

Village Representative Election (Registration of Electors) (Appeals) Regulation
(Made under section 65 of the Village Representative Election
Ordinance (2 of 2003))

1. Interpretation

In this Regulation, unless the context otherwise requires---

"appeal" (上訴) means an appeal against a decision of the Electoral Registration Officer under section 19(1) of the Ordinance;

"appellant" (上訴人) means a person who has made an appeal by lodging a notice of claim or a notice of objection under the EAC Regulation;

"authorized representative" (獲授權代表), in relation to an appellant or a person in respect of whom an objection is made, means a person authorized in writing by the appellant or that person;

"claim" (申索) means a claim made under section 24, in accordance with section 25, of the EAC Regulation;

"EAC Regulation" (《選管會規例》) means the Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation 盞(L.N. 47 of 2003);

"final register" (正式選民登記冊) has the same meaning as in section 1 of the EAC Regulation;

"first provisional register" (首份臨時選民登記冊) has the same meaning as in section 1 of the EAC Regulation;

"hearing date" (聆訊日期), in relation to a notice of claim or a notice of objection, means the date fixed under section 2(1)(a) to hear the claim or objection to which the notice relates;

"notice of claim" (申索通知書) means a notice of claim within the meaning of section 25(1) of the EAC Regulation;

"notice of hearing" (聆訊通知書) means a notice the Revising Officer is required to send under section 2(1)(b);

"notice of objection" (反對通知書) means a notice of objection within the meaning of section 23(1) of the EAC Regulation;

"objection" (反對) means an objection made under section 23 of the EAC Regulation;

"party" (方、一方) means an appellant or a person in respect of whom an objection is made;

"provisional register" (臨時選民登記冊) has the same meaning as in section 1 of the EAC Regulation;

"subsequent provisional register" (繼後的臨時選民登記冊) means a provisional register compiled after the first provisional register.

2. Fixing a hearing date and notifying the appellant

(1) When the Revising Officer receives a copy of a notice of claim or a notice of objection from the Electoral Registration Officer, he shall, as soon as practicable---

(a) subject to subsections (4) and (5), fix a date, time and place for holding a hearing in respect of the claim or the objection to which the notice relates; and

(b) send by post, a notice of hearing ---

(i) to the appellant; and

(ii) if the hearing is in respect of a notice of objection, also to the person in respect of whom the objection is made.

(2) A notice of hearing sent to a party shall---

(a) state that a hearing is to be held in respect of the claim or the objection;

(b) specify the date, time and place fixed for the hearing; and

(c) state that the party---

(i) may appear in person at the hearing and make representations to the Revising Officer regarding the claim or objection;

(ii) may be represented at the hearing by a legal practitioner or an authorized representative who may make representations on his behalf; or

(iii) whether or not he appears or is represented, may make representations in writing regarding the claim or objection and submit them, by post or by hand, at an address (which shall be specified in the notice) to reach the Revising Officer not later than 1 day before the date fixed for the hearing.

(3) A notice of hearing sent to an appellant shall also state that if---

(a) the Electoral Registration Officer does not make representations to the Revising Officer at the hearing; and

(b) the appellant---

(i) does not appear at the hearing;

(ii) is not represented at the hearing by a legal practitioner or an authorized representative; and

(iii) does not make representations in writing regarding the claim or objection to be received by the Revising Officer not later than 1 day before the hearing date, the decision of the Electoral Registration Officer to which the notice of claim or the notice of objection relates shall stand.

(4) If a copy of a notice of claim or notice of objection is lodged with the Revising Officer in respect of the first provisional register on or before 5 May 2003, the hearing date in respect of that notice---

(a) shall be after 22 April 2003 but not later than 15 May 2003; and

(b) shall not be earlier than the third day after the date on which the notice is received.

(5) If a copy of a notice of claim or notice of objection is lodged with the Revising Officer in respect of a subsequent provisional register on or before 23 September of the year for which the relevant register is being compiled, the hearing date in respect of that notice---

(a) shall be after 10 September but not later than 30 September in that year; and
(b) shall not be earlier than the third day after the day on which the notice is received.

3. Disposal of appeal

(1) If, in respect of a claim or objection fixed for hearing---

(a) the Electoral Registration Officer does not make representations to the Revising Officer at the hearing; and

(b) the appellant---

(i) does not appear at the hearing;

(ii) is not represented at the hearing by a legal practitioner or an authorized representative; and

(iii) does not make representations in writing regarding the claim or objection to be received by the Revising Officer not later than 1 day before the hearing date, the decision of the Electoral Registration Officer to which the notice of claim or the notice of objection relates shall stand.

(2) In a case other than that referred to in subsection (1), the Revising Officer shall make a ruling allowing or dismissing the claim or the objection.

4. Revising Officers notify parties of outcome of appeal

(1) If the Electoral Registration Officer's decision stands pursuant to section 3(1), the Revising Officer shall notify the appellant and, if applicable, the person in respect of whom the objection is made.

(2) If the Revising Officer makes a ruling under section 3(2), the Revising Officer shall notify the appellant and, if applicable, the person in respect of whom the decision is made, of the ruling.

(3) A notification under subsection (1) or (2) shall be sent by post or facsimile transmission to---

(a) the appellant;

(b) the person in respect of whom the objection is made, if applicable;

(c) the legal practitioner who represented the party at the hearing; or

(d) the authorized representative of the party concerned.

(4) The appellant or the person in respect of whom the objection is made, as the

case may be, may apply for a review of the ruling made by the Revising Officer under section 3(2) not later than 2 days after the date on which the notification under subsection (3) is sent.

(5) An application under subsection (4) shall be made in such form as may be specified by the Electoral Registration Officer.

5. Electoral Registration Officer to be notified of rulings

(1) The Revising Officer shall notify the Electoral Registration Officer in respect of each notice of claim or notice of objection---

(a) that the Electoral Registration Officer's decision is to stand; or

(b) of the ruling of the Revising Officer,

as may be appropriate, in accordance with subsection (2).

(2) If the hearing is concluded---

(a) after 22 April 2003 but on or before 15 May 2003, the Revising Officer shall notify the Electoral Registration Officer on or before 26 May 2003; and

(b) in the year for which a subsequent provisional register is being compiled, after 10 September but on or before 30 September in that year, the Revising Officer shall notify the Electoral Registration Officer on or before 12 October in that year.

6. Determination of matters and powers of adjournment, etc.

(1) The Revising Officer shall determine every matter to be determined by him under this Regulation as soon as practicable.

(2) The hearing of an appeal shall, as far as is practicable having regard to the interest of justice, be continued from day to day (excluding general holidays) until its conclusion.

(3) Subject to subsection (2), the hearing and determination of any such matter may be adjourned at any time to a date not later than the last day of the relevant period referred to in section 7(2).

7. Review of rulings by Revising Officer

(1) Subject to subsection (2), the Revising Officer may---

(a) on his own initiative;

(b) for good cause shown by the Electoral Registration Officer; or

(c) on application under section 4(4) by---

(i) an appellant; or

(ii) a person in respect of whom the objection is made, review any ruling made under section 3(2), and for that purpose may rehear the matter wholly or in part and reverse or confirm his previous ruling.

(2) A ruling under section 3(2), made---

(a) after 22 April 2003 but on or before 15 May 2003, may only be reviewed on or before 19 May 2003; and

(b) after 10 September but on or before 30 September in the year for which a subsequent provisional register is being compiled, may only be reviewed on or before 5 October in that year.

(3) The Revising Officer shall determine the procedure for a review under subsection (1).

8. Approval of Revising Officer in relation to Electoral Registration Officer's proposal

When the Electoral Registration Officer seeks the Revising Officer's approval under section 28(2) of the EAC Regulation in relation to the compilation of a final register, the Revising Officer shall, as soon as practicable, make a determination and notify the Electoral Registration Officer of his determination.

9. Revising Officer may require Electoral Registration Officer to provide information

The Revising Officer may require the Electoral Registration Officer to provide any information that the Revising Officer considers necessary for him to make a determination under this Regulation.

10. Revising Officer is required to determine forms, appropriate person and mode of service when exercising his powers

When exercising the powers referred to in section 53(4) of the Ordinance, the Revising Officer may---

(a) determine the forms to be used;

(b) determine, having regard to the circumstances of the case, who is the appropriate person to serve a summons issued by the Revising Officer on the person to whom the summons is directed; and

(c) determine, having regard to the circumstances of the case, the mode of service of a summons referred to in paragraph (b).

Dr. Patrick C. P. HO

Secretary for Home Affairs

19 February 2003

Explanatory Note

The object of this Regulation is to provide the procedures for the exercise of the right to appeal to a Revising Officer, against any decision made by an Electoral Registration Officer for the purposes of the Village Representative Election Ordinance (2 of 2003).

2. Section 2 requires the Revising Officer to fix a date, time and place for holding

a hearing in respect of any notice of claim or notice of objection lodged under the Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation (L.N. 47 of 2003). The Revising Officer is required to inform the appellant and, in the case of a notice of objection, the person in respect of whom the objection is made---

(a) the date, time and place of the hearing; and

(b) his right to make representations, in person or in writing, or to be represented by a legal practitioner or an authorized representative.

3. Section 3 provides for the disposal of an appeal. Where the Electoral Registration Officer does not make representations at the hearing and, if the appellant---

(a) does not appear in person;

(b) is not represented by a legal practitioner or an authorized representative; and

(c) does not make written representation,

the decision of the Electoral Registration Officer shall stand. In any other case, the Revising Officer shall make a ruling.

4. Section 4 requires the Revising Officer to notify the appellant and, if applicable, the person in respect of whom the objection is made, of the outcome of the hearing.

5. Section 5 requires that the Electoral Registration Officer be notified of the outcome of the hearings in respect of each notice of claim or notice of objection.

6. Section 6 requires that a hearing be continued, as far as is practicable, from day to day and also enables the adjournment of any hearing.

7. Section 7 enables the Revising Officer to review his own rulings within specified time.

8. Section 8 requires the Revising Officer to notify the Electoral Registration Officer, as soon as practicable, of his determination in relation to any approval sought from him in respect of the compilation of a final register.

9. Sections 9 and 10 respectively enable the Revising Officer to require the Electoral Registration Officer to provide information and to determine the forms, appropriate person to serve and the mode of service of a summons when exercising his powers.