

For discussion on
14 June 2002

Legislative Council Panel on Home Affairs

Proposed Arrangements for the Conduct of
Village Representative Elections

Purpose

This paper sets out the proposed arrangements for the conduct of Village Representative elections to be held in 2003 and thereafter.

Background

2. A system of village representation has developed in the New Territories over the decades. The arrangements for electing Village Representatives have also evolved over time.

3. Since August 1994, Village Representative elections are held every four years in accordance with a set of election rules promulgated by the Heung Yee Kuk, known as the Model Rules for the Conduct of Village Representative Elections, or the "Model Rules".

4. Electoral arrangements used in the Village Representative elections of two indigenous villages, namely, Po Toi O Village and Shek Wu Tong Village, were ruled by the courts to be inconsistent with Article 21(a) of the Bill of Rights in the Hong Kong Bill of Rights Ordinance (Cap 383) and section 35(3) of the Sex Discrimination Ordinance (Cap 480). These arrangements were based on the Model Rules.

5. The Court of Final Appeal ruled in December 2000 that the Secretary for Home Affairs, in deciding whether to approve an elected Village Representative, has to consider whether the person elected to represent a village was elected in accordance with electoral arrangements which are consistent with the Bill of Rights and the Sex Discrimination Ordinance.

6. The Government recognizes the need to reform Village Representative elections to ensure that they are free and fair. In view of the Court of Final Appeal's ruling, there have been calls on the Government to bring Village Representative elections under a statutory framework.

Review

7. A working group was set up in April 1999 to review the procedure and arrangements for rural elections. An interim report was made in October 1999. The report recommended that the conduct of Village Representative elections should be brought under statutory control. Having regard to the ruling of the Court of Final Appeal and public views, the Home Affairs Bureau has completed a further review on rural elections. It is recommended that legislation should be introduced to regulate Village Representative elections.

8. The Government intends to introduce a Bill into the Legislative Council to provide for the conduct of Village Representative elections to be held in early 2003 and in subsequent years. The aim of the Bill is to ensure that Village Representative elections are conducted in line with the requirements of the Bills of Rights and the Sex Discrimination Ordinance.

Proposed Arrangements

9. The main elements of the proposed arrangements for Village Representative elections are as follows:

- (a) All Village Representatives should be elected.
- (b) Villages, including both indigenous and non-indigenous villages which are now included in the village representation system in the New Territories, should be covered by the new electoral arrangements.
- (c) Village Representatives should hold office for four years commencing on 1 March.
- (d) Village Representative elections should be held in the two months before the current term of Village Representatives

expires.

- (e) There should be two types of Village Representatives, namely:
 - (i) an indigenous inhabitants representative representing indigenous inhabitants of an indigenous village; and
 - (ii) a residents representative representing all residents of a village.

Indigenous Inhabitants Representatives

10. Indigenous Inhabitants Representatives should be returned by indigenous village constituencies. A constituency should consist of the indigenous inhabitants of that indigenous village. The current number of Village Representatives for individual indigenous villages should be maintained for the 2003 elections. A register of voters for each constituency should be compiled.

11. For an Indigenous Inhabitants Representative election, a person should be eligible to be registered as a voter and to vote if he/she:

- (a) is aged 18 or above;
- (b) is recognized by the Director of Home Affairs as an indigenous inhabitant of that indigenous village; and
- (c) possesses an acceptable identity document.

12. For an Indigenous Inhabitants Representative election, an indigenous inhabitant should be eligible to be nominated as a candidate if he/she:

- (a) is a registered voter of the constituency in which he/she is to be nominated;
- (b) is aged 21 or above;
- (c) is a permanent resident of Hong Kong;

- (d) is ordinarily resident in Hong Kong; and
- (e) is nominated by at least five registered voters from that constituency.

13. In the case of an Indigenous Inhabitants Representative election, the "first past the post" voting system should be used. If two or more of the most successful candidates have an equal number of votes, the Returning Officer must determine the result of the election by drawing lots.

14. The primary role of the Indigenous Inhabitants Representative is to represent indigenous inhabitants on matters relating to the lawful traditional rights and interests of indigenous inhabitants and the traditional way of life in indigenous villages.

Residents Representatives

15. Residents Representatives should be returned by village constituencies which are geographically-defined. Each constituency should be delineated with reference to a map which would be made available for public inspection. There should be one Residents Representative for each village constituency. A register of voters for each constituency should be compiled.

16. For a Residents Representative election, a person should be eligible to be registered as a voter and to vote if he/she:

- (a) is a resident within the area as defined by the constituency map;
- (b) is aged 18 or above;
- (c) is a permanent resident of Hong Kong; and
- (d) has ordinarily resident in that constituency for at least three years immediately preceding the date of his/her application to be registered as a voter.

17. For a Residents Representative election, a person shall be eligible to be nominated as a candidate if he/she:

- (a) is a registered voter of the constituency in which he/she is to be nominated;
- (b) is a resident within the area as defined by the constituency map;
- (c) is aged 21 or above;
- (d) is a permanent resident of Hong Kong;
- (e) has ordinarily resident in the constituency for at least five years immediately preceding the nomination; and
- (f) is nominated by at least five registered voters in the constituency.

18. As in the case of an Indigenous Inhabitants Representative election, the "first past the post" voting system should be used for an Residents Representatives election. If two or more of the most successful candidates have an equal number of votes, the Returning Officer must determine the result of the election by drawing lots.

19. The primary role of the Residents Representative is to represent all residents in the village on matters relating to general village affairs.

Proposed Timetable

20. The following election timetable should, as far as possible, be followed:

60 days prior to polling day	Posting of the provisional register of voters in the village office, office of the relevant Rural Committee and the relevant District Office
40 days prior to polling day	Posting of the final register of votes in the above specified locations.
40 days prior to polling day	Nomination of candidates to commence.
30 days prior to polling day	Posting of the list of eligible

candidates in the above specified locations.

15 days prior to polling day

Announcement of polling details, such as place and time of polling.

The Way Forward

21. We plan to introduce a Village Representative Elections Bill into the Legislative Council shortly after the summer recess. However, we need to have the legislation in place by early next year in order to conduct the 2003 round of elections.

Comments Sought

22. Members are invited to comment on the above proposals.