrance right up to the front of two issuing desks. Wooden planks were so placed that one end was over the sand bags in front of the issuing desks and the other end was on the sand bags in front of two voting booths as a bridge for electors, for the electors to use the booths to mark their votes. When the Chairman arrived, the floor was still very wet with patches of water everywhere, although the flooding had already subsided. There were over a dozen electors inside the polling station, queuing for ballot papers or for using the voting booths. A couple of lady electors told the Chairman that this was their second visit that day, because they had earlier on decided not to go into the polling station on seeing that its entrance was filled with water over two feet deep. The touching scenes of electors queuing on sand bags and waiting on planks for entering voting booths were filmed by the cameraman of the Asia Television Limited, which must be a much more vivid record than what is stated here.

8.25 Apart from the incidents described above, nothing of significance was noticed during the polling station visits. The poll apparently ran smoothly.

8.26 After the election, the Chairman met with the PROs and Deputy Presiding Officers (“DPROs”) of the polling stations affected by the rain or flooding, to thank and commend them. He was told by the PRO of N1001 at TKL Ling Ying Public School that in the early part of the morning on election day, two electors descended from the hill on which the station was situated to cast their votes. The lower part of the hill was flooded barring

access to the polling station from below. The PRO, appreciative of the flooding situation, was nicely surprised by the electors' attendance. This was another incident that demonstrated the enthusiasm of some of the electors.

Section 8 : Supply of Ballot Papers to Polling Stations

8.27 Regarding the two polling stations which were used as alternative polling stations for the two affected by flooding, ballot papers were never found insufficient, either because the stock in the alternative polling stations was enough to meet the demand, or more ballot papers were supplied in good time by the affected polling stations or by the REO.

8.28 However, some 100 other polling stations experienced the plight of having a low stock level of GC ballot papers for a short period of time from 7:30 pm to 9:30 pm as a result of their ballot paper stocks not being replenished in good time. The hitch was caused by the fact that for operational reason, save for the polling stations located in outlying islands and in remote areas in the New Territories which had a 100% coverage, all other polling stations were only issued with ballot papers enough for use of 60% of the electors assigned to the polling stations concerned. The remaining 40% was kept in the custody of the REO in its Central Command Unit in Wanchai and arrangements had been made for them to be delivered to the polling stations on receiving requests from the PROs concerned. Shortly after 7:30 pm when the voter turnout rate for the GCs reached the record high of 42%, REO began receiving requests for additional supply of ballot papers from the PROs who were concerned that their ballot paper stocks were

diminishing. Although the polling stations were replenished with ballot papers by the REO as a matter of urgency, and no elector went without them, owing to the time lag between the start and completion of the distribution of the ballot papers, some polling stations did experience a worrying situation of very low stock level of GC ballot papers. The REO will review the level of ballot paper stock that should be reasonably kept by PROs.

Section 9 : The Card Shortage

8.29 A couple of hours before the poll closed, it was reported by the media that electors in some polling stations were not able to obtain the second of the commemorative cards, ie Card B, and they were dissatisfied. Each polling station was provided with a number of Card B that equaled about 50% of the number of electors that were served by the station. This was an equal distribution because the quantity of Card B ordered and made was 50% of the electorate size. During the planning stage, it was thought that based on the turnout rates of the former LegCo elections in 1991 and 1995, being 39.2% and 35.8% respectively, 50% with a safety margin of over 10% was sufficient. The electors who were disappointed were asked to have their names recorded so that a second card would be sent to them by post sometime after the election. Card B has been sent after they were made ready in the latter part of June 1998.

Section 10 : The Count

8.30 The count was conducted in a CCS at the Hong Kong Convention and Exhibition Centre. The ballot boxes returned from the four EC polling stations consisted of ballot papers cast for the EC, for the five GCs and also for some FCs. The ballot boxes sent in from the 492 GC polling stations contained ballot papers from the five GCs and the 18 contested FCs. The ballot papers from each polling station had, therefore, to be sorted. The separation and assortment of ballot papers, by each constituency, would have to be under the charge of the relevant RO. The RO would make a verification of ballot paper account, comparing the number of ballot papers sorted according to constituency with the ballot paper account prepared and returned by the PRO of the polling station. When the ballot papers for a constituency had been collected to a large number, the RO would decide to have a segment-count of the votes marked on the ballot papers. The result of the segment-count would then be recorded. The final result of the election of the constituency would be reached by the addition of the numbers from all the relevant segment-counts. In order to make all these assortment and counting processes easily followed by the candidates and their agents, notices of the verifications of ballot paper accounts and records of the segment-counts were posted on a notice board in each of the five GC counting zones. They could copy from the notices if they wished. During the count, the Chairman found a number of counting agents checking the notices and copying from them. No doubt, this step ensured the transparency of the count and enabled the candidates to track and trace the ballot papers from each polling station. It apparently operated satisfactorily.

8.31 Everything went on smoothly in the CCS. The ballot boxes

arrived from all the polling stations over the HKSAR and they were queuing for being received by the counting staff. They were then deposited in the deposit or “parking” area for ballot boxes designated for the GC to which the polling station belonged. The ROs and AROs were busily at work, bringing ballot boxes to their respective counting zones. The boxes were then emptied on counting tables and the ballot papers poured out were counted for number for the purpose of verification of ballot paper account. Assortment of ballot papers for each constituency was also done. The first ballot box was opened at about 11:30 pm. The first election result was known at 4:45 am on 25 May 1998, and that was of the EC. The declarations of results of each constituency were then made intermittently, starting with the FCs, until 5 pm on 25 May when the last election result (in respect of the New Territories West GC) was announced.

Section 11 : The Marking of Ballot Papers of the Special FCs

8.32 When the Chairman arrived at the CCS at the Hong Kong Convention and Exhibition Centre, he was waylaid by two candidates, Ms Miriam LAU Kin-ye, candidate for the Transport FC and Mr Lawrence LEE Hay-yue who ran for the Agriculture and Fisheries FC. Both of them complained that they heard from some electors of the FCs that they had been advised by polling officers to mark their FC ballot papers by entering a tick instead of numbers showing preferences of “1” and “2”. There were only two candidates contesting both FCs, and the complainants urged the Chairman to consider that a tick, especially one induced by the polling staff, should be treated as a valid vote for a first preference, and the name without a tick marked by the elector should be considered as the second preference.

8.33 The ROs of the two FCs were immediately contacted, and the Chairman and Mr Norman LEUNG told them the provisions and interpretation of the relevant law on this aspect, namely, ss 56 and 80 of the EAC (EP) Reg. The view of Mr James O’Neil, Principal Government Counsel (Elections), was also sought and provided to the two ROs. When the Chairman next met with Ms Miriam LAU on the counting floor, he informed her that the matter was for the decision of the RO during the counting of the ballot papers, and that decision was final. For dealing with these and similar complaints, see para 10.65 of Chapter 10.

8.34 In fact, after the election, Ms CHIANG Lai-wan made a written complaint to the EAC relating to a similar method of marking ballot paper being adopted by some electors in the Regional Council FC, another Special FC. As Ms Chiang has presented an election petition to the Court of First Instance to challenge the result of the Regional Council FC election, the matter is now *sub judice* and no further comment will therefore be made in this report.

Section 12 : Hiccup in the Count

8.35 Counting itself ran smoothly except for one incident. At about 12:15 p.m. on 25 May 1998, the Chairman and Mr Norman Leung were asked to help solve a problem with respect of some counting staff in New Territories West GC. When the Chairman and Mr Leung arrived at the area, they received complaint from the staff working at a counting table that they were dissatisfied that the counting staff of another GC were allowed to leave at about 11 a.m. after the count in respect of that GC had been completed, whilst they still had to work on the count for the New Territories West GC. They alleged that this was contrary to their understanding obtained during training that if one zone had finished work, its staff would stay on and provide assistance to another zone. They had asked to go for lunch at that time, but did not agree to the offers made by the RO which would have allowed them to take time for lunch either within the CCS immediately, or outside the CCS after they had finished the segment-count of the ballot papers in hand. Staff manning other counting tables who were surrounding the table concerned expressed similar feeling. The Chairman was extremely alarmed when he heard from some of them that since they wanted to go for lunch, they deliberately delayed the counting process on their own table, to ensure that they would not be required to count another lot of ballot papers. Emotions were high amongst those at the table and those around the table. The situation must be handled satisfactorily in order not to affect the progress or the integrity of the count which was only partially completed at the time.

8.36 Eventually, after some discussion, it was agreed that food boxes would be provided to them as soon as possible and they would carry on with their work in the CCS. It was decided by the EAC members that for the sake of equality among all counting staff in the CCS, all should be provided with a lunch box and a soft drink each. There were roughly 1,800 counting staff working there, but upon enquiry, it was discovered that the catering service available at the CCS could not provide that number of food boxes. There was not any or any sufficient number of people who could be employed at the time for buying and bringing into the counting station 1,800 food boxes. It was fortunate that Mr Leung, in his capacity as the Commissioner of the Civil Aid Service (“CAS”) was able to immediately enlist the assistance of CAS whose officers, despite the urgency of the matter, were able to make available the required food and drink within a meagre one hour. For this outstanding feat, the EAC hereby acknowledges its gratitude and appreciation towards the CAS, and the hardworking and efficient officers in particular.

8.37 The incident reflected the need to review the arrangement for the deployment of staff at the count. Working conditions should improve for the long-hour and tedious job, so that there should be sufficiently long period of rests at regular intervals built in the system, which would help lessen fatigue. It is being seriously considered that two shifts of counting staff should be employed, so that each shift should work no longer than nine hours. Provision of meals or refreshments should also be considered. On the other hand, there is also a need to set out clearly the duties of the counting staff in their terms of employment. In this regard, it should be noted that whilst the manpower required for each counting zone is designated, as was the case, to deal with a proportionally proper amount of work for the zone, there may still

be occasions where one zone will finish work earlier. It should clearly be stressed that the deployment of the staff from an early finishing zone before the conclusion of the entire count should be a matter to be decided by the Chief RO, who should have regard to the actual situation at the count in making his decision.

8.38 1,800 food boxes and cups of soft drinks had been bought for the purpose, involving a cost of \$45,210. The Commission considers that this was a proper and reasonable expenditure incurred for the election, and should be paid out of the general revenue.

Section 13 : The Record-Breaking Turnout

8.39 At midnight, the turnout figures were available, and they took everyone, which is an unexaggerated everyone, by surprise. 1,489,705 electors attended the poll, meaning 53.29% out of the total electorate of 2,795,371. While 790 out of the 800 members of the EC voted, 77,813 or 63.50% of the total of 122,537 FC electors cast their ballot. The figures broke all of Hong Kong's electoral records. They surpassed the 1991 and 1995 LegCo election figures by turnout rate as well as absolute number. 569,000 more people went to the poll than any other election in the history of Hong Kong! The hourly numbers and turnout rates in respect of all the constituencies can be found in **Appendix X**.

Section 14 : Arguments Over the Impact of the Commemorative Cards

8.40 The historical turnout figures provided a nice surprise to most, if not all, people. Academics and those who previously predicted a low turnout started to come up with reasons that conflicted with the logic of the causes that had been reportedly named by them as the basis for their grim forecast. The Government and politicians including successful candidates gave differing views as to why the turnout was so unexpectedly high. The Commission will not comment on these reasons which might touch upon politics, or otherwise its apolitical and neutral stance and image may be damaged. However, there were certain comments that the commemorative cards had a bad effect on the election relating to the record turnout, which the EAC feels that it is incumbent to clarify, for fear that the public might be misled.

8.41 The pair of commemorative cards was the idea of the Chairman which was adopted by the EAC. The plan was to issue to each GC elector (who could be a GC elector only, or could also be an EC member or an FC elector) two differently designed cards carrying the same theme about the first LegCo election of the HKSAR, one to be sent to him with the poll card shortly before the election day, and the other with a holder for both to be given to him at the polling station after he had cast his vote or votes. They were intended as souvenirs for the electors for their civic-mindedness and also as part of the programme to publicise the election. Members of the Commission obtained the assistance of the Hongkong Post for the design of the cards, which design was also used for the souvenir cover to be issued by the Hongkong Post on 23 May 1998, a day prior to the election. It was made known through press briefings and other occasions as from December

1997 that persons who were registered as GC electors would be sent Card A and when they attended the poll, they would receive Card B to complete the pair.

8.42 After the polling day, some members of the media criticised the commemorative cards as tempting electors to attend the poll. They asserted that the cards tarnished the image of Hong Kong people in that the inducement offered by the cards reduced the significance of the civic-mindedness of the Hong Kong elector. They quoted examples such as young children urging their parents to go to the polling station to get Card B for them, so that the children could back at school boast the number of such cards in their possession. Though not expressing themselves in a very clear way, the critics were concerned that those who coveted the cards might have just marked their ballot papers at random, without actually exercising their choice or merely making their selection ignorantly or irresponsibly. The EAC opines that these criticisms and fears were unfounded. There was no basis for the critics to doubt the sagacity and wisdom of those electors even if their chief purpose for attending the poll was to obtain the second card. Since these electors had to attend the polling station and were required to cast their ballot papers into the ballot boxes before they were issued with Card B, there is no reason to doubt that they made their choice conscientiously, nor indeed, is there any evidence to show otherwise. The eagerness of the school children or younger children to get the cards should properly be seen as their civic-awareness having been aroused, and their entreating their parents to obtain Card B at least served as a constant reminder to the parents of their right to vote and the date to exercise it. For those whose civic-consciousness was above improvement, the cards, if they were cherished, served as souvenirs. For those who required awakening, the

cards created gentle prompting and reminding. Either way, the EAC feels that the purpose for which the cards were created was fulfilled, and that the critics should not be too reproachful.

8.43 Indeed, a comparison of the breakdown of the rejected ballot papers in this election and that in 1995 would help dispel a number of wrong beliefs. The figures are strikingly similar, despite the fact that over half a million more electors cast their votes this time. For instance, the numbers of void ballot papers in respect of the GCs under the following categories are notable:

	<u>1995</u>	<u>1998</u>
(a) voting more than permitted (more than one vote) or for a particular candidate on a GC list	1,813	1,864
(b) unused (issued but not put into the ballot box by the elector)	46	5
(c) unmarked	4,713	4,452
(d) void for uncertainty	1,103	1,658

At least, the critics' fear that the electors induced by the commemorative cards cast their votes without actually exercising a conscientious choice can be shown to be wrong and unfounded. The 1995 figures can be found at page 138 of the 1995 LegCo Election Report and the detailed breakdowns of the 1998 rejected ballot papers are at **Appendix XI**.

8.44 **Appendix XI** also shows that a total of 10,523 ballot papers in the elections were rejected by the ROs as invalid with an analysis and classification of the reasons for rejection.

Section 15 : The Results

8.45 The results of the LegCo elections containing all the valid votes cast in all the contested constituencies and the EC are shown in **Appendix XII** to this report. The election results after the count regarding each of the contested elections were announced through the PA System in the CCS.

8.46 The results of the elections were published in the Gazette on 1 May 1998 (of the uncontested constituencies) and 29 May 1998 (of the EC and contested constituencies) respectively.

CHAPTER 9

COMPLAINTS

Section 1 : Complaints and the Complaints Committee

Section 2 : The Complaints, their Nature and Categories

Section 3 : The Handling of the Complaints and Outcome

(A) Warning and Censures

(B) Petition Against Election Result in Regional Council
Functional Constituency

(C) Suspected False Declaration on Nationality by Candidates

(D) Possible Breach of Prohibition Against Misuse of Electors'
Information

(E) Outcome of Cases

Section 4 : The Effect of the Complaints and Handling

Section 1 : Complaints and the Complaints Committee

9.1 The EAC Ordinance (by s 8(2)) provides specifically that the EAC's report to the Chief Executive on an election must include a report on any complaint made to the Commission in connection with the election. This demonstrates the importance placed on complaints and the purposes that can be achieved by complaints.

9.2 Complaints serve many purposes. They ease the tension

created by grievance, whether the grievance is justified or otherwise. They indicate the areas in which review ought to be undertaken and improvement needed. They offer an avenue by which candidates and their agents who contravened the electoral law, regulation or guidelines or who are suspected of such contravention can be brought to justice, or at least warned against any further breach. An established complaints procedure made known to the public provides a ready means whereby candidates can effectively police the activities of each other and each other's electioneering agents. All these would, one way or another, help ensure that elections are conducted by all concerned fairly and honestly. Candidates if they so wish can make public the fact of their complaints. Any complaint resulting in a public reprimand or censure will enable the public, including the electorate and candidates and agents, to learn how complaints of a more serious nature have been dealt with by the EAC. Notification of the determination of the Commission on complaints of lesser breaches will be given to the complainant and the complainee. By one of these means or another, a certain degree of openness is achieved, which is important for promoting or maintaining the citizens' trust in our electoral system and arrangements.

9.3 There are four entities to which election-related complaints can be addressed, namely, the Police, the ICAC, the ROs and the EAC or its Complaints Committee ("CC") with the REO as its executive arm.

9.4 The complaints procedure adopted by the EAC was included in the Guidelines published on 28 February 1998, so that the public in general and the electorate and candidates in particular were, before the commencement of the nomination period of the EC subsector election on 13 March 1998, able to apprise themselves of the availability of the various avenues, the procedure for lodging complaints and how they were

processed.

9.5 The EAC established a CC to handle complaints. The CC consisted of the three members of the EAC and His Honour District Judge Stephen CHOW. Dedicated and conscientious support was received from Mr James O'Neil of the Department of Justice ("D of J"), the CEO and other officers of the REO.

9.6 Four Vetting Groups were formed under the auspices of each of the four members of the CC. The complaints received on Mondays, Wednesdays and Saturdays were given to the Chairman's Vetting Group, whereas those received on Tuesdays, Thursdays and Fridays were respectively vetted by the groups headed by the other three members. The CC started to receive complaints from 13 March 1998 and continued to receive and consider complaints received up to 45 days after the general election held on 24 May 1998, ie, 8 July 1998. Given that at least 14 working days would be required to complete investigation into a complaint, the CC would have up to 23 July 1998 to complete its task.

9.7 The Complaints Unit of the REO produced summaries of the complaints received with observations and recommendations of a constantly improved standard, which alleviated the burden on the chairperson of each Vetting Group and eventually the CC. The complaints vetted with proposed recommendations were then passed to the CC for consideration. The CC normally met at least once every week during the election period and beyond to dispose of the complaints. In this manner, the complaints were handled very efficiently and expeditiously.

Section 2 : The Complaints, their Nature and Categories

9.8 As at 8 July 1998, the closing day for complaints to be entertained regarding the LegCo elections, altogether 937 election-related complaints had been received by the CC. In addition, 1,279 complaints were received by the ROs, 221 by the Police and 133 by the ICAC.

9.9 The complaints can be generally classified by their nature as follows:-

Category I

Complaints within the exclusive jurisdiction of the EAC not covered by any statutory provisions imposing criminal penalty; such complaints were dealt with by the CC and ROs under EAC's delegated authority.

Category II

Complaints that might involve criminal liability including those breaches of the EAC (EP) Reg but not breaches of the provisions of the Corrupt and Illegal Practices Ordinance, Cap 288 ("CIPO"), the Prevention of Bribery Ordinance, Cap 201 ("POBO") and the Independent Commission Against Corruption Ordinance, Cap 204 ("ICACO"); and such complaints have been dealt with by the Police.

Category III

Complaints that related to breaches of various provisions of the CIPO, POBO and ICACO which have been exclusively handled by the ICAC.

9.10 There were complaints that raised matters within all the three categories. Although matters involving the CIPO, POBO and ICACO would be investigated by the ICAC, there were also complaints relating to other matters outside the three ordinances and were referred by the ICAC to the CC. There was also overlapping of handling of categories I and II cases by the ROs, the CC and the Police.

9.11 There were 63 cases out of the entirety of the complaints received pertaining to registration of electors and voters. Strictly speaking, these complaints have nothing to do with the elections themselves, but rather the prerequisites for a person to become entitled to vote in the elections. A breakdown of the complaints under this category is at **Appendix XIII**.

9.12 Amongst the 1,279 complaints received by the ROs, a great number, ie, 432 cases, involved allegations relating to the display of EAs. Some EAs were distributed or displayed without the required authorisation or permission; others were published without the declaration required by s 102 of the EAC (EP) Reg or s 92 of Schedule 1 to that Regulation. 244 complaints were about illegal canvassing in NCZ/NSZ/polling stations. Most of these complaints were lodged with the PROs of the polling stations on 24 May 1998 and quite a number of them were resolved on the spot on the

polling day. The general classification of these complaints as well as their quantities are shown in the tables at **Appendix XIV** and **Appendix XV** respectively concerning complaints received by the ROs and the CC or REO.

9.13 The ICAC has exclusive jurisdiction to handle matters relating to the CIPO, POBO and ICACO. There were a number of complaints relating to voting offences and false statements concerning a candidate in breach of ss 16 and 17 of the CIPO. Some involved omission of printing details required on printed publicity materials, contravening s 19 of the CIPO. There were also complaints of bribery and treating. In all cases where investigation has completed, the ICAC has found three cases substantiated for which the complainees were warned. The complaints dealt with by the ICAC are set out in **Appendix XVI** together with the number of each type.

9.14 The complaints handled by the Police were mainly in relation to noise nuisance caused by publicity broadcasts, criminal damage to EAs and breaches of s 102 or s 92 of Schedule 1 to the EAC (EP) Reg and s 104A of PHAMSO which involved criminal liability pertaining to the display of EAs. These complaints are classified together with their quantities in **Appendix XVII**.

Section 3 : The Handling of the Complaints and Outcome

9.15 For the 1998 LegCo elections, the EAC adopted the following stance regarding election-related criminal offences and breaches of the Guidelines:

- (a) To fulfill the function of the EAC as the watchdog of elections, the CC should take the initiative when it came to know any possible breach of the provisions of election-related legislation involving criminal liability although the cases were not a subject of complaint. All such cases would be referred to the Police or the ICAC for handling.

- (b) Following to same principle in (a) above, for any breach of the Guidelines, the CC should also take initiative to investigate or seek clarification although the case was not brought to its attention via the normal channel of complaint. The CC would consider the issue of warning or reprimand if necessary.

- (c) The EAC was not out to catch people for contravention, but rather wished no one would knowingly break the law. The EAC would seek clarification on matters involving possible breach of law or guidelines from candidates or prospective candidates. Seeking such clarification would not only allow the EAC to acquire more knowledge, but had the added benefit of giving warning to the candidates or prospective candidates, and would probably enhance compliance with the law and guidelines. The person subject to a request for clarification would probably be alarmed to apply self-discipline, which would in turn enhance integrity and fairness in elections.

- (d) The approach of the criminal courts that no one should be convicted unless the case against him is proven beyond a

reasonable doubt was adopted by the EAC and CC as proper one in dealing with complaints or breaches, because the criminal standard of proof should apply to such an important matter as involving elections and such a high standard posed as a bulwark against any abuse of power by the EAC itself which enjoys immunity from liability for the performance of its functions as conferred by s 14 of the Ordinance, especially when all the EAC's comments are absolutely privileged for the purposes of the law of defamation.

9.16 Pursuant to para 9.15(a) and (b) above, the EAC did refer a total of 69 cases to the Police or the ICAC for handling and seek clarification from candidates and prospective candidates in respect of a number of matters, eg, whether newspaper advertisements amounted to EAs with the expenses incurred accountable as election expenses, whether a television advertisement by a magazine would be fairly run close to the election, and whether an article in a newspaper on a prospective candidate would be fair to other persons who might run in the same constituency, etc. Some other cases so investigated by the EAC are referred to in paras 9.21 and 9.22 below.

9.17 There were a large number of cases involving breaches of s 102 of, or s 92 of Schedule 1 to, the EAC (EP) Reg regarding the display of EAs. Due to the fact that tremendous resources would be required to investigate a case, the EAC agreed with the Police that the Police would not investigate such a case or take any action on its being first referred to it where the RO had under the authority delegated by the EAC satisfactorily dealt with it. Only when there was a second referral relating to the same candidate being involved in a case of similar nature would the Police investigate and consider

prosecution. There were only three cases under this category, one of which is mentioned in para 9.19 below, that have been referred to the Police.

9.18 A breakdown by nature of the complaints handled by the CC can be found in Appendix XV. Many complaints related to EAs and the display of them. Other major complaints concerned with allocation of polling stations, disturbances to electors, polling arrangements, etc. All other cases of complaint received by the CC had been disposed of. There are, however, some matters which ought to be specifically mentioned.

(A) Warnings and Censures

9.19 The CC has warned, advised or reminded many candidates who had once or twice displayed EAs on spots not designated or without permission from the owners/occupiers of the premises. Two public censures were issued to two candidate-lists for repeated unauthorised display of EAs and electioneering and canvassing activities respectively despite prior warning. A candidate in the subsector elections was also censured for breaching the EAC Guidelines in respect of free postage. However, apart from notifying the complainant and complainee of this censure, the EAC did not announce this censure in public, because it felt that the candidature was for being an EC member, as opposed to being a LegCo Member, and the matter complained of was a single incident which was unlikely to be repeated. On the other hand, the censures relating to the two candidate-lists were made public, because the subject matter of the complaints was a frequent subject in complaints, the candidates were running for direct election in GCs, and they were found to have contravened the law or guidelines repeatedly despite warning. Copies of the two public censures are respectively at Appendix

XVIII(A) and **Appendix XVIII(B)**.

(B) Petition Against Election Result in Regional Council Functional Constituency

9.20 A petition has been initiated by Ms CHIANG Lai-wan, a candidate of the Regional Council Constituency, in connection with the validity of some ballot papers which, as alleged, had not been marked by the electors with the preference for candidates in Arabic numerals as required. The matter is in the hands of the court.

(C) Suspected False Declaration on Nationality by Candidates

9.21 Arising from a complaint against possible breach of s 103 of EAC (EP) Reg relating to suspected false declaration of nationality by two candidates who had withdrawn their candidature, other cases of similar nature known to the REO were all referred by the EAC to the Police for further investigation. This was done in accordance with the policy decision referred to in para 9.15(a) above. The Police investigated the allegations and decided that no further action would be taken following advice from the D of J.

(D) Possible Breach of Prohibition Against Misuse of Electors' Information

9.22 There were two cases which came to the attention of the EAC, both relating to offer of the supply of the telephone numbers of electors whose particulars, without telephone numbers, were recorded on the FR of electors. The EAC (ROE) (GC) Reg and EAC (R) (FCSEC) Reg contain provisions against the use of electors' information contained in a register for any purposes other than relating to the election to which the register pertains. The supply of telephone numbers of electors in itself does not appear to contravene the prohibition, but the matching of the elector's name and address with a telephone number must be based on the information on the name and address contained in the FR, and thus any supply for a consideration of the elector's name and address will amount to a contravention. The EAC learned with regret and some disbelief when the Police related to it that no further action would be taken on the two cases.

(E) Outcome of Cases

9.23 Of the 1,279 cases received by the ROs, 558 were found to be substantiated. The CC of the EAC also found 360 out of the 937 cases it handled to be substantiated or partially substantiated. The Police has dealt with 221 cases, 31 of which were found substantiated and followed by a warning at scene, and none of which would attract prosecution. The ICAC has so far found three cases substantiated including one bribery case, one false claim of support case and one failing to deposit copies of election campaign materials with the RO case, all of which were dealt with by

warning. The two law enforcement agencies are still investigating a total of 93 election-related cases. The breakdowns can be found in Appendix XVI and Appendix XVII.

Section 4 : The Effect of the Complaints and Handling

9.24 The complaints procedure enabled the complainants to air their grievances and share their concerns, which in turn widened the horizon of the EAC members and REO officers as well as sharpened their perception as to what loophole there might be and what betterment there should be. The complaints and their underlying factors therefore serve well as bases for review and some matters which are worth noting for future improvement are covered in Chapter 10.

9.25 It is regretted that decisions on certain complaints were not able to be reached before the election concerned took place. Bearing in mind that a complainee must be given a reasonable opportunity to explain or defend himself, and that investigation with ROs and others who were busily involved in the election would require some time, it is inevitable that when the subject matter occurred close to the election, a decision could not be made before the polling day. The more serious the allegations, the longer the time the EAC or its CC must take to reach a determination. It is hoped that the complainants and the public will understand the situation and bear with the EAC in not being able to resolve complaints as quickly as they may wish.

9.26 All in all, the EAC feels that the complaints procedure as well as the way it dealt with the complaints have achieved the aim of its function to handle complaints as referred to in para 9.2 at the beginning of this chapter. In responding to the complaints, the Commission had also taken the opportunity to apprise the complainants and complainees of the relevant electoral law, regulation and guidelines, which has hopefully helped them to acquire a better understanding of the subjects.

CHAPTER 10

REVIEW FOR IMPROVEMENT

- Section 1 : The Scope of Review and Improvements
- Section 2 : Review : Matters in Preparation for and before the Poll
- (A) Registration of Electors
 - (B) Protection of Privacy of Personal Data
 - (C) The Guidelines
 - (D) Nomination and the Nominations Advisory Committees
 - (E) Election Advertisements
 - (F) Use of Disclaimer in Election Advertisements
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 - (H) Electioneering in Private Premises and Public Housing Estates
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 - (J) Authorisation of Persons to Incur Election Expenses
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 - (L) Mock Polling and Counting
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- Section 3 : Review : Matters at, during and after the Poll
- (A) Canvassing Activities and the No Canvassing Zone
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 - (D) Ballot Papers and Envelopes

- (E) Polling Arrangements inside Polling Stations
- (F) Enquiry Unit
- (G) Observation of the Poll
- (H) Voting Methods
- (I) Casting Votes During Same Visit
- (J) Plastic Sheath on Cardboards
- (K) Exit Poll and Publication of Exit Poll Results
- (L) Contingency Measures for Inclement Weather
- (M) Supply of Ballot Papers to Polling Stations
- (N) Delivery of Ballot Boxes
- (O) Counting Arrangements

Section 4 : Review : Complaints Procedure

Section 5 : Review : Preserving Experience

Section 6 : Summary of the Commission's Review and Measures of Improvement

Section 7 : Recommendation to Publish Report

Section 1 : The Scope of Review and Improvements

10.1 Matters which were alluded to in the complaints relating to any electoral procedure and arrangements and matters which incurred the displeasure or dissatisfaction of electors have drawn the EAC's attention to the areas where there were defects and flaws and where improvement should be made.

10.2 After the general election on 24 May 1998, at the request of the Commission, the Chief RO and ROs offered their observations, assessments and suggestions in respect of the electoral procedures and arrangements. Out of a total of 25 ROs, 14 responded to the request. The REO also conducted a questionnaire survey of the views of candidates, PROs and Counting Supervisors on every aspect of the electoral arrangements. The rates of response to these questionnaires are respectively 22.9% and 20.7% for candidates in the general and subsector elections. In respect of the returns from PROs and Counting Supervisors, the response rates are respectively as high as 74.8% and 51.2%. The CAB also held meetings amongst its officers, the ROs, REO, D of J, HAB, HAD and ISD for the purpose of reviewing various matters relating to the elections, and very helpfully provided their views to the EAC.

10.3 The views, comments and suggestions collected through the aforesaid channels are very useful in the review of the electoral arrangements and procedure. This is important particularly in view of the fact that it was the first time that a full-scale combined polling had been adopted in respect of the elections of the GC, FC as well as the EC. Moreover, the computer-link between all the four polling stations designated for the EC to make available the relevant electors' data to each of the polling stations so as to enable any one of the four stations to be used by the electors was a new attempt. The linkage was planned as a test for further or wider application. On the basis of the experience obtained, the Commission will continue to study the viability of computerised electorate data with a view to making the polling and counting arrangements even simpler and more convenient to electors. However, as this will have large resources and technical implications, the Commission will treat this as a matter requiring

improvement in the long run.

10.4 The matters reviewed cover a wide scope encompassing all the actual procedure and arrangements adopted for the conduct of the 1998 LegCo elections. Administrative arrangements are also reviewed but this report does not focus on the administrative measures that are subject to review and implementation. The matters dealt with in this chapter mainly concern various aspects of arrangements for the conduct of elections. However, the ideas and proposals expressed in this report may need to be revised in future to take into account further developments. The significant points reviewed and proposed are set out below under several sections, dealing with the procedure and arrangements in chronological order and matters that should be encountered in time sequence.

Section 2 : Review : Matters in Preparation for and before the Poll

(A) Registration of Electors

10.5 Many complainants claimed that they had submitted application forms for voter registration or for change of personal particulars through the voter registration ambassadors during the Voter Registration Week held in December 1997. The REO found that some of the alleged forms had not been received and the information contained in some applications was inaccurate or improperly recorded, resulting in the loss of the affected persons' entitlement to vote. If such ambassadors are to be employed for any future registration exercise, more intensive training and closer

supervision must be provided. The HAD, the department handling the employment and training of the ambassadors, should be consulted for improvement.

10.6 As revealed by a complaint case, a few electors who were registered in a GC and would also be eligible to be registered in an FC or the EC subsector were not registered for the FC or EC subsector. The omission was caused by the fact that the address of the elector on the GC register was out-dated. When the REO tried to register him in an eligible FC or EC subsector by way of sending him a notification (see para 4.7 of Chapter 4), the notification was returned undelivered because it had been sent to the out-dated address. In the meantime the elector had notified the REO of change of his address. The entry in the GC relating to him was subsequently updated with the current address. However, since the notification did not reach him, he could not be registered in an FC or EC subsector. Nothing was done to save his FC or EC subsector registration as the GC team processing the updating of addresses of electors was different from the team handling the FC and EC subsector registration. The problem was that the notice of change of address served by the elector on the REO was not simultaneously brought to the attention of both teams and thus the FC team was unable to issue a fresh notification to the elector's updated address in time to register him in an FC or EC subsector. Consideration should be given to improving the present computer system for storing electors' records and enhancing co-ordination between the GC and FC registration teams so that both of the teams will be alerted to any change of particulars of electors and persons included in the notification process once effected in the system.

10.7 Many electors complained that they did not receive the poll cards before the polling day. Many of such complaints arose from the updating of electors' principal residential addresses in accordance with the information on new public housing tenants and Home Ownership Scheme owners provided by the Housing Department. As a result of the complaints, the addresses of the electors concerned had been amended according to their request. However, the EAC is of the view that such information on new residential addresses is relatively reliable, since there is a live-in requirement for those tenants and owners. The information supplied by the Housing Department should continue to be used for updating the residential addresses of electors, although a procedure should be adopted to enhance the attention of the elector to the change of his address effected by the REO on the register, ie, instead of sending the notice of change of registered address to the elector at only his new address, the notice should be sent to both his old and new addresses.

10.8 Several electors complained that their addresses were wrongly recorded by the REO in the FR. This was caused by the erroneous translation of the floor number from Chinese into English. Consideration will be given to enhance the computer system so that both Chinese and English, if available, should be stored in the address field of the electors' records, to avoid the need for translation.

10.9 In all the past registration exercises including the one held in November 1997 to January 1998, a practice was adopted by the registration teams of the REO that when they received any voter registration form which contained an invalid (or incorrect) HKIC number or one which duplicated an electoral record already existing on the register but bearing a different name

and could not be clarified with the applicant, the doubtful or suspect number would be given an added prefix such as a “P” or a “Q” for identification. Despite training of the polling staff, some polling officers or even PROs forgot that in case the number of a HKIC produced by a person applying for the issue of a ballot paper could not be found on the normal part of the extract of register supplied to that polling station, certain parts of the extract should be checked to see if the number with the added prefix or prefixes could be found. Consequently, several electors had to wait for sometime before the PROs could resolve the difficulty with the registration team through the hotline established for this purpose on polling day, while one elector had been denied his right to vote. This problem can be resolved more readily if these doubtful and specially prefixed HKIC numbers are printed separately (ie, do not mingle with the normal HKIC numbers) at the end of the register to draw polling staff’s attention so that whenever an elector presents himself but his HKIC number cannot be found in the normal part of the extract, the polling staff should refer to the special part to check both the IC number, the name and address of the elector concerned. If this check still fails to verify the person’s electoral status, the PRO or DPRO should call the registration team so as to ensure that no registered elector should be denied his right to vote. More emphasis on this aspect will also be given in our briefing sessions to remind polling staff.

(B) Protection of Privacy of Personal Data

10.10 With the increasing public concern over the protection on the privacy of personal data, complaints had been received querying the propriety of the disclosure of electors’ personal information in the published registers of electors and in the extracts of the FR provided by the REO to the

candidates for electioneering purpose. One complainant was dissatisfied that her date of birth was called out when ballot papers were issued to her. This was caused by the polling officer recording statistics of age brackets murmuring to himself the birthday for recording the elector within a particular age bracket. Consideration will be given as to whether some information, eg HKIC number, could be obliterated from the registers or extracts, and whether statistics relating to electors should be required to be prepared.

(C) The Guidelines

10.11 The Guidelines represent substantially all the significant electoral rules, regulations, procedures and arrangements that had been tested through the previous elections of the former District Boards, Municipal Councils and LegCo that took place respectively on 18 September 1994, 5 March 1995 and 17 September 1995. Guidelines on election-related activities were first introduced for the former District Board election in 1994. In preparation for each election thereafter, the guidelines were revised for updating and improvement, learning from experience and taking into account valuable views expressed by persons handling and supervising the preceding election, candidates and their agents who had participated in that election and members of the public who were interested in that election. Each time, a public consultation was conducted on the proposed guidelines to take into account representations from members of the public before the guidelines were finalised. The Guidelines are expressed in simple language mainly for the consumption of candidates and their various types of agents, who can safely consult them as a tool to properly arrange their electoral affairs.

10.12 During the course of the 1998 LegCo elections and afterwards, the EAC noted comments from ROs and candidates that the Guidelines were too bulky and parts of them were too complicated. The EAC has maintained its view that the Guidelines need to deal with a large number of topics all relevant for the knowledge of ROs, candidates and agents, and various points should, if the Guidelines are to be useful, be made in some detail. The EAC will, however, for future elections provide an index to its guidelines, so as to ease the task of the readers.

10.13 In their responses to the REO questionnaire survey, candidates pointed out that they found it difficult to understand aspects of election expenses. The EAC feels that it will be worthwhile to consider including in its future guidelines examples of the proper ways to handle and declare election expenses. The ICAC should be asked to contribute on this matter.

(D) Nominations and the Nominations Advisory Committees

10.14 The statutory minimum number of subscribers required for nomination of a GC list is 100. In view of this large number, a part of the nomination form was provided with loose-leaf lists for subscribers' particulars and signatures to facilitate candidates in soliciting or obtaining subscription. The measure was well received by candidates and hence should continue to be retained for future elections.

10.15 The NACs established pursuant to the EAC (NAC) Reg were available to assist prospective candidates and ROs on qualifications of candidature for various constituencies in both the subsector and general elections. Four NACs were appointed for the elections to ensure that applications would be dealt with speedily, and the appointments were gazetted as early as 13 February 1998 so that intended candidates could seek their advice well before the subsector elections to be held on 2 April 1998. The service of the NACs was found to be useful and should continue to be made available for future elections, and the EAC will decide on the number of NACs to be appointed by having regard to the number of expected users.

(E) Election Advertisements

10.16 The EAC (EP) Reg provides that candidates must deposit copies of their EAs together with a declaration of the EAs with the RO. The declaration needs to disclose the quantity of EAs as well as the locations of their display, and a copy is made available for public inspection at the RO's office. This measure is to facilitate close supervision, by the RO, other candidates and interested members of the public. Thus, election expenses on EAs can be checked, and whether a place of display has been authorised can be ascertained. Candidates are able to mutually police each other's campaigning activities, and members of the public can also scrutinize.

10.17 There is, however, a discrepancy between the requirement of declaration of EAs stipulated under the EAC (EP) Reg and a similar provision in the CIPO, in terms of the deadline for candidates to deposit copies of their EAs with the RO. The deadline is earlier or more stringent in the EAC (EP) Reg (before publication of the EA) than in the CIPO provision

(within seven days of publication). This has caused confusion among the candidates. To address the issue, the two provisions should be reconciled and it is understood that the CAB will take this into account in conducting a review of the CIPO.

10.18 While there were still comments that the requirement for candidates to declare each of their EAs prior to display or publication was too cumbersome, the introduction of a central collection box for candidates to deposit their declarations after they had submitted them to their ROs by facsimile proved to be an improvement. As candidates could deposit their declarations outside office hours, the arrangement was well received by candidates and should continue in future elections. Moreover, consideration would be given to compiling a checklist on EAs to help candidates avoid minor breaches such as deposit of EAs.

(F) Use of Disclaimer in Election Advertisements

10.19 A disclaimer relating to the claim of support of candidature was used by a candidate to counter the requirement prescribed by s 17 of the CIPO that no claim of support from any person should be made by a candidate in his EAs unless a written consent has first been obtained from the person concerned. The EA subject to complaint included many names of persons as if they were in support of the candidature but at the bottom, a disclaimer appeared in small print that the persons had not given any consent of support to the candidate. In view of the disclaimer, the D of J advised that prosecution under s 17 would unlikely succeed. As this may easily lead to abuse, the CAB will be consulted for a review of s 17 of the CIPO.

(G) Free Postage Arrangements

10.20 A candidate for the Higher Education Subsector election was censured for abusing the free postage arrangements and having made a misrepresentation in his Certificate for Posting of Election Communication submitted to the Postmaster General. At present, there is no statutory power for the REO or the Hongkong Post to claim the postage from such a candidate. Moreover, as there is no statutory requirement for a candidate to declare the veracity of the contents of any of the forms that he is required to submit to the Postmaster General, the offence for false declaration under s 103 of EAC (EP) Reg does not help. Amendments to the appropriate legislation will need to be considered.

10.21 As a related issue, a complaint arose from the mailing of oversized EAs. Consideration will also be given to revising the regulations and guidelines to stipulate clearer specifications on the measurements of the mailing items and the consequences of breaching such requirements.

(H) Electioneering in Private Premises and Public Housing Estates

10.22 The Guidelines require equal treatment of candidates contesting a constituency by buildings and estates with multi-owners, also urging the owners to allow all candidates to electioneer in the common parts of the building or estate. They and property management companies are also encouraged to notify the District Office of the district where their building is situate of their decision as soon as possible so that candidates may have early notice. Although the Guidelines contain some detail as to various practical

aspects of this principle of equal treatment, an interesting question, to which the Guidelines do not provide an answer, arose when the Chairman met with the representatives from various large building management organisations. After a decision has been made to allow electioneering in the common parts, say, 20 display spots of equal size are made available for the display of posters by all the five candidates, should the candidate who first applies and who will be allotted the right proportion of the spots, ie four spots, be allowed to choose the spots? There may be a huge difference in advertising value between well located spots and badly located spots. Operating on the first-come first-served basis, the candidate applicant will be given his preferred spots out of those still unallotted: an early bird gets the worm. This seemed a good idea to the Chairman until a suggestion was made by someone at the meeting, which is to allow each applicant to draw lots on the spots still available at the time of his application. The wisdom of the suggestion is not only that well located or badly located spots are determined by Providence, but that no advantage can be gained by the candidate who happens to know an owner of the building concerned and be tipped off so that he will be able to apply soonest after the decision is made to get all the well located spots. The suggested method will, to say the least, discourage favouritism. The Chairman adopted the suggestion. The EAC will revise its Guidelines to incorporate this practice for future elections.

10.23 The EAC is pleased to note that quite a number of OCs or building management took heed of the appeal of the EAC and voluntarily provided District Offices with information regarding their decisions as to whether access by candidates for electioneering would be allowed. The result, to some extent, facilitated candidates in checking the relevant information before planning their election campaigns.

10.24 As reflected in the feedback from ROs, some MACs in public housing estates failed to be impartial and allowed their offices to be used by certain candidates for electioneering purposes. In view of these incidents, it is considered that the Guidelines should be reviewed to apply the equal treatment principle to offices of MACs and OCs.

(I) Noise Nuisance

10.25 There were a large number of complaints relating to noise nuisance generated from loudspeakers used for electioneering. The Guidelines contain an appeal to candidates and their agents to respect the privacy and calm of private premises, but this appeal had apparently been ignored by many. Consideration will be given to stipulating in the guidelines for future elections a time restriction for the use of loudhailers in electioneering on top of the existing regulations under the Noise Control Ordinance.

(J) Authorisation of Persons to Incur Election Expenses

10.26 There were two complaint cases concerning failure to serve a copy of an authorisation of election expense agent on the RO within three working days after it was given as required by s 25 of the EAC (EP) Reg. However, the regulations do not prescribe the consequence of a non-compliance: non-compliance is not made an offence, nor is it spelled out that the authorisation will cease to be effective at some point if not served in time or will only become effective when served as is the case for notice of

revocation. This is an area which will benefit from review and perhaps amendment.

(K) Official Introductory Leaflets, Poll Cards and Location Plans

10.27 An introductory leaflet for each constituency and the EC was published by the REO to give a brief introduction of the candidates for the LegCo elections. Candidates who wished to make use of this publicity leaflet could submit a message on themselves, the nature and contents of which were entirely a matter for them. A number of complaints arose as a result of some candidates including in their message a big tick, which the complainants felt misleading. They thought that the tick, which was the method to mark a choice on the ballot paper, gave the idea that those candidates had the support of the authorities which produced the leaflet. The complaints were not substantiated, for no reasonable reader would have the suggested impression, taking into account the format, design and writing of the leaflet and messages as a whole. The EAC considers that candidates should remain to have the freedom to express themselves in whatever manner they prefer in their introductory message, not subject to the control of the EAC, REO, or indeed any other. The Commission feels, however, that an improvement can be made so as to prevent dissatisfaction or complaint on the subject. The introductory leaflets in future elections should clearly state that the messages contained therein are purely contributions from the candidates, having nothing to do with the Government or the EAC.

10.28 Several electors complained that there was little English in candidates' messages contained in the introductory leaflets, and they found

most candidates' election materials sent to them did not include anything in English. A candidate suggested that the REO should provide information on electors' preference for either of the official languages. The EAC considers the suggestion valuable, for it will be beneficial to both candidates and electors alike in election-related communications if the elector's preferred language is known. Regarding new applicants for registration, the application form can be revised to include two boxes for the choice of language. However, for updating the existing registers of electors, the effort for revision to show the language preference must be initiated by the elector, although the EAC will publicise the availability of this facility.

10.29 The introductory leaflet showed the colour photograph of each of the candidates and this new measure was well received by candidates. The Commission will take into account the experience and, subject to other technical considerations, consider making available the whole publication in full colour so that candidates, if they so wish, could include in their introductory messages their party logos and other pictures or illustrations in their own colour pattern.

10.30 There were a number of complaints from electors concerning late receipt of the poll cards before the general election. The unfortunate occurrence was attributed to some problems in the delivery process. In view of the huge quantity of poll cards involved, the REO had to contract out to a number of outside agencies including a number of voluntary agencies for the required enveloping service. A few of the contractors experienced some minor difficulties in completing their jobs on schedule owing to insufficient experience. This resulted in late reshuffle of the jobs causing slippage in the posting schedule. The number of enclosures to be handled was, perhaps,

also a contributing factor as there were a total of seven different documents to be inserted into each envelope. To resolve the problem, the REO will in future elections consider spreading out more widely the enveloping service among the outside contractors by increasing their number. More thought should also be given to regulating the contents with a view to limiting the enclosures which would need to be handled by contractors to a manageable number.

10.31 Although much thought had gone into the design of the location plans of polling stations, there were still suggestions that the location maps should be on a larger scale for easier reading. There is, however, a limit to the size of the location plan because of the time and resources required for producing a larger copy. Further, a larger location plan would add to the bulk of the documents to be sent along with the poll cards and possibly generate new problems in the enveloping process. It is considered that the possibility of further enhancing the present design of the plans with more landmarks should be explored.

(L) Mock Polling and Counting

10.32 A series of briefing sessions were organised for the polling and counting staff to familiarise them with the polling and counting arrangements.

10.33 For the polling staff, a mock polling station was set up as part of the training exercise. The role of polling staff consisted of REO officers and some of the trainees. A number of other trainees participated as electors

of various kinds. Each step of the polling process was explained by a Deputy Chief Electoral Officer, and a session for questions followed the conclusion of the mock polling. All PROs were shown how to lock and seal ballot boxes, and they were provided with a ballot box, lock and seal to acquire hands-on experience.

10.34 For the counting staff, a rehearsal was held on 1 April and 22 May 1998 respectively for the subsector elections and general election. All the counting staff and ROs participated. The rehearsals enabled the counting staff to have hands-on experience and practice and be familiar with the working environment. The problems encountered in the rehearsals helped identify areas which required further thoughts and preparations, leading to solutions and improvements. The rehearsals were introduced for the first time and found to be useful and necessary. They are recommended as a standard part of the training programme for future elections. To enhance the efficiency of the rehearsals, consideration will also be given to the production of, and the distribution to the ROs and Counting Supervisors beforehand, video recordings of mock counting.

(M) Opening of Polling Stations for Public Knowledge

10.35 As stated in para 5.57 of Chapter 5, two polling stations for the general election were opened for public visit on 22 and 23 May 1998, a couple of days before the polling day. One of the stations was designated for a GC and the other for the EC. This enabled members of the public and the media to view the physical set-up, equipment and arrangements, and if they wish, they could take photographs and films. No criticism has been noted, and apparently the added openness of the polling process was well received. This practice should continue for future elections.

Section 3 : Review : Matters at, during and after the Poll

(A) Canvassing Activities and the No Canvassing Zone

10.36 Experience in the general election showed that the operation of the NCZ was a success, although there were a couple of candidates' agents who lodged a complaint against the size of NCZs because they did not understand the principle underlying the NCZ scheme. There was a suggestion that door-to-door canvassing in residential blocks located within the NCZ should be allowed. Having regard to the purpose that designation of NCZ was primarily to maintain a free and clear passage for electors to attend and leave a polling station, the EAC is of the view that canvassing activities in residential blocks within an NCZ may be allowed so long as they do not pose any obstruction to electors and no amplifying device is used. The EAC will review this subject and elaborate in its future guidelines.

(B) Polling Stations

10.37 In the EC subsector elections held on 2 April 1998, there were altogether 96 polling stations designated for use by the subsector voters. For the general election held on 24 May 1998, the total number of polling stations deployed was 496, of which 492 stations were GC polling stations and the remaining four were stations dedicated for use by the 800 members of the EC.

10.38 There were over 20 complaints from subsector voters that the polling stations allocated to them were not close to their work place whereby they were inconvenienced. They had to work because the polling day, a Thursday, was not a rest day. The allocation of polling stations to the voters of a majority of subsectors was based on their residential address. The register of voters does not contain their work address and therefore the polling stations could not have been allocated to the voters with reference to their work address. The Commission consider that it is hard to improve the register or it would not be beneficial to do so, for at least the following reasons:

- (a) It may not be acceptable to many voters or electors that they have to disclose their work address in the registration form, especially in view of the enhanced importance placed by many on privacy of personal data.
- (b) The task of getting the work address of all voters and electors would be mammoth, involving a lot of manpower and requiring cooperation from those concerned.

- (c) If electors change jobs and work places not too infrequently, say once a year or 18 months, it is doubtful that there would be sufficient time to update the work address in preparation for each election. Relying on information which might be outdated after a short period would be dangerous and prone to create dissatisfaction.

10.39 Two methods to provide convenience to voters of subsectors may, however, be considered. First, if the polling day is on a Sunday, when most voters will be at home, then the polling station to which they are allocated, in accordance with their principal place of residence, will not inconvenience them. The EAC has not reached any conclusion whether a rest day or holiday is preferable to a working day because polling stations for voters of some subsectors were designated by the REO on the basis of the voters' familiarity with the location of the polling station in connection with their work, for instance, the Legal Subsector's polling station was on the ground floor of the building that housed the D of J, and the Heung Yee Kuk Subsector's polling station was that Kuk's own premises. In these "work-link" polling stations, the election taking place on a working day remains preferable. Secondly, the voters may be given a choice of using any one of several polling stations for casting their votes. During the general election, the four polling stations designated for the EC election had the electors' data linked by computer, so that an EC elector could attend any one of the four stations as he wished. The computer-link operated satisfactorily for the EC polling, but there are large resources and technical implications for its wider, let alone general, application. The Commission

will review this matter as a whole including the adoption of the computer-link for future subsector elections and elections.

10.40 In the general election, there was dissatisfaction expressed by electors about the locations of some polling stations which were found to be difficult to attend in terms of distance. The flooding of some polling stations on 24 May 1998 also calls for attention to look for replacements or alternatively an efficient system for deployment of works staff so that immediate remedial actions to restore to normality could be taken.

10.41 There were many complaints with regard to allocation of polling stations. Most of the the cases complained that the electors were assigned to a polling station far away from their place of residence, whereas there was another polling station in the vicinity of where they lived. Two of the complaints of this nature involved about 650 electors. One was relating to the polling station S2401 at Cheung Hang Community Hall, Tsing Yi Island which was allocated to electors who lived in the Fung Shue Wo Village. The complaint pointed out that the polling station was about 30 minutes walk up hill and requested that the villagers be allowed to use polling station S2402 at Tsing Yi Estate Community Hall which could be reached by walking two minutes from the village. The cause for this apparent unreasonable arrangement was that the location of a place marked as “Fung Shue Wo” on the map that was available in Hong Kong was mistakenly treated as that of the “Fung Shue Wo Village” by the REO. Immediate steps were taken to reassign the electors concerned, totaling 150, to polling station S2402.

10.42 The second similar complaint was received close to the polling day. In the CC meeting held in the afternoon of Thursday 21 May 1998 ending at 5:30 pm, the CC was informed that about 500 electors who lived in Parc Royale had been allocated to polling station R2701 at Hin Keng Neighbourhood Community Centre, Sha Tin, which would take the electors 30 minutes to reach from their homes. The complaint requested polling station R2702 at Choi Jun School, within a couple of minutes walking distance from the estate, be reassigned instead. At the CC meeting, it was considered that with the little time left, being a Friday and a Saturday before the polling day, it would be difficult to notify all the 500 electors in Parc Royale of any change of polling station, and a decision was taken that there would be no change. It was, however, learned on Friday morning that the Post Office could help to send notification to the 500 electors and the Sha Tin District Office could arrange posters to be put up at every housing block of the estate, both by Saturday, to let the residents know about the alteration of polling station; the CC decided that for the convenience of the electors, there should be a change. At the opening ceremony of the polling station C2301 at Pak Fuk Road, North Point, Hong Kong at 11:15 am, Friday 22 May, one of the polling stations opened for the public's visit referred to in para 5.57 of Chapter 5, the Chairman enlisted the assistance of members of the media present to publicise the change of polling station for the knowledge of the Parc Royale electors. It was not possible to allow the 500 electors to choose to vote at either one of the two polling stations, for fear that such a decision would make it possible for the electors to cast their votes twice in both of the polling stations undetected, which would affect the integrity of the poll.

10.43 Apart from the two complaints from residents of Fung Shue Wo Village and Parc Royale mentioned above, who had been reallocated to other polling stations closer to their residence before the polling day, there were quite a number of other cases.

10.44 The main problem was that polling stations were designated on the basis of District Board Constituency Areas (“DBCAs”) of the former District Boards demarcated in 1994. A polling station designated would serve the electors residing within a DBCA. There were a total of 346 DBCAs and the aim of the designation was to have at least one polling station for each of the DBCAs, and if a DBCA covered a large area, more than one polling station would be designated. A polling station so designated which was close to the common boundary between two DBCAs would be close to the buildings and housing estates along that boundary, but it was only allocated for use by electors within one of the DBCAs. Electors on the other side of the boundary would therefore find, with dissatisfaction, that close as that polling station might be to their homes, it was not allocated to them.

10.45 The problem could not simply be solved by identifying polling stations first and then drawing a circle around each to encompass the area within the circle for the polling station to serve because there would be severe overlapping in many cases. Rather, improvement may be achieved by having consultation on the location of polling stations and the area which each serves before finalising the designation. The whole subject warrants further careful examination, with the aim to convenience electors, before any decision should be rushed. A comprehensive review will take into consideration the feedback on experience gained in the 1998 elections, the

developments in various areas and the inputs from District Officers, particularly on local characteristics.

10.46 During the visits of polling stations made by the Chairman on 2 April 1998, there were not too many directional signs leading from places outside to some polling stations. Immediate measures were taken by the PROs having more such signs of A4 or F4 size created and displayed in the vicinity. Improvements were put in place for the general election, when there were obviously more directional signs and banners publicising the event and showing the way to polling stations from over one or two blocks of buildings away. The signs and banners were put up by District Offices with the funding aid from the REO. They proved to be very effective in reminding and guiding electors to the nearby polling stations. In terms of both quantity and quality, the decorative arrangements were successful and should continue to be used in the future elections.

10.47 However, there were still several complaints received over the REO Complaints Hotline that there were insufficient or unclear directional signs leading to polling stations. Some electors complained over the telephone that some polling stations were too small to accommodate a large number of electors at one time, while others suggested that some polling stations should be better illuminated. All the relevant information have been noted by the REO for improvement in future. The EAC also suggests that there should be a joint visit of the polling station by the PRO and the liaison staff of the District Offices one or two days before polling day to ensure the physical setting and directional signs are satisfactory.

10.48 There were also several complaints against the attitude of polling staff. Consideration will be given to provide training and instructions to improve the manners of polling staff in dealing with electors, as their front-line position bears great impact on the maintenance of the confidence of the electorate in our electoral arrangements.

(C) Measures for Electors with Disability

10.49 The following measures which proved to be successful in the general election should continue to be used in future elections:

- (a) making available audio-tapes for use by those who cannot read the information in candidates' introductory leaflets;
- (b) running recorded messages contained in the introductory leaflets through a telephone hotline system; and
- (c) providing the visually impaired electors with candidates' name lists in braille form and ballot paper templates to mark ballot papers themselves.

10.50 To assist the disabled electors to mark the ballot papers, a writing board to be placed on the arms of a wheelchair was provided as a standard item of polling equipment. It was found to be useful and convenient. This equipment should be retained.

10.51 An elector who had difficulty in attending the polling station

allocated to him because of disability was allowed to apply five days before the polling day for the general election (three days before the polling day in case of the subsector elections) to the CEO to vote at a special polling station instead. For the subsector elections, 36 special polling stations were designated, but no application was received. For the general election, there were in total 195 special polling stations. Suitable special polling stations were offered to a total of 95 electors upon their request. These electors had been asked whether they wished to attend the polling station by vehicle so that one with parking facilities would be offered.

10.52 A letter from the Rehabilitation Alliance Hong Kong received by the REO on 2 July 1998 has served as a reminder to the EAC and REO not to be complacent. The Alliance complained that the number of accessible polling stations for the disabled electors had been obviously reduced from 204 in 1995 to 191 (excluding four polling stations for the EC) in 1998, especially taking into account the total number of polling stations in 1995 being 439 and in 1998 being 496. They were further annoyed that they and their members were not consulted before the designation of polling stations was finalised by the CEO. They claimed that braille information on candidates were not provided in some polling stations whereas the templates were of low quality and even containing errors.

10.53 After investigation, the CC found as a fact that although the number of polling stations accessible to the disabled was reduced, the number of special polling stations available upon application was increased six times from 32 in 1995 to 195 for the 1998 general election. This increased number would enable the applicants to be allocated to a special polling station closer to their homes. The REO had also made arrangements with

the Hong Kong Society for Rehabilitation to provide mini-bus service to disabled electors who required it, and the telephone number of the Society was printed on the poll cards for the special polling stations. The braille information on candidates as well as the templates were made by the same supplier as in the 1995 elections which was a factory operated under the auspices of the Hong Kong Society for the Blind. This is the only factory available in the HKSAR to produce such equipment, and its efficacy had been tested with no complaint in the previous elections. The REO did not consult the Alliance members for the finalisation of the designation of polling stations due to time and resources constraints. The REO is seeking further information and suggestion from the Alliance on all aspects of their complaint. The EAC has already instructed the REO to make improvement in consultation for future elections. The EAC has always held the view that electors are the clients of theirs and the REO and every attempt, time and resources permit, will be made to serve them satisfactorily, including catering for their needs and facilitating their convenience.

(D) Ballot Papers and Envelopes

10.54 The EAC is recently informed that technical advancement in printing has made it possible for ballot papers to be printed in various colours. This facilitates and enhances the use of logos and photographs in printed materials. The unfairness to independent candidates discussed in Section 13 of Chapter 5 could be alleviated if the rule or policy to be followed, whatever that may be, were made known to all intended candidates well in advance, because the “independents” would then have a longer time to make a newly created logo or name known to the public. In line with the development of the political parties in Hong Kong, the EAC feels that in the LegCo elections

to be held in 2000, the names and logos of political parties may be allowed to appear on ballot papers, on condition that solutions can be found to avoid the difficulties mentioned in Section 13 of Chapter 5 and the policy, once decided, is made known to the public as soon as possible. However, like the present EAC (EP) Reg, the formats of ballot papers will have to be included in the electoral procedure regulations to be made by the EAC, which are subject to approval by the LegCo.

10.55 There was a complaint against the close resemblance of the background colour and the colour of the printing on the ballot paper for the Information Technology FC (orange in colour) which might lead to confusion and also reduce legibility. Colours with greater contrast will be selected for use in ballot papers for future elections.

10.56 Under the present combined polling arrangements, all FC ballot papers were to be folded and put in envelopes before being inserted into the ballot boxes. Such arrangement was designed to protect secrecy of the vote, in view of the fact that there were not many electors of particular FCs casting their votes in the 496 polling stations designated for the GC and the EC, scattered all over the territory. In the actual operation, however, the size of the envelopes, which is sufficient to cover the ballot paper fully only when it is folded once, had given rise to some confusion to electors and caused additional work in the counting process in removing them. Some electors were not aware of the requirement to fold the ballot paper and had to spend some time in figuring out what to do with the envelopes provided. As for the count, the presence of the envelopes posed some inconvenience to counting staff in the sorting of FC ballot papers because certain ballot papers had not been inserted into the envelopes properly.

10.57 To address the issue, it may be worthwhile to consider designing the envelope in such a way as to make it easy for the elector to put the ballot paper in and for the counting staff to bring it out.

(E) Polling Arrangements inside Polling Stations

10.58 In the EC subsector elections held on 2 April 1998 and the general election held on 24 May 1998, the number of polling staff employed for the conduct of the poll was respectively 1,200 and 11,000 and appeared to be generally sufficient.

10.59 In both elections, there was only one telephone line installed for each polling station and experience showed that the arrangement might not be sufficient to cater for exceptional circumstances. To strengthen the communication system amongst polling stations, ROs and the REO, the REO will consider adding one more line for each polling station so that PROs can be reached more easily whenever their assistance is required.

10.60 Inside a polling station, the queuing system for the issue of ballot papers remained to be a subject of concern. The problem is related to the manual system of recording electors being issued with ballot papers by having their names crossed out on the extract of the FR. An extract of the FR was provided to a polling station, which contained only the electors for whom the polling station was allocated. The electors' identity card numbers followed by names and other particulars were arranged in alphabetical and number order in the extract. The extract would be proportionally divided by the PRO in the number of parts as there were desks for the issue of ballot

papers. The more the issuing desks, the less number of electors would each desk need to serve, and therefore the wait by the electors would be shorter. Two problems were noticed: some electors joined a wrong queue, and there were occasions when one queue was very long while there were short or no queues at the other issuing desks. The long queue phenomenon is believed to have been caused by electors of a particular age group attending the same polling station at the same time, since an alphabetical prefix to the HKIC numbers indicates that the identity cards were issued by the Registration of Persons Office during a certain period of years. To address the first problem, more conspicuous signs for the identity card numbers covered by an issuing desk should be displayed in the polling station, with perhaps a polling officer assigned to help electors identify the correct queue. As a temporary measure to alleviate the length of the queue, more planning should be given to the split of the extract so that age groups wider apart would be served by one issuing desk, which may help distribute electors more evenly during any period of given time. As a long term measure, consideration will be given to the possibility of a computerised checking and recording system. However, the suggestion may have great resources as well as training implications.

(F) Enquiry Unit

10.61 The REO upgraded the hotline system in anticipation of greater public interests in the first LegCo elections. On 24 May 1998, over 100 telephone lines, including 75 core lines equipped with the Electoral and Registration System (or EARS) terminals, were mobilised to answer enquiries from the public as well as polling staff. Over 56,000 calls were handled on the polling day and the whole operation was generally smooth.

10.62 From time to time there were complaints against the poor attitude of and incorrect or insufficient information provided by the Election Hotline staff. Perhaps due to the increasing transparency of the government and the rising consciousness of their civic rights, members of the public demand a prompt and accurate advice from the enquiry hotline staff. Consideration should be given to strengthening and regularly updating the knowledge of the front-line staff as well as reinforcing their politeness and helpfulness towards members of the public.

(G) Observation of the Poll

10.63 The arrangement for candidates and their agents to observe the conduct of the poll within designated areas inside polling stations was well received. The only hiccup experienced was that the list of agents provided to some PROs before the polling day could not be updated in time in the morning of the polling day and, as a result, some agents were not admitted to witness the sealing of ballot boxes before commencement of poll. The existing electoral regulation permits a candidate to notify the RO the

appointment of a polling agent 3 working days before the polling day. The time-frame did not allow REO to send to each PRO an updated list in time before the polling day in view of the large number of polling stations involved. The relevant regulation will need to be reviewed in order to address the issue.

(H) Voting Methods

10.64 Since the tick instead of the cross was introduced to mark the candidate of the elector's choice in the ordinary election of the former District Boards in September 1994, it has received general recognition in Hong Kong, and the EAC has not received any suggestion that the tick should in any way be replaced. The tick was used in the 1998 general election, save in the elections of the six Special FCs and the EC.

10.65 Owing to the preferential elimination voting system being applied to six Special FCs and that the FC votes were to be cast by their electors at the same time as they cast their GC votes in the combined polling arrangement, there were two complaints received by the EAC regarding the marking of the ballot papers for the two Special FCs, each with only two candidates contesting. According to the EAC (EP) Reg, such ballot papers should be marked with Arabic numerals showing the ranking of the elector's preferences in descending order by 1, 2 and 3, etc. The totality of the complaints was to the effect that several electors of the two Special FCs were advised by polling staff to mark the ballot papers by a tick against the name of the candidate of their choice instead of entering 1 and 2 against the names of the two candidates. After careful investigation, the CC concluded that it

was not able to come to a conclusion if any such advice was given, save that a polling officer had mentioned the use of a tick to an elector of a Special FC upon the latter's enquiry. However, the polling officer and a colleague of his remarked that the elector only made the enquiry after he had cast his vote.

10.66 During the investigation, a PRO's response was that he had instructed his polling staff to direct all enquiries on the methods of voting to him or the Deputy PRO, and that if enquired, the response should be to read out the instructions for voting printed on the ballot paper itself. This will serve as a good reminder to the polling staff of the proper method of voting in a situation where polling for various constituencies with different voting systems takes place in the same polling station and is a sure and effective means to prevent the giving of any wrong advice to electors. The EAC considers this is the proper way which should be adopted for training PROs and polling staff in future elections.

(I) Casting Votes During Same Visit

10.67 In the combined polling arrangement for the general election, electors might be entitled to cast up to three votes. According to the EAC (EP) Reg, every elector must be issued with all the ballot papers to which he is entitled at the time when he applies at the issuing desk. When more than one ballot paper is issued to the elector, the polling officer must issue them at the same time. The elector is not allowed to make more than one visit for his ballot papers, and he has to cast all his votes during the same visit. Upon the elector being issued with the ballot papers to which he is entitled, his name on the extract of the register in the polling station will be crossed out. If the elector does not wish to cast his vote on any of the ballot papers

issued to him, the ballot paper should be handed to the PRO and marked with a chop “UNUSED”, to distinguish it from being un-issued. These provisions are for the purpose of ensuring that there will not be double voting by the same elector, that personation will be difficult, and that the polling staff issuing ballot papers will not be confused. There was an incident during the general election that a GC elector allegedly found out that he was also an FC elector only when he was so told at an issuing desk. He was issued with a ballot paper for the GC and another for the FC. He asked the polling staff to set aside his FC ballot paper to await his return to cast his FC vote later. That was apparently allowed but when he returned a few hours later, he was told that his FC ballot paper had been marked “UNUSED”. Learning from this experience, the EAC has little doubt that polling staff must be clearly and sufficiently trained regarding these statutory provisions.

(J) Plastic Sheath on Cardboards

10.68 A white or colour cardboard was handed to each elector at time of issue of ballot papers to him to distinguish by colour the situations where he was issued with one, two or three ballot papers. This was necessary for control purpose in the combined polling arrangement, so that electors would not be allowed to leave the polling station with any ballot paper. Each cardboard had a transparent plastic sheath on it to provide a facility for the elector to hold the ballot papers. After the elector cast his vote, he was required to hand the cardboard back to the polling staff manning the ballot boxes for re-use. Complaints were received alleging that some marks had been made on the plastic sheath by previous users, which might mislead or cause confusion to subsequent electors. There were a couple of occasions that senior electors had allegedly marked the tick on the sheath rather than on

the ballot paper. Consideration will be given to redesigning the cardboard.

(K) Exit Poll and Publication of Exit Poll Results

10.69 Organizers of exit poll activities were required to provide latest seven days before the polling day the names and particulars of the interviewers to be employed, together with the name and telephone number of the person in charge. This provided better control of the conduct of exit polls and no complaint was received on this score. The practice should continue.

(L) Contingency Measures for Inclement Weather

10.70 The heavy downpour on Sunday 24 May 1998 almost played havoc. There are provisions in the EAC Ordinance and the EAC (EP) Reg (Schedule 2) for the EAC to adjourn the poll for an election or a constituency due to serious climatic conditions. The PRO has similar power relating to the polling station under his charge. The contingency plan was therefore well covered by the law and regulation. Nonetheless, severe consequences might result had the poll at the polling stations affected by the rain, flooding or temporary failure of power been postponed. Owing to the combined polling arrangement, whereby GC electors were allowed to cast their GC votes and FC votes, if any, at the same GC polling station, adjourning the poll at such a polling station would not only delay the electoral process in respect of that GC, but also that of most probably all FCs. The count, which was centralised, would likewise be delayed in its entirety. Problems would arise if on the day resumed for polling and counting the affected polling stations

and the CCS could not be available for use as such, whether that day be the following Monday or Sunday. It should also be expected that there would be difficulties in getting back the 3,000 strong counting staff for the following Monday. Even if all these problems could be resolved, a large increase of expenditure on the adjourned poll would be certain while the enthusiasm of the electorate to participate in the adjourned poll doubtful. Whilst these problems are not insurmountable, they should be avoided as far as possible. Eventually, the EAC resolved that the CEO should allocate an alternative polling station for polling by the electors that had been allocated to an affected polling station. The CEO is empowered to do so under s 30 of the EAC (EP) Reg. The arrangement was announced on television and radio immediately. It worked effectively despite the slight confusion experienced by some of the electors concerned at the initial stage. The Commission feels that this arrangement should be preserved as part of the contingency plans for future elections.

10.71 Many electors who had placed their umbrellas outside polling stations reported their loss after casting votes. Some electors demanded that the polling staff should have the responsibility of ensuring the safe custody of the umbrellas, whereas some suggested that umbrella gloves should be provided at the polling stations on rainy days. The EAC considers that the provision of umbrella gloves would be a feasible solution to the problem.

(M) Supply of Ballot Papers to Polling Stations

10.72 While there was never an insufficiency of ballot papers at the alternative polling stations, about 100 polling stations experienced a low stock level of GC ballot papers for a couple of hours between 7:30 and 9:30 pm. The main cause was the REO had supplied these polling stations with ballot papers only enough to cover 60% of the electors allocated to the polling stations. Although the REO was able to replenish all the stocks of the polling stations which had requested further supply, the EAC feels that the REO must reform its practice, and preferably ballot papers of not less than 80% of the electorate coverage of the polling station should be available in the station when it opens.

(N) Delivery of Ballot Boxes

10.73 The introduction of a check list for the PRO to follow to make sure that all the important steps which needed to be taken after close of poll proved to be useful and, as a result, there were only a few isolated cases of hiccups in the return of ballot boxes and essential electoral documents.

10.74 After the close of the poll, the PRO delivered the ballot boxes for his polling station to the CCS under the escort of a police officer. The REO had arranged the transportation. To achieve openness and transparency of the election, candidates and their agents were welcome to join the escort party. However, in view of the limited seating capacity, only two such persons were allowed. In the event of excessive requests for participation, drawing of lots was required. This arrangement worked

satisfactorily and should continue in future elections.

(O) Counting Arrangements

10.75 Some delays in the receiving of ballot boxes and in the allocation of ballot boxes to counting zones were experienced during the subsector elections held on 2 April 1998. Consequent upon a review, the counting arrangements for the LegCo elections held on 24 May 1998 in respect of receiving of ballot boxes, delivering of ballot boxes to counting zones, allocating them to counting tables, opening of boxes, posting of various notices, segment-count records and counting results, public seating capacity, audio-visual equipment for public viewing, both inside and outside the CCS, and public announcement system were satisfactory and these arrangements should be adopted for future use.

Section 4 : Review : Complaints Procedure

10.76 The complaints procedure and the CC with four vetting groups operated satisfactorily and efficiently. The CC was able to dispose of the pre-polling day complaints swiftly. Only complaints received shortly prior to, on and after the polling day were finalized after a longer time lapse. That was mainly caused by the large amount of election-related work that had to be accomplished by the EAC, whose three members were all members of the four-person CC, and the REO during that period. As it was considered that there was less need for complaints to be finalised with great speed after the election day, for the obvious reason that whatever the determination the

matter could not be resolved prior to that day to have any effect on polling, members of the Commission took short periods of overseas leave. The CC, with District Judge CHOW and one or two members of the EAC, continued with handling the complaints without any interruption, and the latest determination on all the complaints, save a couple, took place on 10 July 1998. Nothing regarding the complaints procedure, the complaints or the handling of them has given rise to any concern.

Section 5 : Review : Preserving Experience

10.77 Since several years ago when the Chairman and Mr Norman LEUNG started to conduct and supervise elections in Hong Kong, there has been constant change of staff at the REO after each of the elections. The reason for this phenomenon is obvious, because while the normal personnel for the REO is numbered about 120, it would be enlarged to over 600 during preparation for an election but reduced to normal establishment in a non-election year. All the thousands of persons employed to man the registration of electors section and the polling and counting stations were mainly recruited on a temporary basis. This perennial change spans from the general staff up to the highest echelon of the REO hierarchy. After a few years, it will not be unjustified to say that there is no one in the REO experienced in elections. This has caused difficulty and more work for the EAC members, for they have to explain various topics of the electoral law, procedure and arrangements as well as the underlying reasons and aims to the new REO staff. Experience gained by former staff had been taken away by them to other Government departments unrelated to election work, and it was difficult for the experience to be made available to the new officers. This

matter must be carefully reviewed, although certain measures, such as preservation of certain procedures and materials in writing or on disk, have been undertaken.

10.78 As it is generally known in the Civil Service that posting in the REO is temporary in nature, the keeping up of dedication and morale of the staff must be seriously considered. The EAC would like to stress, however, that it considers it very fortunate to have the opportunity to work with all the staff in the REO who have taken part in organising the last LegCo elections. Without their dedicated and unfailing support, the elections could not have gone so smoothly.

Section 6 : Summary of the Commission's Review and Measures for Improvement

10.79 Having reviewed the electoral arrangements as detailed above in this and other chapters, the EAC will retain the procedures which have proved to work well. A number of improvement measures will be introduced or considered for introduction in future elections. These mainly include :-

- (1) providing more intensive training and closer supervision to voter registration ambassadors to improve their service in future registration exercise (para 10.5);

- (2) reviewing the present computer system and coordination between the GC and FC/EC voter registration teams so that updating of electors' record could be simultaneously brought to the attention of both teams (para 10.6);
- (3) improving the procedure of notifying electors of the updating of their principal residential addresses in accordance with the information provided by the Housing Department by sending the notice of change of registered address to both the affected elector's new and old addresses (para 10.7);
- (4) enhancing the computer system so that both Chinese and English addresses of electors could be stored to avoid mistakes in translation (para 10.8);
- (5) grouping doubtful HKIC numbers at the end of the extract of register of electors provided to the polling station to facilitate easy identification or rectification during polling (para 10.9);
- (6) obliterating information of electors, eg, HKIC number, from registers or extracts of registers to protect privacy of personal data (para 10.10);
- (7) providing an index to the election-related guidelines to facilitate quick reference and easy retrieval of information and, if possible, the guidelines be made available in an interactive format by means of a computer CD-ROM (paras 6.6 and 10.12);

- (8) including in future guidelines examples of proper ways to handle and declare election expenses (para 10.13)
- (9) reconciling the provisions of declaration of EAs stipulated under the EAC (EP) Reg and the CIPO and compiling a checklist on EAs to help candidates avoid minor breaches (paras 10.17 and 10.18);
- (10) reviewing s 17 of the CIPO to avoid the use of disclaimer (para 10.19);
- (11) making statutory requirement for candidates to declare the veracity of the contents of the forms that they have to submit for using free postage services (para 10.20);
- (12) revising the regulations and guidelines to stipulate clearer specifications on the measurements of the mailing items and the consequences of breaching the requirements in relation to the sending of EAs through free postage (para 10.21);
- (13) revising the election-related guidelines to advise management organisations to allocate display spots to candidates in private premises by drawing lots (para 10.22);
- (14) reviewing the election-related guidelines to spell out that the equal treatment principle also applies to offices of MACs and OCs (para 10.24);

- (15) imposing a time restriction for the use of loudhailers in electioneering (para 10.25);
- (16) reviewing the relevant electoral law in relation to service of copy authorisation of election expense agent on the RO within three working days after the authorisation is made so that non-compliance be made an offence or the authorisation would cease to be effective (para 10.26);
- (17) stating clearly in the official introductory leaflets in future elections that the candidates' messages contained therein are purely contributions from the candidates (para 10.27);
- (18) revising the voter registration application form to allow applicants to indicate their preference for Chinese or English as the language to be used by candidates to communicate with them and publicly advising and encouraging existing electors to let the REO know their choices (para 10.28);
- (19) considering making the whole official introductory leaflet in full colour (para 10.29);
- (20) spreading out more widely the enveloping service of poll cards and enclosures among outside contractors by increasing their number (para 10.30);

- (21) enhancing the present design of the location plans of polling stations with more landmarks (para 10.31);
- (22) making rehearsals and mock polling and counting a standard part of the training programme to enable polling and counting staff to have hands-on experience and practice and be familiar with the working environment and considering producing video recordings of mock counting for training purpose (paras 10.33 and 10.34);
- (23) opening sample polling stations for public knowledge (para 10.35);
- (24) reducing the number of display spots to be provided to FC, EC and EC subsector candidates in future elections (paras 5.14 and 5.15);
- (25) reviewing the designation of NCZs by the GC ROs before the next round of elections (para 5.26);
- (26) including in future guidelines that door-to-door canvassing in residential blocks within an NCZ is permitted so long as it does not pose any obstruction to electors and no amplifying device is used (para 10.36);

- (27) considering methods to provide convenience to voters of subsectors such as arranging the polling day to fall on Sunday or adopting computer-link for polling so that electors can choose to vote at any one of a number of polling stations (para 10.39);
- (28) consulting District Officers on the location and allocation of polling stations before finalising the designation (para 10.45);
- (29) visiting the polling stations by the PROs and staff of District Officers before polling day to ensure the physical setting and directional signs are satisfactory (para 10.47);
- (30) providing training and instructions to improve the manners of polling staff in dealing with electors (para 10.48);
- (31) conducting consultation on location of polling stations and measures for electors with disability (para 10.53);
- (32) studying the viability of computerised electorate data with a view to making the polling and counting arrangements even simpler and more convenient to electors (para 10.3);
- (33) considering to allow the use of names and logos of political parties on ballot papers (para 10.54);
- (34) selecting colour with greater contrast for use in ballot papers (para 10.55);

- (35) designing envelopes for concealing votes marked on ballot papers in an easy-to-use way for electors and counting staff (para 10.57);
- (36) providing sufficient telephone lines to polling stations to strengthen communication on the polling day (para 10.59);
- (37) considering means to shorten the time required by elector to cast votes, such as in the longer term, introduction of a computerized checking and recording system for the poll (para 10.60);
- (38) strengthening and up-dating the knowledge of the front-line staff as well as reinforcing their politeness and helpfulness towards members of the public (para 10.62);
- (39) reviewing relevant regulation in order that the list of polling agents can be up-dated and sent to the PROs in time before the polling day (para 10.63);
- (40) advising polling staff during training sessions to direct all enquiries on the methods of voting to the PROs or DPROs, who should then read out to the electors concerned the instructions for voting printed on the ballot paper itself (para 10.66);
- (41) providing sufficient training to polling staff in respect of casting votes during same visit by an elector (para 10.67);

- (42) redesigning the cardboard with plastic sheath handed to electors at the time of issue of ballot papers (para 10.68);
- (43) retaining requirements for conducting exit poll and publication of exit poll results (para 10.69);
- (44) preserving the allocation of an alternative polling station for electors allocated to a polling station seriously affected by inclement weather as part of the contingency plans (para 10.70);
- (45) considering provision of umbrella gloves at polling stations if the polling day is rainy (para 10.71);
- (46) supplying quantities of ballot papers to each polling station to cover not less than 80% of the electorate served by it (para 10.72);
- (47) retaining the issue of a check list for the PRO (para 10.73);
- (48) retaining the arrangement of permitting a limited number of candidates and their agents to join in escorting the delivery of ballot boxes (para 10.74);
- (49) retaining the counting arrangements adopted on 24 May 1998 (para 10.75);

- (50) specifying terms of employment of counting staff to ensure smooth operation of the count (para 8.37);
- (51) having two shifts of counting staff, and providing them with meals and/or refreshments (para 8.37); and
- (52) considering measures to preserve experience of the REO staff and to maintain their dedication and morale (paras 10.77 and 10.78).

Section 7 : Recommendation to Publish Report

10.80 The EAC Ordinance which requires the Commission to submit this report to the Chief Executive does not make any provision for the report to be released to the public. The Commission, however, **recommends** that this report should be made public, as soon as the Chief Executive thinks fit, so that there will be full transparency of how the Commission has performed its functions under the Ordinance.

CHAPTER 11

CONCLUSIONS AND THE WORK AHEAD

Section 1 : Acknowledgment

Section 2 : Are the Statutory Goals Achieved?

Section 3 : The Work Ahead

Section 1 : Acknowledgment

11.1 There were a number of record breaking events in the history of Hong Kong that happened in this first LegCo elections of the HKSAR in 1998, including the following:

- (a) the largest number of electors ever were registered, ie, 2,800,000 electors registered for the GCs;
- (b) the largest number of 166 candidates were validly nominated and a record 156 candidates contested in the general election; and
- (c) the largest number of electors, ie, 1,489,705, cast their votes, resulting in an unprecedented turnout rate of 53.29%.

11.2 The records which some people described as a success could not have been achieved without the dedicated support and unfailing assistance so readily rendered to the Commission by ICAC and officers of various government bureaux and departments, namely, Buildings Department, CAB, CAS, Correctional Services Department, D of J, HAB, HAD, Hongkong Post, Housing Department, Immigration Department, Information and Technology Services Department, ISD, Lands Department, Police Force, Printing Department, Regional Services Department, RTHK and Urban Services Department. The Commission is in particular indebted to the officers of the REO, the District Officers, officers acting as the ROs for the FCs and subsectors, and the polling and counting staff, whose cooperation and goodwill were vital to the smooth running of various sorts of electoral arrangements. Legal practitioners manning the NACs graciously assisted in providing advice on eligibility for nomination to prospective candidates and ROs. Appreciation is due to candidates and members of the public who complied with the electoral rules, regulations and Guidelines and who scrutinised the actions of others, albeit their efforts might not be too noticeable. Thanks are also tendered to owners, tenants and building managers of many private buildings and estates who happily allowed candidates to electioneer in their premises. Last but not least, the enthusiasm of a majority of the electors to participate in the poll was what made the general election a matter of pride or great meaning for citizens of Hong Kong, especially in view of the weather on polling day that would have discouraged people leaving their homes for any unimportant reason.

Section 2 : Are the Statutory Goals Achieved?

11.3 The express aim or spirit of the EAC Ordinance is that the Commission shall ensure that elections in Hong Kong are to be conducted openly, fairly and honestly. Members of the Commission always keep these principles at heart, and perform their functions and execute their duties in strict accordance with them. All of the things done by the EAC were designed for the purpose of achieving the goal. The public consultations carried out before finalising the delineation of GC boundaries and the Guidelines, the regulation to allow the public to inspect the voter registers, the availability of candidates' copies of declarations of EAs for everyone to check, the meetings in the presence of the media with persons who had comments and suggestions to make to the EAC on electoral affairs and the frequent occasions on which the Chairman met with various sectors of the public and the media to announce and explain electoral matters all helped transparency. The polling and counting arrangements were also made open. Permission was granted to candidates or their agents to observe the poll at close distance inside each polling station. Two sample polling stations were open for public and media visit a couple of days before the polling day, so that they might view, photograph and film the layout, set-up, equipment and facilities inside. Candidates and agents were allowed to be present in the areas surrounding each counting table with which they were concerned. They were entitled to inspect and copy the verification of ballot paper account, and records of the results of the segment counts were put up on notice boards in the counting station upon such records being prepared. A public gallery was established in the counting station for both the subsector and general elections. On 24-25 May 1998, mega television walls were put up inside and outside the CCS to show the counting process. The regulations and

Guidelines made for compliance by candidates relating to their electioneering activities such as the requirement of their declaring their EAs and election expenses, the equal treatment principles enunciated in the Guidelines for the owners and occupiers of private premises and for the media to follow, the handling of complaints in an impartial manner by the CC, and the provision of reasons for various electoral arrangements by the Chairman to members of the media and the public all contributed to ensuring fairness and honesty. The Commission has always been acting and making its decisions absolutely independently, and needless to say, no one has ever influenced the Commission in an improper way. All in all, the Commission is confident to claim that it has successfully maintained its independent, apolitical, impartial and neutral status.

Section 3 : The Work Ahead

11.4 There are elections for the district-based organisations and the LegCo to be held in 1999 and 2000. The Commission will duly need to perform its functions such as the demarcation of geographical constituencies, the registration of electors, the making of regulations and issue of guidelines. The Commission has learned from the experience gained from the 1998 LegCo elections, and its immediate efforts will be directed at reviewing electoral processes and arrangements and make improvements accordingly. The Commission will be well-prepared for the challenges lying ahead.