

保密聲明

DECLARATION OF SECRECY

《選舉管理委員會（選舉程序）（立法會）規例》（第541章，附屬法例D）第95條
Section 95 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation
(Cap. 541 sub. leg. D)

[備註：請用正楷填寫此聲明，及小心參閱夾附的《填寫保密聲明說明》。]
[Note: You should use BLOCK LETTERS in completing this Declaration and read
carefully the attached "Notes on Making a Declaration of Secrecy".]

2007年立法會補選

2007 LEGISLATIVE COUNCIL BY-ELECTION

香港島地方選區

Hong Kong Island Geographical Constituency

補選日期：2007年12月2日

Date of By-election: 2 December 2007

本人 _____
I _____ (姓名 Name)

居於 _____
of _____ (地址 Residential Address)

謹以至誠鄭重聲明在上述補選中，本人會維持投票的保密性，以及不會披露任何選民的投票選擇或作出任何被《選舉管理委員會（選舉程序）（立法會）規例》（第541章，附屬法例D）第45(1)及96條禁止的事情。本人已閱讀該等條文。

solemnly and sincerely declare that, at the above by-election, I will maintain the secrecy of the poll and will not disclose how any elector has voted or do anything forbidden by sections 45(1) and 96 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D), which I have read.

本人謹根據《宣誓及聲明條例》（第11章）衷誠提出此項聲明，並確信其為真確無訛。

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Ordinance (Cap. 11).

(簽署 Signature)

此項聲明是於 _____ 在香港 _____
Declared on _____ (日期 Date) at _____

(作出聲明的地點 Place where the Declaration is made) 作出。

在本人面前作出，
Before me,

* 監誓員／選舉管理委員會委員／選舉主任／總選舉事務主任
／副總選舉事務主任／太平紳士／持有執業證書的律師 **簽署**
Signature of *Commissioner for Oaths/Members of the Electoral Affairs
Commission/Returning Officer/Chief Electoral Officer/Deputy Chief
Electoral Officer/Justice of the Peace/solicitor with a practising certificate

* 監誓員／選舉管理委員會委員／選舉主任／總選舉事務主任
／副總選舉事務主任／太平紳士／持有執業證書的律師 **姓名**
(正楷)

Name in BLOCK LETTERS of *Commissioner for Oaths/Members of
the Electoral Affairs Commission/Returning Officer/Chief Electoral
Officer/Deputy Chief Electoral Officer/Justice of the Peace/solicitor with a
practising certificate

備註：* 刪去不適用者。

Note * Delete whichever is inapplicable.

填寫保密聲明說明

Notes on Making a Declaration of Secrecy

1. 任何進入投票站或點票站的人士（包括候選人、選舉代理人、監察投票代理人、監察點票代理人、選舉主任、助理選舉主任、負責投票或點票的工作人員、及任何獲授權人士）應以此指明格式作出保密聲明。於投票或點票站執行任務之警員及民眾安全服務隊隊員除外。此聲明之目的是要所有獲授權駐於投票站或在點票時在場的人士，確保維護及協助維護投票的保密性。除執行任務的警員及民眾安全服務隊隊員外，任何人士除非能證明已作此保密聲明，否則不會獲准駐於投票站或在點票時在場。

A declaration of secrecy as in the specified form should be made by every person (including candidates, election agents, polling agents, counting agents, Returning Officers, Assistant Returning Officers, officers on polling or counting duties and any other authorized persons) attending a polling station or a counting station. The only exception is a police officer or a member of the Civil Aid Service on duty at a polling or counting station. The purpose of the declaration is to ensure that all persons authorized to attend at a polling station or a counting station maintain and assist in maintaining the secrecy of the ballot. Unless proof is given that such declaration has been made, no person except a police officer or a member of the Civil Aid Service on duty will be allowed to attend at a polling station or a count.

2. 聲明可於監誓員、選舉管理委員會成員、選舉主任、總選舉事務主任或職銜為總選舉事務主任的副手的人、太平紳士或持有執業證書的律師面前作出。

The declaration may be made before a Commissioner for Oaths, a member of the Electoral Affairs Commission, a Returning Officer, the Chief Electoral Officer, a person whose official designation is that of a deputy to the Chief Electoral Officer, a Justice of the Peace or a solicitor with a practising certificate.

3. 在進入投票站或點票站時請攜同此聲明，並於有必要時出示以供檢查。

Please carry the declaration with you before entering a polling station or a counting station and produce it for inspection whenever required.

4. 以下列載《選舉管理委員會（選舉程序）（立法會）規例》（第 541 章，附屬法例 D）第 45 及 96 條。填寫及作出聲明前請先細閱。

The following is a reproduction of section 45 and section 96 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D). Please read them carefully before completing and making the declaration.

45. 何種行為構成在投票站所犯的罪行

(1) 除第(6)款另有規定外，任何人於投票日在投票站內違反選舉主任、助理選舉主任、投票站主任或任何投票站人員的指示而—

- (a) 與任何選民或獲授權代表通信息；或
- (b) 使用流動電話、傳呼機或任何其他器材進行電子通訊，

即屬犯罪。

(2) 任何人於投票日在並無—

- (a) 以下的人的明示准許—
 - (i) 投票站主任；或
 - (ii) 任何選管會成員；或
- (b) (如投票站是供有關選區或界別進行投票用)有關選區或界別的選舉主任以書面作出的明示准許，

的情況下在有關投票站內拍影片、拍照、錄音或錄影，即屬犯罪。

(3) 任何人於投票日在投票站內從事拉票活動或展示選舉廣告，即屬犯罪。

(4) 任何人於投票日，在禁止拉票區、禁止逗留區、投票站或投票站範圍內沒有遵從選舉主任或投票站主任作出的合法命令，或在禁止拉票區、禁止逗留區、投票站或投票站範圍內行為不檢或違反第 40(16)或 41(4)條，即屬犯罪。

(5) 任何人無合理辯解而於投票日在投票站內展示、穿着或戴上一—

- (a) 可促使或阻礙一名或多於一名候選人在有關選舉中當選的徽章、標誌、衣物或頭飾；或
- (b) 直接提述有任何成員在有關選舉中參選的團體的徽章、標誌、衣物或頭飾，或有關的登記名稱或登記標誌已印在有關選舉的任何選票上的訂明團體的徽章、標誌、衣物或頭飾，

即屬犯罪。

- (6) 第(1)款不適用於 –
 - (a) 選舉主任或助理選舉主任;
 - (b) 選管會成員;
 - (c) 總選舉事務主任;
 - (d) 選管會成員以書面授權如此通信息的人;
 - (e) 投票站主任;
 - (f) 投票站人員;
 - (g) 選舉主任以書面授權出任聯絡人員的人;
 - (h) 在投票站當值的警務人員;或
 - (i) 在投票站當值的民眾安全服務隊隊員。
- (7) 任何人犯 –
 - (a) 第(2)款所訂的罪行，可處第 2 級罰款及監禁 6 個月;
 - (b) 第(1)、(3)、(4)或(5)款所訂的罪行，可處第 2 級罰款及監禁 3 個月。

45. What constitutes an offence at a polling station

- (1) Subject to subsection (6), if on polling day, within a polling station, a person -
 - (a) communicates with an elector or an authorized representative; or
 - (b) uses a mobile telephone, paging machine or any other device for electronic communication, contrary to a direction of the Returning Officer, Assistant Returning Officer, Presiding Officer or any polling officer not to do so, that person commits an offence.
- (2) A person who, on polling day, films or takes photographs or makes any audio or video recording within a polling station without –
 - (a) the express permission of –
 - (i) the Presiding Officer; or
 - (ii) any member of the Commission; or
 - (b) the express permission, in writing, of the Returning Officer for the constituency or constituencies for which the polling station is used for polling.
- (3) A person who, on polling day, engages in the canvassing for votes or displays an election advertisement within a polling station commits an offence.
- (4) A person who, on polling day, fails to comply with a lawful order given by the Returning Officer or the Presiding Officer or behaves in a disorderly manner in a no canvassing zone or a no staying zone or within or at a polling station or contravenes section 40(16) or 41(4), commits an offence.
- (5) A person who, without reasonable excuse, displays or wears, on polling day and within a polling station, any badge, emblem, clothing or head-dress which –
 - (a) may promote or prejudice the election of a candidate or candidates at the election; or
 - (b) makes direct reference to a body any member of which is standing as a candidate in the election or to a prescribed body the registered name or emblem of which has been printed on any ballot paper for the election,
 commits an offence.
- (6) Subsection (1) does not apply to -
 - (a) a Returning Officer or an Assistant Returning Officer;
 - (b) a member of the Commission;
 - (c) the Chief Electoral Officer;
 - (d) a person authorized in writing by a member of the Commission to so communicate;
 - (e) a Presiding Officer;
 - (f) a polling officer ;
 - (g) a person authorized in writing by the Returning Officer to act as a liaison officer;
 - (h) a police officer on duty at a polling station; or
 - (i) a member of the Civil Aid Service on duty at the polling station.
- (7) A person who commits an offence –
 - (a) under subsection (2) is liable to a fine at level 2 and to imprisonment for 6 months;
 - (b) under subsection (1), (3), (4) or (5) is liable to a fine at level 2 and to imprisonment for 3 months.

96. 關於保密條文的執行

- (1) 任何人藉傳達關於選民登記冊上的姓名或名稱或身分證明文件號碼，或藉其他方式，向他人透露某人是否已申領選票或已投票，即屬犯罪。
- (2) 第(1)款不適用於為任何獲法律授權的目的而作出的事情，亦不適用於在正調查《選舉（舞弊及非法行為）條例》（第 554 章）、《防止賄賂條例》（第 201 章）第 3、4 及 8 條、《廉政專員公署條例》（第 204 章）第 13B 條或《選舉管理委員會條例》（第 541 章）或根據該條例訂定的任何規例所訂罪行的警務人員或廉政公署人員要求下如此作出的事情。

- (3) 任何人將點票時取得的關於某一候選人在某一選票上得票的資料向他人傳達，即屬犯罪。
- (4) 任何人在某選民在選票上記錄投票選擇時干擾該選民，即屬犯罪。
- (5) 任何人干擾或企圖干擾任何投票箱、未發出的選票、未用的選票、損壞的選票、重複的選票、經填劃的選票或經根據第 53(7)條劃線的正式登記冊的文本，即屬犯罪。
- (6) 任何人干擾或企圖干擾任何已開啓的投票箱、選票結算表、選票結算核實書、選票結算覆核書或本規例提述的任何其他有關的選舉物料，即屬犯罪。
- (7) 任何人以任何方法或企圖以任何方法 –
 - (a) 在投票站內或在禁止逗留區內；或
 - (b) 未經投票站主任或選管會明示准許而在禁止拉票區內，取得關於該投票站內任何選民將會投票予那個候選人或已投票予那個候選人的資料，即屬犯罪。
- (8) 任何人在任何時間向他人傳達在投票站內取得的關於任何選民將會投票予那個候選人或已投票予那個候選人的資料，即屬犯罪。
- (9) 任何人直接或間接誘使任何選民在填劃選票後展示其選票，以致他人得知該選民的票是投予或並非投予那個候選人的，即屬犯罪。
- (10) 任何人犯本條所訂罪行，可處第 2 級罰款及監禁 6 個月。
- (11) 在本條中 –
 - (a) 對“候選人”的提述，須解釋為包括對候選人名單的提述；及
 - (b) 對“選民”的提述，須解釋為包括對獲授權代表的提述。

96. *Enforcement of provisions as to secrecy*

- (1) A person who divulges to any other person, by communicating information as to the name or identity document number in a register of electors, or otherwise, whether a person has or has not applied for a ballot paper or voted, commits an offence.
- (2) Subsection (1) does not apply to anything done for a purpose authorized by law or when required to do so by a police officer or an officer of the Independent Commission Against Corruption investigating an offence under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), sections 3, 4 and 8 of the Prevention of Bribery Ordinance (Cap. 201), section 13B of the Independent Commission Against Corruption Ordinance (Cap. 204) or the Electoral Affairs Commission Ordinance (Cap. 541) or any regulation made under that Ordinance.
- (3) A person who communicates to any person any information obtained at a counting of the votes as to the candidate for whom a vote has been given on any particular ballot paper, commits an offence.
- (4) A person who interferes with an elector when that elector is recording the vote, commits an offence.
- (5) A person who interferes with or attempts to interfere with any ballot boxes, un-issued ballot papers, unused ballot papers, spoiled ballot papers, tendered ballot papers, marked ballot papers or a copy of the final register marked under section 53(7), commits an offence.
- (6) A person who interferes with or attempts to interfere with any opened ballot boxes, ballot paper accounts, verifications or re-verifications of such accounts or any other relevant election materials referred to in this Regulation commits an offence.
- (7) A person who obtains or attempts to obtain in any manner -
 - (a) within a polling station or a no staying zone; or
 - (b) within a no canvassing zone, without the express permission of the Presiding Officer or the Commission,
 information as to the candidate for whom an elector in that station is about to vote or has voted, commits an offence.
- (8) A person who communicates at any time to any person any information obtained in a polling station as to the candidate for whom an elector is about to vote or has voted, commits an offence.
- (9) A person who directly or indirectly induces an elector to display the elector's ballot paper after the elector has marked it, so as to make known to any person a candidate for or against whom the elector has voted, commits an offence.
- (10) A person who commits an offence under this section is liable to a fine at level 2 and to imprisonment for 6 months.
- (11) In this section, references to –
 - (a) “candidate” are to be construed as including a list of candidates; and
 - (b) “elector” are to be construed as including an authorized representative.

選舉管理委員會

2007 年 9 月

Electoral Affairs Commission

September 2007