

**For discussion on
12 July 2013**

**Legislative Council Panel on Home Affairs
Matters relating to Rural Elections**

Purpose

This paper sets out the improvement measures for Village Representative (VR) election and the proposal to regulate Kaifong Representative (KFR) election by statute.

Background

2. The Administration is committed to reviewing and improving the arrangements of rural elections on an on-going basis. Since the enactment of the VR Election Ordinance (Cap. 576) in 2003, three village ordinary elections have been conducted according to law.

3. In 2009, the VR Election Legislation (Miscellaneous Amendments) Ordinance was enacted to bring in a number of improvements, for instance by extending the time limit for lodging/handling claims, objections and reviews in relation to registration of electors, and increasing the penalty on offences concerning order at polling stations and secrecy of votes.

4. Starting from the 2011 village ordinary election, arrangements have been made for registered electors imprisoned, remanded or detained by the Correctional Services Department and the law enforcement agencies to vote at dedicated polling stations. The same was arranged in the five by-elections conducted since then.

5. We reported the outcome and our observations on the 2011 VR election to the Panel on Home Affairs in April 2011, and undertook to conduct a review on the 2011 VR election. The Home Affairs Department (HAD) and the Heung Yee Kuk (HYK) subsequently formed a Working Group to explore further room for enhancement for the conduct of rural elections. After thorough deliberations, the Working Group recommended, among others, to implement further measures for the VR election, and to bring KFR elections under statutory regime from

the ordinary election in 2015 onwards.

Further Improvement Measures for Village Representative Election

6. Village ordinary elections are held every four years to fill 1,484 VR seats in accordance with the VR Election Ordinance (Cap. 576). Among them, 789 are Indigenous Inhabitant Representatives, whose functions are to reflect views on the affairs of the village on behalf of indigenous inhabitants of the village and to deal with all affairs relating to the lawful traditional rights and interests and the traditional way of life of those indigenous inhabitants. The remaining 695 seats are filled by Resident Representatives, whose function is to reflect views on the affairs of the village on behalf of the residents of the village.

Stepping up verification of electors' eligibility

7. To ensure accuracy of the register of electors and to prevent potential vote-rigging, we have stepped up our efforts to verify the eligibility of electors. As recommended by the Working Group, we have established a mechanism to -

- (1) investigate into cases where seven or more electors, or five or more electors with different surnames, register with the same residential address. Random checks will also be performed on other registered electors as well as new applicants;
- (2) cross-check the particulars of all electors at least annually against the data record of the Housing Department, the Hong Kong Housing Society, the Registration and Electoral Office (REO) and the Immigration Department; and
- (3) set out the registers of electors according to their principal residential addresses, in addition to their names, so as to facilitate the public to inspect and identify irregularities in respect of registered addresses.

In addition, we will continue our practice of contacting all electors of the VR election once every four years before the ordinary elections and reminding them to update their registration particulars.

8. In formulating the above verification measures, reference has been made to the enhanced measures on registered geographical constituencies electors conducted by the REO in previous Voter

Registration cycles. As a result of our verification exercise, we expect that a total of 10,600 persons (6% of some 180,000 registered electors) may be deleted from the registers of electors in 2012 and 2013. We will continue our efforts on this front.

Reduction in the number of polling days

9. Currently, all work relating to the VR election is undertaken by HAD staff. Due to manpower constraints, the polling has to be conducted over a number of weekends. We have been improving the situation by reducing the number of polling days from 12 days in the first statutory VR election in 2003, to 10 days in 2007, and four days in 2011. Subject to availability of manpower and financial resources and the agreement of the Electoral Affairs Commission (EAC), we aim to further reduce the number of polling days for the 2015 VR election to three, by recruiting colleagues from other Government departments to act as electoral staff. Our long-term goal is to hold the VR election on one polling day, similar to other public elections sanctioned by EAC.

Proposal for Legislation for Kaifong Representative (KFR) Election

10. During the course of the review, the Working Group noted that KFRs, which exist on Cheung Chau and Peng Chau only, serve similar functions as Resident Representatives of Existing Villages under the VR election framework, that is, they serve to reflect the views of Cheung Chau and Peng Chau residents on local affairs. The Working Group therefore looked into the feasibility of legislating for the election of KFRs, similar to that for Resident Representatives in VR elections.

11. KFR seats have existed in the Cheung Chau Rural Committee (RC) and Peng Chau RC since the 1950/60s. KFRs currently make up all of the 39 seats in the Cheung Chau RC, and 17 out of 21 seats in the Peng Chau RC, with around 8,600 and 3,100 electors respectively. KFRs are the second largest group of RC members after VRs.

12. KFR elections are currently conducted administratively according to the respective RC's constitution once every four years. The elections are supported by the staff of the Islands District Office, with the Islands District Officer serving as the Returning Officer and being responsible for providing all logistical support and handling election complaints, etc.

13. As the election is not statute-based, we are facing a number of

difficulties and operational inadequacies. For instance, objections and claims in relation to the register of electors can only be determined by the District Officer, not by magistrates appointed as Revising Officers as in the case of elector registration for VR election. Under the present system, all election complaints are handled by the District Officer, who in fact is the Returning Officer, and this is unsatisfactory. Secondly, we have no statutory power to request other departments (e.g. the Housing Department, REO, and Immigration Department) to furnish us with electors' information from their records, so as to verify their eligibility and registration particulars. In the absence of statutory authorisation, we also experienced difficulties in making arrangements for KFR electors in custody to cast their votes as in the VR election, as outlined in paragraph 4 above.

14. In view of the above, the Working Group saw a need to legislate for the KFR election and to bring it under the supervision of the EAC. We propose that the legislative framework for the KFR election be modeled on that for the VR election (in particular, the election of Resident Representatives), in terms of registration of electors, nomination of candidates, conduct of the election, handling of election petitions, etc. We also propose to extend the application of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) to the KFR election.

15. We propose to put in place the necessary legislative arrangements so that the next KFR ordinary election in early 2015 can be held under statutory framework, by extending the provisions of the VR Election Ordinance (Cap. 576) and other VR-related legislation to cover the KFR election. The VR Election Ordinance will be renamed as "Rural Representative Election Ordinance", covering both VR election and KFR election.

Public Consultation

16. We have consulted the EAC, HYK, Cheung Chau RC and Peng Chau RC on the proposal to legislate for the KFR election. They have all expressed support for the proposal.

Way Forward

17. We aim to introduce an Amendment Bill into the Legislative Council in the fourth quarter of this year. We aim to have the legislation in place by the second quarter of 2014, so that we would have sufficient

time to proceed with elector registration and other preparatory work before the next ordinary election takes place in early 2015. We will continue to review and actively explore with the HYK and the rural community further room for improvement in rural elections.

Advice Sought

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

Home Affairs Department
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