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unless it affects the strength of the party with the majority number of MPs in the Dewan Rakyat.

5. Who is an 'absent voter'?

An absent voter is a citizen registered as being unable to physically attend at the voting station of his/her constituency to cast his/her vote on the voting day.

The EC has determined that those serving in the navy, military or air force, or are in public service of the Government on duty outside Malaysia, or are engaged in full-time studies at any higher educational institution outside Malaysia may register as absent voters. The spouses of such people may also register as absent voters.

Absent voters vote by postal ballots which means that the ballot papers are delivered to where they are situated for them to cast their votes. The ballot papers are then returned to the relevant constituency to be counted.

6. Must a person be a member of a political party to be a candidate at elections for the Dewan Rakyat?

No. A candidate that is not contesting as a member of any political party is known as an "independent candidate".

7. Is there a limit to how much a candidate can spend on an election campaign?

Parliament has determined that a candidate for the Dewan Rakyat can spend a maximum of RM200,000. However, this does not include the amount that political parties can spend on the candidates.

8. Can we vote to choose Senators for the Dewan Negara?

Currently, we cannot. There are 70 Senators who are selected as follows:

- 26 Senators elected by the 13 State Legislative Assemblies (2 from each State);
- 4 Senators are appointed by the YDPA for the Federal Territories of Kuala Lumpur (2), Labuan (1) and Putrajaya (1);
- 40 Senators are appointed by the YDPA.

The Constitution does say however that Parliament may

- increase the number of Senators to be elected by the States from 2 to 3;
- provide that these Senators be elected directly by citizens of the States; and
- reduce the number of appointed members or abolish appointed members

9. Can the results of an election be challenged?

Yes. A result may be challenged by filing an Election Petition in the High Court within 21 days of the results being published in the Government Gazette.

The grounds for challenge include:

- bribery, intimidation or any misconduct that affects the result of the elections;
- violation of election laws and regulations;
- corrupt or illegal practice committed by the candidates or their agents;
- the candidates are found to be disqualified from contesting.

10. Can the boundaries of the voting constituencies get changed?

Yes, if Parliament approves such change pursuant to recommendations by the EC which are made after conducting a review. The Constitution says that at least once in every 8 years, the EC must review the boundaries for the constituencies of the Dewan Rakyat.

11. What principles does the EC apply in recommending changes to the boundaries?

The Constitution requires the EC to take into account several principles in its review such as:

- not having constituencies cross State boundaries. For example, there should not be a constituency which is partly in Kedah and partly in Perak.
- the availability of administrative facilities to establish registration and voting machines;
- that the number of voters within each constituency ought to be approximately equal except that for difficult-to-reach country districts and rural constituencies some weightage for area may be given to such constituencies; and,
- the inconveniences of changing boundaries, and the maintenance of local ties.

12. How will I know if the constituency boundaries are being changed, and can people question the changes?

Once the EC conducts its review, it may make recommendations for changes to any constituency. It must inform the Dewan Rakyat Speaker and the Prime Minister of its recommendations, and publish in the Gazette and in at least 1 newspaper circulating in the constituency a notice stating:

- the effect of the EC's recommendations and that a copy of the recommendations may be inspected at a specified place in the constituency;

- that representations may be made to the EC within 1 month after the publication of the notice;

So, once you see such a notice, you can make your representations to the EC and the EC shall consider such representations.

Also, any State Government or local authority affected by the recommendations, or 100 or more persons who are on the current electoral rolls of the constituencies in question, may make representations to the EC objecting to the recommendations in which case the EC must hold a local enquiry.

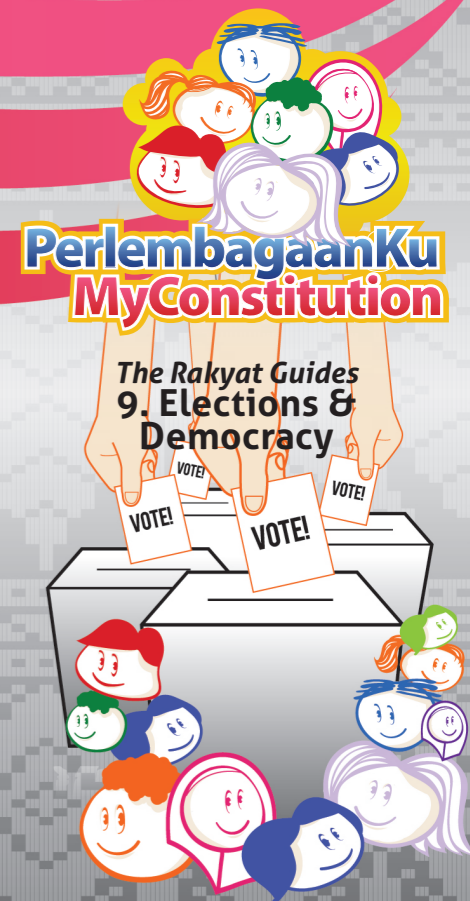
If the EC changes its recommendations, it goes through the process of publishing notices and seeking representations again. However, the EC need not hold more than two enquiries in respect of the recommendations.

After completing the procedure above, the EC submits its report to the Prime Minister who must present the report to the Dewan Rakyat

The recommendations must be approved by votes of not less than half (50%) of the total number of MPs to take effect.

13. How do I check if I am registered to vote and if so, at which polling station?

Check with the EC. Currently, you can go to the EC's website at www.spr.gov.my for any information on your voting status.



In The Rakyat Guides 1: What is the Federal Constitution?, we learnt that the Federal Constitution sets up a system for the governance of Malaysia. It is a “democratic” system which means that the people of Malaysia decide who runs the country. We do this by voting at elections.

Under the Constitution, elections are held to select the 222 members of the Dewan Rakyat (known as “Members of Parliament” or “MPs”) and the 576 members of the 13 State Legislative Assemblies. In this Rakyat Guide, we will focus on elections for the Dewan Rakyat.

When do elections take place?



Elections for the Dewan Rakyat take place when Parliament is “dissolved”. When Parliament is “dissolved” this means that it is stopped from functioning. This can happen in two ways:

- Parliament is automatically dissolved five years after the Dewan Rakyat’s first meeting; or
- The Prime Minister can request that the Yang Di Pertuan Agong (“YDPA”) dissolve Parliament, and the YDPA may then decide to do so. While in most cases, the YDPA must act on the advice of the Prime Minister, the Constitution says that the YDPA may refuse to consent to a request to dissolve Parliament before its five year term ends.

Once Parliament is dissolved, a “general election” must take place within 60 days to select 222 new MPs.

How are elections conducted?



The Constitution does not give details on how elections are conducted. It does however set up the Election Commission (“EC”) and makes the EC responsible for conducting elections for the Dewan Rakyat. Parliament has also made laws on how elections are to take place and it has given the EC the powers it needs to conduct elections.

Under the law, once Parliament is dissolved, the EC will fix a “nomination day” and a “polling day” for the general elections.

There are 222 voting area (known as “constituencies”) throughout Malaysia, one for every seat in the Dewan Rakyat. On nomination day, anyone who wants to be elected as an MP in a particular constituency must file the proper documents with the EC official for that constituency (the “returning officer”). The person who files the papers then becomes a candidate. If there is more than one candidate for a constituency, an election takes place there. If there is only one candidate, that candidate will be declared the winner.

After the nomination process, the campaign period begins and continues until the eve of polling day. This is when the candidates will try to persuade voters to vote for them.

On polling day, voters go to polling centres in their own constituencies and vote for the candidate they prefer. Once the voting period is over, the votes are counted and the winners are announced. The winning candidate is the candidate who gets the most votes in that constituency.

Whichever political party or coalition of parties is able to secure the support of a majority of the MPs (at least 112 out of 222) will be invited by the YDPA to form the next Executive Government.



Who is eligible to be an MP?

Any Malaysian living in Malaysia who is at least 21 years old can take part in an election to become an MP.

A person cannot become an MP if the person is:

- of unsound mind
- is a bankrupt
- holds an office of profit (an office of profit means those holding a position in the judiciary, the Election Commission, the Auditor General and any other position that Parliament may declare)
- spends more money than is allowed under the law on his or her election campaign
- is found guilty of a crime where the punishment is a jail term of one year or more, or a fine of RM2000 or more;
- becomes a citizen of another country or declares loyalty to another country

Who is eligible to vote?



Under Article 119 of the Constitution, you can vote if:

- You are a Malaysian citizen;
- You are at least 21 years old;
- You are living in the constituency where you wish to vote;
- You have registered to vote.

A person is disqualified from being a voter if the person is:

- of unsound mind or serving a prison sentence; or,
- has been convicted in any part of the Commonwealth and sentenced to death or to a term of imprisonment of more than 12 months and has yet to complete his/her sentence.



Are there an equal number of MPs/constituencies for each State and Territory?

No. The allocation of seats depends on the size of the population and territory, and the constitutionally permissible weightage for rural areas. Under the Constitution, the number of MPs/constituencies for each State and Territory is as follows:

- | | | |
|-----------------------|---------------|---------------------|
| • Johor : 26 | • Pahang : 14 | • Sarawak : 31 |
| • Kedah : 15 | • Penang : 13 | • Selangor : 22 |
| • Kelantan : 14 | • Perak : 24 | • Terengganu : 8 |
| • Malacca : 6 | • Perlis : 3 | • Labuan : 1 |
| • Putrajaya : 1 | • Sabah : 25 | • Kuala Lumpur : 11 |
| • Negeri Sembilan : 8 | | |

The Constitution has been amended in the past to change the total number of MPs.



What is the Election Commission (“EC”)?

As we explained earlier, the Constitution sets up the EC to run elections for the Dewan Rakyat. The EC also runs elections for the 13 State Legislative Assemblies. The EC registers voters, prepares and updates the electoral rolls (which sets out the names of all persons who can vote), reviews the boundaries of the voting constituencies and makes recommendations to the Dewan Rakyat for changes to the boundaries.

The EC consists of a Chairperson, Deputy Chairperson and 5 other members who are appointed by the YDPA after consultation with the Conference of Rulers. In selecting members, the YDPA must have regard to the need to have an EC that enjoys public confidence.

A member of the EC may hold office up until he/she is 66 years old. That member shall be removed from office if he/she:

- is an un-discharged bankrupt; or,
- engages in any paid office or employment; or,
- is a member of either House of Parliament or a State Legislative Assembly.

The EC’s Chairperson cannot be a member of any board of directors or board of management of any body of a commercial nature whether or not he/she receives payment or profit.

Frequently Asked Questions



1. Must I register if I wish to vote?

Yes, you must register with the EC to be a voter. Currently, you can register at any EC office in Malaysia or at a computerised post office. You can check the EC’s website at www.spr.gov.my to obtain more information on how to register.

Once you register, it may take about 4 months before your name appears on the electoral roll and you are actually able to vote.

2. Is my vote a secret?

Under the law, every voter shall vote for the candidate standing for election by marking on a ballot paper that is then inserted into a secure ballot box. No person may ask you who or which political party you voted for.

Since amendments to the law in 2006, no one should write your voter number on the counterfoil of the ballot paper given to you. This means your marked ballot paper cannot be traced back to you.

3. What is the ‘first-past-the-post’ voting system?

The Constitution does not say how elections are won. However, Parliament has provided that the candidate with the highest number of votes compared to other candidates will win in a constituency. This is known as the “first past the post”

This means that the candidate who wins may not have obtained the majority of the total votes. For example, in Constituency X, Candidate 1 obtains 32% of the votes, Candidate 2 obtains 35% of the votes and Candidate 3 obtains 33% of the votes. None of the candidates obtains an absolute majority of more than 50%, yet the one with the most votes will be declared the winner. In this case, Candidate 2 is the winner.

There are different systems practised in other countries.

4. What is a by-election?

A by-election is an election conducted for a particular constituency when there is a “casual vacancy”. This can happen when an MP dies, resigns or is disqualified. However, the casual vacancy need not be filled if it happens within 2 years of Parliament being dissolved