

LS/S/35/02-03  
2835 1423  
2834 5605

18 June 2003

Mr Stephen Lam,  
Assistant Legal Adviser,  
Legal Service Division,  
Legislative Council Secretariat,  
Legislative Council Building,  
8 Jackson Road,  
Central, Hong Kong

**BY FAX**  
Fax No.: 2877 5029

Dear Mr Lam,

**Village Representative (Election Petition) Rules (L.N. 151 of 2003)**

Thank you for your letter of 10 June 2003. The sections you mentioned are similar to those in the DC (Election Petition) Rules, as you can see from the comparison table attached. Our specific responses are set out below –

(a) Section 7(6)

For s.7(6), it is considered essential, in an ex parte application, for the petitioner to appear before the Registrar to show cause i.e. to seek the Registrar's directions such as regarding how the security is given. As an election petition should be dealt with as soon as practicable, time should not be wasted because the petitioner does not appear in the initial hearing for directions. Therefore, s.7(6) is intended to make sure the petitioner will be there to present his case and get the Registrar's directions. It is intended that he should get approval of his application under subsection (5).

(b) Section 11(3)

With regard to s.11(3), an election petition is intended to be dealt with as soon as practicable. In case of any suspected corrupt and illegal conduct, it may take some time for the relevant authority to investigate and to charge the suspect. It would also take some time to have the

criminal trial concluded. Therefore, this subsection puts things beyond doubt that the Court could inquire into such unproved corrupt and illegal conduct and to allow evidence to be received by the Court. As to how it is to be operated, it will be a matter of evidence. In the context of any corrupt and illegal conduct, the kind of agency in question would obviously be one without any written authorization. Hence, parties will have to adduce oral evidence and written evidence (if any) to prove the alleged principal-and-agent relationship.

(c) Section 21(4)(b)

Regarding s.21(4)(b), the phrase refers to those mentioned in s.21(3)(c).

(d) Section 21(5)

On s.21(5), the references were omitted in the present Rules because it is considered that the rights to be represented by lawyers and the rights to examine and cross-examine witnesses are an implied part of all court proceedings. No one can take away such rights even though they are not expressly stated in the Rules. The fact that such rights are not expressly stated in the Rules does not mean they do not exist in such court proceedings. Therefore, we do not think such references as found in the District Councils (Election Petition) Rules must be retained in the present Rules.

Please do not hesitate to let me know should you need further information.

Yours sincerely,

(Ms Monica Chen )  
for Director of Home Affairs

c.c. DoJ (Attn: Mr Vidy Cheung) Fax No: 2845 2215  
PAS(SD) (Attn: Mr Y K Ha) Fax No: 2591 5536  
DO(TM) (Attn: Mr Jacky Lum) Fax No: 2457 3064  
PLO(1)2 (Attn: Mr Philip Lam)