

# **LEGISLATIVE COUNCIL BRIEF**

## **Electoral Affairs Commission Ordinance (Cap. 541)**

### **ELECTORAL AFFAIRS COMMISSION**

#### **ELECTORAL PROCEDURE (VILLAGE REPRESENTATIVE ELECTION) REGULATION**

#### **INTRODUCTION**

The Electoral Affairs Commission (“EAC”) has made the Electoral Affairs Commission (Electoral Procedure)(Village Representative Election) Regulation (“The Regulation”) at **Annex A** to provide the procedures for conducting elections held under the Village Representative Election Ordinance (2 of 2003) (“the Election Ordinance”).

#### **BACKGROUND AND ARGUMENT**

2. The Election Ordinance came into operation on 14 February 2003. It provides a general legal framework for the conduct of the 2003 Village Representative (VR) elections as well as elections in subsequent years. The background information on the VR elections is at **Annex B**.

3. With the enactment of the Election Ordinance, the definition of “election” in EAC Ordinance (Cap. 541) has been expanded to include the election of VR. Under s. 7(1) of the EAC Ordinance, the EAC is empowered to make regulations on the procedure for an election. The EAC needs to make a new set of regulations to set out the procedure for conducting the VR elections.

#### **THE REGULATION**

4. To ensure consistency in conducting public elections, the Regulation basically models on the EAC (Electoral Procedure) (Legislative Council) Regulation (Sub. Leg. D) and the Electoral Procedure (Chief Executive Election) Regulation (Sub. Leg. J). Where

necessary, the Regulation has made suitable adaptations, deletions or additions to take into account different requirements in the Election Ordinance. These are highlighted in the following paragraphs.

### **Commencement (Section 1)**

5. **Section 1** provides that the new Regulation shall come into operation on 1 June 2003. This will tie in with the nomination of candidates for VR election on 3 June 2003.

### **Designation of polling station and counting station (section 28)**

6. **Section 28(8)(a)** provides that the Director of Home Affairs (DHA) may make arrangements for polling for one or more than one Village to take place at a polling station. As villages vary considerably in population and geographical spread, this provision will provide more flexibility so that the VR elections can be conducted in a cost-effective way.

### **Polling notice to electors (section 29)**

7. **Section 29** provides that the DHA shall send polling notices to electors in the Villages. Polling notices should be sent at least 10 days before the polling day.

### **Form of ballot papers (section 41)**

8. **Section 41** provides for the form of ballot paper to be used in the VR election. The form of ballot paper to be used in the Resident Representative and the Indigenous Inhabitant Representative election is set out respectively in Schedule 1.

### **Voting procedure (section 47)**

9. **Section 47** provides for the voting procedures to be followed by an elector. In respect of an Indigenous Inhabitant Representative election, an elector may vote for a number of candidates not exceeding the number of Indigenous Inhabitant Representatives to be returned for that village, and for a RR election, an elector may only vote for one

candidate.

### **Counting of votes (section 61)**

10. **Section 61(1)(b)** introduces vocal counting as an additional option for counting votes.

11. **Section 61(2)(b)** provides that any ballot paper described in section 62(e)-(h) (“tendered”, “unused”, “spoilt” and “unmarked” ballot papers) shall not be counted pursuant to section 62. The new arrangement of not forwarding these categories of ballot papers to the Returning Officer for determination of their validity will help to speed up the counting process.

### **LEGISLATIVE TIMETABLE**

12. The Regulation will be gazetted on 28 March 2003 and tabled at the Legislative Council on 2 April 2003.

### **BASIC LAW AND HUMAN RIGHTS IMPLICATIONS**

13. The Regulation is in conformity with the Basic Law, including the provisions concerning human rights.

### **BINDING EFFECT OF THE LEGISLATION**

14. The Regulation will not affect the binding effect of the principal Ordinance.

### **FINANCIAL AND CIVIL SERVICE IMPLICATIONS**

15. It is estimated that the 2003 Village Representative Election would have financial implications of about 23 million. This covers expenses on boundary delineation, voter registration, installation of a computer system for the election, polling, vote counting and other services.

## **ECONOMIC IMPLICATIONS**

16. There are no economic implications.

## **ENVIRONMENTAL IMPLICATIONS**

17. There are no environmental implications.

## **SUSTAINABILITY ASSESSMENT**

18. There are no sustainability implications.

## **PUBLIC CONSULTATION**

19. The content of this Regulation is covered in the EAC's document entitled "Proposed Guidelines on Election-related Activities in respect of Village Representative Elections", published on 14 February for a one-month public consultation. No adverse comments have been received.

## **PUBLICITY**

20. A press release will be issued. A spokesman will be made available to answer media and public enquiries.

## **ENQUIRIES**

21. Any enquiry on this brief can be addressed to Ms. Monica Chen, Assistant Director of Home Affairs (2835 1423) or Mr Philip Chan, District Officer/Shu Tin (2518 5339).

Home Affairs Department  
March 2003

**ELECTORAL PROCEDURE (VILLAGE REPRESENTATIVE  
ELECTION) REGULATION**

**CONTENTS**

Section		Page
<b>PART 1</b>		
<b>PRELIMINARY</b>		
1.	Commencement	1
2.	Interpretation	1
3.	Application	7
<b>PART 2</b>		
<b>NOMINATION OF CANDIDATES AND OTHER STAGES OF AN ELECTION BEFORE THE POLL</b>		
4.	Director of Home Affairs to publish village election notice	7
5.	Director of Home Affairs to determine nomination period	8
6.	Director of Home Affairs to publish village by-election notice if a village by-election is to be held	8
7.	How to nominate a candidate	9
8.	Returning Officer may assist in preparation of nomination forms	11
9.	Returning Officer may give opportunity to rectify a nomination form	11
10.	Returning Officer to decide whether candidates are validly nominated	11
11.	Returning Officer to endorse invalid nomination forms	12
12.	Returning Officer to notify decision on validity of nomination	12
13.	Nomination forms to be available for inspection	13

14.	Withdrawal of candidature	13
15.	Returning Officer to publish a notice of particulars of validly nominated candidates	14
16.	Returning Officer to declare candidate to be duly elected in uncontested election	14
17.	Returning Officer to notify and declare if a validly nominated candidate is known before date of election to have died	15
18.	Returning Officer to notify and declare if a validly nominated candidate is known before date of election to be disqualified	17
19.	Returning Officer to declare no poll under certain circumstances upon death or disqualification of validly nominated candidate known before date of election	19
20.	Returning Officer to declare termination of election proceedings and procedure after termination	21
21.	Returning Officer to declare failure of election under certain circumstances upon death or disqualification of validly nominated candidate known after close of poll	22

### PART 3

#### ELECTION AGENTS AND ELECTION EXPENSE AGENTS

22.	Appointment of election agent	24
23.	Appointment of election expense agent	25
24.	Provisions applicable to appointment of agents	25
25.	Other candidates to be notified of particulars of election agent	27
26.	Limit of expenses for election expense agent	27

### PART 4

#### POLLING ARRANGEMENT

27.	Appointment of polling hours	28
-----	------------------------------	----

28.	Designation of polling stations and counting stations	28
29.	Director of Home Affairs to send polling notices to electors	30
30.	Elector to vote at the correct polling station	31
31.	Appointment of Presiding Officer and polling officers	31
32.	Copy of final register to be supplied to candidates and Returning Officer	32
33.	Miscellaneous arrangements relating to voting	33
34.	Determination of no canvassing zone and no staying zone	34
35.	Order at no canvassing zone and no staying zone	36
36.	Polling agents	38
37.	Admission to polling station	39
38.	Order at polling station	41

## PART 5

### BALLOT BOXES, BALLOT PAPERS AND VOTING PROCEDURE

39.	Design of ballot box	43
40.	Ballot box to be sealed before commencement of poll	43
41.	Form of ballot papers	44
42.	Order of names of candidates on ballot papers	44
43.	Question to person applying for a ballot paper	45
44.	Challenging a person who has applied for a ballot paper or who has voted	46
45.	Issue of ballot paper	47
46.	Elector who has not cast vote may return to cast vote with permission	49
47.	Voting procedure	51
48.	How ballot papers are to be marked	52

49.	Marking of ballot paper for or by incapacitated person	53
50.	Issue of ballot paper marked “TENDERED”	54
51.	Marking “UNUSED” on ballot paper	54
52.	Marking “SPOILT” on ballot paper	54
53.	Steps to be taken at a polling station after the close of the poll	55
54.	Ballot paper account	56

## PART 6

### COUNTING OF VOTES

55.	Determination and notice of time of counting of votes	57
56.	Appointment of counting agent	57
57.	Appointment of counting officers	59
58.	Admission to counting station	59
59.	Order at counting station	60
60.	Opening a ballot box	62
61.	Counting of votes	62
62.	Ballot papers not to be counted	63
63.	Determination of validity of questionable ballot papers	64
64.	Verification of ballot paper account	67
65.	Result of counting and re-count	67
66.	Returning Officer to declare election result	68
67.	Notice of election result	68

## PART 7

### DISPOSAL OF DOCUMENTS

68.	Ballot papers to be sealed	69
69.	Ballot papers, accounts, packets, etc. to be sent to Director of Home Affairs	70



70.	Inspection of ballot paper kept by Director of Home Affairs	70
71.	Retention of election documents	70

## PART 8

### POSTPONEMENT OR ADJOURNMENT OF ELECTION PROCEEDINGS

72.	Postponement or adjournment of polling at all polling stations or counting of votes at all counting stations	71
73.	Adjournment of polling at a particular polling station or counting of votes at a particular counting station	72
74.	Publication of postponement or adjournment of polling or counting	73
75.	Procedure after adjournment of polling	73
76.	Procedure after postponement or adjournment of counting	75
77.	Resumption of postponed or adjourned polling or counting	75

## PART 9

### MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

78.	Certain officers cannot act as candidate's agent	77
79.	Employees of candidates shall not act as electoral officers	77
80.	Act done in the absence of candidates or agents still valid	77
81.	Declaration of secrecy	78
82.	Secrecy	78
83.	Manner of giving notice	80
84.	Specified forms	81
85.	Limit on Returning Officer's power to delegate	81

86.	Powers, duties and functions of Director of Home Affairs	82
87.	Reporting of irregularities	82
88.	Election advertisement	83
89.	Offence	85
90.	Offence of false statement	85
Schedule 1	Forms of ballot papers for a village ordinary election/village by-election	87
Schedule 2	Forms for the notice of result of election under section 36 of the Village Representative Election Ordinance (2 of 2003)	91

# **ELECTORAL PROCEDURE (VILLAGE REPRESENTATIVE ELECTION) REGULATION**

(Made by the Electoral Affairs Commission under section 7 of the Electoral Affairs Commission Ordinance (Cap. 541))

## **PART 1**

### **PRELIMINARY**

#### **1. Commencement**

This Regulation shall come into operation on 1 June 2003.

#### **2. Interpretation**

(1) In this Regulation, unless the context otherwise requires –

“adjournment” (押後), in relation to a poll or the counting of the votes in respect of a poll, means an adjournment under section 72(2) or 73, and “adjourned” (押後) shall be construed accordingly;

“Assistant Presiding Officer” (助理投票站主任) means a polling officer designated as an Assistant Presiding Officer under section 31(2);

“Assistant Returning Officer” (助理選舉主任) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“ballot paper account” (選票結算表) means a statement prepared under section 54;

“candidate” (候選人) has, subject to subsection (2), the meaning assigned to it by section 2(1) of the Election Ordinance;

“candidate number” (候選人編號) means the number allocated to a validly nominated candidate under section 42(1);

“close of nominations” (提名期結束) means the end of the nomination period;

“Composite Indigenous Village” (共有代表鄉村) has the meaning assigned to it by section 2(1) of the Election Ordinance;

- “counting agent” (監察點票代理人) means a counting agent appointed under section 56;
- “counting station” (點票站) means a counting station designated under section 28;
- “counting zone” (點票區) means an area set apart as a counting zone under section 58(1);
- “Deputy Presiding Officer” (副投票站主任) means a polling officer designated as the Deputy Presiding Officer under section 31(2);
- “election” (選舉) has the meaning assigned to it by section 2(1) of the Election Ordinance;
- “election advertisement” (選舉廣告) has the meaning assigned to it by section 2(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554);
- “election agent” (選舉代理人) means an election agent appointed under section 22;
- “election expense agent” (選舉開支代理人) means an election expense agent appointed under section 23;
- “election expenses” (選舉開支) has the meaning assigned to it by section 2(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554);
- “Election Ordinance” (《選舉條例》) means the Village Representative Election Ordinance (2 of 2003);
- “elector” (選民) has the meaning assigned to it by section 2(1) of the Election Ordinance;
- “electoral officer” (選舉事務主任) has the meaning assigned to it by section 2(1) of the Election Ordinance and includes a Presiding Officer, a polling officer and a counting officer;
- “Electoral Registration Officer” (選舉登記主任) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“Existing Village” (現有鄉村) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“final register” (正式選民登記冊) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“identity card” (身分證) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“identity document” (身分證明文件) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“Indigenous Inhabitant Representative” (原居民代表) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“Indigenous Village” (原居鄉村) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“no canvassing zone” (禁止拉票區) means an area determined to be a no canvassing zone under section 34;

“no staying zone” (禁止逗留區) means an area determined to be a no staying zone under section 34;

“nomination period” (提名期) means the period determined under section 5;

“ordinary business hours” (通常辦公時間) means –

(a) the hours between 9 a.m. and 12 noon on a Saturday; and

(b) the hours between 9 a.m. and 5 p.m. on any other day,

other than a general holiday;

“political body” (政治性團體) has the meaning assigned to it by section 2(1) of the Societies Ordinance (Cap. 151);

“poll” (投票) means a poll taken under section 31 of the Election Ordinance;

“polling agent” (監察投票代理人) means a polling agent appointed under section 36;

“polling day” (投票日), in relation to –

(a) a village ordinary election, means the date specified under section 20(3)(a) of the Election Ordinance; or

(b) a village by-election, means the date referred to in section 6(c);

“polling hours” (投票時間) means the hours for polling appointed under section 27 or 77(1) or (2);

“polling officer” (投票站人員), in relation to a polling station, means a polling officer appointed under section 31(1) for that polling station;

“polling station” (投票站) means a polling station designated under section 28;

“postponement” (延遲), in relation to a poll or the counting of the votes in respect of a poll, means a postponement under section 72(1), and “postponed” (延遲) shall be construed accordingly;

“Presiding Officer” (投票站主任), in relation to a polling station, the no canvassing zone or the no staying zone in relation to a polling station, or anything done or to be done in a polling station or zone, means the Presiding Officer appointed under section 31(1) for that polling station;

“principal residential address” (主要住址) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“Resident Representative” (居民代表) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“Returning Officer” (選舉主任) has, subject to subsection (3), the meaning assigned to it by section 2(1) of the Election Ordinance;

“specified form” (指明格式) means, in a particular provision of this Regulation, the form specified under section 84 for the purposes of that provision;

“spoilt ballot paper” (損壞的選票) means a ballot paper endorsed in the manner described in section 52(3);

“unused ballot paper” (未用的選票) means a ballot paper that has been issued but not put into a ballot box, whether or not it has been endorsed in the manner described in section 51;

“verification statement” (核實報表) means a statement prepared under section 64(1)(d);

“Village” (鄉村) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“village by-election” (鄉村補選) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“village by-election notice” (鄉村補選公告) means a notice published under section 6;

“village election notice” (鄉村選舉公告) means a notice published under section 4;

“village ordinary election” (鄉村一般選舉) has the meaning assigned to it by section 2(1) of the Election Ordinance;

“Village Representative” (村代表) has the meaning assigned to it by section 2(1) of the Election Ordinance.

(2) In this Regulation –

- (a) in sections 20(8), 79, 80 and 82 and Parts 4 (except section 32), 5, 6 and 7, a reference to a candidate shall be construed as a reference to a validly nominated candidate standing for an election;
- (b) in sections 9(1), 22, and 32, a reference to a candidate includes a reference to a person who is being or has been nominated to stand for an election;
- (c) in sections 23, 26 and 88, a reference to a candidate includes a reference to a person who has publicly declared an intention to stand for an election at any time before the close of nominations; and

- (d) in section 24, a reference to a candidate includes a reference to a person referred to in paragraph (b) or (c).
- (3) In this Regulation –
- (a) subject to paragraphs (b) and (c), a reference to the Returning Officer shall be construed, in relation to a Village or anything done or to be done in respect of an election for a Village, as a reference to the Returning Officer appointed for that Village;
  - (b) in sections 33(1), 35(1), (5) and (6), 37(9), 38(1), (2), (3)(j), (4), (7) and (8) and 82(1)(e), a reference to the Returning Officer shall be construed, in relation to a polling station used for polling for more than one Village, the no canvassing zone or the no staying zone in relation to such a polling station, or anything done or to be done in such a polling station or zone, as a reference to any of the Returning Officers appointed for those Villages; and
  - (c) in sections 57, 58(1), (4), (5) and (6) and 59(1), (2), (3) and (4), a reference to the Returning Officer shall be construed, in relation to a counting station for counting the votes for more than one Village, a counting zone in such a counting station, or anything done or to be done in such a counting station or zone, as a reference to any of the Returning Officers appointed for those Villages.

(4) In this Regulation, any provision which entitles or permits a candidate, an election agent, a polling agent or a counting agent to do anything in a polling station, counting station, counting zone or in relation to the counting of the votes shall be construed as entitling or permitting the candidate or the agent to do it in a polling station, counting station, counting zone or in relation to the counting of the votes for the Village for which the candidate is standing for election or for which the agent is appointed, as the case may be.



### **3. Application**

(1) Except where otherwise stated, this Regulation applies to a village ordinary election and a village by-election.

(2) Parts 4, 5 and 6 are to be read, in their application to a village by-election, subject to necessary modifications.

## **PART 2**

### **NOMINATION OF CANDIDATES AND OTHER STAGES OF AN ELECTION BEFORE THE POLL**

#### **4. Director of Home Affairs to publish village election notice**

(1) As soon as practicable after a notice is given under section 20(3)(b) of the Election Ordinance, the Director of Home Affairs shall publish in the Gazette a notice which states –

- (a) the name of the Village for which the village ordinary election is to be held;
- (b) the number of Village Representatives (specifying whether they are Resident Representatives or Indigenous Inhabitant Representatives) to be returned for the Village at the village ordinary election;
- (c) the nomination period determined under section 5 within which nomination forms for the village ordinary election are to be delivered to the Returning Officer;
- (d) the address of the office of the Returning Officer at which nomination forms must be delivered;
- (e) that nomination forms must be delivered during ordinary business hours;
- (f) that a poll will be held on the polling day if the number of validly nominated candidates for the Village exceeds the

number of Village Representatives to be returned for that Village at the village ordinary election; and

- (g) any other information that the Director of Home Affairs considers appropriate.

(2) For the purposes of subsection (1), one notice may be published for more than one Village.

**5. Director of Home Affairs to determine nomination period**

(1) Subject to subsections (2) and (3), the nomination period shall be determined by the Director of Home Affairs.

(2) The nomination period –

- (a) for a village ordinary election shall not begin earlier than the day on which the village election notice is published in the Gazette; or
- (b) for a village by-election shall not begin earlier than the day on which the village by-election notice is published in the Gazette.

(3) The nomination period –

- (a) shall not be less than 7 days; and
- (b) shall end not less than 12 days before the polling day.

**6. Director of Home Affairs to publish village by-election notice if a village by-election is to be held**

Subject to section 21(2) and (3) of the Election Ordinance, as soon as practicable after a declaration referred to in section 21(1)(a), (b), (c) or (d) of that Ordinance is made, in order to hold a village by-election for the purposes of section 21(1) of that Ordinance, the Director of Home Affairs shall publish in the Gazette a notice which states –

- (a) the name of the Village for which the village by-election is to be held;
- (b) the number of Village Representatives (specifying whether they are Resident Representatives or Indigenous Inhabitant Representatives) to be returned for the Village at the village by-election;
- (c) the date for holding the village by-election;
- (d) the nomination period determined under section 5 within which nomination forms for the village by-election are to be delivered to the Returning Officer;
- (e) the address of the office of the Returning Officer at which nomination forms must be delivered;
- (f) that nomination forms must be delivered during ordinary business hours;
- (g) that a poll will be held on the polling day if the number of validly nominated candidates for the Village exceeds the number of Village Representatives to be returned for that Village at the village by-election; and
- (h) any other information that the Director of Home Affairs considers appropriate.

## **7. How to nominate a candidate**

- (1) A nomination form nominating a person as a candidate shall –
  - (a) be in the specified form;
  - (b) contain a declaration by the person that he –
    - (i) is eligible to be;
    - (ii) is not disqualified from being; and
    - (iii) consents to be,so nominated;

- (c) contain the name as shown on the identity document, the identity document number and the principal residential address of the person;
- (d) contain the name as shown on the identity document, the identity document number and the address of each subscriber to the nomination form;
- (e) be signed by -
  - (i) the person;
  - (ii) a holder of an identity document, who has attained the age of 18 years, as the witness to the signature of the person; and
  - (iii) each subscriber to the nomination form; and
- (f) be delivered –
  - (i) by the person in person or in any other manner authorized by the Returning Officer;
  - (ii) at the address stated in the relevant village election notice or village by-election notice, as the case may be;
  - (iii) during ordinary business hours; and
  - (iv) together with the declaration referred to in section 24 of the Election Ordinance.

(2) A nomination form nominating a person as a candidate may include a name of the person which is different from that shown on his identity document if the Returning Officer is satisfied that the person is usually known by that name.

(3) The Returning Officer may require a person who is nominated as a candidate to furnish such information which is not covered by the nomination form as that Officer considers necessary in order to be satisfied –

- (a) that the person is eligible to be nominated; or
- (b) as to the validity of the nomination.

**8. Returning Officer may assist in preparation of nomination forms**

The Returning Officer may, at the request of a person who proposes to be nominated as a candidate, give assistance in preparing a nomination form.

**9. Returning Officer may give opportunity to rectify a nomination form**

- (1) If the Returning Officer –
- (a) detects on the nomination form of a candidate an error or omission or anything which may affect the validity of the nomination form; and
  - (b) considers that it can be rectified within the nomination period,

that Officer may, before making a decision under section 27 of the Election Ordinance, give the candidate a reasonable opportunity to rectify it.

(2) A nomination form cannot be rectified under this section after the close of nominations.

**10. Returning Officer to decide whether candidates are validly nominated**

(1) The Returning Officer shall, as soon as practicable after receiving the nomination form of a candidate, decide under section 27 of the Election Ordinance whether the candidate is validly nominated.

(2) If sections 22, 23, 24 and 25 of the Election Ordinance are complied with, the candidate stands validly nominated unless –

- (a) the Returning Officer decides that the nomination form is invalid; or
- (b) the candidate withdraws his candidature.

(3) Without prejudice to sections 22, 23, 24 and 25 of the Election Ordinance, the Returning Officer may decide that a nomination form is invalid if and only if –

- (a) the nomination form has not been signed by at least 5 subscribers qualified to subscribe to the nomination form under section 25 of the Election Ordinance;
- (b) the nomination form has not been completed or signed as required under this Regulation;
- (c) the Returning Officer is satisfied that the candidate is not eligible to be or is disqualified from being nominated as a candidate under the Election Ordinance;
- (d) (in the case that the nomination form relates to a particular Village) the candidate has been currently nominated for another Village, and the Returning Officer is satisfied that the other candidature has not been withdrawn or decided to be invalid; or
- (e) the Returning Officer is satisfied that the candidate is dead.

**11. Returning Officer to endorse invalid nomination forms**

If the Returning Officer decides that a nomination form or the nomination of a candidate is invalid, he shall –

- (a) endorse on the nomination form the decision and the reason for it; and
- (b) sign the endorsement.

**12. Returning Officer to notify decision on validity of nomination**

(1) The Returning Officer shall, as soon as practicable after deciding that a person is validly nominated as a candidate or is not so nominated, send a written notice of the decision to the person and to each validly nominated candidate for election for the Village concerned.

(2) A notice under subsection (1) shall be sent to the principal residential address of the person concerned contained in the nomination form.

### **13. Nomination forms to be available for inspection**

A copy of each of the nomination forms received by the Returning Officer shall be made available for inspection by the public –

- (a) free of charge;
- (b) at an office of the Returning Officer specified by him; and
- (c) during ordinary business hours,

until the result of election is published under section 36 of the Election Ordinance.

### **14. Withdrawal of candidature**

(1) A withdrawal of candidature under section 26 of the Election Ordinance is effected by delivering a notice of withdrawal to the Returning Officer before the close of nominations.

(2) A notice of withdrawal shall –

- (a) be in the specified form;
- (b) bear the signature of the candidate, which shall be attested by a witness, and bear the witness' signature; and
- (c) be delivered –
  - (i) by the candidate in person or his election agent in person;
  - (ii) at an office of the Returning Officer specified by him; and
  - (iii) during ordinary business hours.

**15. Returning Officer to publish a notice of particulars of validly nominated candidates**

- (1) A notice under section 27(2) of the Election Ordinance shall –
- (a) be in the specified form;
  - (b) be published in the Gazette by the Returning Officer within 14 days after the close of nominations; and
  - (c) state the name, the principal residential address and the candidate number of each validly nominated candidate for election for the Village concerned.

(2) For the purposes of subsection (1), one notice may be published for more than one Village.

(3) If one notice is to be published for more than one Village under this section, the notice shall be published by the Returning Officers for those Villages.

**16. Returning Officer to declare candidate to be duly elected in uncontested election**

(1) A declaration under section 29(1) of the Election Ordinance shall be made by the Returning Officer in the notice published for the Village concerned in accordance with section 15 or in a separate notice.

- (2) A separate notice under subsection (1) shall –
- (a) be in the specified form;
  - (b) be published in the Gazette within 14 days after the close of nominations; and
  - (c) state the name and the principal residential address of the candidate declared to be duly elected as a Resident Representative or an Indigenous Inhabitant Representative, as the case may be, for the Village.



**17. Returning Officer to notify and declare if a validly nominated candidate is known before date of election to have died**

(1) A notice under section 28(1) of the Election Ordinance shall be given in writing by the Returning Officer, as soon as practicable after the death of a validly nominated candidate comes to the knowledge of that Officer, to –

- (a) the Director of Home Affairs; and
- (b) if practicable, each candidate who remains validly nominated for election for the Village concerned.

(2) The Returning Officer –

- (a) shall –
  - (i) endorse on the nomination form of the deceased candidate that the candidate has died; and
  - (ii) sign the endorsement; and
- (b) may on the polling day, if that Officer considers it appropriate to do so, display a notice in a prominent place immediately outside each polling station used for polling for the Village.

(3) Declarations under section 28(2) of the Election Ordinance shall be made by the Returning Officer, as soon as practicable after the death of the candidate comes to the knowledge of that Officer –

- (a) by notice published in the Gazette;
- (b) by notice published in any daily newspaper in circulation in Hong Kong;
- (c) by a public announcement made by radio or television; or
- (d) by such other means as that Officer considers appropriate in the circumstances.

(4) A notice under subsection (2)(b) or (3)(a) or (b) shall state –

- (a) the name and the principal residential address of the deceased candidate;

- (b) whether the deceased candidate was nominated for election as a Resident Representative for an Existing Village, or as an Indigenous Inhabitant Representative for an Indigenous Village or a Composite Indigenous Village, as the case may be, and the name of the Village; and
  - (c) the name and the principal residential address of each candidate who remains validly nominated for election for the Village.
- (5) A public announcement under subsection (3)(c) shall state –
  - (a) the name of the deceased candidate;
  - (b) whether the deceased candidate was nominated for election as a Resident Representative for an Existing Village, or as an Indigenous Inhabitant Representative for an Indigenous Village or a Composite Indigenous Village, as the case may be, and the name of the Village; and
  - (c) the name of each candidate who remains validly nominated for election for the Village.
- (6) If, before the death of the candidate comes to the knowledge of the Returning Officer, that Officer has publicly declared under section 29(1) of the Election Ordinance that the candidate was duly elected as a Village Representative for the Village –
  - (a) subsections (1), (2), (3), (4) and (5) and section 19 do not apply; and
  - (b) a village by-election shall be arranged, subject to section 21(2) and (3) of the Election Ordinance, under section 21(1) of that Ordinance.

**18. Returning Officer to notify and declare if a validly nominated candidate is known before date of election to be disqualified**

(1) A notice under section 28(4) of the Election Ordinance shall be given in writing by the Returning Officer, as soon as practicable after the disqualification of a validly nominated candidate comes to the knowledge of that Officer, to –

- (a) the Director of Home Affairs; and
- (b) if practicable, each candidate who remains validly nominated for election for the Village concerned.

(2) The Returning Officer –

- (a) shall –
  - (i) endorse on the nomination form of the disqualified candidate that that Officer's decision made under section 27(1) of the Election Ordinance in relation to that candidate is varied and the reason for it; and
  - (ii) sign the endorsement; and
- (b) may on the polling day, if that Officer considers it appropriate to do so, display a notice in a prominent place immediately outside each polling station used for polling for the Village.

(3) Declarations under section 28(5) of the Election Ordinance shall be made by the Returning Officer, as soon as practicable after the disqualification of the candidate comes to the knowledge of that Officer –

- (a) by notice published in the Gazette;
- (b) by notice published in any daily newspaper in circulation in Hong Kong;
- (c) by a public announcement made by radio or television; or

- (d) by such other means as that Officer considers appropriate in the circumstances.
- (4) A notice under subsection (2)(b) or (3)(a) or (b) shall state –
- (a) the name and the principal residential address of the disqualified candidate;
  - (b) whether the disqualified candidate was nominated for election as a Resident Representative for an Existing Village, or as an Indigenous Inhabitant Representative for an Indigenous Village or a Composite Indigenous Village, as the case may be, and the name of the Village;
  - (c) that the decision of the Returning Officer made under section 27(1) of the Election Ordinance has been varied to the effect that the candidate is not validly nominated; and
  - (d) the name and the principal residential address of each candidate who remains validly nominated for election for the Village.
- (5) A public announcement under subsection (3)(c) shall state –
- (a) the name of the disqualified candidate;
  - (b) whether the disqualified candidate was nominated for election as a Resident Representative for an Existing Village, or as an Indigenous Inhabitant Representative for an Indigenous Village or a Composite Indigenous Village, as the case may be, and the name of the Village; and
  - (c) the name of each candidate who remains validly nominated for election for the Village.
- (6) If, before the disqualification of the candidate comes to the knowledge of the Returning Officer, that Officer has publicly declared under section 29(1) of the Election Ordinance that the candidate was duly elected as a Village Representative for the Village –

- (a) subsections (1), (2), (3), (4) and (5) and section 19 do not apply; and
- (b) a village by-election shall be arranged, subject to section 21(2) and (3) of the Election Ordinance, under section 21(1) of that Ordinance.

**19. Returning Officer to declare no poll under certain circumstances upon death or disqualification of validly nominated candidate known before date of election**

(1) If, after the death referred to in section 17(1) or the disqualification referred to in section 18(1) –

- (a) the number of candidates remaining validly nominated for election for the Village concerned is equal to the number of Village Representatives to be returned for the Village at the election;
- (b) no candidate remains validly nominated for election for the Village concerned; or
- (c) the number of candidates remaining validly nominated for election for the Village concerned is less than the number of Village Representatives to be returned for the Village at the election,

the Returning Officer shall, by such means as referred to in section 17(3) or 18(3), as the case may be, declare that no poll is to be held for the Village.

(2) The Returning Officer shall in the notice under section 17(3)(a) or 18(3)(a), as the case may be, or in a separate notice –

- (a) (in the case referred to in subsection (1)(a)) declare, for the purposes of section 29(1) of the Election Ordinance, the remaining candidate or candidates as being duly elected as a Village Representative or Village Representatives for the Village;

- (b) (in the case referred to in subsection (1)(b)) declare, for the purposes of section 29(2) of the Election Ordinance, the election to have failed; or
- (c) (in the case referred to in subsection (1)(c)) declare –
  - (i) for the purposes of section 29(1) of the Election Ordinance, the remaining candidate or candidates as being duly elected as a Village Representative or Village Representatives for the Village; and
  - (ii) for the purposes of section 29(2) of that Ordinance, the election to have failed to the extent that the number of candidates remaining validly nominated for election for the Village was less than the number of Village Representatives to be returned for the Village at the election.

(3) A separate notice containing a declaration referred to in subsection (2)(a) or (c)(i) shall –

- (a) be in the specified form;
- (b) be published in the Gazette as soon as practicable after the publication of the notice under section 17(3)(a) or 18(3)(a), as the case may be; and
- (c) state the name and the principal residential address of each candidate declared to be duly elected as a Village Representative for the Village.

(4) A separate notice containing a declaration referred to in subsection (2)(b) or (c)(ii) shall be published in the Gazette as soon as practicable after the publication of the notice under section 17(3)(a) or 18(3)(a), as the case may be.

(5) If a declaration referred to in subsection (2)(b) or (c)(ii) is made, a village by-election shall be arranged, subject to section 21(2) and (3) of the Election Ordinance, under section 21(1) of that Ordinance.

**20. Returning Officer to declare termination of election proceedings and procedure after termination**

(1) A declaration under section 30(1) of the Election Ordinance shall be made by the Returning Officer by notice –

- (a) signed by that Officer;
- (b) displayed in a prominent place immediately outside each polling station used for polling for the Village concerned; and
- (c) stating the reason for, and the date and time of, the termination of the proceedings for the election concerned.

(2) A notice under subsection (1) shall be published in the Gazette as soon as practicable after the declaration referred to in that subsection is made.

(3) If the death or disqualification of a validly nominated candidate, which is the reason for the termination of the election proceedings, comes to the knowledge of the Returning Officer on the date of election but before the close of the poll for the Village, that Officer shall direct that the poll be abandoned.

(4) When a poll is abandoned under this section, the Presiding Officer at the polling station or each polling station used for polling for the Village shall take the steps he is required to take under this Regulation for the delivery to the Returning Officer of the ballot box or ballot boxes, ballot papers and other materials relating to the election at the close of the poll.

(5) For the purposes of subsection (4), the requirement in section 54 relating to the preparation of a ballot paper account does not apply.

(6) The Returning Officer shall –

- (a) open the ballot box or ballot boxes delivered to him; and
- (b) make up into separate sealed packets –
  - (i) all ballot papers in the ballot box or each of the ballot boxes, without separating or counting them or counting the votes; and

- (ii) all other ballot papers delivered to him from the polling station or each polling station.

(7) Sections 70 and 71 apply to the ballot papers and materials delivered to the Returning Officer under subsection (4) as if they were ballot papers and documents sent to the Director of Home Affairs under section 69.

(8) When a poll is abandoned under this section, the Returning Officer shall, as far as practicable and in such manner as that Officer considers appropriate, notify –

- (a) the Commission;
- (b) the Director of Home Affairs; and
- (c) the candidates for election for the Village or their respective election agents.

(9) If a declaration referred to in subsection (1) is made, a village by-election shall be arranged, subject to section 21(2) and (3) of the Election Ordinance, under section 21(1) of that Ordinance.

**21. Returning Officer to declare failure of election under certain circumstances upon death or disqualification of validly nominated candidate known after close of poll**

(1) If the death or disqualification of a validly nominated candidate comes to the knowledge of the Returning Officer after the close of the poll but before the declaration of the result of the election for the Village concerned, that Officer shall direct that the counting of the votes is to begin or continue, as the case may be, as if the death or disqualification had not occurred.

(2) If, after the votes are counted, the deceased or disqualified candidate is found to be not successful at the election, the Returning Officer shall declare the successful candidate or candidates to be elected in accordance with section 66(1).



- (3) If, after the votes are counted, the deceased or disqualified candidate is found to be successful at the election, the Returning Officer –
- (a) shall not declare that candidate to be elected; and
  - (b) shall make a declaration under section 30(3) of the Election Ordinance.
- (4) A declaration referred to in subsection (3)(b) shall be made –
- (a) by notice –
    - (i) signed by the Returning Officer; and
    - (ii) displayed in a prominent place immediately outside the counting station for counting the votes for the Village; and
  - (b) by a public announcement –
    - (i) made in the counting station for counting the votes for the Village; and
    - (ii) made –
      - (A) by radio or television; or
      - (B) by such other means as the Returning Officer considers appropriate in the circumstances.
- (5) A notice under subsection (4)(a) shall –
- (a) state –
    - (i) that the election has failed and the reason for it; or
    - (ii) (in the case referred to in section 30(3)(b) of the Election Ordinance) that the election has failed to the extent that the number of candidates returned for the Village at the election was less than the number of Village Representatives to be returned for that Village at the election; and
  - (b) be published in the Gazette as soon as practicable after the declaration referred to in subsection (3)(b) is made.

(6) If a declaration referred to in subsection (3)(b) is made, a village by-election shall be arranged, subject to section 21(2) and (3) of the Election Ordinance, under section 21(1) of that Ordinance.

### PART 3

#### ELECTION AGENTS AND ELECTION EXPENSE AGENTS

##### **22. Appointment of election agent**

(1) Each candidate may appoint one person as his election agent.

(2) Only a holder of an identity card, who has attained the age of 18 years, may be appointed as an election agent.

(3) An election agent appointed by a candidate may do all things which the candidate may do or is required to do in connection with an election except –

- (a) making a declaration referred to in section 24 of the Election Ordinance or section 7(1)(b);
- (b) signing a nomination form as the candidate being nominated;
- (c) signing a notice of withdrawal of candidature referred to in section 14(2) as the candidate;
- (d) appointing an election agent under subsection (1);
- (e) appointing an election expense agent under section 23;
- (f) incurring election expenses on behalf of the candidate, unless he has also been appointed by the candidate as the candidate's election expense agent under section 23; and
- (g) revoking the appointment of an election agent or election expense agent under section 24(4).

(4) Subject to subsection (3), any act which purports to be done by an election agent in his capacity as such on behalf of the candidate who appointed him shall be as effective as if it had been done by the candidate in person.

(5) A notice under section 25(1), 34(2) or (5), 42(4) or 55(3) given to the election agent of a candidate shall be regarded as having been given to the candidate.

### **23. Appointment of election expense agent**

(1) Each candidate may appoint any number of persons as his election expense agents.

(2) Only a person who has attained the age of 18 years may be appointed as an election expense agent.

(3) An election expense agent appointed by a candidate shall, by virtue of the appointment, be authorized to incur election expenses on behalf of the candidate as his agent.

### **24. Provisions applicable to appointment of agents**

(1) In this section –

(a) “agent” (代理人) means an election agent or election expense agent; and

(b) a reference to the Returning Officer shall be construed as a reference to the Returning Officer appointed for the Village for which the candidate concerned is standing for election, or a reference to the Director of Home Affairs if the Returning Officer has not been appointed.

(2) An appointment of an agent is effected by giving a notice of appointment to the Returning Officer.

(3) A notice of appointment shall –

(a) be in the specified form;

(b) be given by the candidate;

(c) state the name and the address of the agent;

- (d) (in the case of an election agent) state the identity card number of the agent; and
  - (e) be signed by the candidate and the agent.
- (4) The appointment of an agent may be revoked by giving a notice of revocation to the Returning Officer.
- (5) A notice of revocation shall be –
  - (a) in the specified form;
  - (b) given by the candidate; and
  - (c) signed by the candidate.
- (6) If an agent dies or the appointment of an agent is revoked, the candidate may, subject to this Part, appoint another person as an agent to replace the first-mentioned agent.
- (7) The appointment of or revocation of the appointment of an agent is not effective until the notice of appointment or notice of revocation, as the case may be, is received by the Returning Officer.
- (8) The Returning Officer shall display a notice of the particulars of the election agents in a prominent place immediately outside his office.
- (9) All notices of appointment of election expense agents given by any candidate under subsection (2) shall be made available for inspection by the public –
  - (a) free of charge;
  - (b) at an office of the Returning Officer specified by him; and
  - (c) during ordinary business hours,until the end of the period during which the copy of the election return lodged by the candidate is available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

**25. Other candidates to be notified of particulars of election agent**

(1) After receiving a notice of appointment of an election agent given by a candidate, the Returning Officer shall send a notice to every other candidate for the election concerned.

(2) A notice under subsection (1) shall –

- (a) be in the specified form;
- (b) state the name, the identity card number and the address of the agent;
- (c) state the name of the candidate who appoints the agent; and
- (d) be sent –
  - (i) (if the notice of appointment is received before the close of nominations) as soon as practicable after the close of nominations; or
  - (ii) (in any other case) as soon as practicable after the receipt of the notice of appointment.

**26. Limit of expenses for election expense agent**

(1) A candidate who appoints an election expense agent shall set the maximum amount of election expenses that the agent may incur on his behalf.

(2) The amount set under subsection (1) by a candidate in relation to an election expense agent shall be specified in the notice of appointment of the agent.

## PART 4

## POLLING ARRANGEMENT

**27. Appointment of polling hours**

(1) The hours during which electors can cast their votes on the polling day shall be appointed by the Director of Home Affairs in accordance with this section.

(2) The Director of Home Affairs shall appoint the polling hours so as to give the electors a reasonable opportunity to vote.

(3) The Director of Home Affairs shall, at least 10 days before the polling day, publish in the Gazette a notice specifying the polling hours for the Village concerned.

(4) For the purposes of subsection (3), one notice may be published for more than one Village.

(5) The Director of Home Affairs may, if he considers it appropriate to do so in the circumstances, extend the polling hours for any Village or any polling station.

(6) If the Director of Home Affairs extends the polling hours under subsection (5), he shall give notice of the extension –

- (a) by a public announcement made by radio or television; or
- (b) by such other means as he considers appropriate in the circumstances.

**28. Designation of polling stations and counting stations**

(1) The Director of Home Affairs shall designate, by notice published in the Gazette –

- (a) a place as a polling station, or more than one place as polling stations, for conducting the poll for a Village; and

(b) a place as a counting station for counting the votes cast at the polling station or all the polling stations used for polling for a Village.

(2) The Director of Home Affairs may designate under subsection (1) –

(a) any premises occupied by a Government department for official purposes; or

(b) any structure, place or premises hired under subsection (3).

(3) The Director of Home Affairs may hire any structure, place or premises, or a part of a structure, place or premises, for use as a polling station or a counting station.

(4) If any structure, place or premises hired under subsection (3) are used as a polling station or a counting station, the Director of Home Affairs shall –

(a) make good any damage to the structure, place or premises; and

(b) defray any expenses incurred by any person having control over the structure, place or premises,

due to their having been so used.

(5) The Director of Home Affairs may take such steps as he considers appropriate, including taking out insurance, to insure against any risk of loss or damage that may arise due to or in connection with the use of any structure, place or premises as a polling station or a counting station.

(6) A designation under subsection (1) may be made by reference to a map or plan.

(7) If a designation has been made by reference to a map or plan, the Director of Home Affairs shall display a copy of the map or plan in a prominent place immediately outside the relevant polling station or the relevant counting station, as the case may be.

- (8) The Director of Home Affairs –
- (a) may make arrangements for polling for one or more than one Village to take place at a polling station; and
  - (b) may make arrangements for counting the votes for one or more than one Village cast at the polling station or all the polling stations used for polling for the Village or each of the Villages to take place at a counting station.
- (9) The Director of Home Affairs –
- (a) shall allocate to each elector a polling station to cast his vote; and
  - (b) (in the case that an elector is entitled to vote in elections for more than one Village) may allocate to such elector one polling station or more than one polling station to cast his votes.

(10) The Director of Home Affairs may, if he considers it appropriate to do so in the circumstances, allocate to an elector an alternative polling station, in addition to or in substitution of the polling station or any of the polling stations, as the case may be, allocated under subsection (9), to cast the vote or votes he is entitled to cast.

(11) For the purposes of subsection (1), one notice may be published for more than one village.

**29. Director of Home Affairs to send polling notices to electors**

(1) The Director of Home Affairs shall send a polling notice in the specified form to each elector.

- (2) A polling notice shall –
- (a) state –
    - (i) the date for holding the election for the Village concerned;



- (ii) the address of the polling station at which the elector must cast his vote for the Village; and
- (iii) the polling hours;
- (b) be accompanied by –
  - (i) a map showing the location of the polling station;
  - (ii) detailed voting instructions; and
  - (iii) the means by which information on the counting of the votes for the Village may be obtained; and
- (c) be sent at least 10 days before the polling day.

(3) If an elector is entitled to vote in elections for more than one Village, the Director of Home Affairs may send separate polling notices for each vote or send one polling notice for all the votes.

(4) Where an alternative polling station is allocated to an elector under section 28(10), the Director of Home Affairs shall, as soon as practicable, notify, in such manner as he considers appropriate –

- (a) the elector;
- (b) the Returning Officer or the relevant Returning Officers;
- (c) the Presiding Officer of the polling station previously allocated to the elector; and
- (d) the Presiding Officer of the alternative polling station.

### **30. Elector to vote at the correct polling station**

An elector may only cast his vote for a Village at the polling station allocated to him for the Village under section 28(9) or (10), as the case may be.

### **31. Appointment of Presiding Officer and polling officers**

(1) The Returning Officer shall, for each polling station used for polling for the Village concerned, appoint –

- (a) a Presiding Officer to preside at the polling station; and

- (b) such number of polling officers as he considers appropriate to assist the Presiding Officer in the conduct of a poll.
- (2) The Returning Officer may designate –
  - (a) one polling officer appointed for a polling station as the Deputy Presiding Officer for the polling station; and
  - (b) any polling officer appointed for a polling station as an Assistant Presiding Officer for the polling station.
- (3) The Returning Officer shall supply to the Presiding Officer a list of the names of the polling officers appointed for the polling station for which the Presiding Officer is appointed.
- (4) If a polling station is used for polling for more than one Village –
  - (a) the appointment under subsection (1) and the designation under subsection (2) shall be made by the Returning Officers for those Villages; and
  - (b) the list referred to in subsection (3) shall be supplied by one of those Returning Officers.
- (5) The Presiding Officer shall display a list containing his name and the names of the polling officers appointed for the polling station in a prominent place immediately outside the polling station.
- (6) The Presiding Officer may perform any act which he is required or authorized to perform under this Regulation through a polling officer, but the power to adjourn a poll under section 73(1) must be exercised by the Presiding Officer personally.

### **32. Copy of final register to be supplied to candidates and Returning Officer**

- (1) As soon as practicable after a nomination form nominating a candidate is delivered to the Returning Officer, the Electoral Registration Officer shall supply to the candidate a copy of the final register for the Village concerned.

(2) As soon as practicable after the publication of a notice under section 27(2) of the Election Ordinance, the Electoral Registration Officer shall supply to the Returning Officer a copy of the final register for the Village concerned.

(3) The Electoral Registration Officer may add to the copy of the final register supplied under subsection (1) or (2) such particulars or information as that Officer considers appropriate.

(4) Copies of the final register may be supplied in any or all of the following forms -

- (a) a printed form;
- (b) a non-legible form which is capable of being reproduced in a legible form by using a computer;
- (c) any other form determined by the Electoral Registration Officer.

### **33. Miscellaneous arrangements relating to voting**

(1) The Returning Officer shall provide, at the polling station or at each polling station to be used for polling for the Village concerned, sufficient compartments to enable electors to mark and fold ballot papers issued to them, screened from observation.

(2) The Returning Officer shall supply to the Presiding Officer appointed for the polling station or each polling station to be used for polling for the Village concerned such number of ballot papers as he considers necessary for the polling for the Village.

(3) The Returning Officer shall ensure that –

- (a) the name of any deceased or disqualified candidate for the Village concerned regarding whom –
  - (i) a notice referred to in section 17(1) or 18(1) has been given; or

(ii) declarations referred to in section 17(3) or 18(3) have been made; and

(b) other information relating to that candidate,

if printed on the ballot papers, are crossed out by stamping the words “DECEASED” and “已故” or “DISQUALIFIED” and “喪失資格”, as the case may be.

(4) The Director of Home Affairs shall provide at each polling station chops bearing a “✓” mark, with or without other design, that are necessary to enable electors to mark ballot papers.

(5) The Presiding Officer shall display a notice providing information on voting procedure for the guidance of electors –

(a) in a prominent place immediately outside the polling station; and

(b) inside every compartment provided under subsection (1).

### **34. Determination of no canvassing zone and no staying zone**

(1) The Returning Officer shall, by reference to a map or plan, determine –

(a) any area outside a polling station to be used for polling for the Village concerned as a no canvassing zone; and

(b) any area within a no canvassing zone as a no staying zone.

(2) The Returning Officer shall give a notice indicating the boundaries of the no canvassing zone and the no staying zone to every candidate for election for the Village at least 2 days before the polling day.

(3) If a polling station is to be used for polling for more than one Village –

(a) the determination of the no canvassing zone and the no staying zone shall be made by the Returning Officer

specified for the purpose by the Director of Home Affairs;  
and

- (b) that Officer shall give the notice under subsection (2) to –
  - (i) the candidates for election for the Village for which that Officer is appointed; and
  - (ii) the Returning Officers for the other Villages for which the polling station is used for polling, who shall, as soon as practicable after they receive the notice, give such notice to the candidates for election for their respective Villages.

(4) The Returning Officer who makes a determination of a no canvassing zone or a no staying zone may vary the zone.

(5) If a no canvassing zone or a no staying zone is varied, the Returning Officer who varies the zone shall, as soon as practicable after the variation –

- (a) give a notice indicating the boundary of the zone as varied to –
  - (i) the candidates for election for the Village for which that Officer is appointed; and
  - (ii) (if the polling station is to be used for polling for more than one Village) the Returning Officers for the other Villages for which the polling station is used for polling, who shall, as soon as practicable after they receive the notice, give such notice to the candidates for election for their respective Villages; and
- (b) display a copy of such notice at or near the polling station.

(6) On the polling day, the Returning Officer who determines the no canvassing zone or the no staying zone (or subsequently varies it, where applicable) shall display at or near the polling station a notice indicating the

boundaries of the no canvassing zone and the no staying zone as determined or, where applicable, as varied.

(7) A determination under subsection (1) comes into effect upon the display of a notice under subsection (6) in relation to the no canvassing zone and the no staying zone as determined.

(8) A variation under subsection (4) comes into effect upon the display of a notice under subsection (6) in relation to the no canvassing zone or the no staying zone as varied.

### **35. Order at no canvassing zone and no staying zone**

(1) The Returning Officer and the Presiding Officer shall keep order at the no canvassing zone and the no staying zone.

(2) No person shall –

- (a) (except as provided in subsection (3)) engage in canvassing for votes in a no canvassing zone;
- (b) use a sound amplifying system or device for any purpose in a no canvassing zone without lawful authority or the express permission of the Returning Officer or the Presiding Officer;
- (c) use a sound amplifying system or device for canvassing for votes in such a manner that the sound emitted by it can be heard in a no canvassing zone;
- (d) without reasonable excuse, display in a no canvassing zone any propaganda material relating to –
  - (i) any candidate or his candidate number;
  - (ii) a body any member of which is standing as a candidate in the election concerned or a political body; or
  - (iii) the election of Village Representatives; or

- (e) stay or loiter in a no staying zone without the express permission of the Returning Officer or the Presiding Officer,

on the polling day.

(3) On the polling day, a person may, on the storeys above or below street level in a building within a no canvassing zone (other than a building in which there is a polling station), without obstructing any person, canvass for votes from door to door.

(4) For the purposes of subsections (2) and (3), suggesting not to vote for any candidate shall be regarded as canvassing for votes.

(5) No person shall, in a no canvassing zone or a no staying zone –

- (a) fail to comply with a lawful direction given by the Returning Officer or the Presiding Officer;
- (b) cause an obstruction to any person who is in the zone and on his way to vote; or
- (c) otherwise misconduct himself,

on the polling day.

(6) If a person contravenes subsection (2) or (5), the Returning Officer or the Presiding Officer may –

- (a) require the person to produce his identity document for inspection; and
- (b) order the person to leave the relevant zone immediately.

(7) No person shall fail to produce his identity document when required to do so under subsection (6).

(8) If a person fails to leave when ordered to do so under subsection (6), he may be removed by a police officer or by a person authorized in writing by the Returning Officer who ordered him to leave or the Presiding Officer.

(9) No person who is removed under subsection (8) shall enter the relevant zone again on the polling day without the express permission of the Returning Officer who ordered him to leave or the Presiding Officer.

(10) The powers conferred by subsections (6) and (8) shall not be so exercised as to prevent an elector from voting.

### **36. Polling agents**

(1) Each candidate may appoint not more than 2 persons as his polling agents.

(2) A polling agent appointed by a candidate may attend only at the polling station or polling stations on behalf of the candidate for a purpose connected with the conduct of a poll for the Village concerned.

(3) Only a holder of an identity card, who has attained the age of 18 years, may be appointed as a polling agent.

(4) An appointment of a polling agent is effected by giving a notice of appointment to the Returning Officer or the Presiding Officer.

(5) A notice of appointment shall –

- (a) be in the specified form;
- (b) be given by the candidate;
- (c) state the name, the identity card number and the address of the polling agent; and
- (d) be signed by the candidate and the polling agent.

(6) The appointment of a polling agent may be revoked by giving a notice of revocation to the Returning Officer or the Presiding Officer.

(7) A notice of revocation shall be –

- (a) in the specified form;
- (b) given by the candidate; and
- (c) signed by the candidate.

(8) If a polling agent dies or the appointment of a polling agent is revoked, the candidate may, subject to this section, appoint another person as a polling agent to replace the first-mentioned agent.



(9) The appointment of or revocation of the appointment of a polling agent is not effective until the notice of appointment or notice of revocation, as the case may be, is received by the Returning Officer or the Presiding Officer.

(10) If a notice under subsection (4) is not given before the 7 days preceding the polling day, it shall be delivered by the candidate or his election agent on the polling day to the Presiding Officer.

### **37. Admission to polling station**

- (1) No person may enter or stay in a polling station, except –
- (a) a member of the Commission;
  - (b) the Director of Home Affairs;
  - (c) a Returning Officer;
  - (d) an Assistant Returning Officer;
  - (e) the Chief Electoral Officer;
  - (f) the Presiding Officer appointed for the polling station;
  - (g) a polling officer appointed for the polling station;
  - (h) an elector;
  - (i) (subject to subsections (3) and (8)) a candidate;
  - (j) (subject to subsections (3), (4), (5) and (8)) an election agent;
  - (k) (subject to subsections (3), (4), (6) and (8)) a polling agent;
  - (l) a public officer on duty at the polling station;
  - (m) a member of the Civil Aid Service on duty at the polling station;
  - (n) a child accompanying an elector who comes to the polling station for the purpose of voting; or
  - (o) a person authorized under subsection (9).

(2) In order to ensure that polling takes place smoothly and efficiently, the Presiding Officer –

- (a) may regulate the number of electors, candidates, election agents and polling agents to be admitted to the polling station concerned at any one time; and
- (b) may, subject to subsection (1), exclude any person from the polling station concerned.

(3) A candidate, an election agent or a polling agent may be present in a polling station subject to the availability of seats in the area designated to accommodate them.

(4) Only an election agent or a polling agent regarding whom a notice of appointment has been given under this Regulation may be present in a polling station on behalf of a candidate.

(5) If a candidate is present in a polling station, the election agent of that candidate may not be present in the polling station at the same time.

(6) Only one polling agent of a candidate may be present in a polling station, on behalf of the candidate, at any one time, if neither the candidate nor the election agent is present.

(7) A candidate, an election agent or a polling agent who wishes to be admitted to a polling station shall, on arriving at the polling station –

- (a) report in person to the Presiding Officer; and
- (b) produce –
  - (i) his identity document; and
  - (ii) a declaration of secrecy, in the specified form, completed by him.

(8) If the area referred to in subsection (3) is occupied to its full seating capacity, the Presiding Officer –

- (a) may refuse entry to the polling station to any candidate, election agent or polling agent; and
- (b) may make arrangements for admitting such candidate, election agent or polling agent to the polling station later.

(9) The Returning Officer or a member of the Commission may authorize any person in writing to enter and stay in a polling station in accordance with the terms of the authorization.

### **38. Order at polling station**

(1) The Returning Officer and the Presiding Officer shall keep order at the polling station concerned.

(2) No person shall –

- (a) communicate with any elector; or
- (b) use a mobile telephone, paging machine or any other communication device to communicate with any other person,

in a polling station during the polling hours contrary to a direction of the Returning Officer or the Presiding Officer not to do so.

(3) Subsection (2) does not apply to –

- (a) a member of the Commission;
- (b) the Director of Home Affairs;
- (c) a Returning Officer;
- (d) an Assistant Returning Officer;
- (e) the Chief Electoral Officer;
- (f) the Presiding Officer appointed for the polling station;
- (g) a polling officer appointed for the polling station;
- (h) a public officer on duty at the polling station;
- (i) a member of the Civil Aid Service on duty at the polling station; or
- (j) a person authorized by the Returning Officer or a member of the Commission in writing to do an act prohibited by subsection (2).

(4) No person shall –

- (a) film;

- (b) take a photograph; or
- (c) make any audio or video recording,

in a polling station on the polling day without the express permission of a member of the Commission, the Returning Officer or the Presiding Officer.

- (5) No person shall –
  - (a) engage in canvassing for votes; or
  - (b) without reasonable excuse, display any propaganda material relating to –
    - (i) any candidate or his candidate number;
    - (ii) a body any member of which is standing as a candidate in the election concerned or a political body; or
    - (iii) the election of Village Representatives,

in a polling station on the polling day.

(6) For the purposes of subsection (5), suggesting not to vote for any candidate shall be regarded as canvassing for votes.

- (7) No person shall, in a polling station or its vicinity –
  - (a) fail to comply with a lawful direction given by the Returning Officer or the Presiding Officer;
  - (b) disrupt the poll;
  - (c) disturb or cause inconvenience to any person except in the execution of his duty; or
  - (d) otherwise misconduct himself,

on the polling day.

(8) If a person contravenes subsection (5) or (7), the Returning Officer or the Presiding Officer may –

- (a) require the person to produce his identity document for inspection; and
- (b) order the person to leave the polling station or its vicinity, as the case may be, immediately.

(9) No person shall fail to produce his identity document when required to do so under subsection (8).

(10) If a person fails to leave when ordered to do so under subsection (8), he may be removed by a police officer or by a person authorized in writing by the Returning Officer who ordered him to leave or the Presiding Officer.

(11) No person who is removed under subsection (10) shall enter the polling station or its vicinity again on the polling day without the express permission of the Returning Officer who ordered him to leave or the Presiding Officer.

(12) The powers conferred by subsections (8) and (10) shall not be so exercised as to prevent an elector from voting.

## PART 5

### BALLOT BOXES, BALLOT PAPERS AND VOTING PROCEDURE

#### **39. Design of ballot box**

A ballot box to be used in a poll shall be so constructed that ballot papers can be put into it while it is locked but cannot be withdrawn from it without unlocking it and breaking the sealing device used to seal it.

#### **40. Ballot box to be sealed before commencement of poll**

(1) Immediately before the commencement of the poll, the Presiding Officer shall show the ballot box or each ballot box, empty, to the persons who are present in the polling station concerned.

(2) The Presiding Officer shall, after showing a ballot box under subsection (1), lock it and seal it with a sealing device provided for that purpose by the Director of Home Affairs so that it cannot be opened without unlocking the lock and breaking the sealing device.

(3) The Presiding Officer shall –

- (a) place the ballot box or each ballot box for the receipt of ballot papers in the view of a polling officer or himself; and
- (b) ensure that the ballot box or each ballot box is kept locked and sealed while it is in his custody.

#### **41. Form of ballot papers**

(1) A ballot paper to be used for an election for an Existing Village shall be in Form 1 set out in Schedule 1.

(2) A ballot paper to be used for an election for an Indigenous Village shall be –

- (a) (where there is one vacancy) in Form 2(a) set out in Schedule 1; or
- (b) (where there is more than one vacancy) in Form 2(b) set out in Schedule 1.

(3) A ballot paper to be used for an election for a Composite Indigenous Village shall be in Form 3 set out in Schedule 1.

(4) The Director of Home Affairs may decide –

- (a) the colour and the design of a ballot paper; or
- (b) that the ballot papers to be used for the elections for different Villages are to be printed in different colours and to have different designs.

(5) A number may be printed on the counterfoil of a ballot paper, but that number shall not be printed or shown in any manner on the ballot paper.

#### **42. Order of names of candidates on ballot papers**

(1) A number shall be allocated to each candidate by the drawing of lots conducted by the Returning Officer.

(2) The names of the candidates shall appear on a ballot paper in the order of the numbers allocated under subsection (1).

(3) The number allocated to a candidate shall be printed on a ballot paper against his name.

(4) The Returning Officer shall give notice to each candidate of the arrangements for the drawing of lots under subsection (1).

(5) A candidate or his election agent may be present at the drawing of lots under subsection (1).

#### **43. Question to person applying for a ballot paper**

(1) The Presiding Officer may, in case of doubt and at the time a person applies for a ballot paper, ask the person any appropriate questions set out in subsection (2).

(2) The questions referred to in subsection (1) are –

- (a) (i) “你是否已登記在本村 (the Presiding Officer to read the name and the type of the Village) 的正式選民登記冊上，而有關登記項一如以下所述 (the Presiding Officer to read the whole entry as it is recorded in the final register)?”; or
- (ii) “Are you the person registered in the final register for this Village (the Presiding Officer to read the name and the type of the Village), as follows (the Presiding Officer to read the whole entry as it is recorded in the final register)?”;
- (b) (i) “你是否已在本村 (the Presiding Officer to read the name of the Village) 的居民代表選舉中投了票?”; or
- (ii) “Have you already voted in this election to elect a Resident Representative for this Village (the

Presiding Officer to read the name of the Village)?”;

- (c) (i) “你是否已在本村 (the Presiding Officer to read the name of the Village) 的原居民代表選舉中投了票?”; or
- (ii) “Have you already voted in this election to elect an Indigenous Inhabitant Representative for this Village (the Presiding Officer to read the name of the Village)?”.

(3) The Presiding Officer must ask the appropriate questions set out in subsection (2) if so required by a candidate, an election agent or a polling agent.

(4) The Presiding Officer shall not issue a ballot paper to any person who fails to answer the questions asked of that person under this section to the satisfaction of that Officer.

#### **44. Challenging a person who has applied for a ballot paper or who has voted**

- (1) If a candidate, an election agent or a polling agent –
  - (a) declares to the Presiding Officer that he has reasonable cause to believe that a person has engaged in corrupt conduct of impersonation; and
  - (b) undertakes in writing to substantiate the allegation in a court,

the Presiding Officer may request a police officer to arrest that person.

- (2) A declaration referred to in subsection (1) may only be made –
  - (a) at the time the person applies for a ballot paper; or
  - (b) after the person has applied for a ballot paper but before the person has left the polling station.
- (3) If the Presiding Officer has reason to believe that a person –
  - (a) applying for a ballot paper; or



- (b) who has applied for a ballot paper and has not left the polling station,

has engaged in corrupt conduct of impersonation, the Presiding Officer may request a police officer to arrest that person.

- (4) A person –

- (a) in respect of whom a declaration is made under subsection (1) (whether or not he is arrested under that subsection); or
- (b) who has been arrested under subsection (3),

shall not be prevented from voting only by reason of the declaration or arrest.

(5) In this section, “corrupt conduct of impersonation” (冒充別人的舞弊行爲) means the corrupt conduct referred to in section 15 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

#### **45. Issue of ballot paper**

(1) If, at a polling station used for polling for only one Village, a person applies for a ballot paper at the issuing desk, the polling officer manning the desk shall, upon being satisfied by inspecting the person’s identity document that the person is an elector registered in the final register for the Village, issue to the person –

- (a) one ballot paper to be used for the election for the Village;  
and
- (b) a chop provided under section 33(4) for marking the ballot paper.

(2) If, at a polling station used for polling for more than one Village, a person applies for a ballot paper at the issuing desk, the polling officer manning the desk shall, upon being satisfied by inspecting the person’s identity document that –

- (a) the person is an elector registered in the final register for one of the Villages for which the polling station is used for polling, issue to the person –

- (i) one ballot paper to be used for the election for that Village; and
  - (ii) a chop provided under section 33(4) for marking the ballot paper; or
- (b) the person is an elector registered in the final registers for more than one Village for which the polling station is used for polling, issue to the person –
- (i) subject to subsection (3), one ballot paper to be used for the election for each of those Villages; and
  - (ii) a chop provided under section 33(4) for marking those ballot papers.

(3) If a person referred to in subsection (2)(b) does not wish to cast all the votes which he is entitled to cast for the Villages for which the polling station is used for polling or he does not wish to do so at the same time, he –

- (a) shall be issued, upon his application, one ballot paper to be used for the election for the Village for which he is going to cast his vote; and
- (b) may cast his remaining vote later, before the close of the poll (whether he has left and subsequently returns to the polling station or he has not left the polling station).

(4) For the purposes of subsections (1), (2) and (3), where the person is an elector registered in a final register –

- (a) for an Existing Village, he must be issued a ballot paper to be used for an election for an Existing Village;
- (b) for an Indigenous Village, he must be issued a ballot paper to be used for an election for an Indigenous Village; or
- (c) for a Composite Indigenous Village, he must be issued a ballot paper to be used for an election for a Composite Indigenous Village.

(5) Before a ballot paper or ballot papers are issued to an elector, the polling officer shall call out the name of the elector as stated in the copy of the relevant final register or registers in that officer's possession.

(6) To ensure that the correct ballot paper or ballot papers are issued to an elector, the polling officer may require the elector to verify the entry relating to him in the relevant final register or registers.

(7) A person shall not be prevented from voting only because of an omission or inaccuracy of a particular required to be registered in the relevant final register, other than the omission of his name and, where applicable, his principal residential address.

(8) If a ballot paper or ballot papers are issued to an elector, the polling officer shall, subject to subsection (9), record that a ballot paper or ballot papers have been so issued by one or both of the following means –

- (a) placing a line in the copy of the relevant final register or registers in that officer's possession across the name and, where applicable, the principal residential address of the elector;
- (b) marking the copy of the relevant final register or registers in that officer's possession in such other manner as the Director of Home Affairs may direct.

(9) No record shall be made of the particular ballot paper or ballot papers issued to an elector.

**46. Elector who has not cast vote may return to cast vote with permission**

- (1) Subject to subsection (5), if –
  - (a) an elector has been issued with a ballot paper or ballot papers; and
  - (b) (except in the case under section 45(3)) he has left the polling station without casting his vote or any of his votes,

he shall not cast the vote or votes when he returns to the polling station before the close of the poll unless –

- (c) before leaving the polling station, he has –
  - (i) made a request to the Presiding Officer for permission to cast the vote or votes before the close of the poll;
  - (ii) informed the Presiding Officer of his reason for leaving the polling station without casting the vote or votes; and
  - (iii) returned the ballot paper or ballot papers, unmarked, to the Presiding Officer; and
- (d) the Presiding Officer has granted the requested permission.

(2) If an elector has complied with subsection (1)(c), the Presiding Officer shall grant the permission unless he is of the opinion that the request is a manifest abuse of the facilities provided by this section.

(3) If the Presiding Officer grants the permission to an elector under subsection (2), he shall –

- (a) keep in his custody the ballot paper or ballot papers returned by the elector under subsection (1)(c)(iii); and
- (b) on the elector's return to the polling station before the close of the poll to cast the vote or votes, re-issue the ballot paper or ballot papers to the elector in the presence of a police officer.

(4) If the Presiding Officer does not grant the permission to an elector under subsection (2), he shall immediately re-issue to the elector the ballot paper or ballot papers returned under subsection (1)(c)(iii).

(5) An elector who –

- (a) has been issued with a ballot paper or ballot papers;
- (b) becomes incapacitated from voting by physical illness; and
- (c) has left the polling station after –

- (i) returning the ballot paper or ballot papers, unmarked, to the Presiding Officer; or
- (ii) leaving the ballot paper or ballot papers, unmarked, behind in the polling station without putting the ballot paper or ballot papers into the ballot box or ballot boxes (if the Presiding Officer is aware that the elector has so left the ballot paper or ballot papers behind before leaving the polling station),

may return to the polling station before the close of the poll and cast his vote or votes.

(6) If any ballot paper is returned under subsection (5)(c)(i) or left behind in the polling station under subsection (5)(c)(ii) by an elector, the Presiding Officer shall –

- (a) keep in his custody the ballot paper; and
- (b) on the elector's return to the polling station before the close of the poll to cast the vote, re-issue the ballot paper to the elector in the presence of a police officer.

(7) For the purposes of this Regulation, re-issuing a ballot paper under subsection (3), (4) or (6) shall be regarded as issuing a ballot paper under section 45(1), (2) or (3), as the case may be.

#### **47. Voting procedure**

(1) Subject to section 49(1), when an elector is issued with a ballot paper or ballot papers, he shall, without undue delay –

- (a) immediately go into a compartment provided under section 33(1) in the polling station;
- (b) mark the ballot paper or ballot papers in the compartment;
- (c) fold the ballot paper or each of the ballot papers so that the marked side is inside before leaving the compartment;

- (d) put the folded ballot paper or each of the folded ballot papers into the correct ballot box;
  - (e) return –
    - (i) the chop issued to him under section 45; and
    - (ii) the cardboard provided to him under subsection (2),
 to any polling officer in the polling station; and
  - (f) notwithstanding section 37(1), leave the polling station as soon as he has put the ballot paper or ballot papers into the ballot box or ballot boxes and returned the chop and the cardboard.
- (2) An elector –
- (a) shall, when he is issued with a ballot paper or ballot papers, be provided with a cardboard in a colour determined by the Director of Home Affairs so as to indicate the number of ballot papers issued to him; and
  - (b) shall carry with him the cardboard before it is returned under subsection (1)(e).
- (3) Except where it is provided otherwise in this Regulation, no person shall remove a ballot paper from a polling station.

#### **48. How ballot papers are to be marked**

- (1) An elector voting for an Existing Village –
  - (a) may vote for only one candidate; and
  - (b) shall mark his ballot paper by affixing the chop issued under section 45 to give a single “✓” in the circle opposite the name of the candidate of his choice on the ballot paper.
- (2) An elector voting for an Indigenous Village –
  - (a) may vote for a number of candidates not exceeding the number of Indigenous Inhabitant Representatives to be returned for the Village at the election concerned; and

- (b) shall mark his ballot paper by affixing the chop issued under section 45 to give a single “✓” in each of the circles opposite the names of the candidates of his choice (the number of which shall not exceed the number of Indigenous Inhabitant Representatives to be returned for the Village at the election) on the ballot paper.
- (3) An elector voting for a Composite Indigenous Village –
  - (a) may vote for only one candidate; and
  - (b) shall mark his ballot paper by affixing the chop issued under section 45 to give a single “✓” in the circle opposite the name of the candidate of his choice on the ballot paper.

**49. Marking of ballot paper for or by incapacitated person**

(1) The Presiding Officer, the Deputy Presiding Officer or any Assistant Presiding Officer may, upon the request of an elector who claims that he is unable to read or is incapacitated from casting his vote because of impaired eyesight or other physical cause –

- (a) mark a ballot paper, in a compartment provided under section 33(1) in the polling station, for the elector according to the choice of the elector in the manner specified in section 48(1), (2) or (3), as the case may be; and
- (b) fold and put the ballot paper into the correct ballot box in the manner specified in section 47(1)(c) and (d),

in the presence of a polling officer designated by the Presiding Officer, the Deputy Presiding Officer or the Assistant Presiding Officer, as the case may be, having regard to the choice (if any) of a candidate or his polling agent.

(2) The Presiding Officer shall cause a template to be made available upon request by an elector.

(3) A template made available to an elector under subsection (2) shall be so constructed as to be able to facilitate the marking of a ballot paper by an elector suffering from impaired eyesight.

**50. Issue of ballot paper marked  
“TENDERED”**

(1) Subject to subsection (2) and sections 45(3) and 46, if a person (“the first-mentioned person”) representing himself to be a particular elector applies for a ballot paper for a particular Village after a ballot paper for the Village had already been issued on the basis that the person to whom it was issued was that elector, the Presiding Officer shall issue to the first-mentioned person a ballot paper for the Village endorsed on the front of it with the words “TENDERED” and “重複”.

(2) The Presiding Officer may issue a ballot paper under subsection (1) only if –

- (a) he is not certain that the first-mentioned person is the person who had been issued with a ballot paper for the Village earlier; and
- (b) the first-mentioned person answers the appropriate questions set out in section 43(2) to his satisfaction.

**51. Marking “UNUSED” on ballot paper**

If a ballot paper has been issued and has not been put into a ballot box otherwise than under the circumstances referred to in section 46(1) or (5), the Presiding Officer shall endorse the words “UNUSED” and “未用” on the front of the ballot paper and keep it in his custody.

**52. Marking “SPOILT” on ballot paper**

- (1) If an elector issued with a ballot paper –
- (a) inadvertently deals with it in such a manner that it cannot be properly used as a ballot paper; or



(b) makes an error in marking it,  
he may apply to the Presiding Officer for another ballot paper.

(2) The Presiding Officer may issue another ballot paper to an elector referred to in subsection (1) if the elector –

- (a) returns the ballot paper already issued to him to the Presiding Officer; and
- (b) establishes to the satisfaction of the Presiding Officer the circumstances referred to in subsection (1)(a) or (b).

(3) The Presiding Officer shall immediately cancel a ballot paper returned to him under subsection (2) by endorsing the words “SPOILT” and “損壞” on the front of the ballot paper and keep it in his custody.

(4) For the purposes of this Regulation, issuing a ballot paper under subsection (2) shall be regarded as issuing a ballot paper under section 45(1), (2) or (3), as the case may be.

### **53. Steps to be taken at a polling station after the close of the poll**

(1) As soon as practicable after the close of the poll, the Presiding Officer shall –

- (a) seal the ballot box, or each ballot box, with a sealing device provided for that purpose by the Director of Home Affairs so that nothing can be put into or withdrawn from the ballot box after it is sealed; and make up into separate sealed packets –
  - (i) the counterfoils of the ballot papers that have been issued;
  - (ii) the ballot papers that have not been issued;
  - (iii) the unused ballot papers;
  - (iv) the spoilt ballot papers; and
  - (v) the marked copy of the final register,

and, at a polling station used for polling for more than one Village, make separate sealed packets for each Village, in the presence of the persons who are present in the polling station.

(2) As soon as practicable after complying with subsection (1), the Presiding Officer shall deliver –

- (a) the sealed ballot box or boxes;
- (b) the sealed packets referred to in subsection (1)(b); and
- (c) the ballot paper account or accounts,

to the Returning Officer or the relevant Returning Officers at the counting station or the relevant counting station or stations.

#### **54. Ballot paper account**

(1) The Presiding Officer shall prepare a statement (“ballot paper account”) which complies with subsection (2) and, at a polling station used for polling for more than one Village, prepare a separate ballot paper account for each Village.

(2) The ballot paper account prepared under subsection (1) shall –

- (a) be in the specified form; and
- (b) show the number of ballot papers supplied under section 33(2) for the Village concerned (stating whether they are ballot papers to be used for an election for an Existing Village, an Indigenous Village or a Composite Indigenous Village) and account for those ballot papers under the following heads –
  - (i) the number of ballot papers estimated by the Presiding Officer to be in the ballot box or ballot boxes;
  - (ii) the number of ballot papers which have not been issued;
  - (iii) the number of unused ballot papers; and

- (iv) the number of spoiled ballot papers.

## PART 6

### COUNTING OF VOTES

#### **55. Determination and notice of time of counting of votes**

(1) The Returning Officer shall determine the time at which the counting of the votes is to begin.

(2) The time determined under subsection (1) shall be a time after the close of the poll for the Village concerned.

(3) The Returning Officer shall give notice in writing to each candidate or a counting agent appointed by him of –

- (a) the address of the counting station at which the counting of the votes for the Village is to take place; and
- (b) the time determined under subsection (1).

(4) A notice under subsection (3) shall be given –

- (a) (in the case of the counting of the votes for a postponed or adjourned poll) as soon as practicable after the determination of the time under subsection (1);
- (b) (in the case of a postponement or adjournment of the counting of the votes) as soon as practicable after the determination of the time under subsection (1); or
- (c) (in any other case) at least 24 hours before the time determined under subsection (1).

#### **56. Appointment of counting agent**

(1) Each candidate may appoint persons as his counting agents to attend at a counting station to observe the counting of the votes for the Village for which the candidate is standing for election.

(2) The Returning Officer shall determine the maximum number of counting agents a candidate may appoint.

(3) Only a holder of an identity card, who has attained the age of 18 years, may be appointed as a counting agent.

(4) An appointment of a counting agent is effected by giving a notice of appointment to the Returning Officer.

(5) A notice of appointment shall –

- (a) be in the specified form;
- (b) be given by the candidate;
- (c) state the name, the identity card number and the address of the counting agent; and
- (d) be signed by the candidate and the counting agent.

(6) The appointment of a counting agent may be revoked by giving a notice of revocation to the Returning Officer.

(7) A notice of revocation shall be –

- (a) in the specified form;
- (b) given by the candidate; and
- (c) signed by the candidate.

(8) If a counting agent dies or the appointment of a counting agent is revoked, the candidate may, subject to this section, appoint another person as a counting agent to replace the first-mentioned agent.

(9) The appointment of or revocation of the appointment of a counting agent is not effective until the notice of appointment or notice of revocation, as the case may be, is received by the Returning Officer.

(10) If a notice under subsection (4) is not given before the 3 days preceding the polling day, it shall be delivered by the candidate or his election agent on the polling day to the Returning Officer.

**57. Appointment of counting officers**

(1) The Director of Home Affairs may appoint such number of counting officers as he considers appropriate for a counting station to assist the Returning Officer in counting the votes.

(2) The Returning Officer shall display a list of the names of the counting officers in a prominent place within the counting station.

**58. Admission to counting station**

(1) The Returning Officer may set apart an area within a counting station as a counting zone.

(2) Where a counting zone is set apart under subsection (1), the zone shall be delineated and identified by such means as the Returning Officer who sets apart the zone considers appropriate.

(3) No person may enter or stay in a counting zone, except –

- (a) a member of the Commission;
- (b) the Director of Home Affairs;
- (c) a Returning Officer;
- (d) an Assistant Returning Officer;
- (e) the Chief Electoral Officer;
- (f) a counting officer;
- (g) a candidate;
- (h) an election agent;
- (i) a counting agent;
- (j) a public officer on duty at the counting station;
- (k) a member of the Civil Aid Service on duty at the counting station; or
- (l) a person authorized under subsection (4).

(4) The Returning Officer or a member of the Commission may authorize any person in writing to enter and stay in a counting zone in accordance with the terms of the authorization.

(5) Any member of the public may observe the counting of the votes from an area at a counting station set apart for that purpose by the Returning Officer unless that Officer considers that the presence of such member of the public may –

- (a) cause disorder or disturbance in the counting station;
- (b) disrupt the counting of the votes; or
- (c) prejudice the secrecy of the individual votes.

(6) The Returning Officer shall ensure that the arrangements for the counting of the votes in a counting zone of a counting station are such that the candidates and their respective election agents or counting agents are able to observe how individual votes are counted.

#### **59. Order at counting station**

(1) The Returning Officer shall keep order at the counting station concerned.

(2) No person shall –

- (a) film;
- (b) take a photograph; or
- (c) make any audio or video recording,

in a counting zone without the express permission of a member of the Commission, the Director of Home Affairs or the Returning Officer.

(3) No person shall, in a counting station or its vicinity –

- (a) fail to comply with a lawful direction given by the Returning Officer;
- (b) use a sound amplifying system or device for any purpose without lawful authority or the express permission of the Returning Officer;
- (c) without reasonable excuse, display any propaganda material relating to –
  - (i) any candidate or his candidate number;

- (ii) a body any member of which is standing as a candidate in the election concerned or a political body; or
  - (iii) the election of Village Representatives;
  - (d) disrupt the counting of the votes;
  - (e) disturb or cause inconvenience to any person except in the execution of his duty; or
  - (f) otherwise misconduct himself.
- (4) If –
- (a) a person contravenes subsection (2) or (3); or
  - (b) the Returning Officer reasonably considers that, having regard to the conduct of a person, the person's presence at the counting station is for a purpose other than that for which the person is entitled or authorized to be so present,
- the Returning Officer may –
- (c) require the person to produce his identity document for inspection; and
  - (d) order the person to leave the counting station or its vicinity, as the case may be, immediately.
- (5) No person shall fail to produce his identity document when required to do so under subsection (4).
- (6) If a person fails to leave when ordered to do so under subsection (4), he may be removed by a police officer or by a person authorized in writing by the Returning Officer who ordered him to leave.
- (7) No person who is removed under subsection (6) shall enter the counting station or its vicinity again, before the counting of the votes at the counting station is finished, without the express permission of the Returning Officer who ordered him to leave.

**60. Opening a ballot box**

(1) The Returning Officer shall, in the counting zone, open a ballot box delivered to him under section 53(2) by breaking the sealing device in the presence of the candidates or their election agents or counting agents, if present in the counting zone.

(2) If any candidate or his election agent or counting agent requests inspection of any paper (other than a ballot paper) taken from the ballot box, the Returning Officer shall allow him to inspect such paper before disposing of it.

**61. Counting of votes**

(1) Ballot papers in a ballot box opened in accordance with section 60 shall, in the counting zone, be counted using either one of the following methods, as determined by the Returning Officer –

- (a) the –
  - (i) ballot papers shall be sorted according to the choices marked on them; and
  - (ii) votes for each candidate shall be counted; or
- (b) the –
  - (i) choice or choices marked on each ballot paper shall be made known to the persons present in the counting zone by calling out the name of the candidate or each candidate for whom the vote or a vote is given and his candidate number;
  - (ii) votes for each candidate whose name is so called out shall be recorded on a board set up in a prominent place within the counting zone; and
  - (iii) votes recorded for each candidate shall be counted.



(2) In the course of counting in accordance with subsection (1)(a) or (b), as the case may be –

- (a) any ballot paper –
  - (i) on which there is any writing or mark by which the elector can possibly be identified;
  - (ii) which appears to be a ballot paper described in section 62(b) or (c); or
  - (iii) which appears to be void for uncertainty, shall be separated and forwarded to the Returning Officer; and
- (b) any ballot paper described in section 62(e), (f), (g) or (h) shall be separated and shall not be counted pursuant to section 62.

## **62. Ballot papers not to be counted**

When counting the votes, any ballot paper –

- (a) on which there is any writing or mark by which, in the opinion of the Returning Officer, the elector can possibly be identified;
- (b) subject to section 63(3) –
  - (i) used for an election for an Existing Village, which is not marked in accordance with section 48(1);
  - (ii) used for an election for an Indigenous Village, which is not marked in accordance with section 48(2); or
  - (iii) used for an election for a Composite Indigenous Village, which is not marked in accordance with section 48(3);
- (c) which is substantially mutilated;

- (d) which the Returning Officer determines under section 63(2)(b)(iii) as being void for uncertainty;
- (e) which has the words “TENDERED” and “重複” endorsed on it;
- (f) which has the words “UNUSED” and “未用” endorsed on it;
- (g) which has the words “SPOILT” and “損壞” endorsed on it;
- or
- (h) which is unmarked,

shall not be counted.

### **63. Determination of validity of questionable ballot papers**

(1) If a ballot paper is forwarded to the Returning Officer under section 61(2)(a) –

- (a) a candidate, an election agent or a counting agent, if present in the counting zone, is entitled to inspect the ballot paper; and
- (b) the candidate or the election agent is entitled to make representations to the Returning Officer concerning the ballot paper.

(2) After considering the representations (if any) made under subsection (1)(b), the Returning Officer shall determine whether the ballot paper –

- (a) is valid and the vote shall be counted; or
- (b) shall not be counted pursuant to section 62 for –
  - (i) having on it any writing or mark by which, in the opinion of the Returning Officer, the elector can possibly be identified;

- (ii) being a ballot paper described in section 62(b) or (c); or
- (iii) being void for uncertainty.

(3) Notwithstanding section 62(b), the Returning Officer may determine under subsection (2) that a ballot paper which is not marked in accordance with section 48(1)(b), (2)(b) or (3)(b), as the case may be, is valid and the vote shall be counted in the manner specified in section 61(1)(a) or (b), as the case may be, if, subject to other provisions of section 62, he is satisfied that the elector has marked the ballot paper by affixing the chop issued under section 45 on the ballot paper so as to clearly indicate his intention to vote for the candidate or candidates concerned, as the case may be.

- (4) If –
  - (a) the Returning Officer determines under subsection (2) that a ballot paper is valid and the vote shall be counted; and
  - (b) a candidate or an election agent objects to the determination,

the Returning Officer shall endorse the words “acceptance objected to” and “予以接納的決定遭反對” on the front of the ballot paper.

(5) If the Returning Officer determines under subsection (2) that a ballot paper shall not be counted, he shall –

- (a) endorse the words “rejected” and “不予接納” on the front of it; and
  - (b) where a candidate or an election agent objects to the determination, endorse the words “rejection objected to” and “不予接納的決定遭反對” on the front of it.
- (6) If –
- (a) the Returning Officer determines under subsection (2) that a ballot paper shall not be counted pursuant to section 62 for –

- (i) having on it any writing or mark by which, in the opinion of the Returning Officer, the elector can possibly be identified;
  - (ii) being a ballot paper described in section 62(b) or (c); or
  - (iii) being void for uncertainty; or
- (b) any ballot paper is not to be counted pursuant to section 62(e), (f), (g) or (h),

the Returning Officer shall prepare a statement regarding such ballot paper.

(7) A statement prepared under subsection (6) shall show the respective number of ballot papers under the following heads –

- (a) having on it any writing or mark by which the elector can possibly be identified;
- (b) not marked in accordance with section 48(1), (2) or (3) (as the case may be);
- (c) substantially mutilated;
- (d) void for uncertainty;
- (e) endorsed with the words “TENDERED” and “重複”;
- (f) endorsed with the words “UNUSED” and “未用”;
- (g) endorsed with the words “SPOILT” and “損壞”; and
- (h) unmarked.

(8) A determination made under subsection (2) shall be final.

(9) For the avoidance of doubt, it is declared that the Returning Officer shall not make a determination not to count a ballot paper solely for the reason that the ballot paper is stamped with the words “DECEASED” and “已故” or “DISQUALIFIED” and “喪失資格”, as the case may be, in accordance with section 33(3).

**64. Verification of ballot paper account**

- (1) The Returning Officer shall –
  - (a) record the number of valid ballot papers;
  - (b) record the number of ballot papers which are not counted pursuant to section 62;
  - (c) verify the ballot paper account by comparing it with the numbers recorded under paragraphs (a) and (b); and
  - (d) prepare a statement in writing as to the result of the verification (“verification statement”).
- (2) If –
  - (a) the Returning Officer considers it necessary to do so; or
  - (b) a candidate, an election agent or a counting agent present in the counting zone so requests,

the Returning Officer shall, in preparing the verification statement, compare the ballot paper account with the numbers of ballot papers recorded by him under subsection (1)(a) and (b), the unused ballot papers, the spoilt ballot papers, the ballot papers that have not been issued and the counterfoils of the ballot papers that have been issued.

- (3) A candidate, an election agent or a counting agent may copy what is recorded on –
  - (a) the ballot paper account; or
  - (b) the verification statement.

**65. Result of counting and re-count**

- (1) After the votes are counted and the ballot paper account is verified, the Returning Officer shall –
  - (a) make known the result of the counting to –
    - (i) the candidates who are present in the counting zone; and

- (ii) the election agent or a counting agent (if present in the counting zone) of a candidate who is not present; and
- (b) give them a reasonable opportunity to make a request under subsection (2).

(2) A candidate or an election agent who is present in the counting zone may request the Returning Officer to count again the counted or re-counted votes.

(3) The Returning Officer shall comply with a request under subsection (2) unless he is of the opinion that the request is unreasonable.

#### **66. Returning Officer to declare election result**

(1) When the counting of the votes and re-counts, if any, are completed and the result of the election determined, the Returning Officer shall declare as elected the candidate who was successful at the election under section 31(7) of the Election Ordinance.

(2) If, before declaring a successful candidate to be elected, it comes to the knowledge of the Returning Officer that the candidate has died or is disqualified from being elected, section 21(3), (4), (5) and (6) applies.

#### **67. Notice of election result**

(1) The Returning Officer shall, as soon as practicable after declaring the election result in accordance with section 66(1) –

- (a) display a notice of the result of the election in a prominent place immediately outside the counting station; and
- (b) send a copy of the notice of the result of the election to –
  - (i) the Chairman of the Commission;
  - (ii) the Secretary for Constitutional Affairs;
  - (iii) the Secretary for Home Affairs;
  - (iv) the Director of Home Affairs; and

(v) the Chief Electoral Officer.

(2) The Returning Officer shall, within 10 days after the date of declaring the election result in accordance with section 66(1), publish a notice in the Gazette, as provided in section 36(1) of the Election Ordinance.

(3) A notice referred to in subsection (1) or (2) –

- (a) for an Existing Village shall be in Form 1 set out in Schedule 2;
- (b) for an Indigenous Village shall be in Form 2 set out in Schedule 2; or
- (c) for a Composite Indigenous Village shall be in Form 3 set out in Schedule 2.

## PART 7

### DISPOSAL OF DOCUMENTS

#### **68. Ballot papers to be sealed**

(1) The Returning Officer shall, in the counting zone, as soon as practicable after that Officer has ascertained the result of the poll, make up into separate sealed packets –

- (a) the counted ballot papers;
- (b) the counterfoils of the ballot papers that have been issued;
- (c) the ballot papers that have not been issued; and
- (d) the ballot papers that are not counted pursuant to section 62.

(2) The Returning Officer shall endorse on each sealed packet –

- (a) a description of its contents;
- (b) the date of the election; and
- (c) the name and the type of the Village concerned.

(3) A candidate, an election agent or a counting agent may be present when the Returning Officer makes up the sealed packets and endorses them.

**69. Ballot papers, accounts, packets, etc. to be sent to Director of Home Affairs**

The Returning Officer shall, as soon as practicable after that Officer has discharged his duties under section 68, send to the Director of Home Affairs –

- (a) the ballot paper account;
- (b) the statement prepared under section 63(6);
- (c) the verification statement;
- (d) the sealed packets made up under section 68(1);
- (e) all nomination forms delivered to him in accordance with section 7(1);
- (f) all notices of withdrawal (if any) delivered to him in accordance with section 14(2);
- (g) all notices of appointment given to him under section 24(2), 36(4) or 56(4);
- (h) all notices of revocation given to him under section 24(4), 36(6) or 56(6); and
- (i) any other documents relating to the election for the Village concerned as specified by the Commission.

**70. Inspection of ballot paper kept by Director of Home Affairs**

The Director of Home Affairs shall not permit any person to inspect any ballot paper sent to him under section 69 other than on an order made by a court in proceedings relating to an election petition or in other legal proceedings.

**71. Retention of election documents**

The Director of Home Affairs shall –

- (a) retain in his custody the documents sent to him under section 69 for 6 months after the date of declaring the result of the election to which they relate in accordance with section 66(1); and



- (b) unless otherwise directed by an order made by a court in proceedings relating to an election petition or in other legal proceedings, destroy the documents after the expiry of those 6 months.

## PART 8

### POSTPONEMENT OR ADJOURNMENT OF ELECTION PROCEEDINGS

**72. Postponement or adjournment of polling  
at all polling stations or counting of votes  
at all counting stations**

- (1) The Commission may direct –
  - (a) the postponement of the poll for an election if, before the commencement of polling, the Commission is of the opinion that the poll; or
  - (b) the postponement of the counting of the votes in respect of the poll for an election if, before the commencement of counting, the Commission is of the opinion that the counting,

is likely to be obstructed, disrupted, undermined or seriously affected by –

- (c) a typhoon or other climatic condition of a serious nature;
  - (d) riot or open violence or any other occurrence of public danger; or
  - (e) an occurrence which appears to the Commission to be a material irregularity relating to the election, the poll or the counting.
- (2) The Commission may direct –
    - (a) the adjournment of the poll for an election if, during the polling, the Commission is of the opinion that the poll; or

(b) the adjournment of the counting of the votes in respect of the poll for an election if, during the counting, the Commission is of the opinion that the counting, is likely to be or is being obstructed, disrupted, undermined or seriously affected by –

- (c) a typhoon or other climatic condition of a serious nature;
- (d) riot or open violence or any other occurrence of public danger; or
- (e) an occurrence which appears to the Commission to be a material irregularity relating to the election, the poll or the counting.

(3) Subject to section 45(3), an elector who has cast a vote at a poll adjourned under subsection (2) is not entitled and shall not be allowed to cast a vote again at the resumed polling.

**73. Adjournment of polling at a particular polling station or counting of votes at a particular counting station**

(1) The Presiding Officer appointed for a polling station may, after consulting the Returning Officer, direct the adjournment of a poll for an election at that polling station if, during the polling, the Presiding Officer is of the opinion that the poll is likely to be or is being obstructed, disrupted, undermined or seriously affected by –

- (a) a typhoon or other climatic condition of a serious nature;
- (b) riot or open violence or any other occurrence of public danger; or
- (c) an occurrence which appears to the Presiding Officer to be a material irregularity relating to the election, the poll or the counting concerned.

(2) The Returning Officer may direct the adjournment of the counting of the votes in respect of the poll for an election at a counting station if, during

the counting, that Officer is of the opinion that the counting is likely to be or is being obstructed, disrupted, undermined or seriously affected by –

- (a) a typhoon or other climatic condition of a serious nature;
- (b) riot or open violence or any other occurrence of public danger; or
- (c) an occurrence which appears to that Officer to be a material irregularity relating to the election, the poll or the counting.

**74. Publication of postponement or adjournment of polling or counting**

- (1) If the Commission directs the postponement or adjournment of –
  - (a) a poll; or
  - (b) the counting of the votes in respect of a poll,

it shall publish the direction in such manner as it considers practicable.

(2) If a Presiding Officer directs the adjournment of a poll at a polling station, he shall publish the direction in such manner as he considers practicable.

(3) If a Returning Officer directs the adjournment of the counting of the votes at a counting station, he shall publish the direction in such manner as he considers practicable.

**75. Procedure after adjournment of polling**

(1) If a poll is adjourned, the Presiding Officer shall, as soon as practicable after receiving the direction under section 72(2) or giving the direction under section 73(1), as the case may be, make up into separate sealed packets –

- (a) the counterfoils of the ballot papers that have been issued;
- (b) the ballot papers that have not been issued;
- (c) the unused ballot papers;
- (d) the spoilt ballot papers; and
- (e) the marked copy of the final register,

and, at a polling station used for polling for more than one Village, make separate sealed packets for each Village, in the presence of the persons who are present in the polling station.

(2) The Presiding Officer shall, as soon as practicable after complying with subsection (1), deliver –

- (a) the sealed ballot box or boxes; and
- (b) the sealed packets referred to in subsection (1),

to the Returning Officer or the relevant Returning Officers.

(3) If it is impracticable to make delivery under subsection (2), the Presiding Officer shall deposit the sealed ballot box or boxes and sealed packets in –

- (a) a safe place within the polling station;
- (b) if there is no safe place referred to in paragraph (a), a safe place within a police station or a public building close to the polling station; or
- (c) if there is no safe place referred to in paragraph (a) or (b), a safe place within a secure building close to the polling station,

until the delivery becomes practicable.

(4) Upon the delivery to the Returning Officer or the relevant Returning Officers of the sealed ballot box or boxes and sealed packets under subsection (2), the Returning Officer or the relevant Returning Officers shall –

- (a) take such steps as are determined by the Commission for the purpose of ensuring the safety and security of the sealed ballot box or boxes and sealed packets; and
- (b) remain in charge of the sealed ballot box or boxes and sealed packets and be responsible for their safety and security until the resumption of the poll.

**76. Procedure after postponement or adjournment of counting**

If the counting of the votes in respect of a poll is postponed or adjourned, the Returning Officer shall –

- (a) (in the case of adjournment) cease the counting;
- (b) deposit the ballot box or ballot boxes (whether opened or not), the ballot papers (whether counted or not), the verification statement, all other materials delivered to him under section 53(2) and such other materials relating to the election as he considers appropriate in –
  - (i) a safe place within the counting station;
  - (ii) if there is no safe place referred to in subparagraph (i), a safe place within a police station or a public building close to the counting station; or
  - (iii) if there is no safe place referred to in subparagraph (i) or (ii), a safe place within a secure building close to the counting station;
- (c) take such steps as are determined by the Commission for the purpose of ensuring the safety and security of the materials so deposited; and
- (d) remain in charge of the materials so deposited and be responsible for their safety and security until the conduct or resumption of the counting of the votes.

**77. Resumption of postponed or adjourned polling or counting**

- (1) If a poll is postponed, the Commission shall appoint –
  - (a) a date within the prescribed period after the date of the postponed poll as the new polling day; and
  - (b) the polling hours on the new polling day.
- (2) If a poll is adjourned, the Commission shall appoint –

- (a) a date within the prescribed period after the date of the adjourned poll as the day on which the polling shall resume; and
- (b) the polling hours for the resumed polling.

(3) If the counting of the votes in respect of a poll is postponed, the Commission shall appoint a date within the prescribed period after the date of the postponed counting as the day on which the counting shall be conducted.

(4) If the counting of the votes in respect of a poll is adjourned, the Commission shall appoint a date within the prescribed period after the date of the adjourned counting as the day on which the counting shall resume.

(5) As soon as practicable after an appointment under subsection (1), (2), (3) or (4), as the case may be, is made, the Commission shall –

- (a) publish a notice of the appointment in the Gazette; or
- (b) announce the appointed date and, where applicable, the appointed polling hours by such other means as the Commission considers appropriate.

(6) The appointment of a date under this section for holding a village by-election shall be subject to section 21(2) and (3) of the Election Ordinance.

(7) In subsections (1), (2), (3) and (4), “prescribed period” (訂明限期) means –

- (a) 2 days in the case of –
  - (i) a postponement under section 72(1) due to an occurrence referred to in section 72(1)(e);
  - (ii) an adjournment under section 72(2) due to an occurrence referred to in section 72(2)(e);
  - (iii) an adjournment under section 73(1) due to an occurrence referred to in section 73(1)(c); or
  - (iv) an adjournment under section 73(2) due to an occurrence referred to in section 73(2)(c); or
- (b) 14 days in any other case.

## PART 9

## MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

**78. Certain officers cannot act as candidate's agent**

A Returning Officer, an Assistant Returning Officer, a Presiding Officer, a polling officer and a counting officer may not act as –

- (a) an election agent;
- (b) an election expense agent;
- (c) a polling agent; or
- (d) a counting agent,

in relation to an election.

**79. Employees of candidates shall not act as electoral officers**

No person shall, while in the employment of a candidate, act as –

- (a) a Returning Officer;
- (b) an Assistant Returning Officer;
- (c) a Presiding Officer;
- (d) a polling officer; or
- (e) a counting officer,

at an election.

**80. Act done in the absence of candidates or agents still valid**

If an act is required or authorized under this Regulation to be done in the presence of –

- (a) a candidate or all candidates; or
- (b) an election agent, a polling agent or a counting agent,

that act shall not be invalid solely for the reason that such person or persons are not present when the act is performed.

**81. Declaration of secrecy**

- (1) No person (other than a person specified in subsection (2)) shall –
  - (a) enter a polling station or a counting zone without making a declaration of secrecy in the specified form; or
  - (b) stay in a polling station or a counting zone without carrying with him the declaration of secrecy.
- (2) The following persons are specified for the purposes of subsection (1) –
  - (a) an elector who comes to a polling station for the purpose of voting;
  - (b) a child accompanying an elector who comes to a polling station for the purpose of voting;
  - (c) a police officer on duty at a polling station or a counting station; and
  - (d) a member of the Civil Aid Service on duty at a polling station or a counting station.
- (3) A declaration of secrecy –
  - (a) by a Returning Officer shall be made in the presence of a commissioner defined in section 2 of the Oaths and Declarations Ordinance (Cap. 11); or
  - (b) by any other person shall be made in the presence of –
    - (i) a Returning Officer;
    - (ii) a member of the Commission;
    - (iii) a justice of the peace;
    - (iv) a commissioner referred to in paragraph (a); or
    - (v) the Chief Electoral Officer.

**82. Secrecy**

- (1) No person shall –



- (a) subject to subsection (2), divulge to any person whether an elector has or has not applied for a ballot paper or voted;
  - (b) communicate to another person any information obtained at the counting of the votes as to the candidate for whom a vote has been given on any particular ballot paper;
  - (c) interfere with an elector when he is marking the ballot paper;
  - (d) interfere with or attempt to interfere with a ballot box, a ballot paper (including a ballot paper that has not been counted pursuant to section 62), a copy of the final register, a statement prepared under section 63(6) or a verification statement;
  - (e) without the permission of the Returning Officer or the Presiding Officer, obtain or attempt to obtain in any manner within a polling station, a no canvassing zone or a no staying zone information as to the candidate for whom an elector is about to vote or has voted;
  - (f) communicate to another person any information obtained within a polling station as to the candidate for whom an elector is about to vote or has voted; or
  - (g) directly or indirectly induce an elector to display a ballot paper marked by the elector so as to make known to any person any information as to the candidate for whom the elector has voted.
- (2) Subsection (1)(a) does not apply to –
- (a) any act authorized by law; or
  - (b) anything done at the direction of a police officer or an officer of the Independent Commission Against Corruption investigating an offence under –

- (i) sections 3, 4 and 8 of the Prevention of Bribery Ordinance (Cap. 201);
- (ii) section 13B of the Independent Commission Against Corruption Ordinance (Cap. 204);
- (iii) the Electoral Affairs Commission Ordinance (Cap. 541); or
- (iv) the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

### **83. Manner of giving notice**

(1) Notices under the following provisions may be sent by hand, by post or by facsimile transmission –

- (a) section 12(1) (decision on validity of nomination);
- (b) section 24(2) (appointment of election agents or election expense agents);
- (c) section 24(4) (revocation of appointment of election agents or election expense agents);
- (d) section 25(1) (notice to candidates of appointment of election agents);
- (e) section 29(1) (polling notice);
- (f) section 34(2) (boundaries of no canvassing zone and no staying zone);
- (g) section 34(5) (variation of no canvassing zone and no staying zone);
- (h) section 36(4) (appointment of polling agents);
- (i) section 36(6) (revocation of appointment of polling agents);
- (j) section 42(4) (allocation of candidate numbers by drawing of lots);
- (k) section 55(3) (place and time of counting of votes);

- (l) section 56(4) (appointment of counting agents); or
- (m) section 56(6) (revocation of appointment of counting agents).

(2) A notice under section 34(5) may be given orally if sending it in accordance with subsection (1) is not practicable or is not suitable in the circumstances.

#### **84. Specified forms**

(1) The Commission may specify forms for the purposes of this Regulation on –

- (a) nomination of candidates; and
- (b) withdrawal of candidature.

(2) The Director of Home Affairs may specify forms (other than those referred to in subsection (1)) for the purposes of this Regulation.

(3) Forms specified under subsections (1) and (2) shall be made available by the Director of Home Affairs –

- (a) free of charge; and
- (b) during ordinary business hours at his office.

(4) Subsection (3) does not apply to the specified forms referred to in –

- (a) section 16(2) (notice declaring candidates to be duly elected in uncontested election);
- (b) section 25(2) (notice to candidates of appointment of election agents);
- (c) section 29(1) (polling notice); and
- (d) section 54(2) (ballot paper account).

#### **85. Limit on Returning Officer's power to delegate**

A Returning Officer may not delegate to an Assistant Returning Officer –

- (a) the power under section 27 of the Election Ordinance to decide on the validity of a nomination;
- (b) a determination under section 63(2); or
- (c) the declaration of the result of an election under section 31(7) of the Election Ordinance.

#### **86. Powers, duties and functions of Director of Home Affairs**

(1) The Director of Home Affairs is subject to the directions of the Commission in the performance of his functions under this Regulation.

(2) The Director of Home Affairs may delegate his powers, duties or functions under this Regulation to a member of the staff of the Department of Home Affairs.

#### **87. Reporting of irregularities**

(1) If the Director of Home Affairs is of the opinion that an irregularity has occurred in relation to an election, a poll or the counting of votes in respect of a poll, or a Returning Officer or a Presiding Officer is of the opinion that an irregularity has occurred in relation to an election, a poll or the counting of the votes in respect of a poll, he shall make a report in writing to the Commission.

(2) A report of an irregularity shall be made –

- (a) as soon as practicable after the Director of Home Affairs or the Officer concerned becomes aware of it; and
- (b) in any case not later than 14 days after the polling day.

(3) If the Director of Home Affairs is of the opinion that a material irregularity has occurred or is likely to occur in relation to an election, a poll or the counting of the votes in respect of a poll, or a Returning Officer or a Presiding Officer is of the opinion that a material irregularity has occurred or is likely to occur in relation to an election, a poll or the counting of the votes in

respect of a poll, he shall immediately make a report to the Commission in such manner as he considers expedient in the circumstances.

(4) If a report is made under subsection (3) otherwise than in writing, the Director of Home Affairs or the Officer concerned shall make a report also in writing –

- (a) as soon as practicable after the making of the first-mentioned report; and
- (b) in any case not later than 30 days after the polling day.

### **88. Election advertisement**

(1) No candidate shall display, distribute or otherwise use an election advertisement unless –

- (a) each election advertisement of the same type is marked in a conspicuous position with a consecutive number in a series beginning with the number “1”;
- (b) he makes beforehand a declaration in the specified form, signed by him, stating the quantity of each type of election advertisement he proposes to display, distribute or otherwise use for the time being for the election;
- (c) he submits beforehand the declaration to the Returning Officer together with –
  - (i) 2 copies of the advertisement;
  - (ii) where it is not practicable to make a copy of the advertisement, 2 colour photographs in postcard size of the advertisement; or
  - (iii) where the advertisement is recorded on a video tape or an audio tape or disc, 2 copies of the tape or disc; and
- (d) he submits beforehand to the Returning Officer –

- (i) a copy of the permission or other authorization given or obtained for the purposes of section 104A(1) of the Public Health and Municipal Services Ordinance (Cap. 132); and
- (ii) in case the advertisement is of a kind referred to in section 27(1) or (2) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), a copy of the consent in writing referred to in section 27(1) or (2), as the case may be, of that Ordinance.

(2) A copy each of any declaration, permission, authorization, consent, election advertisement, photograph, tape or disc submitted to the Returning Officer under subsection (1) shall be made available by him for inspection by the public –

- (a) free of charge;
- (b) at an office of the Returning Officer specified by him; and
- (c) during ordinary business hours,

until the end of the period during which copies of election returns lodged by candidates are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

(3) If any requirement in this section has not been complied with in relation to an election advertisement, the Returning Officer may –

- (a) cover the advertisement with such materials as he considers appropriate; or
- (b) seize the advertisement and dispose of it in such manner as he considers appropriate.

(4) If the Returning Officer has not been appointed, a reference in this section to the Returning Officer shall be construed as a reference to the Director of Home Affairs.

(5) Subsection (1)(a) does not apply to an election advertisement –

- (a) which is a printed material –

- (i) of or smaller than A4 size, that is, 30 cm x 21 cm;
  - (ii) contained in a single sheet of paper; and
  - (iii) bearing upon it the printer's name and address, number of copies printed and date of printing;
- (b) published in a newspaper required to be registered under section 7 of the Registration of Local Newspapers Ordinance (Cap. 268);
  - (c) to be sent by facsimile or any other form of electronic transmission;
  - (d) in the form of a balloon, T-shirt, cap, badge or carrier bag; or
  - (e) of such other class or type as the Commission may specify by notice published in the Gazette.

#### **89. Offence**

(1) Any person who contravenes section 35(2), (5), (7) or (9), 37(1), 38(2), (4), (5), (7), (9) or (11), 58(3), 59(2), (3), (5) or (7), 78, 79 or 82(1) commits an offence and shall be liable on conviction to a fine at level 2 and to imprisonment for 3 months.

(2) Any person who contravenes section 88(1) commits an offence and shall be liable on conviction to a fine at level 2 and to imprisonment for 6 months.

#### **90. Offence of false statement**

- (1) Any person who –
  - (a) makes a statement which he knows to be false in a material particular in an election related document;
  - (b) recklessly makes a statement which is incorrect in a material particular in an election related document; or
  - (c) omits a material particular in an election related document,

commits an offence.

(2) Any person (“the first-mentioned person”) who directly or indirectly by himself or by another person on his behalf conspires with, incites, compels, induces, coerces, intimidates or persuades any other person to –

- (a) make a false statement; or
- (b) provide information which the first-mentioned person knows to be wrong in a material particular,

in an election related document commits an offence.

(3) A person who commits an offence under this section shall be liable on conviction to a fine at level 2 and to imprisonment for 6 months.

(4) An offence under subsection (1) or (2) is an offence prescribed for the purposes of sections 9(1)(d)(iv), 14(d)(iii) and 23(1)(e)(iv) of the Election Ordinance.

(5) In this section, “election related document” (與選舉有關的文件) means a form, declaration, application, notice, statement or nomination form required or used for the purposes of the Election Ordinance or this Regulation.



SCHEDULE 1

[s. 41]

FORMS OF BALLOT PAPERS FOR A VILLAGE  
ORDINARY ELECTION/VILLAGE BY-ELECTION

FORM 1

BALLOT PAPER TO BE USED FOR ELECTION FOR  
AN EXISTING VILLAGE

FORM 2(a)  
BALLOT PAPER TO BE USED FOR ELECTION FOR  
AN INDIGENOUS VILLAGE

FORM 2(b)  
BALLOT PAPER TO BE USED FOR ELECTION FOR  
AN INDIGENOUS VILLAGE  
(MORE THAN ONE VACANCY)

FORM 3  
BALLOT PAPER TO BE USED FOR ELECTION FOR A COMPOSITE  
INDIGENOUS VILLAGE

## SCHEDULE 2

[s. 67]

FORMS FOR THE NOTICE OF RESULT OF ELECTION UNDER  
SECTION 36 OF THE VILLAGE REPRESENTATIVE  
ELECTION ORDINANCE  
(2 OF 2003)

## FORM 1

## NOTICE OF RESULT OF ELECTION FOR AN EXISTING VILLAGE

《選舉程序(村代表選舉)規例》

ELECTORAL PROCEDURE (VILLAGE REPRESENTATIVE  
ELECTION) REGULATION

選舉結果公告

NOTICE OF RESULT OF ELECTION

\*鄉村一般選舉/鄉村補選

現有鄉村居民代表選舉

\*(鄉村名稱)

**\*VILLAGE ORDINARY ELECTION/VILLAGE BY-ELECTION  
ELECTION OF RESIDENT REPRESENTATIVE FOR EXISTING VILLAGE**

\*(NAME OF VILLAGE)

1. 於\* 年 月 日舉行的上述選舉的結果公布如下 -

The following is a statement of the result of the above election held on \*(date) -

候選人編號	候選人姓名	所得票數
<i>Candidate Number</i>	<i>Name of Candidate</i>	<i>Number of Votes Given to the Candidate</i>


2. 特此公布下列候選人\*(依據以抽籤方式決定的選舉結果)當選為上述現有鄉村的居民代表 –

It is hereby notified that the following candidate is declared to be elected as a Resident Representative for the above-mentioned Existing Village \*(pursuant to a result determined by drawing lots) –

\*(當選的候選人姓名)

\*(Name of Candidate Elected)

\*(選舉主任姓名)

\*(鄉村名稱)選舉主任

\*(日期)

\*(date)

\*(Name of Returning Officer)

Returning Officer for \*(Name of Village)

\*Only the appropriate information will be printed.

FORM 2  
NOTICE OF RESULT OF ELECTION FOR AN  
INDIGENOUS VILLAGE

《選舉程序(村代表選舉)規例》

ELECTORAL PROCEDURE (VILLAGE REPRESENTATIVE  
ELECTION) REGULATION

選舉結果公告

**NOTICE OF RESULT OF ELECTION**

\*鄉村一般選舉/鄉村補選

原居鄉村原居民代表選舉

\*(鄉村名稱)

**\*VILLAGE ORDINARY ELECTION/VILLAGE BY-ELECTION  
ELECTION OF INDIGENOUS INHABITANT REPRESENTATIVE FOR  
INDIGENOUS VILLAGE**

\*(NAME OF VILLAGE)

1. 於\*        年        月        日舉行的上述選舉的結果公布如下 -

The following is a statement of the result of the above election held on \*(date) -

候選人編號 <i>Candidate Number</i>	候選人姓名 <i>Name of Candidate</i>	所得票數 <i>Number of Votes Given to the Candidate</i>


2. 特此公布下列候選人\*(依據以抽籤方式決定的選舉結果)當選為上述原居鄉村的原居民代表 –

It is hereby notified that the following \*candidate(s) \*is/are declared to be elected as an Indigenous Inhabitant Representative for the above-mentioned Indigenous Village \*(pursuant to a result determined by drawing lots) –

候選人編號 <i>Candidate Number</i>	當選的候選人姓名 <i>Name of Candidate Elected</i>

\*(日期)

\*(date)

\*(選舉主任姓名)

\*(鄉村名稱)選舉主任

\*(Name of Returning Officer)

Returning Officer for \*(Name of Village)

\*Only the appropriate information will be printed.



FORM 3  
NOTICE OF RESULT OF ELECTION FOR A COMPOSITE  
INDIGENOUS VILLAGE

《選舉程序(村代表選舉)規例》

ELECTORAL PROCEDURE (VILLAGE REPRESENTATIVE  
ELECTION) REGULATION

選舉結果公告

NOTICE OF RESULT OF ELECTION

\*鄉村一般選舉/鄉村補選

共有代表鄉村原居民代表選舉

\*(鄉村名稱)

\*VILLAGE ORDINARY ELECTION/VILLAGE BY-ELECTION  
ELECTION OF INDIGENOUS INHABITANT REPRESENTATIVE FOR  
COMPOSITE INDIGENOUS VILLAGE

\*(NAME OF VILLAGE)

1. 於\*            年        月        日舉行的上述選舉的結果公布如下 -

The following is a statement of the result of the above election held on \*(date) -

候選人編號 <i>Candidate Number</i>	候選人姓名 <i>Name of Candidate</i>	所得票數 <i>Number of Votes Given to the Candidate</i>

2. 特此公布下列候選人\*(依據以抽籤方式決定的選舉結果)當選為上述共有代表鄉村的原居民代表 –

It is hereby notified that the following candidate is declared to be elected as an Indigenous Inhabitant Representative for the above-mentioned Composite Indigenous Village \*(pursuant to a result determined by drawing lots) –

\*(當選的候選人姓名)

\*(Name of Candidate Elected)

\*(日期)

\*(date)

\*(選舉主任姓名)

\*(鄉村名稱)選舉主任

\*(Name of Returning Officer)

\*Returning Officer for \*(Name of Village)

\*Only the appropriate information will be printed.

Made this                      day of                      2003.

WOO Kwok-hing, J.A.  
Chairman,  
Electoral Affairs Commission

Norman LEUNG Nai-pang  
Member,  
Electoral Affairs Commission

Elizabeth S. C. SHING  
Member,  
Electoral Affairs Commission

### **Explanatory Note**

This Regulation provides for the procedure for the election of Village Representatives conducted under the Village Representative Election Ordinance (2 of 2003) (the “Election Ordinance”).

2. Section 1 provides for the commencement date of the Regulation and section 2 sets out the definitions of the terms used in the Regulation.

3. Section 3 provides that the Regulation applies to a village ordinary election and a village by-election.

4. Part 2 provides for nomination of candidates and withdrawal of candidature. The Director of Home Affairs (the “Director”) must determine the nomination period (section 5). The Director must publish a notice of the nomination period and manner of nomination (section 4). Section 7 sets out the requirements as regards nomination. The Returning Officer (“RO”) must notify a candidate of his decision on the validity of the nomination (section 12). RO has to give reasons if he decides that a nomination is invalid (section 11). Section 14 makes provision for withdrawal of candidature under the Election Ordinance. If the number of validly nominated candidates is not more than the number of Village Representatives to be returned for a Village at the election, RO must publish a Gazette notice (section 16). This Part also provides for the other stages of an election before the poll. If the election fails, or if the proceedings for the election are terminated due to the death or disqualification of a candidate, RO must give notice and make a declaration (sections 17, 18, 19, 20 and 21).

5. Part 3 makes provision for appointment of election agents and election expense agents. Each candidate may appoint one election agent. The election agent may, subject to several exceptions, handle electoral affairs on behalf of the candidate (section 22). A candidate may appoint any number of election expense agents who may incur election expenses on behalf of the candidate (section 23). Appointment and removal of agents is effected by giving notice to RO (section 24).

6. Part 4 deals with polling arrangement. Polling hours are appointed by the Director (section 27). The Director may designate any public premises or hire private premises as a polling station (section 28). A polling notice providing information on voting must be sent to the electors (section 29). RO is empowered to appoint polling officers and a Presiding Officer (“PRO”) who is to preside at a polling station (section 31). A copy of the final register of electors is to be sent to every candidate for the Village concerned to facilitate electioneering (section 32).

7. RO may designate and vary a no canvassing zone and a no staying zone outside a polling station (section 34). Sections 35 and 38 empower RO and PRO to keep order at such zones and at the polling station. A range of misconduct is prohibited.

8. Under section 36, candidates may appoint not more than 2 polling agents to attend at a polling station to observe voting.

9. Part 5 deals with ballot boxes, ballot papers and voting procedure. Design of ballot boxes, sealing of ballot boxes, and design of ballot papers are provided for (sections 39, 40, 41 and 42). Procedures for issuing ballot papers are also prescribed (sections 43 and 45). If a person is suspected of having engaged in corrupt conduct of impersonation, he may be arrested (section 44).

10. Section 47 provides for voting procedure to be observed by the electors. Circumstances in which PRO has to mark the words “TENDERED”, “UNUSED” and “SPOILT” on ballot papers are provided for (sections 50, 51 and 52). Sections 53 and 54 require PRO to seal the ballot box or boxes, pack the ballot papers and prepare a ballot paper account after the close of the poll.

11. Part 6 provides for counting of the votes. RO has to determine the time at which the counting of the votes begins (section 55). A candidate may appoint such number of counting agents as RO may determine to attend at a counting station to observe the counting (section 56). Members of the public may also observe the counting so long as the counting is not disturbed or disrupted (section 58). Section 59 empowers RO to keep order at a counting station. A

range of misconduct is prohibited. Sections 60 and 61 set out the counting procedure. In particular, ballot papers are to be counted in the manner specified in section 61(1)(a) (sorting and counting manually) or section 61(1)(b) (calling out the name of the candidate for whom a vote is given). Section 62 sets out what ballot papers are not to be counted. Validity of questionable ballot papers is to be determined by RO under section 63. After the completion of counting, RO has to prepare a verification statement (section 64) and declare and publish the election result (sections 66 and 67). A candidate or his election agent may request a re-count (section 65).

12. Part 7 deals with disposal of all election related documents.

13. Part 8 makes provision for the procedure to be observed when there is postponement or adjournment of polling or counting of the votes. The Electoral Affairs Commission is empowered by section 72 to postpone or adjourn the polling or the counting of the votes in certain circumstances. Section 73 provides for the adjournment of polling or counting of the votes at a particular polling station or counting station. Steps to be taken upon such postponement or adjournment are set out in sections 74 to 77.

14. Part 9 contains miscellaneous provisions. Sections 78 and 79 ensure impartiality of electoral officers. Section 82 provides for maintenance of secrecy of the election proceedings. Section 88 makes provision for election advertisement. Sections 89 and 90 deal with a range of offences under the Regulation.

15. Schedule 1 sets out the forms of the ballot papers for an Existing Village, an Indigenous Village and a Composite Indigenous Village.

16. Schedule 2 sets out the forms for the notice of the result of election for an Existing Village, an Indigenous Village and a Composite Indigenous Village.

## **BACKGROUND INFORMATION ON VILLAGE REPRESENTATIVE ELECTIONS**

### **INTRODUCTION**

#### General Background

A system of village representation has evolved in the New Territories over the decades. The arrangements for electing Village Representatives have also developed over time. Village Representative elections have been held for some 700 villages, including both indigenous and non-indigenous villages. However, the vast majority of these villages are indigenous villages.

2. Since August 1994, Village Representative elections have been held every four years in accordance with a set of election rules known as the Model Rules for the Conduct of Village Representative Elections, or the "Model Rules". A person elected as a Village Representative has to be approved by the Secretary for Home Affairs.

3. Mr. Chan Wah of Po Toi O in Sai Kung and Mr. Tse Kwan Sang of Shek Wu Tong in Yuen Long challenged the validity of the electoral arrangements for the office of village representatives of these two villages by judicial review proceedings. Both Mr. Chan and Mr. Tse were born and brought up in these two villages and have lived there all their lives. Furthermore, Mr. Chan is married to an indigenous inhabitant. Under the electoral arrangements made in 1999 for the office of village representatives of these two villages, Mr. Chan was excluded as a voter and Mr. Tse was excluded from standing as a candidate on the ground they are not indigenous inhabitants (i.e., persons who can establish patrilineal descent from an ancestor who was a resident of a village that was in existence in the New Territories in 1898).

4. The 1999 electoral arrangements used in the Shek Wu Tong were ruled by the Court of Final Appeal to be inconsistent with Article 21(a) of the Hong Kong Bill of Rights Ordinance, and the arrangements used in Po Toi O were ruled to be inconsistent with both Article 21(a) of the Hong Kong Bill of Rights Ordinance and section 35(3) of the Sex Discrimination Ordinance. The 1999 arrangements were based on the Model Rules. Many other indigenous villages used similar

arrangements.

5. The Court of Final Appeal also ruled that the Secretary for Home Affairs, in deciding whether to approve an elected Village Representative, has to consider whether the person elected to represent a village was elected in accordance with electoral arrangements which are consistent with the Bill of Rights and the Sex Discrimination Ordinance.

6. In view of the ruling of the Court of Final Appeal, there have been calls on the Government to bring Village Representative elections under a statutory framework.

### Review

7. The Government recognizes the need to reform Village Representative elections to ensure that they are conducted in an open, fair and honest manner and that they are consistent with the Bill of Rights and the Sex Discrimination Ordinance.

8. A working group was set up in April 1999 to review the procedure and arrangements for rural elections. An interim report was made in October 1999. The report recommended that the conduct of Village Representative elections should be brought under statutory control.

9. Having consulted the Heung Yee Kuk and representatives of the Rural Committees, the Home Affairs Bureau and the Home Affairs Department have completed a further review on rural elections. The Village Representative Election Ordinance is enacted to provide for and regulate Village Representative elections.

### The New Arrangements for Village Representative Elections

10. The main elements of the new arrangements for Village Representative elections are as follows:

#### General

- (a) Village Representative elections should be held for indigenous villages (Indigenous Villages or Composite Indigenous Villages) and existing village settlements (Existing Villages) now included in the village representation



system in the New Territories;

- (b) all Village Representatives should be elected;
- (c) the Electoral Affairs Commission should be empowered to supervise and to make regulations governing the conduct of Village Representative elections;
- (d) all Village Representatives should be members of the Rural Committee of the area in which the Village is located;
- (e) to tie in with the term of office of the Rural Committee office holders and members and that of the Heung Yee Kuk office holders, Village Representatives should hold office for 4 years from 1 April after the election, except that the Village Representatives returned at an election in 2003 will hold office for 3 years and 6 months from 1 October 2003;
- (f) an election for the Village Representative should be held at least 1 but no earlier than 3 months before the new term of the Village Representative is to begin;
- (g) a candidate for the office of village representative should be nominated by at least 5 registered electors;

#### Types of Village Representatives

- (h) there should be two types of Village Representatives:-
  - (i) an Indigenous Inhabitant Representative for an Indigenous Village or a Composite Indigenous Village; and
  - (ii) a Resident Representative for an Existing Village;
- (i) an Indigenous Inhabitant Representative (or Representatives) for an Indigenous Village or a Composite Indigenous Village should be elected by an electorate comprising the indigenous inhabitants of the Village;
- (j) the functions of an Indigenous Inhabitant Representative for an Indigenous Village or a Composite Indigenous Village are

to reflect views on the affairs of the Village (including the affairs of the Existing Village concerned) on behalf of the 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;

- (k) a Resident Representative for an Existing Village should be elected by an electorate comprising the residents living in the Village;
- (l) the function of a Resident Representative for an Existing Village is to reflect views on the affairs of the Village on behalf of the residents of the Village;
- (m) a person could register as an elector for both an Indigenous Village (or a Composite Indigenous Village) and an Existing Village, if he or she is both an indigenous inhabitant of the Indigenous Village and a resident in the Existing Village;
- (n) no person should be allowed to stand as a candidate in more than one Village at the same time;

#### Number of Village Representatives

- (o) the current number of Indigenous Inhabitant Representatives (ranging from 1 to 5) for an Indigenous Village or a Composite Indigenous Village would be retained;
- (p) there would be one Resident Representative for an Existing Village;

#### Transitional Arrangements

- (q) since the terms of office of the Village Representatives returned at an election in 2003 will begin on 1 October 2003, the existing terms of office of Heung Yee Kuk office holders should be extended until 30 September 2003, and the existing terms of office of Rural Committee office holders and members and Village Representatives approved by the Secretary for Home Affairs should be extended until 30 September 2003, to ensure that there is no gap in their terms

of office; and


- (r) the next terms of office of Heung Yee Kuk office holders and Rural Committee office holders and members should be 3 years and 6 months so as to re-align their terms of office with the normal 4 years' term.





## FORM 2(b)

BALLOT PAPER TO BE USED FOR ELECTION FOR AN INDIGENOUS VILLAGE  
(MORE THAN ONE VACANCY)

<b>存根</b>	<b>*(編號)</b>
<b>COUNTERFOIL</b>	<b>*(Serial Number)</b>
《選舉程序 (村代表選舉) 規例》	
<b>ELECTORAL PROCEDURE (VILLAGE REPRESENTATIVE ELECTION) REGULATION</b>	<b>選票</b>
<b>*鄉村一般選舉 / 鄉村補選</b>	<b>BALLOT</b>
原居鄉村原居民代表選舉	<b>PAPER</b>
*(鄉村名稱)	
<b>*VILLAGE ORDINARY ELECTION / VILLAGE BY-ELECTION</b>	
<b>ELECTION OF INDIGENOUS INHABITANT REPRESENTATIVE</b>	
<b>FOR INDIGENOUS VILLAGE</b>	
<b>*(NAME OF VILLAGE)</b>	
*(選舉日期)	
*(date of election)	
<b>最多只可選 *(空缺數目) 名</b>	<b>VOTE FOR UP TO *(NUMBER OF VACANCIES) ONLY</b>
<p>請用投票站提供的印章，在所選候選人(不可超過*(空缺數目)名)姓名旁的圓圈內蓋上 ✓ 號。</p> <p>Please use the chop provided at the polling station to stamp a ✓ in the circle opposite the names of not more than *(number of vacancies) candidates of your choice.</p>	
	
<b>1</b>	*(候選人提名公告上顯示的候選人姓名) *(Name of candidate as shown in Notice of Nominations)
<b>2</b>	
<b>3</b>	
<b>4</b>	
<b>5</b>	
<b>6</b>	

## FORM 3

## BALLOT PAPER TO BE USED FOR ELECTION FOR A COMPOSITE INDIGENOUS VILLAGE

<b>存根</b> <b>COUNTERFOIL</b>	*(編號) *(Serial Number)
<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>《選舉程序(村代表選舉)規例》  <b>ELECTORAL PROCEDURE (VILLAGE REPRESENTATIVE ELECTION) REGULATION</b></p> <p><b>*鄉村一般選舉 / 鄉村補選</b>            共有代表鄉村原居民代表選舉            *(鄉村名稱)  <b>*VILLAGE ORDINARY ELECTION / VILLAGE BY-ELECTION</b>  <b>ELECTION OF INDIGENOUS INHABITANT REPRESENTATIVE FOR COMPOSITE INDIGENOUS VILLAGE</b>            *(NAME OF VILLAGE)</p> <p>*(選舉日期)            *(date of election)</p> </div> <div style="width: 35%; text-align: center;"> <p><b>選票</b>  <b>BALLOT PAPER</b></p> </div> </div>	
<b>只選一名 VOTE FOR ONE ONLY</b>	
<p style="text-align: center;">請用投票站提供的印章，在所選候選人姓名旁的圓圈內蓋上 ✓ 號。          Please use the chop provided at the polling station to stamp a ✓ in the circle opposite the name of candidate of your choice.</p> <div style="text-align: right; font-size: 2em; margin-top: 10px;">✓</div>	
<b>1</b>	<p>*(候選人提名公告上顯示的候選人姓名)          *(Name of candidate as shown in Notice of Nominations)</p> <div style="text-align: right; width: 50px; height: 50px; border: 1px solid black; border-radius: 50%; margin-left: auto;"></div>
<b>2</b>	<div style="text-align: right; width: 50px; height: 50px; border: 1px solid black; border-radius: 50%; margin-left: auto;"></div>
<b>3</b>	<div style="text-align: right; width: 50px; height: 50px; border: 1px solid black; border-radius: 50%; margin-left: auto;"></div>

\* Only the appropriate information will be printed.