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2 May 2003

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

Dear Miss Tai,

**Subcommittee on subsidiary legislation
Village Representative Elections**

I refer to the draft minutes of the Subcommittee meeting held on 16 April and would like to provide the Administration's response as follows:

Para 7 (a) Maximum Amount of Election Expenses

The Administration's proposed levels of \$14,000 and \$20,000 are put forward in consideration of the ceilings of election expenses imposed in other public elections as well as practical electioneering expenses. According to the records in the provisional register for the 2003 VR elections, there will be an average of not more than 150 voters in each Village Constituency. Hence, we consider that the maximum amount of election expenses of \$14,000 and \$20,000 should be adequate for electioneering purposes.

Furthermore, the maximum amount of election expenses for candidates in District Council elections with an average population of 17,000 for each constituency is set at \$45,000. Against this, Members' proposed levels of \$18,000 and \$28,000 for the 2003 VR elections would appear to be on the high side.

Para 7 (b) – Election Donations for VR Candidates

We have brought to ICAC’s attention the concerns of members on the subject. Members may like to note ICAC’s response as follows:

“It is not stipulated in the Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) who can and cannot give an election donation to candidates running for elections regulated by the said Ordinance. It is therefore not an offence under the ECICO for a person who runs for the chairmanship of a Rural Committee (RC) to give an election donation to a candidate running for a Village Representative (VR) election of a Village which belongs to the same RC.

The law, however, defines that ‘election donation’ (選舉捐贈), in relation to a candidate or candidates at an election, means any of the following donations –

- (a) any money given to or in respect of the candidate or candidates for the purpose of meeting, or contributing towards meeting, the election expenses of the candidate or candidates;
- (b) any goods given to or in respect of the candidate or candidates for the purpose of promoting the election of the candidate or candidates or of prejudicing the election of another candidate or other candidates, and includes any goods given incidental to the provision of voluntary service;
- (c) any service provided to or in respect of the candidate or candidates for the purpose of promoting the election of the candidate or candidates or of prejudicing the election of another candidate or other candidates, but does not include voluntary services.

The law also requires that a candidate who has accepted an election donation to use and/dispose of the election donation in accordance with relevant provisions of the ECICO.

Whether it is appropriate for a person to make an election donation to any candidate should be a personal decision. Having regard to his status and relationship with the candidates etc., the individual who wishes to offer election donations in the VR election should exercise good common sense in judging whether the act might give rise to a conflict of interest or any public perception of such conflicts. He should consult his legal adviser if he has doubt over a particular situation.”

ICAC will include the issue on the election donation in the EAC briefing for candidates in June 2003.

Para 9 (a) – Marking of No-canvassing zone (NCZ) and No-staying Zone (NSZ)

NCZ and NSZ are delineated to maintain free and safe passage for electors and to ensure they are not unduly harassed on their way to the polling stations. The zones should not be considered as barriers affecting access for electors.

We understand that some elderly people and some disabled persons may require assistance to gain access to the polling stations. This is allowed at the NCZ and the NSZ. Nevertheless, people assisting the aged and the disabled should refrain from any electioneering activities. If the candidates or agents are their friends or relatives and are requested by these electors to provide assistance, they should not wear or carry any electioneering materials and should not canvass votes from the electors in any way.

Inside the polling station, the helpers are not allowed to enter the voting booths to assist the aged and the disabled electors. Polling station staff will assist the electors when requested and as necessary.

We note Members’ comments and suggestions on NCZ and NSZ and will take them into account in delineating the zones.

Para 9 (b) – Revising Ballot Papers to include Photograph of Candidates

We understand that for other public elections, this proposal will only be considered for implementation in the 2004 LegCo elections. This will not be implemented for the 2003 District Council elections.

An additional of about \$1.9M will have to be incurred if photographs of VR election candidates are included in the ballot papers. This is beyond our existing budget planned for the 2003 VR election.

Information about the candidates (including their names and candidate number) as well as their photographs will be posted up inside the polling stations. Polling staff will be ready to provide assistance as appropriate.

Para 9 (c) – Removal of Caps of the Chops

We will draw this to the attention of staff at polling stations.

Para 9 (d) – Consultation on Designation of Polling Stations

The NT District Officers are beginning their consultation exercise with respective Rural Committee on the designation of polling stations.

Para 9 (e) – Counting of Votes at Polling Stations

The 2003 VR elections will be the first time to be conducted under a statutory framework with various new arrangements. It is the considered view of the Electoral Affairs Commission and the Administration that the elections should be implemented fairly and smoothly. As such, we consider necessary to have an officer of appropriate seniority to assume the post of the Returning Officer (RO) to ensure that legislative requirements and necessary procedures are observed. 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, we will need to deploy substantially more senior staff if counting of votes is to take place in individual polling stations. This will not be possible for the 2003 VR elections, with the limited resources and manpower available.

Financial considerations apart, the RO is required under the 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. However, we will be ready to consider counting of votes at polling stations in the review after the 2003 VR elections, taking into account the experience in DC and LegCo elections.

Yours sincerely,

(Miss Monica Chen)
for Director of Home Affairs

c.c.

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