

立法會  
*Legislative Council*

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**Paper for the House Committee meeting  
on 16 May 2003**

**Second report of the Subcommittee on subsidiary legislation  
relating to Village Representative elections**

**Purpose**

This paper reports on the deliberations of the Subcommittee on subsidiary legislation relating to Village Representative elections on the Maximum Amount of Election Expenses (Village Representative Election) Regulation and the Electoral Procedure (Village Representative Election) Regulation.

**Background**

2. The Village Representative Election Ordinance (Cap. 576) was gazetted and came into operation on 14 February 2003, except for certain provisions which will come into operation on 1 October 2003. The Ordinance provides a legal framework for the conduct of the 2003 Village Representative (VR) elections as well as VR elections in subsequent years. The elections will be conducted under the supervision of the Electoral Affairs Commission (EAC).

3. To implement the VR elections, the following five sets of subsidiary legislation have been or will be introduced for negative vetting by the Legislative Council (LegCo) -

- (a) Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation (gazetted on 15 February 2003);
- (b) Village Representative Election (Registration of Electors) (Appeals) Regulation (gazetted on 21 February 2003);
- (c) Maximum Amount of Election Expenses (Village Representative Election) Regulation (gazetted on 28 March 2003);

- (d) Electoral Procedure (Village Representative Election) Regulation (gazetted on 28 March 2003); and
- (e) Village Representative Election (Election Petition) Rules (to be introduced).

### **The subsidiary legislation**

#### Maximum Amount of Election Expenses (Village Representative Election) Regulation (the Election Expenses Regulation)

4. Section 45 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) provides that the Chief Executive in Council may prescribe a maximum amount of election expenses for an election.

5. The Election Expenses Regulation prescribes the maximum amount of election expenses for an election to elect VRs, as follows -

- (a) \$14,000 for the Village (defined in section 2(2) of the Elections (Corrupt and Illegal Conduct) Ordinance) where there are not more than 1 000 electors, or
- (b) \$20,000 for the Village where there are over 1 000 electors.

#### Electoral Procedure (Village Representative Election) Regulation (the Electoral Procedure Regulation)

6. Section 7 of the Electoral Affairs Commission Ordinance (Cap. 541) provides that EAC may make regulation for electoral procedure at an election, including electing a VR for a Village.

7. The Electoral Procedure Regulation which will come into operation on 1 June 2003 provides for the procedure for the election of VRs conducted under the Village Representative Election Ordinance. According to the Administration, the Electoral Procedure Regulation is modelled on the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D) and the Electoral Procedure (Chief Executive Election) Regulation (Cap. 569 sub. leg. J).

8. The Administration has informed the Subcommittee that the main differences of VR elections from other public elections are as follows -

- (a) the Director of Home Affairs (DHA), instead of the Chief Electoral Officer, would be responsible for making all the arrangements for VR elections;

- (b) the polling hours would be from 12:00 noon to 7:00 pm during weekend for VR elections;
- (c) a venue might be designated by DHA as a polling station to accommodate polling for more than one Villages on the basis of time and resources considerations; and
- (d) vocal counting would be introduced as an additional option for counting votes.

### **The Subcommittee**

9. The House Committee agreed at its meeting on 21 February 2003 to form a Subcommittee to study the Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation. The House Committee further agreed at its meeting on 28 February 2003 that the Subcommittee should be responsible for studying all items of subsidiary legislation relating to VR elections which had been or would be introduced.

10. The Subcommittee held its first meeting on 3 March 2003 and Hon Andrew WONG was elected Chairman. The membership of the Subcommittee is in **Appendix I**. The Subcommittee made its first report to the House Committee on 21 March 2003 on the deliberations of the Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation and the Village Representative Election (Registration of Electors) (Appeals) Regulation.

### **Deliberations of the Subcommittee**

11. In order to allow more time for the Subcommittee to study the Election Expenses Regulation and the Electoral Procedure Regulation, Hon Andrew WONG moved a motion at the Council meeting on 30 April 2003 to extend the scrutiny period of the two Regulations to 21 May 2003. The motion was passed by the Council.

12. The main deliberations of the Subcommittee on these two Regulations are summarized in the following paragraphs.

#### **The Election Expenses Regulation**

13. The Administration has informed the Subcommittee that the maximum election expenses of \$14,000 for the Village with not more than 1 000 electors and \$20,000 with more than 1 000 electors are proposed having regard to the maximum amount of election expenses imposed in other public elections (e.g.

District Council elections) and the various basic expenditure items commonly used by candidates for electioneering purposes, such as posters, handbills, publicity boards and banners. Depending on the number of electors, the maximum election expenses per population for VR elections will be broadly comparable to that for District Council (DC) elections. The Administration has also informed the Subcommittee that it has consulted Heung Yee Kuk, Rural Committees (RCs) and EAC on the proposed amounts of maximum election expenses. The proposed amounts have also been mentioned in the "Proposed Guidelines on Election-related Activities in respect of VR Elections" published by EAC for public consultation from 14 February to 15 March 2003, and no comments have been received.

14. Members including Hon Andrew WONG, Hon LAU Wong-fat and Dr Hon TANG Siu-tong have expressed concern that the maximum amount of election expenses stipulated in the Election Expenses Regulation might not be adequate to meet the expenses to be incurred by a candidate in a VR election. They point out that section 28(8)(a) of the Electoral Procedure Regulation provides that DHA may make arrangements for polling for one or more than one Village to take place at a polling station. If the polling station is at a distance from the Villages concerned, candidates of these Villages may need to provide transportation for electors from the Villages to the polling station. In that case, the maximum amount of election expenses may not be adequate to cover the costs incurred for the hire of transport. These members further point out that as candidates for the post of resident representative in a Village would not be very familiar with the electors in that Village, they might need to incur a considerable amount of election expenses for producing and distributing publicity materials.

15. Members are of the view that the maximum amount of election expenses may not sound propitious to the rural community. They opine that the ceiling could be adjusted upwards since no public money is involved, and candidates are free to spend as much or as little as they like. They have requested that the maximum amount of election expenses should be increased to \$18,000 for the Village where there are not more than 1 000 electors and to \$28,000 for the Village where there are more than 1 000 electors.

16. The Administration informs members that according to the records in the provisional register for the 2003 VR elections, there would be an average of not more than 150 voters in each village constituency. Hence, the maximum amount of election expenses of \$14,000 and \$20,000 should be adequate for electioneering purposes. The Administration further points out that the maximum amount of election expenses for candidates in DC elections with an average population of 17 000 for each constituency is set at \$45,000 only. The Administration considers the levels of \$18,000 and \$28,000 proposed by members to be on the high side.

17. In the light of the Administration's response, the Subcommittee has agreed that Hon Andrew WONG, the Subcommittee Chairman, should move a resolution to amend section 2 of the Election Expenses Regulation on its behalf to the effect that the maximum amount of election expenses for an election to elect VRs be increased -

- (a) from \$14,000 to \$18,000 for the Village where there are not more than 1 000 electors, or
- (b) from \$20,000 to \$28,000 for the Village where there are over 1 000 electors.

### The Electoral Procedure Regulation

#### *Counting of votes at polling stations*

18. Members have expressed disappointment that although vocal counting has been introduced, ballot boxes would be delivered to a central counting station and votes would be counted there. They point out that counting of votes had been conducted at polling stations for previous rounds of VR elections, and for the 2003 DC elections, the Administration has already proposed that counting of votes should be decentralized to be performed at individual polling stations. Members have strongly requested that to avoid unnecessary delay, counting of votes should be conducted at individual polling stations so that election result can be declared on the polling day.

19. The Administration responds that the 2003 VR elections will, for the first time, be conducted under a statutory framework with various new arrangements. It is the considered view of EAC and the Administration that the elections should be implemented fairly and smoothly. As such, the Administration considers it necessary to have an officer of appropriate seniority to assume the post of the Returning Officer (RO) who has the important task to ensure that legislative requirements and necessary procedures are observed. The Administration explains that the RO is required under the Village Representative Election Ordinance to perform various tasks, such as handling questionable ballot papers and announcing results of the elections. These tasks bear great significance in the election process, as they are pivotal to the outcome of the elections. Given that polling and counting will have to be conducted for an average of about 120 village constituencies on one single polling day in the 2003 VR elections, the Administration will need to deploy substantially more senior staff, if counting of votes is to take place in individual polling stations.

20. The Administration points out that even though counting of votes would be conducted at central counting stations, as the number of electors for each Village in VR elections would not be very large, the election results should be made available in the evening on the polling day.

21. Despite strong request from members, the Administration reiterates that it will not be possible to conduct counting of votes at individual polling stations for the 2003 VR elections, given the limited resources and manpower available. However, the Administration has undertaken to consider counting of votes at individual polling stations in the review to be conducted after the 2003 VR elections, taking into account the experience in the DC and LegCo elections. Members have expressed regret over the Administration's refusal to consider their request.

*Designation of polling stations*

22. Section 28(8)(a) of the Electoral Procedure Regulation provides that DHA may make arrangements for polling for one or more than one Village to take place at a polling station. The Administration explains that geographical spread would be considered in assigning the Villages to a polling station. The provision is made to provide more flexibility in designating polling stations. The Administration further explains that specific polling zones would be designated clearly for each Village if polling for two or three Villages would be conducted at a polling station and polling staff would provide assistance as appropriate.

23. The Administration also informs the Subcommittee that on average, polling for about three to four Villages will be conducted at one single venue. However, about 41 polling stations will be used for the polling of two Villages only, and about 40 Villages in remote areas will have their own polling station.

24. Members have expressed concern that as many electors for VR elections are elderly people, confusion might arise if the polling for more than one Village is to take place at a polling station. They are of a strong view that since counting of votes would not have conducted at individual polling stations and officers of a less senior rank could be assigned as Presiding Officers, a polling station should therefore be designated for one Village only. Members have suggested that section 28 of the Electoral Procedure Regulation should be amended to stipulate that a polling station should provide for the polling of one Village only. As such an amendment would likely have a charging effect, members have therefore requested the Administration to move the amendment.

25. The Administration responds that under the 2003 VR elections, there will be a total of 707 villages comprising 1 480 seats. The Home Affairs Department (HAD) has to make all the arrangements for the conduct of elections for these 707 villages during six weekends. To facilitate the voters and to ensure fairness among Villages under the same RCs, the VR elections for Villages under each RC will be conducted over one weekend. If a polling station is to be designated for one Village only, the Administration estimates that there would be significant increase in manpower requirement, as much as three and a half times the present staffing proposals.

26. The Administration explains that all the manpower requirements would have to be absorbed by the existing staff of HAD. The Administration reiterates that taking into account the financial and manpower considerations as well as the tight timetable for conducting the elections, it is not feasible to designate one polling station for one Village, even if officers of a less senior rank are assigned as Presiding Officers. However, the Administration has undertaken to review whether it is feasible to do so for future rounds of VR elections.

27. Members are of the view that the manpower requirements for the conduct of 2003 VR elections should not be absorbed by the existing staff of HAD only. They have expressed dissatisfaction that despite the strong request from the Subcommittee, the Administration has refused to designate one polling station for one Village only

*Inclusion of photographs of candidates in ballot papers*

28. Members note that only the names of candidates and their candidate numbers would be included in the ballot papers to be used for a VR election in Schedule 1 to the Electoral Procedure Regulation. Members point out that some electors may be illiterate and some candidates in a Village may have the same name. They have suggested that the ballot papers should include photographs of the candidates for ease of identification.

29. The Administration responds that the proposal of including photographs of candidates in the ballot papers will only be considered for implementation in the 2004 LegCo elections and will not be implemented for the 2003 DC elections. The Administration further points out that an additional sum of about \$1.9 million will be incurred if colour photographs of candidates for VR elections are included in the ballot papers, and the amount is beyond the existing budget planned for the 2003 VR elections. The Administration also stresses that information about the candidates (including their names and candidate number) as well as their photographs will be displayed inside the polling stations, and polling staff will be ready to provide assistance as appropriate.

30. Members have suggested that black and white photographs of candidates could be printed on ballot papers in order to minimize the costs incurred. The Administration, however, informs the Subcommittee that printing the black and white photographs of candidates on ballot papers might not be well-accepted by people of the rural community, and the inclusion would also incur additional expenses. The Administration has assured the Subcommittee that it would make reference to the experience of the 2004 LegCo election, and review the feasibility of including photographs of candidates in the ballot papers for future rounds of VR elections.

31. Given the Administration's explanation, most members are of the view that while it is preferable to include photographs of candidates in the ballot papers for the purpose of identification, they have no strong view on the matter. Hon Andrew WONG, however, considers that it should be made mandatory to include photographs of all candidates in the ballot papers. He has informed the Subcommittee that he would consult Heung Yee Kuk on the matter and might consider moving amendments to Schedule 1 to the Electoral Procedure Regulation to such effect, depending on the view of Heung Yee Kuk.

*Marking of no canvassing zone and no-staying zone*

32. Members have suggested that the areas of no canvassing zone and no staying zone outside a polling station should be kept to the minimum to ensure that the polling stations were accessible to the elderly and mobility-handicapped persons.

33. The Administration responds that it would take members' suggestion into account in delineating the no canvassing zone (NCZ) and no staying zone (NSZ). The Administration also explains that at the NCZ and NSZ, people are allowed to assist the elderly and mobility-handicapped persons to gain access to the polling stations, but these people should refrain from carrying out any electioneering activities. If the candidates or agents are their friends or relatives and are requested by these electors to provide assistance in the NCZ and the NSZ, they should not wear or carry any electioneering materials and should not canvass votes from the electors in any way. The Administration stresses that these people are not allowed to enter the voting booths to assist the elderly and the mobility-handicapped persons to vote, and polling station staff will assist the electors when requested and as necessary.

**Follow-up actions by the Administration**

34. The Administration has undertaken -

- (a) to take into account the experience in the DC and LegCo elections, and consider conducting counting of votes at individual polling stations for future rounds of VR elections (paragraph 21 above refers);
- (b) to review whether it is feasible to designate one polling station for one Village for future rounds of VR elections (paragraph 26 above refers); and
- (c) to make reference to the experience of the 2004 LegCo election, and review the feasibility of including photographs of candidates in the ballot papers for future rounds of VR elections (paragraph 30 above refers)



### **Recommendation**

35. The Subcommittee recommends that the Election Expenses Regulation be amended as discussed in paragraph 17 above. The proposed resolution to amend the Regulation is in **Appendix II**. The Subcommittee has not proposed any amendment to the Electoral Procedure Regulation.

### **Advice sought**

36. Members are invited to note the Subcommittee's deliberations and the recommendation of the Subcommittee in paragraph 35 above.

Council Business Division 2  
Legislative Council Secretariat  
14 May 2003

**Subcommittee on subsidiary legislation relating to  
Village Representative elections**

**Membership List**

**Chairman** Hon Andrew WONG Wang-fat, JP

**Members** Hon WONG Yung-kan  
Hon LAU Wong-fat, GBS, JP  
Hon Andrew CHENG Kar-foo  
Hon TAM Yiu-chung, GBS, JP  
Dr Hon TANG Siu-tong, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Albert CHAN Wai-yip  
Hon IP Kwok-him, JP

(Total : 9 Members)

**Clerk** Miss Flora TAI Yin-ping

**Legal Adviser** Mr Stephen LAM Ping-man

**Date** 3 March 2003

**INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

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**RESOLUTION**

(Under section 34(2) of the Interpretation and  
General Clauses Ordinance (Cap. 1))

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**MAXIMUM AMOUNT OF ELECTION EXPENSES (VILLAGE  
REPRESENTATIVE ELECTION) REGULATION**

RESOLVED that the Maximum Amount of Election Expenses (Village Representative Election) Regulation, published in the Gazette as Legal Notice No. 81 of 2003 and laid on the table of the Legislative Council on 2 April 2003, be amended in section 2 —

- (a) in paragraph (a), by repealing "\$14,000" and substituting "\$18,000";
- (b) in paragraph (b), by repealing "\$20,000" and substituting "\$28,000".