

LEGISLATIVE COUNCIL BRIEF
Village Representative Election Legislation
(Miscellaneous Amendments) Bill 2009

INTRODUCTION

At the meeting of the Executive Council on 5 May 2009, the Council ADVISED and the Chief Executive ORDERED that the Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009, at Annex A, should be introduced into the Legislative Council (“LegCo”). The Bill seeks to amend the Village Representative Election Ordinance (“VREO”) (Cap. 576) and related subsidiary legislation.

A

BACKGROUND AND JUSTIFICATIONS

2. Under the VREO enacted on 12 February 2003, VR elections are held for the indigenous villages (which include Indigenous Villages¹ and Composite Indigenous Villages²) and existing village settlements (Existing Villages³) already included in the village representation system in the New Territories in 1999, when the last round of VR election before the enactment of the VREO was held. There are two types of VRs under the VREO, namely, Indigenous Inhabitant Representatives (“IIRs”) for Indigenous Villages or Composite Indigenous Villages, and Resident Representatives (“RRs”) for Existing Villages.

3. The number of IIRs then (i.e. in 1999), ranging from one to five, for an Indigenous Village or a Composite Indigenous Village would be retained, while there would be one RR for each Existing Village. The functions of an IIR are to reflect views on the affairs of the village on behalf of the indigenous inhabitants of the village, and to deal with all

¹ Indigenous Villages are those already in existence in 1898. They are listed in Schedule 2 to the VREO.

² Composite Indigenous Villages are villages that comprise more than one indigenous village whose indigenous inhabitants jointly elect their indigenous inhabitant representatives. They are listed in Schedule 3 to the VREO.

³ Existing Villages are listed in Schedule 1 to the VREO. An Existing Village may also be an indigenous village.

affairs relating to the lawful traditional rights and interests, and the traditional way of life, of those indigenous inhabitants. The function of an RR for an Existing Village is to reflect views on the affairs of the village on behalf of the residents of the village. An RR shall not deal with any affair relating to the lawful traditional rights and interests of indigenous inhabitants.

4. Since the commencement of the VREO, two village ordinary elections have been held, in 2003 and 2007 respectively. In the 2007-08 Policy Agenda, the Government committed to reviewing and improving the arrangements for rural elections, in the light of the experience gained in the first two rounds of election, and working on the way forward for the next round of village ordinary election in 2011.

5. Having reviewed the arrangements for the two rounds of election in 2003 and 2007, and the proposals from the rural community relating to the VR election, we now propose to -

- (a) include two villages in the Schedules to the VREO (“the Schedules”) and the next round of village ordinary election in 2011;
- (b) remove spent references in the VREO related to the first VR election held in 2003;
- (c) change the names of some villages that now appear in the Schedules;
- (d) extend the time limits for lodging/handling claims, objections and reviews in relation to voter registration so as to allow more processing time;
- (e) consequential to (d) above, revise the time frames concerning the registration of electors for VR elections and the compilation of registers of electors; and
- (f) increase the penalty on offences concerning order at polling stations and secrecy of votes so as to align it with that under the laws governing the Legislative Council (“LegCo”) and District Council (“DC”) elections.

Inclusion of two villages in the VREO

6. We propose to include two villages in the Schedules so that they can be included in the next round of village ordinary election in 2011. The villages are Lai Pek Shan (犁壁山) in Tai Po and Yuen Long Kau Hui (元朗舊墟) in Yuen Long.

7. Lai Pek Shan was already in existence in 1898 (i.e. it is an indigenous village). In late 1998, villagers of Lai Pek Shan sought the approval of District Officer (Tai Po) for them to elect a VR. The Tai Po Rural Committee agreed in January 1999 to revise its constitution to include Lai Pek Shan as its member so that Lai Pek Shan could hold a VR election. In June 1999, District Officer (Tai Po) approved the revised constitution. Lai Pek Shan had initiated the voter registration process in 1999, but the election was not completed.

8. Although the Administration omitted Lai Pek Shan when compiling the Schedules during the drafting of the VREO in 2002, since Lai Pek Shan is an indigenous village and had already been included in the village representation system in 1999, it should be included in the Schedules to enable it to elect one IIR and one RR under the VREO.

9. Yuen Long Kau Hui in Shap Pat Heung was already in existence in 1898. However, it has long been the position of the Administration that Yuen Long Kau Hui is a market town and not a village. The Shap Pat Heung Rural Committee has also refused to admit Yuen Long Kau Hui into it as an indigenous village. In addition, residents of Yuen Long Kau Hui failed to prove that they had any form of a village representation system in 1999 when the last round of VR election before the enactment of the VREO was held. As such, it has not been included in the VREO.

10. Since the commencement of the VREO in 2003, residents of Yuen Long Kau Hui have made repeated requests to the Administration to include it in the Schedules. In late 2008, they raised the request with some LegCo Members and the case was discussed at a meeting of the LegCo Panel on Home Affairs (“HA Panel”) in January 2009. Some residents of Yuen Long Kau Hui produced fresh evidence trying to prove that they had a VR during the Japanese occupation (i.e. well before 1999). Having considered the arguments and evidence put forward by the residents, HA Panel Members were convinced that Yuen Long Kau Hui should be included in the Schedules to the VREO so that VR election could be held for it. They therefore urged the Administration to propose in the Bill to include Yuen Long Kau Hui in the Schedules.

11. Having considered the evidence produced by Yuen Long Kau Hui residents and the views of the HA Panel, we are of the view that Yuen Long Kau Hui has a persuasive case unique to its own circumstances and should be recognized as an indigenous village for the purpose of the VREO. We therefore propose to include Yuen Long Kau Hui into the Schedules to enable it to elect one IIR and one RR under the VREO.

Removal of spent references to the first VR election held in 2003

12. We intend to hold the first VR election for Lai Pek Shan and Yuen Long Kau Hui as part of the village ordinary election in 2011. However, the VREO stipulates that, for all villages included in the Schedules, their first provisional and final registers of electors shall be compiled and their first VR election conducted in 2003. Therefore, these provisions, which are now spent, have to be removed. Instead, transitional provisions have been included in the Bill to enable, for the two new villages, the compilation of the first provisional and final registers of electors in 2010 and the conduct of the first VR election in 2011. The removal of these spent provisions will not affect the operation of the VREO in future.

Change of village names

B 13. We propose to change the names of ten villages that now appear in the Schedules to the VREO, as set out in **Annex B**. The proposed changes are in response to the requests from the concerned villages to highlight the historical background or location of the villages, or to adopt village names that have been used in the rural community for some time.

Extension of time limits for lodging/handling claims, objections and reviews

14. We propose to extend the time limits for lodging/handling claims, objections and reviews so that there would be a more reasonable time frame for concerned parties to deal with those cases.

15. The Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation (Cap. 541K) (“the Registration Regulation”) stipulates that the Electoral Registration

Officer⁴ (“ERO”) must determine whether an applicant for registration in a provisional register is eligible. The ERO may decide not to consider an application further if the applicant does not furnish the particulars or proof as required by the ERO within a specified period. The Registration Regulation allows the following types of persons to make a claim by lodging a notice with the ERO -

- (a) a person who is determined by the ERO to be not eligible to be registered;
- (b) a person whose application is not considered further by the ERO;
- (c) a person whose request to alter a particular in an entry in a provisional register has been rejected by the ERO; or
- (d) a person who has made an application but whose name does not appear on the relevant provisional register.

On the other hand, a person who considers that a registered person is not eligible to be registered may make an objection to the registration by lodging a notice with the ERO.

16. Under section 3(2) of the Village Representative Election (Registration of Electors) (Appeals) Regulation (Cap. 576A) (“the Appeals Regulation”), the Revising Officers (“ROs”), who are magistrates, shall make rulings allowing or dismissing the claims and objections. The Appeals Regulation also provides that the person who has made a claim or objection, and the person in respect of whom the objection is made, may apply to the RO for a review of the ruling.

17. Currently, the ROs have only seven days after the deadline for lodging claims and objections to rule on the claims and objections received. The existing time frame is too tight for the workload involved. We therefore propose that the ROs should be given 14 days, instead of the current seven days, after the deadline for lodging claims and objections to rule on the claims and objections received.

18. Under section 4(4) of the Appeals Regulation, the person who has made a claim or objection, or the person in respect of whom the objection is made, may apply for a review of the ruling made by the RO not later

⁴ Under the VREO, the Secretary for Home Affairs shall appoint an ERO and the Director of Home Affairs was appointed as the ERO in February 2003.

than two days after the day on which the notification of ruling is sent. This two-day submission period is found to be too demanding and we propose that it be relaxed to four days.

19. Under section 7(2)(b) of the Appeals Regulation, the RO only has two days to process applications for review of ruling lodged on the last day of the submission period. This created tremendous pressure on the ROs and supporting staff. We therefore propose to extend the period for ROs to handle the review cases after the submission deadline from two days to eight days.

20. The total effect of the proposed extensions of time periods in paragraphs 17 to 19 above is that the compilation and publication of the provisional register of electors will have to be advanced by about two weeks. This will not have adverse effect on the preparatory work required for arranging VR elections.

Increase of penalty on offences concerning order at polling stations and secrecy of votes

21. Under the Electoral Procedure (Village Representative Election) Regulation (Cap. 541L) (“the Procedure Regulation”), the maximum penalty on the offences of –

- (a) filming, taking a photograph or making audio or video recording in a polling station; and
- (b) breaching secrecy of votes by, for example, communicating to another person information obtained within a polling station as to the candidate for whom an elector is about to vote or has voted,

is a fine at level two and imprisonment for three months.

22. The penalty on similar offences for the LegCo and DC elections, as provided for under the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D)) and the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541F) respectively, has been amended in recent years to increase the maximum penalty from imprisonment for three months to six months for a stronger deterrence effect. We propose that the penalty on these offences for the VR elections should be aligned with that for the

LegCo and DC elections, i.e. the maximum penalty should be increased from imprisonment for three months to six months. The maximum fine will remain at level 2, same as that for the LegCo and DC elections.

THE BILL

23. The main provisions are –

- (a) Clauses 1 and 2 set out the short title of the Bill when enacted and provide for the commencement date of the Bill, respectively;
- (b) Clause 3 repeals the definitions in the VREO in relation to the first village ordinary election which are no longer necessary;
- (c) Clause 5 improves the Chinese wording of section 13(3)(b) of the VREO;
- (d) Clauses 6 to 9 repeal the provisions in the VREO relating to the first provisional and final registers in 2003 and term of office of the first-term VRs, which are spent;
- (e) Clauses 10 and 14 add a new Schedule 5 to the VREO to provide for the transitional arrangements for the first village ordinary election of Lai Pek Shan and Yuen Long Kau Hui to be held in 2011;
- (f) Clause 11 revises the names of some villages as they appear in Schedule 1 to the VREO, and includes Lai Pek Shan and Yuen Long Kau Hui in that Schedule as Existing Villages;
- (g) Clause 12 revises the names of some villages as they appear in Schedule 2 to the VREO, and includes Lai Pek Shan and Yuen Long Kau Hui in that Schedule as Indigenous Villages;
- (h) Clause 13 revises the name of a village as it appears in Schedule 3 to the VREO;

- (i) Clauses 15 to 20 amend the Appeals Regulation to remove the spent references to the first village ordinary election in 2003, extend the time limits for handling claims, objections and reviews and for lodging reviews, and make minor textual improvements;
- (j) Clauses 21 to 36 remove the spent references to the first village ordinary election in 2003, revise the time frames for the compilation of provisional registers and final registers of electors, and revise the time frames for handling claims, objections and reviews in the Registration Regulation; and
- (k) Clause 37 increases the maximum imprisonment penalty for offences under the Procedure Regulation concerning order at polling stations and secrecy of votes.

LEGISLATIVE TIMETABLE

24. The legislative timetable will be –

Publication in the Gazette	15 May 2009
First Reading and commencement of Second Reading debate	27 May 2009
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

25. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no economic, productivity, environmental or sustainability implications. The amendments in the Bill will not affect the current binding effect of the VREO and the related Regulations.

26. We will make arrangements to include the two villages, namely Lai Pek Shan and Yuen Long Kau Hui, in the future VR elections as from 2011 onwards. We estimate that the civil service and financial implications of the proposal will be minimal. The resource requirements,

if any, would be absorbed from within the existing resources of the Home Affairs Department and other relevant parties.

PUBLIC CONSULTATION

27. The Home Affairs Department and the Heung Yee Kuk jointly formed a Rural Elections Review Working Group (“the Working Group”) in November 2007 to review the VREO. After thorough deliberations on the proposals put forward by the rural community, the Working Group agreed to take forward the proposal of including Lai Pek Shan in the Schedules, changing the names of some villages, extending the time limits for lodging/handling claims, objections and reviews in relation to registration of electors, and increasing the penalty on some offences. The Working Group had considered the request of Yuen Long Kau Hui to include it in the Schedules and agreed not to take it forward for the reasons set out in paragraph 9 above.

28. On 14 November 2008, we consulted the HA Panel on the proposals agreed by the Working Group. While showing no objection to our proposals in principle, Members raised the case of Yuen Long Kau Hui. At the HA Panel meeting on 9 January 2009, while noting the written objection from the Shap Pat Heung Rural Committee to the inclusion of Yuen Long Kau Hui in the VREO, Members considered that since Yuen Long Kau Hui had already been in existence in 1898 and had demonstrated that it had a village representation system before 1999, it should be included in the VREO.

29. Following further discussion between Heung Yee Kuk and the Shap Pat Heung Rural Committee after the January 2009 HA Panel meeting, the former has indicated support for including Yuen Long Kau Hui in the VREO while the latter is re-considering its position.

30. Since two pieces of subsidiary legislation being amended, i.e. the Registration Regulation and the Procedure Regulation, were made by the Electoral Affairs Commission, we consulted the Commission at its meeting on 17 March 2009 and members supported the proposed amendments related to these two Regulations.

PUBLICITY

31. A spokesman will be available for handling media enquiries.

ENQUIRY

32. Enquiries on this brief may be directed to Mr Kesson Lee, Assistant Director of Home Affairs (1) at telephone number 2835 1423.

Home Affairs Department
May 2009

**VILLAGE REPRESENTATIVE ELECTION LEGISLATION
(MISCELLANEOUS AMENDMENTS) BILL 2009**

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A BILL

To

Amend the Village Representative Election Ordinance and certain items of subsidiary legislation relating to village representative elections –

- (a) to include the villages known as “Lai Pek Shan” and “Yuen Long Kau Hui” as Existing Villages and Indigenous Villages for the purposes of village representative elections;
- (b) to make minor amendments to the names of certain Villages;
- (c) to revise the time frames concerning appeals to Revising Officers and the registration of electors;
- (d) to increase the maximum penalty for certain electoral offences;
- (e) to remove spent references; and
- (f) to provide for related matters.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title

This Ordinance may be cited as the Village Representative Election Legislation (Miscellaneous Amendments) Ordinance 2009.

2. Commencement

This Ordinance comes into operation on 16 November 2009.

PART 2

AMENDMENTS TO VILLAGE REPRESENTATIVE ELECTION ORDINANCE

3. Interpretation

(1) Section 2(1) of the Village Representative Election Ordinance (Cap. 576) is amended by repealing the definitions of “first final register”, “first provisional register” and “first village ordinary election”.

(2) Section 2(1) is amended, in the definition of “village ordinary election”, by repealing paragraph (a) and substituting –

“(a) the first election held to elect a person as a Village Representative for the Village; or”.

4. How long a Village Representative holds office

(1) Section 7(1) is repealed.

(2) Section 7(2) is amended by repealing “any subsequent” and substituting “a”.

5. Who is entitled to vote at an election

Section 13(3)(b), in the Chinese text, is repealed and the following substituted –

“(b) 對有關的人可就關乎上述選舉的投票的罪行被檢控和定罪一事造成影響。”

6. Who is eligible to be registered as an elector

(1) Section 15(2) is repealed.

(2) Section 15(4)(c) is amended by repealing everything after “will be an adult” and substituting “on or before 20 October next following the person’s application for registration; and”.

(3) Section 15(5)(b) is amended by repealing everything after “will be an adult” and substituting “on or before 20 October next following the person’s application for registration;”.

7. Electoral Registration Officer to compile and publish registers of electors

(1) Section 17(1)(a) is amended by repealing “22 April 2003 and not later than 10 September in each subsequent” and substituting “27 August in each”.

(2) Section 17(1)(b) is amended by repealing “3 June 2003 and not later than 20 October in each subsequent” and substituting “20 October in each”.

(3) Section 17(4)(c) is amended by repealing “who have made applications for registration since the date” and substituting “whose applications for registration are received by the Electoral Registration Officer during the period”.

(4) Section 17(7) and (8) is repealed.

8. Secretary to specify dates for village ordinary elections

(1) Section 20(1) is repealed.

(2) Section 20(2) is amended by repealing everything after “fourth year” and substituting “after the first election held to elect a person as a Village Representative for the Village in the year in which the office of village representative is established.”.

9. Term of office of an approved Village Representative

Section 63 is repealed.

10. Section added

The following is added –

“69. Transitional provisions relating to Village Representative Election

Legislation (Miscellaneous Amendments) Ordinance 2009

Schedule 5 sets out transitional provisions relating to the Village Representative Election Legislation (Miscellaneous Amendments) Ordinance 2009 (of 2009).”.

11. Existing Village

Schedule 1 is amended –

- (a) in item 36 –
 - (i) by repealing “Chung Sam Wai (忠心圍)” and substituting “Wang Chau Chung Sam Wai (橫洲忠心圍)”;
 - (ii) by renumbering it as item 625A;
- (b) in item 43, by repealing “Fanling (粉嶺)” and substituting “Fanling Wai (粉嶺圍)”;
- (c) in item 54 –
 - (i) by repealing “Fuk Hing Tsuen (福慶村)” and substituting “Wang Chau Fuk Hing Tsuen (橫洲福慶村)”;
 - (ii) by renumbering it as item 625B;
- (d) in item 108, by repealing “Kai Kuk Shue Ha and Ham Hang Mei (雞谷樹下及鹹坑尾)” and substituting “Kai Kuk Shue Ha and Nam Hang Mei (雞谷樹下及南坑尾)”;
- (e) in item 112, by repealing “Kam Tin San Tsuen (錦田新村)” and substituting “Kam Tin Shing Mun San Tsuen (錦田城門新村)”;
- (f) by adding –

“154A.	Lai Pek	VEB/2009/P/	1 April	1	Tai Po Rural
	Shan	TP-94	2011		Committee”;

(犁壁
山)

- (g) in item 160 –
 - (i) by repealing “Lam Uk Tsuen (林屋村)” and substituting “Wang Chau Lam Uk Tsuen (橫洲林屋村)”;
 - (ii) by renumbering it as item 625C;
- (h) in item 343 –
 - (i) by repealing “Sai Tau Wai (西頭圍)” and substituting “Wang Chau Sai Tau Wai (橫洲西頭圍)”;
 - (ii) by renumbering it as item 625D;
- (i) in item 494 –
 - (i) by repealing “Tai Mon Che (大芒輦)” and substituting “Tai Yeung Che (大陽輦)”;
 - (ii) by renumbering it as item 535A;
- (j) in item 618 –
 - (i) by repealing “Tung Tau Wai (東頭圍)” and substituting “Wang Chau Tung Tau Wai (橫洲東頭圍)”;
 - (ii) by renumbering it as item 625E;
- (k) in item 669 –
 - (i) by repealing “Yeung Uk Tsuen (楊屋村)” and substituting “Wang Chau Yeung Uk Tsuen (橫洲楊屋村)”;
 - (ii) by renumbering it as item 625F;
- (l) by adding –

“686A.	Yuen Long Kau Hui (元朗舊墟)	VEB/2009/M/ SPH-31	1 April 2011	1	Shap Pat Heung Rural Committee”.
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12. Indigenous Village

Schedule 2 is amended –

- (a) in item 33 –
 - (i) by repealing “Chung Sam Wai (忠心圍)” and substituting “Wang Chau Chung Sam Wai (橫洲忠心圍)”;
 - (ii) by renumbering it as item 529A;
- (b) in item 39, by repealing “Fanling (粉嶺)” and substituting “Fanling Wai (粉嶺圍)”;
- (c) in item 47 –
 - (i) by repealing “Fuk Hing Tsuen (福慶村)” and substituting “Wang Chau Fuk Hing Tsuen (橫洲福慶村)”;
 - (ii) by renumbering it as item 529B;
- (d) in item 100, by repealing “Kam Tin San Tsuen (錦田新村)” and substituting “Kam Tin Shing Mun San Tsuen (錦田城門新村)”;
- (e) by adding –

“134A.	Lai Pek Shan (犁壁 山)	1 April 2011	1	Tai Po Rural Committee”;
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- (f) in item 139 –
 - (i) by repealing “Lam Uk Tsuen (林屋村)” and substituting “Wang Chau Lam Uk Tsuen (橫洲林屋村)”;

- (ii) by renumbering it as item 529C;
- (g) in item 295 –
 - (i) by repealing “Sai Tau Wai (西頭圍)” and substituting “Wang Chau Sai Tau Wai (橫洲西頭圍)”;
 - (ii) by renumbering it as item 529D;
- (h) in item 420 –
 - (i) by repealing “Tai Mon Che (大芒輦)” and substituting “Tai Yeung Che (大陽輦)”;
 - (ii) by renumbering it as item 455A;
- (i) in item 521 –
 - (i) by repealing “Tung Tau Wai (東頭圍)” and substituting “Wang Chau Tung Tau Wai (橫洲東頭圍)”;
 - (ii) by renumbering it as item 529E;
- (j) in item 565 –
 - (i) by repealing “Yeung Uk Tsuen (楊屋村)” and substituting “Wang Chau Yeung Uk Tsuen (橫洲楊屋村)”;
 - (ii) by renumbering it as item 529F;
- (k) by adding –

“579A.	Yuen Long Kau Hui	1 April 2011	1	Shap Pat
	(元朗舊墟)			Heung Rural
				Committee”.

13. Composite Indigenous Village

Schedule 3 is amended, in item 4 –

- (a) by repealing “Kai Kuk Shue Ha and Ham Hang Mei (雞谷樹下及鹹坑尾)” and substituting “Kai Kuk Shue Ha and Nam Hang Mei (雞谷樹下及南坑尾)”;
- (b) by repealing “Ham Hang Mei (鹹坑尾)” and substituting “Nam Hang Mei (南坑尾)”.

14. Schedule 5 added

The following is added –

“SCHEDULE 5

[s. 69]

TRANSITIONAL PROVISIONS RELATING TO
VILLAGE REPRESENTATIVE ELECTION
LEGISLATION (MISCELLANEOUS AMENDMENTS)
ORDINANCE 2009

1. Interpretation

In this Schedule –

“amending Ordinance” (《修訂條例》) means the Village Representative Election Legislation (Miscellaneous Amendments) Ordinance 2009 (of 2009);

“new Village” (新鄉村) means –

- (a) the Existing Village known as “Lai Pek Shan” which is added into Schedule 1 by section 11(f) of the amending Ordinance;
- (b) the Existing Village known as “Yuen Long Kau Hui” which is added into Schedule 1 by section 11(l) of the amending Ordinance;
- (c) the Indigenous Village known as “Lai Pek Shan” which is added into Schedule 2 by section 12(e) of the amending Ordinance; or

(d) the Indigenous Village known as “Yuen Long Kau Hui” which is added into Schedule 2 by section 12(k) of the amending Ordinance.

2. **The first village ordinary election for a new Village**

The first election to elect a person as a Village Representative for a new Village is to be held in 2011.

3. **Registration of electors for new Villages**

Section 15(1)(a) of this Ordinance does not apply in relation to the registration of a person as an elector for a new Village in the first provisional register, or the first final register, to be compiled and published for that new Village after the commencement of the amending Ordinance.

4. **Compilation of first provisional registers for new Villages**

Section 17(3), (4)(a) and (b), (5) and (6) of this Ordinance does not apply in relation to the compilation of the first provisional register for a new Village after the commencement of the amending Ordinance.

5. **Compilation of first provisional registers for renamed Villages**

In relation to a Village the name of which is amended by section 11, 12 or 13 of the amending Ordinance, the first provisional register for the renamed Village to be compiled and published after the commencement of the amending Ordinance is to be based on the existing final register for the Village, before its name was so amended, that was in effect immediately before the commencement of the amending Ordinance.”.

PART 3

AMENDMENTS TO VILLAGE REPRESENTATIVE ELECTION (REGISTRATION OF ELECTORS) (APPEALS) REGULATION

15. Interpretation

(1) Section 1 of the Village Representative Election (Registration of Electors) (Appeals) Regulation (Cap. 576 sub. leg. A) is amended by repealing the definition of “first provisional register”.

(2) Section 1 is amended, in the definition of “provisional register”, by repealing the semicolon and substituting a full stop.

(3) Section 1 is amended by repealing the definition of “subsequent provisional register”.

16. Fixing a hearing date and notifying the appellant

(1) Section 2(1)(a) is amended by repealing “subsections (4) and” and substituting “subsection”.

(2) Section 2(4) is repealed.

(3) Section 2(5) is amended –

(a) by repealing “subsequent”;

(b) by repealing “23 September” and substituting “9 September”.

(4) Section 2(5)(a) is amended –

(a) by repealing “10 September” and substituting “27 August”;

(b) by repealing “30 September” and substituting “23 September”.

17. Revising Officers notify parties of outcome of appeal

Section 4(4) is amended by repealing “2 days” and substituting “4 days”.

18. Electoral Registration Officer to be notified of rulings

Section 5(2) is repealed and the following substituted –

“(2) The Revising Officer shall notify the Electoral Registration Officer on or before 12 October in the year in which the hearing is concluded.”.

19. Review of rulings by Revising Officer

(1) Section 7(1)(b) is amended, in the Chinese text, by repealing “份” and substituting “分”.

(2) Section 7(2) is repealed and the following substituted –

“(2) A ruling made under section 3(2) may only be reviewed on or before 5 October in the year in which the ruling is made.”.

20. Approval of Revising Officer in relation to Electoral Registration Officer’s proposal

Section 8 is amended, in the English text, by repealing “setion” and substituting “section”.

PART 4

**AMENDMENTS TO ELECTORAL AFFAIRS COMMISSION
(REGISTRATION OF ELECTORS) (VILLAGE REPRESENTATIVE
ELECTION) REGULATION**

21. Interpretation

(1) Section 1(1) of the Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation (Cap. 541 sub. leg. K) is amended, in the definition of “application”, by repealing “8 or”.

(2) Section 1(1) is amended by repealing the definitions of “first final register”, “first provisional register” and “second provisional register”.

22. When to apply for registration in first provisional register and applications received after deadline

Section 8 is repealed.

23. When to apply for registration in provisional registers compiled after first provisional register

(1) Section 9 is amended, in the heading, by repealing “**compiled after first provisional register**”.

(2) Section 9(1) is amended by repealing “30 July” and substituting “16 July”.

(3) Section 9(2) is amended by repealing “30 July” wherever it appears and substituting “16 July”.

(4) Section 9(3) is repealed.

24. ERO may require further particulars or proof

(1) Section 12 is amended, in the Chinese text, in the heading, by repealing “**及**” and substituting “**或**”.

(2) Section 12(5) is amended by repealing everything after “ERO” and substituting “, which must be a period ending on or before 6 August following the making of the requirement.”.

25. ERO may make inquiries about persons registered in existing final register

Section 17(3) is amended by repealing “14 July” and substituting “30 June”.

26. ERO to prepare omissions list

(1) Section 18(2) is amended by repealing “14 July” and substituting “30 June”.

(2) Section 18(2)(a) is amended by repealing “30 July” and substituting “16 July”.

(3) Section 18(3) is amended by repealing “30 July” and substituting “16 July”.

(4) Section 18(6) is amended by repealing “30 July” and substituting “16 July”.

27. ERO to publish notice that omissions list is available for public inspection

Section 19(2) is amended by repealing “23 September” and substituting “9 September”.

28. ERO to correct entries in existing final register when compiling next provisional register

Section 20(7) is amended by repealing everything after “the compilation of” and substituting “a provisional register, after 9 September of the preceding year, but on or before 16 July of the current year.”.

29. What is to be contained in provisional register

(1) Section 21(1) is repealed.

(2) Section 21(2) is amended by repealing “The second provisional register and any subsequent provisional register are” and substituting “A provisional register is”.

(3) Section 21(2)(c) is amended by repealing everything after “received by the ERO” and substituting “during the period beginning on 17 July of the preceding year and ending on 16 July of the current year.”.

30. ERO to publish notice that provisional register is available for public inspection

Section 22(2) is amended by repealing everything after “published” and substituting “every year, not later than 27 August.”.

31. Objection regarding registered person in provisional register

Section 23(3) is amended by repealing everything after “an entry” and substituting “in a provisional register, on or before 9 September of the current year.”.

32. How to lodge notice of claim

(1) Section 25(4) is amended by repealing everything after “registration” and substituting “in a provisional register, on or before 9 September of the current year.”.

(2) Section 25(5) is amended by repealing “relevant”.

(3) Section 25(8) is amended by repealing “relevant”.

33. ERO to correct entries in provisional register when compiling final register

(1) Section 27(7) is amended by repealing “30 July” and substituting “16 July”.

(2) Section 27(10)(a) is amended by repealing everything after “the compilation of” and substituting “a final register, the period beginning on 17 July of the current year and ending on 9 September of the same year; and”.

(3) Section 27(10)(b) is amended by repealing everything after “the compilation of” and substituting “a final register, 9 September of the current year.”.

34. ERO to correct entries in provisional register with approval of Revising Officer

Section 28(2)(a) is amended by repealing everything after “the compilation of” and substituting “a final register, on or before 5 October of the current year; and”.

35. What is to be contained in final register

Section 29(5) is repealed and the following substituted –

“(5) For the purposes of subsection (1)(b), (2), (3) or (4), in relation to a final register, only decisions made by the Revising Officer after 27 August of the current year, but on or before 5 October of the same year, are to be taken into account.”.

36. ERO to publish notice of final register and to make final register available for public inspection

Section 30(2) is amended by repealing everything after “published” and substituting “every year, not later than 20 October.”.

PART 5

AMENDMENTS TO ELECTORAL PROCEDURE (VILLAGE REPRESENTATIVE ELECTION) REGULATION

37. Offence

(1) Section 89(1) of the Electoral Procedure (Village Representative Election) Regulation (Cap. 541 sub. leg. L) is amended –

(a) by repealing “(4),”;

(b) by repealing “, 79 or 82(1)” and substituting “or 79”.

(2) Section 89(2) is amended by adding “38(4), 82(1) or” after “section”.

Explanatory Memorandum

The main object of this Bill is to amend various enactments relating to village representative elections to include 2 villages, namely “Lai Pek Shan” and “Yuen Long Kau Hui” (“new Villages”) as Existing Villages and Indigenous Villages for the purpose of village representative elections. The names of certain Existing Villages, Indigenous Villages and Composite Indigenous Villages (“Villages”) are also amended. Opportunity is taken to remove the

references relating to the village representative elections held in 2003 (“the 2003 elections”) which have become spent.

2. The other object of the Bill is to extend the time limits for handling claims, objections and reviews and for applying for reviews relating to the eligibility of a person to be registered as an elector for a village representative election. The time frames for the compilation and publication of the registers of electors are revised to cater for the extended time limits.

3. The Bill is divided into 5 Parts.

Part 1

4. Part 1 (clauses 1 and 2) contains preliminary provisions. Clause 1 provides for the short title and clause 2 provides for the commencement date of the Bill (when enacted).

Part 2

5. Part 2 (clauses 3 to 14) contains amendments to the Village Representative Election Ordinance (Cap. 576) (“the Ordinance”).

6. Clause 5 makes a textual amendment to the Chinese text of section 13(3)(b) of the Ordinance.

7. Clause 7 amends section 17 of the Ordinance to revise the time frames for the compilation and publication of provisional registers and final registers for the Villages.

8. Clause 10 and the new Schedule 5 to the Ordinance added by clause 14 provide for the transitional provisions relating to the registration of electors and the compilation of the provisional registers for the village representative elections to be held in 2011.

9. Clause 11 amends Schedule 1 to the Ordinance –

(a) to add the new Villages as Existing Villages; and

(b) to amend the names of certain Existing Villages.

10. Clause 12 amends Schedule 2 to the Ordinance –

- (a) to add the new Villages as Indigenous Villages; and
- (b) to amend the names of certain Indigenous Villages.

11. Clause 13 amends Schedule 3 to the Ordinance to amend the name of a Composite Indigenous Village.

12. Clauses 3, 4, 6, 7, 8 and 9 repeal provisions in the Ordinance which have become spent.

Part 3

13. Part 3 (clauses 15 to 20) contains amendments to the Village Representative Election (Registration of Electors) (Appeals) Regulation (Cap. 576 sub. leg. A) (“the Appeals Regulation”).

14. Clause 16(3) and (4) amends section 2(5) of the Appeals Regulation to revise the period within which a hearing in respect of a claim or objection must be held.

15. Clause 17 amends section 4(4) of the Appeals Regulation to extend the time limit from 2 days to 4 days for applying for a review of a ruling made by the Revising Officer allowing or dismissing a claim or objection.

16. Clauses 15, 16, 18 and 19 repeal provisions in the Appeals Regulation concerning the 2003 elections which have become spent.

Part 4

17. Part 4 (clauses 21 to 36) contains amendments to the Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation (Cap. 541 sub. leg. K) (“the Registration Regulation”).

18. Clause 23 amends section 9 of the Registration Regulation to revise the deadline for seeking registration in a provisional register.

19. Clause 24(2) amends section 12(5) of the Registration Regulation to revise the time limits for supplying further particulars or proof required by the Electoral Registration Officer (“ERO”) for the purpose of determining a person’s eligibility for registration as an elector.

20. Clause 25 amends section 17(3) of the Registration Regulation to revise the deadline for the ERO to make inquiries about persons registered in an existing final register for the purpose of compiling the next provisional register.

21. Clause 26 amends section 18 of the Registration Regulation to revise the time frame regarding the preparation of an omissions list.

22. Clause 27 amends section 19(2) of the Registration Regulation to revise the period for which an omissions list is to be available for public inspection.

23. Section 20 of the Registration Regulation provides that if, on request or from information obtained within a relevant period, the ERO is satisfied that an entry in the existing final register is incorrect, the ERO must enter the corrected particulars in the next provisional register. Clause 28 amends section 20(7) of that Regulation to revise the relevant period.

24. Section 21(2) of the Registration Regulation provides that a provisional register is to consist of the personal particulars of persons eligible to be registered as electors whose applications are received by the ERO within the period specified in that section. Clause 29 amends section 21(2)(c) of that Regulation to revise that period.

25. Clause 30 amends section 22(2) of the Registration Regulation to revise the deadline for publication of a notice that a provisional register is available for public inspection.

26. Clause 31 amends section 23(3) of the Registration Regulation to revise the deadline for lodging a notice of objection relating to a person's entitlement to be registered as an elector in a provisional register.

27. Clause 32 amends section 25(4) of the Registration Regulation to revise the deadline for lodging a notice of claim relating to a person's entitlement to be registered as an elector in a provisional register.

28. Section 27 of the Registration Regulation provides that if, on request within a relevant period or from information obtained on or before a relevant date, the ERO is satisfied that an entry in a provisional register is incorrect, the ERO must enter the corrected particulars in the next final register. Clause 33

amends section 27(10) of that Regulation to revise the relevant period and the relevant date.

29. Clause 34 amends section 28(2)(a) of the Registration Regulation to revise the deadline for obtaining the approval of the Revising Officer to correct an entry in the final register.

30. Section 29 of the Registration Regulation provides that a final register is to consist of personal particulars in accordance with the rulings made by the Revising Officer within a period. Clause 35 amends section 29(5) of that Regulation to revise that period.

31. Clause 36 amends section 30(2) of the Registration Regulation to revise the deadline for publication of a notice that a final register is available for public inspection.

32. Clauses 21, 22, 24, 29, 30, 31, 32, 33, 34, 35 and 36 repeal provisions in the Registration Regulation concerning the 2003 elections which have become spent.

Part 5

33. Part 5 (clause 37) contains an amendment to the Electoral Procedure (Village Representative Election) Regulation (Cap. 541 sub. leg. L) (“the Procedure Regulation”).

34. Clause 37 amends section 89 of the Procedure Regulation to increase the maximum imprisonment penalty for contravention of any of the following provisions from 3 months to 6 months –

- (a) section 38(4) of that Regulation which prohibits filming, photo-taking, and audio or video recording in a polling station on a polling day without permission;
- (b) section 82(1) of that Regulation which relates to the secrecy of votes.

Proposed Changes to Village Names

	Districts	Current Village Names	Proposed New Village Names	Types of Villages		
				Existing Villages (Schedule 1 to VREO)	Indigenous Villages (Schedule 2 to VREO)	Composite Indigenous Villages (Schedule 3 to VREO)
1.	North	Fanling	Fanling Wai	✓	✓	
2.		Kai Kuk Shue Ha and Ham Hang Mei	Kai Kuk Shue Ha and Nam Hang Mei	✓		✓
3.	Tai Po	Tai Mon Che	Tai Yeung Che	✓	✓	
4.	Yuen Long	Kam Tin San Tsuen	Kam Tin Shing Mun San Tsuen	✓	✓	
5.		Chung Sam Wai	Wang Chau Chung Sam Wai	✓	✓	
6.		Fuk Hing Tsuen	Wang Chau Fuk Hing Tsuen	✓	✓	
7.		Lam Uk Tsuen	Wang Chau Lam Uk Tsuen	✓	✓	
8.		Sai Tau Wai	Wang Chau Sai Tau Wai	✓	✓	
9.		Tung Tau Wai	Wang Chau Tung Tau Wai	✓	✓	
10.		Yeung Uk Tsuen	Wang Chau Yeung Uk Tsuen	✓	✓	