

**VILLAGE REPRESENTATIVE ELECTION LEGISLATION
(MISCELLANEOUS AMENDMENTS) BILL 2009**

CONTENTS

Clause Page

PART 1

PRELIMINARY

- | | | |
|----|--------------------|------|
| 1. | Short title | C245 |
| 2. | Commencement | C245 |

PART 2

AMENDMENTS TO VILLAGE REPRESENTATIVE ELECTION ORDINANCE

- | | | |
|-----|--|------|
| 3. | Interpretation | C247 |
| 4. | How long a Village Representative holds office..... | C247 |
| 5. | Who is entitled to vote at an election | C247 |
| 6. | Who is eligible to be registered as an elector | C247 |
| 7. | Electoral Registration Officer to compile and publish registers
of electors | C249 |
| 8. | Secretary to specify dates for village ordinary elections..... | C249 |
| 9. | Term of office of an approved Village Representative | C249 |
| 10. | Section added | |
| | 69. Transitional provisions relating to Village
Representative Election Legislation (Miscellaneous
Amendments) Ordinance 2009..... | C249 |
| 11. | Existing Village..... | C251 |
| 12. | Indigenous Village..... | C253 |
| 13. | Composite Indigenous Village | C255 |

Clause		Page
14.	Schedule 5 added	
	Schedule 5 Transitional provisions relating to Village Representative Election Legislation (Miscellaneous Amendments) Ordinance 2009	C255

PART 3

AMENDMENTS TO VILLAGE REPRESENTATIVE ELECTION (REGISTRATION OF ELECTORS) (APPEALS) REGULATION

15.	Interpretation	C259
16.	Fixing a hearing date and notifying the appellant	C259
17.	Revising Officers notify parties of outcome of appeal	C259
18.	Electoral Registration Officer to be notified of rulings	C259
19.	Review of rulings by Revising Officer	C261
20.	Approval of Revising Officer in relation to Electoral Registration Officer's proposal	C261

PART 4

AMENDMENTS TO ELECTORAL AFFAIRS COMMISSION (REGISTRATION OF ELECTORS) (VILLAGE REPRESENTATIVE ELECTION) REGULATION

21.	Interpretation	C261
22.	When to apply for registration in first provisional register and applications received after deadline	C261
23.	When to apply for registration in provisional registers compiled after first provisional register	C261
24.	ERO may require further particulars or proof	C263
25.	ERO may make inquiries about persons registered in existing final register	C263
26.	ERO to prepare omissions list	C263

Clause		Page
27.	ERO to publish notice that omissions list is available for public inspection	C263
28.	ERO to correct entries in existing final register when compiling next provisional register	C263
29.	What is to be contained in provisional register	C265
30.	ERO to publish notice that provisional register is available for public inspection	C265
31.	Objection regarding registered person in provisional register	C265
32.	How to lodge notice of claim.....	C265
33.	ERO to correct entries in provisional register when compiling final register.....	C265
34.	ERO to correct entries in provisional register with approval of Revising Officer	C267
35.	What is to be contained in final register.....	C267
36.	ERO to publish notice of final register and to make final register available for public inspection	C267

PART 5

AMENDMENTS TO ELECTORAL PROCEDURE (VILLAGE
REPRESENTATIVE ELECTION) REGULATION

37.	Offence.....	C267
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A BILL

To

Amend the Village Representative Election Ordinance and certain items of subsidiary legislation relating to village representative elections—

- (a) to include the villages known as “Lai Pek Shan” and “Yuen Long Kau Hui” as Existing Villages and Indigenous Villages for the purposes of village representative elections;
- (b) to make minor amendments to the names of certain Villages;
- (c) to revise the time frames concerning appeals to Revising Officers and the registration of electors;
- (d) to increase the maximum penalty for certain electoral offences;
- (e) to remove spent references; and
- (f) to provide for related matters.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title

This Ordinance may be cited as the Village Representative Election Legislation (Miscellaneous Amendments) Ordinance 2009.

2. Commencement

This Ordinance comes into operation on 16 November 2009.

PART 2

AMENDMENTS TO VILLAGE REPRESENTATIVE ELECTION
ORDINANCE

3. Interpretation

(1) Section 2(1) of the Village Representative Election Ordinance (Cap. 576) is amended by repealing the definitions of “first final register”, “first provisional register” and “first village ordinary election”.

(2) Section 2(1) is amended, in the definition of “village ordinary election”, by repealing paragraph (a) and substituting—

“(a) the first election held to elect a person as a Village Representative for the Village; or”.

4. How long a Village Representative holds office

(1) Section 7(1) is repealed.

(2) Section 7(2) is amended by repealing “any subsequent” and substituting “a”.

5. Who is entitled to vote at an election

Section 13(3)(b), in the Chinese text, is repealed and the following substituted—

“(b) 對有關的人可就關乎上述選舉的投票的罪行被檢控和定罪一事造成影響。”.

6. Who is eligible to be registered as an elector

(1) Section 15(2) is repealed.

(2) Section 15(4)(c) is amended by repealing everything after “will be an adult” and substituting “on or before 20 October next following the person’s application for registration; and”.

(3) Section 15(5)(b) is amended by repealing everything after “will be an adult” and substituting “on or before 20 October next following the person’s application for registration;”.

7. Electoral Registration Officer to compile and publish registers of electors

(1) Section 17(1)(a) is amended by repealing “22 April 2003 and not later than 10 September in each subsequent” and substituting “27 August in each”.

(2) Section 17(1)(b) is amended by repealing “3 June 2003 and not later than 20 October in each subsequent” and substituting “20 October in each”.

(3) Section 17(4)(c) is amended by repealing “who have made applications for registration since the date” and substituting “whose applications for registration are received by the Electoral Registration Officer during the period”.

(4) Section 17(7) and (8) is repealed.

8. Secretary to specify dates for village ordinary elections

(1) Section 20(1) is repealed.

(2) Section 20(2) is amended by repealing everything after “fourth year” and substituting “after the first election held to elect a person as a Village Representative for the Village in the year in which the office of village representative is established.”.

9. Term of office of an approved Village Representative

Section 63 is repealed.

10. Section added

The following is added—

“69. Transitional provisions relating to Village Representative Election Legislation (Miscellaneous Amendments) Ordinance 2009

Schedule 5 sets out transitional provisions relating to the Village Representative Election Legislation (Miscellaneous Amendments) Ordinance 2009 (of 2009).”.

11. Existing Village

Schedule 1 is amended—

- (a) in item 36—
 - (i) by repealing “Chung Sam Wai (忠心圍)” and substituting “Wang Chau Chung Sam Wai (橫洲忠心圍)”;
 - (ii) by renumbering it as item 625A;
- (b) in item 43, by repealing “Fanling (粉嶺)” and substituting “Fanling Wai (粉嶺圍)”;
- (c) in item 54—
 - (i) by repealing “Fuk Hing Tsuen (福慶村)” and substituting “Wang Chau Fuk Hing Tsuen (橫洲福慶村)”;
 - (ii) by renumbering it as item 625B;
- (d) in item 108, by repealing “Kai Kuk Shue Ha and Ham Hang Mei (雞谷樹下及鹹坑尾)” and substituting “Kai Kuk Shue Ha and Nam Hang Mei (雞谷樹下及南坑尾)”;
- (e) in item 112, by repealing “Kam Tin San Tsuen (錦田新村)” and substituting “Kam Tin Shing Mun San Tsuen (錦田城門新村)”;
- (f) by adding—

“154A. Lai Pek Shan	VEB/2009/	1 April	1	Tai Po Rural
(犁壁山)	P/TP-94	2011		Committee”;
- (g) in item 160—
 - (i) by repealing “Lam Uk Tsuen (林屋村)” and substituting “Wang Chau Lam Uk Tsuen (橫洲林屋村)”;
 - (ii) by renumbering it as item 625C;
- (h) in item 343—
 - (i) by repealing “Sai Tau Wai (西頭圍)” and substituting “Wang Chau Sai Tau Wai (橫洲西頭圍)”;
 - (ii) by renumbering it as item 625D;
- (i) in item 494—
 - (i) by repealing “Tai Mon Che (大芒輦)” and substituting “Tai Yeung Che (大陽輦)”;
 - (ii) by renumbering it as item 535A;
- (j) in item 618—
 - (i) by repealing “Tung Tau Wai (東頭圍)” and substituting “Wang Chau Tung Tau Wai (橫洲東頭圍)”;
 - (ii) by renumbering it as item 625E;
- (k) in item 669—

- (i) by repealing “Yeung Uk Tsuen (楊屋村)” and substituting “Wang Chau Yeung Uk Tsuen (橫洲楊屋村)”;
- (ii) by renumbering it as item 625F;
- (l) by adding—

“686A.	Yuen Long Kau Hui (元朗舊墟)	VEB/2009/ M/SPH-31	1 April 2011	1	Shap Pat Heung Rural Committee”.
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12. Indigenous Village

Schedule 2 is amended—

- (a) in item 33—
 - (i) by repealing “Chung Sam Wai (忠心圍)” and substituting “Wang Chau Chung Sam Wai (橫洲忠心圍)”;
 - (ii) by renumbering it as item 529A;
- (b) in item 39, by repealing “Fanling (粉嶺)” and substituting “Fanling Wai (粉嶺圍)”;
- (c) in item 47—
 - (i) by repealing “Fuk Hing Tsuen (福慶村)” and substituting “Wang Chau Fuk Hing Tsuen (橫洲福慶村)”;
 - (ii) by renumbering it as item 529B;
- (d) in item 100, by repealing “Kam Tin San Tsuen (錦田新村)” and substituting “Kam Tin Shing Mun San Tsuen (錦田城門新村)”;
- (e) by adding—

“134A.	Lai Pek Shan (犁壁山)	1 April 2011	1	Tai Po Rural Committee”;
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- (f) in item 139—
 - (i) by repealing “Lam Uk Tsuen (林屋村)” and substituting “Wang Chau Lam Uk Tsuen (橫洲林屋村)”;
 - (ii) by renumbering it as item 529C;
- (g) in item 295—
 - (i) by repealing “Sai Tau Wai (西頭圍)” and substituting “Wang Chau Sai Tau Wai (橫洲西頭圍)”;
 - (ii) by renumbering it as item 529D;
- (h) in item 420—
 - (i) by repealing “Tai Mon Che (大芒輦)” and substituting “Tai Yeung Che (大陽輦)”;
 - (ii) by renumbering it as item 455A;

- (i) in item 521—
- (i) by repealing “Tung Tau Wai (東頭圍)” and substituting “Wang Chau Tung Tau Wai (橫洲東頭圍)”;
 - (ii) by renumbering it as item 529E;
- (j) in item 565—
- (i) by repealing “Yeung Uk Tsuen (楊屋村)” and substituting “Wang Chau Yeung Uk Tsuen (橫洲楊屋村)”;
 - (ii) by renumbering it as item 529F;
- (k) by adding—
- | | | | |
|------------------------------------|--------------|---|--|
| “579A. Yuen Long Kau
Hui (元朗舊墟) | 1 April 2011 | 1 | Shap Pat
Heung Rural
Committee”. |
|------------------------------------|--------------|---|--|

13. Composite Indigenous Village

Schedule 3 is amended, in item 4—

- (a) by repealing “Kai Kuk Shue Ha and Ham Hang Mei (雞谷樹下及鹹坑尾)” and substituting “Kai Kuk Shue Ha and Nam Hang Mei (雞谷樹下及南坑尾)”;
- (b) by repealing “Ham Hang Mei (鹹坑尾)” and substituting “Nam Hang Mei (南坑尾)”.

14. Schedule 5 added

The following is added—

“SCHEDULE 5

[s. 69]

TRANSITIONAL PROVISIONS RELATING TO VILLAGE REPRESENTATIVE
ELECTION LEGISLATION (MISCELLANEOUS AMENDMENTS)
ORDINANCE 2009

1. Interpretation

In this Schedule—

“amending Ordinance” (《修訂條例》) means the Village Representative Election Legislation (Miscellaneous Amendments) Ordinance 2009 (of 2009);

“new Village” (新鄉村) means—

- (a) the Existing Village known as “Lai Pek Shan” which is added into Schedule 1 by section 11(*f*) of the amending Ordinance;
- (b) the Existing Village known as “Yuen Long Kau Hui” which is added into Schedule 1 by section 11(*l*) of the amending Ordinance;
- (c) the Indigenous Village known as “Lai Pek Shan” which is added into Schedule 2 by section 12(*e*) of the amending Ordinance; or
- (d) the Indigenous Village known as “Yuen Long Kau Hui” which is added into Schedule 2 by section 12(*k*) of the amending Ordinance.

2. The first village ordinary election for a new Village

The first election to elect a person as a Village Representative for a new Village is to be held in 2011.

3. Registration of electors for new Villages

Section 15(1)(*a*) of this Ordinance does not apply in relation to the registration of a person as an elector for a new Village in the first provisional register, or the first final register, to be compiled and published for that new Village after the commencement of the amending Ordinance.

4. Compilation of first provisional registers for new Villages

Section 17(3), (4)(*a*) and (*b*), (5) and (6) of this Ordinance does not apply in relation to the compilation of the first provisional register for a new Village after the commencement of the amending Ordinance.

5. Compilation of first provisional registers for renamed Villages

In relation to a Village the name of which is amended by section 11, 12 or 13 of the amending Ordinance, the first provisional register for the renamed Village to be compiled and published after the commencement of the amending Ordinance is to be based on the existing final register for the Village, before its name was so amended, that was in effect immediately before the commencement of the amending Ordinance.”.

PART 3

**AMENDMENTS TO VILLAGE REPRESENTATIVE ELECTION
(REGISTRATION OF ELECTORS) (APPEALS) REGULATION**

15. Interpretation

(1) Section 1 of the Village Representative Election (Registration of Electors) (Appeals) Regulation (Cap. 576 sub. leg. A) is amended by repealing the definition of “first provisional register”.

(2) Section 1 is amended, in the definition of “provisional register”, by repealing the semicolon and substituting a full stop.

(3) Section 1 is amended by repealing the definition of “subsequent provisional register”.

**16. Fixing a hearing date and notifying
the appellant**

(1) Section 2(1)(a) is amended by repealing “subsections (4) and” and substituting “subsection”.

(2) Section 2(4) is repealed.

(3) Section 2(5) is amended—

(a) by repealing “subsequent”;

(b) by repealing “23 September” and substituting “9 September”.

(4) Section 2(5)(a) is amended—

(a) by repealing “10 September” and substituting “27 August”;

(b) by repealing “30 September” and substituting “23 September”.

**17. Revising Officers notify parties
of outcome of appeal**

Section 4(4) is amended by repealing “2 days” and substituting “4 days”.

**18. Electoral Registration Officer
to be notified of rulings**

Section 5(2) is repealed and the following substituted—

“(2) The Revising Officer shall notify the Electoral Registration Officer on or before 12 October in the year in which the hearing is concluded.”.

19. Review of rulings by Revising Officer

(1) Section 7(1)(b) is amended, in the Chinese text, by repealing “份” and substituting “分”.

(2) Section 7(2) is repealed and the following substituted—

“(2) A ruling made under section 3(2) may only be reviewed on or before 5 October in the year in which the ruling is made.”.

20. Approval of Revising Officer in relation to Electoral Registration Officer’s proposal

Section 8 is amended, in the English text, by repealing “setion” and substituting “section”.

PART 4

AMENDMENTS TO ELECTORAL AFFAIRS COMMISSION (REGISTRATION
OF ELECTORS) (VILLAGE REPRESENTATIVE ELECTION)
REGULATION

21. Interpretation

(1) Section 1(1) of the Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation (Cap. 541 sub. leg. K) is amended, in the definition of “application”, by repealing “8 or”.

(2) Section 1(1) is amended by repealing the definitions of “first final register”, “first provisional register” and “second provisional register”.

22. When to apply for registration in first provisional register and applications received after deadline

Section 8 is repealed.

23. When to apply for registration in provisional registers compiled after first provisional register

(1) Section 9 is amended, in the heading, by repealing “**compiled after first provisional register**”.

(2) Section 9(1) is amended by repealing “30 July” and substituting “16 July”.

(3) Section 9(2) is amended by repealing “30 July” wherever it appears and substituting “16 July”.

(4) Section 9(3) is repealed.

24. ERO may require further particulars or proof

(1) Section 12 is amended, in the Chinese text, in the heading, by repealing “及” and substituting “或”.

(2) Section 12(5) is amended by repealing everything after “ERO” and substituting “, which must be a period ending on or before 6 August following the making of the requirement.”.

25. ERO may make inquiries about persons registered in existing final register

Section 17(3) is amended by repealing “14 July” and substituting “30 June”.

26. ERO to prepare omissions list

(1) Section 18(2) is amended by repealing “14 July” and substituting “30 June”.

(2) Section 18(2)(a) is amended by repealing “30 July” and substituting “16 July”.

(3) Section 18(3) is amended by repealing “30 July” and substituting “16 July”.

(4) Section 18(6) is amended by repealing “30 July” and substituting “16 July”.

27. ERO to publish notice that omissions list is available for public inspection

Section 19(2) is amended by repealing “23 September” and substituting “9 September”.

28. ERO to correct entries in existing final register when compiling next provisional register

Section 20(7) is amended by repealing everything after “the compilation of” and substituting “a provisional register, after 9 September of the preceding year, but on or before 16 July of the current year.”.

29. What is to be contained in provisional register

(1) Section 21(1) is repealed.

(2) Section 21(2) is amended by repealing “The second provisional register and any subsequent provisional register are” and substituting “A provisional register is”.

(3) Section 21(2)(c) is amended by repealing everything after “received by the ERO” and substituting “during the period beginning on 17 July of the preceding year and ending on 16 July of the current year.”.

30. ERO to publish notice that provisional register is available for public inspection

Section 22(2) is amended by repealing everything after “published” and substituting “every year, not later than 27 August.”.

31. Objection regarding registered person in provisional register

Section 23(3) is amended by repealing everything after “an entry” and substituting “in a provisional register, on or before 9 September of the current year.”.

32. How to lodge notice of claim

(1) Section 25(4) is amended by repealing everything after “registration” and substituting “in a provisional register, on or before 9 September of the current year.”.

(2) Section 25(5) is amended by repealing “relevant”.

(3) Section 25(8) is amended by repealing “relevant”.

33. ERO to correct entries in provisional register when compiling final register

(1) Section 27(7) is amended by repealing “30 July” and substituting “16 July”.

(2) Section 27(10)(a) is amended by repealing everything after “the compilation of” and substituting “a final register, the period beginning on 17 July of the current year and ending on 9 September of the same year; and”.

(3) Section 27(10)(b) is amended by repealing everything after “the compilation of” and substituting “a final register, 9 September of the current year.”.

34. ERO to correct entries in provisional register with approval of Revising Officer

Section 28(2)(a) is amended by repealing everything after “the compilation of” and substituting “a final register, on or before 5 October of the current year; and”.

35. What is to be contained in final register

Section 29(5) is repealed and the following substituted—

“(5) For the purposes of subsection (1)(b), (2), (3) or (4), in relation to a final register, only decisions made by the Revising Officer after 27 August of the current year, but on or before 5 October of the same year, are to be taken into account.”.

36. ERO to publish notice of final register and to make final register available for public inspection

Section 30(2) is amended by repealing everything after “published” and substituting “every year, not later than 20 October.”.

PART 5

AMENDMENTS TO ELECTORAL PROCEDURE (VILLAGE REPRESENTATIVE ELECTION) REGULATION

37. Offence

(1) Section 89(1) of the Electoral Procedure (Village Representative Election) Regulation (Cap. 541 sub. leg. L) is amended—

(a) by repealing “(4),”;

(b) by repealing “, 79 or 82(1)” and substituting “or 79”.

(2) Section 89(2) is amended by adding “38(4), 82(1) or” after “section”.

Explanatory Memorandum

The main object of this Bill is to amend various enactments relating to village representative elections to include 2 villages, namely “Lai Pek Shan” and “Yuen Long Kau Hui” (“new Villages”) as Existing Villages and Indigenous Villages for the purpose of village representative elections. The names of certain Existing Villages, Indigenous Villages and Composite Indigenous Villages (“Villages”) are also amended. Opportunity is taken to remove the references relating to the village representative elections held in 2003 (“the 2003 elections”) which have become spent.

2. The other object of the Bill is to extend the time limits for handling claims, objections and reviews and for applying for reviews relating to the eligibility of a person to be registered as an elector for a village representative election. The time frames for the compilation and publication of the registers of electors are revised to cater for the extended time limits.

3. The Bill is divided into 5 Parts.

Part 1

4. Part 1 (clauses 1 and 2) contains preliminary provisions. Clause 1 provides for the short title and clause 2 provides for the commencement date of the Bill (when enacted).

Part 2

5. Part 2 (clauses 3 to 14) contains amendments to the Village Representative Election Ordinance (Cap. 576) (“the Ordinance”).

6. Clause 5 makes a textual amendment to the Chinese text of section 13(3)(b) of the Ordinance.

7. Clause 7 amends section 17 of the Ordinance to revise the time frames for the compilation and publication of provisional registers and final registers for the Villages.

8. Clause 10 and the new Schedule 5 to the Ordinance added by clause 14 provide for the transitional provisions relating to the registration of electors and the compilation of the provisional registers for the village representative elections to be held in 2011.

9. Clause 11 amends Schedule 1 to the Ordinance—

- (a) to add the new Villages as Existing Villages; and
- (b) to amend the names of certain Existing Villages.

10. Clause 12 amends Schedule 2 to the Ordinance—

- (a) to add the new Villages as Indigenous Villages; and
- (b) to amend the names of certain Indigenous Villages.

11. Clause 13 amends Schedule 3 to the Ordinance to amend the name of a Composite Indigenous Village.

12. Clauses 3, 4, 6, 7, 8 and 9 repeal provisions in the Ordinance which have become spent.

Part 3

13. Part 3 (clauses 15 to 20) contains amendments to the Village Representative Election (Registration of Electors) (Appeals) Regulation (Cap. 576 sub. leg. A) (“the Appeals Regulation”).

14. Clause 16(3) and (4) amends section 2(5) of the Appeals Regulation to revise the period within which a hearing in respect of a claim or objection must be held.

15. Clause 17 amends section 4(4) of the Appeals Regulation to extend the time limit from 2 days to 4 days for applying for a review of a ruling made by the Revising Officer allowing or dismissing a claim or objection.

16. Clauses 15, 16, 18 and 19 repeal provisions in the Appeals Regulation concerning the 2003 elections which have become spent.

Part 4

17. Part 4 (clauses 21 to 36) contains amendments to the Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation (Cap. 541 sub. leg. K) (“the Registration Regulation”).

18. Clause 23 amends section 9 of the Registration Regulation to revise the deadline for seeking registration in a provisional register.

19. Clause 24(2) amends section 12(5) of the Registration Regulation to revise the time limits for supplying further particulars or proof required by the Electoral Registration Officer (“ERO”) for the purpose of determining a person’s eligibility for registration as an elector.

20. Clause 25 amends section 17(3) of the Registration Regulation to revise the deadline for the ERO to make inquiries about persons registered in an existing final register for the purpose of compiling the next provisional register.

21. Clause 26 amends section 18 of the Registration Regulation to revise the time frame regarding the preparation of an omissions list.

22. Clause 27 amends section 19(2) of the Registration Regulation to revise the period for which an omissions list is to be available for public inspection.

23. Section 20 of the Registration Regulation provides that if, on request or from information obtained within a relevant period, the ERO is satisfied that an entry in the existing final register is incorrect, the ERO must enter the corrected particulars in the next provisional register. Clause 28 amends section 20(7) of that Regulation to revise the relevant period.

24. Section 21(2) of the Registration Regulation provides that a provisional register is to consist of the personal particulars of persons eligible to be registered as electors whose applications are received by the ERO within the period specified in that section. Clause 29 amends section 21(2)(c) of that Regulation to revise that period.

25. Clause 30 amends section 22(2) of the Registration Regulation to revise the deadline for publication of a notice that a provisional register is available for public inspection.

26. Clause 31 amends section 23(3) of the Registration Regulation to revise the deadline for lodging a notice of objection relating to a person's entitlement to be registered as an elector in a provisional register.

27. Clause 32 amends section 25(4) of the Registration Regulation to revise the deadline for lodging a notice of claim relating to a person's entitlement to be registered as an elector in a provisional register.

28. Section 27 of the Registration Regulation provides that if, on request within a relevant period or from information obtained on or before a relevant date, the ERO is satisfied that an entry in a provisional register is incorrect, the ERO must enter the corrected particulars in the next final register. Clause 33 amends section 27(10) of that Regulation to revise the relevant period and the relevant date.

29. Clause 34 amends section 28(2)(a) of the Registration Regulation to revise the deadline for obtaining the approval of the Revising Officer to correct an entry in the final register.

30. Section 29 of the Registration Regulation provides that a final register is to consist of personal particulars in accordance with the rulings made by the Revising Officer within a period. Clause 35 amends section 29(5) of that Regulation to revise that period.

31. Clause 36 amends section 30(2) of the Registration Regulation to revise the deadline for publication of a notice that a final register is available for public inspection.

32. Clauses 21, 22, 24, 29, 30, 31, 32, 33, 34, 35 and 36 repeal provisions in the Registration Regulation concerning the 2003 elections which have become spent.

Part 5

33. Part 5 (clause 37) contains an amendment to the Electoral Procedure (Village Representative Election) Regulation (Cap. 541 sub. leg. L) (“the Procedure Regulation”).

34. Clause 37 amends section 89 of the Procedure Regulation to increase the maximum imprisonment penalty for contravention of any of the following provisions from 3 months to 6 months—

- (a) section 38(4) of that Regulation which prohibits filming, photo-taking, and audio or video recording in a polling station on a polling day without permission;
- (b) section 82(1) of that Regulation which relates to the secrecy of votes.