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3 December 2002

Miss Flora Tai
Clerk to Bills Committee
Bills Committee on Village Representative
Election Bill
Legislative Council
8 Jackson Road
Central
Hong Kong

Dear Miss Tai,

Bills Committee on Village Representative Election Bill

After considering Members' views and public comments on the Village Representative Election Bill, the Administration intends to move a number of amendments to the Bill at the Committee Stage. A set of the proposed Committee Stage amendments is at the Annex.

The reasons for the proposed amendments are as follows :

(a) Clause 2(1)

These are technical amendments. The definitions of "first final register" and "first provisional register" are amended to make them clearer.

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Under clause 15(5)(a), a person is not eligible to be registered as an elector for an Indigenous Village or a Composite Indigenous Village unless he is "an indigenous inhabitant of the Village, or a spouse of an indigenous inhabitant of the Village". It is proposed that the "surviving spouse" (i.e., the widow/widower) of an indigenous inhabitant should also be eligible. A definition of "surviving spouse" is added to this clause.

(b) Clause 7(1)(a)

As there is insufficient time for the Legislative Council to pass the Bill before the end of this year, there is a need to extend the term of serving Village Representatives by six months (instead of the previously proposed three). Accordingly, the term of the new Village Representatives has to be reduced by six months (instead of the previously proposed three).

(c) Clause 15

Under clause 15(4)(b), a person is not eligible to be registered as an elector for an Existing Village unless the person, inter alia, "has been a resident of the Village for the 3 years immediately before applying to be registered." On further examination, the term "immediately before applying to be registered" may be difficult to define. It is proposed that the term "immediately before the date of application for registration" be used instead. This term is clearer.

Similarly, clause 15(4)(c) used the term "at the time of applying to be registered", which may be difficult to define. It is proposed that exact dates be used to calculate whether a person has reached 18 for the purpose of applying to be registered.

Under clause 15(5)(b), a person is not eligible to be registered as an elector for an Indigenous Village or a Composite Indigenous Village unless the person is, inter alia, "an adult at the time of applying to be registered". As mentioned before, the term "at the time of applying to be registered" may be difficult to define. It is proposed that exact dates be used to calculate whether a person has reached 18 for the purpose of applying to be registered.

The other amendments are minor and technical.

(d) Clause 16(c)

The proposed amendment is a drafting point.

(e) Clause 17

Since it is the intention of the Administration to update the registers of electors every year, it is proposed that actual dates be used instead of the terms "not later than 72 days before" and "not later than 30 days before".

The other amendments are minor and technical.

(f) Clause 20

These are technical amendments. The Secretary for Home Affairs shall specify only one date (and not dates) for holding a village ordinary election. There is no need for the words "or dates".

(g) Clause 21

The new clause 21(1A) provides that the Election Affairs Commission need not hold a village by-election for a Village where the election for that Village has failed more than once.

The other amendments are minor and technical.

/....

(h) Clause 30(1)

This is a technical amendment. The words "or after" are deleted.

(i) Clause 31

These amendments are technical.

(j) Clause 51(2)

This is a technical amendment.

(k) Clause (62)

The purpose of this amendment is to extend the term of serving members and office holders of a Rural Committee by six months (instead of the previously proposed three).

(l) Clause 63(1)

The purpose of this amendment is to extend the current term of approved Village Representatives (i.e., serving Village Representatives) by six months (instead of the previously proposed three).

(m) Schedules 1, 2 and 3

The purpose of the amendments is to defer the date of establishment of the office of resident representative and the office of indigenous inhabitant representative by three months (i.e., from 1 July 2003 to 1 October 2003).

/....

(n) Schedule 4

These are technical and consequential amendments.

Yours sincerely,

(Stephen Fisher)
for Secretary for Home Affairs

c.c. D of J (Attn.: Mr. Lawrence Peng)
DHA (Attn.: Miss Monica Chen)

VILLAGE REPRESENTATIVE ELECTION BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Home Affairs

Clause

Amendment Proposed

- 2(1)
- (a) In the definition of "first final register" -
 - (i) by deleting "the final" and substituting "the first final";
 - (ii) by deleting "under this Ordinance before the first village ordinary election for the Village" and substituting "after the commencement of section 17(1)(b)".
 - (b) In the definition of "first provisional register" -
 - (i) by deleting "the provisional" and substituting "the first provisional";
 - (ii) by deleting "under this Ordinance before the first village ordinary election for the Village" and

substituting "after the
commencement of section 17(1)(a)".

(c) By adding -

"surviving spouse" (), in
relation to an indigenous
inhabitant, means a person who
survives the indigenous inhabitant
as his spouse at the time of his
death and has not since his death
entered into -

(a) a marriage celebrated or
contracted in accordance
with the provisions of
the Marriage Ordinance
(Cap. 181); or

(b) a marriage celebrated or
contracted outside Hong
Kong in accordance with
the law in force at the
time and in the place
where the marriage was
performed,

with another person;".

7(1)(a) By deleting "9 months beginning on 1 July" and
substituting "6 months beginning on 1 October".

(a) In subclause (4)(b), by deleting "applying to be registered" and substituting "the date of application for registration".

(b) In subclause (4)(c), by deleting "at the time of applying to be registered" and substituting -

", or will be an adult on or before -

(i) in the case of
registration in the
first provisional, or
final, register for the
Village, 3 June 2003;

(ii) in any other case, 20
October next following
the person's application
for registration".

(c) In subclause (5)(a), by adding "or surviving spouse" after "spouse".

(d) In subclause (5)(b), by deleting "at the time of applying to be registered" and substituting -

", or will be an adult on or before -

(i) in the case of
registration in the
first provisional, or

final, register for the
Village, 3 June 2003;

(ii) in any other case, 20
October next following
the person's application
for registration".

(e) In subclause (5)(d)(i), by deleting "inform"
and substituting "informs".

(f) In subclause (5)(d)(ii), by deleting
"provide" and substituting "provides".

16(c) By adding "該" before "選舉".

17 (a) In subclause (1)(a), by deleting "72 days
before the village ordinary election date for
the Village" and substituting "22 April 2003
and not later than 10 September in each
subsequent year".

(b) In subclause (1)(b), by deleting "the Village
not later than 30 days before the village
ordinary election date for the Village" and
substituting "a Village not later than 3 June
2003 and not later than 20 October each
subsequent year".

(c) In subclause (2), by adding "or other
personal particulars" after "address".

(d) In subclause (8)(a), by deleting "; or" and substituting a full stop.

(e) By deleting subclause 8(b).

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(a) In subclauses (3)(a) and (b), by deleting "or dates".

(b) In subclause (5) -

(i) by deleting "or dates";

(ii) by deleting "or are".

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(a) In subclause (1) -

(i) by deleting "The" and substituting "Subject to subsections (1A) and (2), the";

(ii) in paragraph (a), by deleting "處" and substituting "署".

(b) By adding -

"(1A) The Electoral Affairs Commission is not required, on the making of a declaration under section 29(2) that an election for a Village has failed, to arrange a village by-election for the Village to be held if the election declared to have failed is a village by-election that was held on

the making of another declaration under section 29(2) that an election for the Village has failed."

30(1) By deleting "or after".

31 (a) In subclause (1)(c), by adding "本條例及" after "按照".

(b) In subclause (8)(b)(ii), by deleting "在該選舉中就該村選出的候選人人數少於該選舉須選出的該村" and substituting "在該村的選舉中所選出的候選人人數少於該村的選舉須選出".

51(2) By deleting "賦予或委予" and substituting "委予或賦予".

62 (a) In subclause (1), by deleting "3 months" and substituting "6 months".

(b) In subclause (2), by deleting "9 months that commences on 1 July" and substituting "6 months that commences on 1 October".

63(1) By deleting "3 months" and substituting "6 months".

Schedules
1, 2 and 3

By deleting "July" wherever it appears and
substituting "October".

Schedule 4

- (a) In section 14(a) and (b), by adding "or (j)"
after "4(i)".
- (b) In section 15(a), by deleting "or (i)" and
substituting ", (i) or (j)".
- (c) In section 20(a), by deleting "3 months" and
substituting "6 months".
- (d) In section 20(b), by deleting "9 months that
commences on 1 September" and substituting "6
months that commences on 1 December".