

**NOTICE OF APPOINTMENT OF
POLLING AGENT FOR A DEDICATED POLLING STATION SITUATED IN
A PENAL INSTITUTION (OTHER THAN A MAXIMUM SECURITY PRISON)
AND
APPLICATION FOR CONSENT TO THE PRESENCE OF ELECTION AGENT/
POLLING AGENT IN A DEDICATED POLLING STATION SITUATED IN A
PENAL INSTITUTION (OTHER THAN A MAXIMUM SECURITY PRISON)**

Sections 23, 42 and 96 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D)

**2022 LEGISLATIVE COUNCIL
ELECTION COMMITTEE CONSTITUENCY BY-ELECTION**

Election Committee Constituency

(Name of Constituency)

Date of By-election: 18 December 2022

[Note: Before completing this notice/application, please read the "Notes on Completion of Notice of Appointment of Polling Agent for a Dedicated Polling Station situated in a Penal Institution (other than a Maximum Security Prison) and Application for Consent to the Presence of Election Agent/Polling Agent in a Dedicated Polling Station situated in a Penal Institution (other than a Maximum Security Prison)" ("Notes").]

PART I (To be completed by the candidate or the election agent)

Name of Candidate (in BLOCK LETTERS) : _____
(Surname) (Other name)

1. I, being the *above-named candidate/election agent of the above-named candidate, hereby apply for the consent of the Commissioner of Correctional Services to the presence of the person(s) listed on page 2 in the dedicated polling station(s) situated in a penal institution at the above by-election.
2. ^I confirm that the notice of appointment of the election agent listed on page 2 has been delivered to the relevant Returning Officer, and the appointment remains effective.
3. I understand this application (where applicable) also serves as a notice of appointment of the polling agent(s) listed on page 2 for the respective dedicated polling station(s) named thereon.
4. I understand the requirements stated in sections 23 and 42 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D) regarding the presence of election agent/polling agent in a dedicated polling station situated in a penal institution (see Note 3).
5. I understand that *my election agent/my polling agent(s)/the candidate's polling agent(s) may do all the things on *my/the candidate's behalf that *I/the candidate can lawfully do for any purpose connected with the conduct of the poll, including observing all proceedings inside the dedicated polling station(s) listed on page 2 and recording their observations. Nevertheless, they shall not do anything which is contrary to law or interfere with the conduct of the poll.
6. I also understand that on the polling day whenever the candidate is present in a dedicated polling station to observe the poll, his/her election agent or polling agent cannot be present at the same time in that dedicated polling station. Moreover, the Presiding Officer may regulate the number of candidates, election agents and polling agents to be admitted to the dedicated polling station at any one time for the purpose of maintaining order in the dedicated polling station and ensuring that polling is conducted smoothly.
7. I also understand that the appointment of polling agent(s) listed on page 2 may be revoked by me by delivering to the Chief Electoral Officer a notice in the specified form and signed by me to that effect.
8. This application is made for the poll to be conducted on the date stated on this page and (where applicable) the postponed or adjourned poll.

* Please delete whichever is inapplicable.

^ If this application is made by the election agent, please delete this clause.

Particulars of the dedicated polling station(s) situated in a penal institution (other than a maximum security prison) and the agent(s) –

§Name of Dedicated Polling Station	Type of Agent	Name in Chinese	Name in English (in BLOCK LETTERS) (Surname first)	Hong Kong Identity Card Number	Residential Address	Contact Telephone Number	(For Official Use Only) Application No.
	* Election agent/ Polling agent						
	* Election agent/ Polling agent						
	* Election agent/ Polling agent						
	* Election agent/ Polling agent						
	* Election agent/ Polling agent						
	* Election agent/ Polling agent						
	* Election agent/ Polling agent						
	* Election agent/ Polling agent						
	* Election agent/ Polling agent						

* Please delete whichever is inapplicable.

§ If the election agent or the same polling agent intends to be present in all the dedicated polling stations situated in a penal institution (other than a maximum security prison) with electors/authorized representatives in custody of the relevant constituency, please put “All” in this column.

Signature of *Candidate/Election Agent : _____

Name of *Candidate/Election Agent (in BLOCK LETTERS) : _____
(Surname) (Other name)

Hong Kong Identity Card Number : _____

Date : _____

* Please delete whichever is inapplicable.

PART II ELECTION AGENT'S/POLLING AGENT'S DECLARATION OF ACCEPTANCE OF APPOINTMENT AND UNDERSTANDING

(To be completed by election agent and/or polling agent(s) who intend(s) to be present in the above-named dedicated polling station(s) situated in a penal institution)

- *1. (Applicable to polling agent(s) only) *I/Each of us hereby accept(s) the appointment as a polling agent as stated in PART I of this notice/application.
2. *I/Each of us, being the election agent/polling agent listed on page 2 of PART I of this notice/application, hereby confirm(s) that *my/our particulars as contained in this notice/application are true and correct. *I/Each of us understand(s) that if there is any discrepancy between the particulars entered in this notice/application and on *my/our Hong Kong Identity Card(s), the Commissioner of Correctional Services may refuse *my/our entry to the dedicated polling station(s) concerned. *I/Each of us understand(s) and consent(s) that *my/our personal data will be provided to the Commissioner of Correctional Services for the processing of the application for *my/our presence in the above-named dedicated polling station(s) situated in a penal institution.
3. *I/Each of us understand(s) that *I/we must make a Declaration of Secrecy in advance and produce such Declaration of Secrecy and *my/our Hong Kong Identity Card(s) when reporting to the Presiding Officer(s) of the above dedicated polling station(s) on the polling day.
4. *I/Each of us understand(s) that inside the dedicated polling station, *I/we must **not** –
 - (a) engage in the canvassing for votes, or speak to or communicate with or interfere with or attempt to influence any elector/authorized representative;
 - (b) attempt to obtain or disclose any information concerning the vote of any elector/authorized representative;
 - (c) film, take photographs or make any audio or video recording;
 - (d) display, leave or distribute any election campaign material;
 - (e) display or wear any badge, emblem, clothing or head-dress which may promote or prejudice the election of a candidate or candidates at the by-election;
 - (f) display or wear any badge, emblem, clothing or head-dress which makes direct reference to a body any member of which is standing as a candidate in the by-election or a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the by-election;
 - (g) use a mobile telephone, paging machine or any other device for electronic communication; or
 - (h) seek to check or inspect elector's/authorized representative's identity document.
5. *I/Each of us further understand(s) that *I/we must **not** –
 - (a) divulge to any other person by communicating information such as the identity document number or name of an elector/authorized representative in the register of electors, or otherwise, as to whether a person has or has not applied for a ballot paper or voted at the dedicated polling station;

- (b) divulge to any other person the identity of an elector/authorized representative in custody;
 - (c) communicate to any person any information obtained in the dedicated polling station as to the candidate for whom an elector/authorized representative in that dedicated polling station is about to vote or has voted; or
 - (d) interfere with or attempt to interfere with any ballot boxes, unissued ballot papers, unused ballot papers, spoiled ballot papers, tendered ballot papers, marked ballot papers or any copy of the register of electors in printed form used by the polling staff at the dedicated polling station.
6. *I/Each of us also understand(s) that if *I/we misconduct *myself/ourselves or behave in a disorderly manner at or in the vicinity of the dedicated polling station or within the no canvassing zone/no staying zone or fail to obey any lawful order of the relevant Returning Officer or the Presiding Officer, *I/we shall commit an offence punishable with a fine and imprisonment and may be ordered by the relevant Returning Officer or the Presiding Officer to leave the area immediately. *My/Our failure to leave such area may result in *my/our being removed by any person so authorized in writing by the relevant Returning Officer or the Presiding Officer, an officer of the Correctional Services Department, or an officer of any law enforcement agency. If *I/we are so removed, *I/we may not re-enter the relevant area on the polling day except with the permission of the relevant Returning Officer or the Presiding Officer.
7. *I/Each of us agree(s) to fully obey the lawful order of officers of the Correctional Services Department of the penal institution in which the dedicated polling station is situated.

Name of election agent/polling agent(s) (in BLOCK LETTERS) (Surname) (Other name)	Signature	Date

* Please delete whichever is inapplicable.

Notes on Completion of Notice of Appointment of Polling Agent for a Dedicated Polling Station situated in a Penal Institution (other than a Maximum Security Prison) and Application for Consent to the Presence of Election Agent/Polling Agent in a Dedicated Polling Station situated in a Penal Institution (other than a Maximum Security Prison)

1. The relevant agent is to be regarded as being appointed for the poll to be conducted on the scheduled date and (where applicable) the postponed or adjourned poll, unless the candidate expressly indicates otherwise in the specified form.
2. Each candidate can only apply for either his/her election agent or one of his/her polling agents to be present in a dedicated polling station situated in a penal institution. Candidate may appoint the same person as a polling agent to be present in more than one dedicated polling station situated in a penal institution. If the election agent or the same polling agent intends to be present in all the dedicated polling stations situated in a penal institution (other than a maximum security prison) with electors/authorized representatives in custody of the relevant constituency, please put "All" in the column of "Name of Dedicated Polling Station" in PART I. An election agent or a polling agent may not be present in a dedicated polling station situated in a maximum security prison.
3. The requirements for applying for the presence of election agent and polling agent in a dedicated polling station situated in a penal institution are stated in sections 23 and 42 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D), an extract of which is reproduced below for reference –

A candidate may appoint election agent (section 23 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D))

- (18) An election agent may not –
 - (a) do anything a candidate is required to do under section 10, 11 or 12A;
 - (b) withdraw a candidate's candidature;
 - (c) authorize any person for the purposes of section 25;
 - (d) subject to paragraph (e), be present in a dedicated polling station situated in a prison unless, on an application in the specified form delivered by hand, by post, by electronic mail or by facsimile transmission to the Chief Electoral Officer at least one week before polling day, the Commissioner of Correctional Services consents to his or her presence; or
 - (e) be present in a dedicated polling station situated in a maximum security prison.
- (19) The Commissioner of Correctional Services must not give consent to an election agent under subsection (18)(d) in respect of a polling station if a polling agent has been appointed under section 42 by the same candidate for that polling station.
- (20) Despite subsection (18)(d), the Commissioner of Correctional Services may, on an application made under that subsection during the week before polling day, give consent under that subsection if the Commissioner is satisfied that –
 - (a) an elector in custody or authorized representative in custody who is entitled to vote for the relevant constituency at a dedicated polling station situated in a prison is admitted or transferred to the prison during that week; and
 - (b) the application is made without undue delay after the admission or transfer.
- (21) If the Commissioner of Correctional Services refuses to give consent under subsection (18)(d), the Commissioner must notify the candidate or the election agent as soon as practicable.

Candidates may appoint polling agents (section 42 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D))

- (8) A candidate must give notice of appointment of a polling agent to the Chief Electoral Officer at least 7 days before polling day.
- (8AA) A notice of appointment given under subsection (8) must be delivered by hand, by post, by electronic mail or by facsimile transmission.
- (8A) Despite subsections (1), (3) and (8) –
 - (a) subject to paragraphs (b) and (c), only one polling agent may be appointed by a candidate for a dedicated polling station situated in a prison;
 - (b) no polling agent may be appointed by a candidate for a dedicated polling station situated in a prison if the Commissioner of Correctional Services has consented under section 23(18)(d) to the presence of the election agent of that candidate in that polling station;
 - (c) no polling agent may be appointed for a dedicated polling station situated in a maximum security prison; and

- (d) the appointment of a polling agent for a dedicated polling station situated in a prison is not effective unless –
 - (i) a notice of appointment is given in accordance with subsection (8), and
 - (ii) the Commissioner of Correctional Services consents to the appointment.
 - (8B) Despite subsection (8A)(d), even though a notice of appointment is given during the week before polling day, the Commissioner of Correctional Services may still give consent under that subsection if the Commissioner is satisfied that –
 - (a) an elector in custody or authorized representative in custody who is entitled to vote for the relevant constituency at the polling station concerned is admitted or transferred to the prison concerned during that week; and
 - (b) the notice of appointment is given without undue delay after the admission or transfer.
 - (8C) If the Commissioner of Correctional Services refuses to give consent under subsection (8A)(d), the Commissioner must notify the candidate or the election agent of the candidate as soon as practicable.
- 4. Any person who is a holder of a Hong Kong Identity Card and has attained the age of 18 years may be appointed as a polling agent. A person can be appointed as a polling agent for more than one polling station. A candidate or his/her election agent should not appoint the Chief Returning Officer, any Returning Officer, Assistant Returning Officer, or any person already appointed by the Chief Electoral Officer to assist at the poll or the count as his/her polling agent.
- 5.
 - (a) For each candidate, only **one** among the candidate, his/her election agent or his/her polling agent may be present in a polling station to observe the poll at any one time.
 - (b) The admission into the polling station of a candidate, election agent or polling agent is subject to the overriding power of the Presiding Officer to regulate the number of persons admitted to the polling station. If full capacity of the area inside the polling station designated for such persons has been reached, the Presiding Officer may refuse further admission of such persons to the polling station at that point of time.
 - (c) Admission to the designated area of the polling station to observe the poll will normally be on a first-come-first-served basis. If the number of persons seeking admission to the designated area at the same time exceeds the capacity, then lots will be drawn to determine the priority of entry.
 - (d) A person admitted to the designated area will only be allowed to stay in the designated area for ONE HOUR, thereafter he/she must leave unless the designated area is not fully occupied and no other person is waiting to be admitted to that designated area. Every person admitted to the designated area of the polling station is required to sign in and enter the time of admission on the log book kept by the polling staff.
 - (e) When the designated area is full, each person waiting to be admitted will be issued a number chit in sequence to record the order of his/her entry to the designated area when a vacant seat arises. When it is the turn of the person holding the number chit to enter that area, his/her number will be called outside the entrance to the polling station, but if the holder of that number chit is not present at that time, then admission to the designated area will be granted to the one holding the next number chit. Such an absentee will have to obtain another number chit and join the queue afresh on his/her return to the polling station.
- 6. PART I of this notice/application should be completed and signed by the candidate or his/her election agent. PART II should be completed and signed by the election agent and/or each of the polling agents who intend(s) to be present in the above-named dedicated polling station(s) situated in a penal institution.
- 7. If there is insufficient space on page 2 or page 4, please make copy of the page to give the relevant details and attach to the notice/application.
- 8. The duly completed notice/application must be delivered to the Chief Electoral Officer by hand, by post, by electronic mail or by facsimile transmission at least 7 days before the polling day (i.e. on or before 11 December 2022).
- 9. If the candidate has any questions in completing this notice/application, please call the Enquiry Hotline of the Registration and Electoral Office at 2891 1001 during office hours.

10. Please note the following with regard to the personal data supplied in connection with this notice/application –

(a) **Purpose of Collection**

The personal data and other related information supplied in connection with this notice/application will be used by the Electoral Affairs Commission, the Registration and Electoral Office, the relevant Returning Officer, the Presiding Officer of the relevant polling stations and related government departments for election-related purposes.

(b) **Transfer of Information**

The personal data and other related information supplied in connection with this notice/application may be provided to other authorized departments or persons, including but not limited to the law courts for election-related purposes.

(c) **Access to Personal Data**

Any person has the right to request access to and correction of the personal data he/she supplied in accordance with the provisions of the Personal Data (Privacy) Ordinance (Cap. 486).

(d) **Personal Data Protection Principles**

Candidates/Election agents are reminded to observe the Data Protection Principles in Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486) in collecting personal data of a third person in completing this notice/application, in particular Principle 4 concerning the requirement to take all practicable steps to ensure that personal data are protected against unauthorized or accidental access, processing, erasure, loss or use.

(e) **Enquiry**

Enquiries concerning the personal data collected by means of this notice/application (including requests for access to and corrections of personal data) should be addressed to the Chief Electoral Officer (Address: 10th Floor, Harbour Centre, 25 Harbour Road, Wan Chai, Hong Kong).

Electoral Affairs Commission
October 2022