

**Bills Committee on the Rural Representative Election  
Legislation (Amendment) Bill 2013**

**Information requested by Members  
at the 1<sup>st</sup> Meeting on 3 December 2013**

**Introduction**

At the meeting on 3 December 2013, Members requested the Administration to provide supplementary information on the background of the Village Representative Election Ordinance (VREO) (Cap. 576), the Kaifong Representative (KFR) election system and the requirements on maximum amount of election expenses. This paper provides the information requested.

**(1) Background of VREO**

2. The village representation system had been in place in the New Territories for decades. Village Representatives (VRs) are members of the respective Rural Committees (RCs). In response to the judgement delivered by the Court of Final Appeal on two judicial review cases concerning challenges to the electoral arrangements of the 1999 VR elections, the Government had proposed the enactment of legislation for VR elections. After extensive consultations<sup>1</sup>, the VREO was passed by the Legislative Council in 2003.

3. Under the VREO, villages means:

- (1) indigenous villages already in existence in 1898 (comprising “Indigenous Villages” and “Composite Indigenous Villages”); and
- (2) existing village settlements (i.e. “Existing Villages”)

where village representation system had already been in place in 1999 (when the last round of VR elections was held before the enactment of the VREO).

---

<sup>1</sup> Consultations included the Heung Yee Kuk, District Councils in the New Territories, RCs, the Association for the Promotion of the Rights of New Territories Residents (representing non-indigenous residents) and the Association of New Territories Indigenous Residents; as well as two open forums for residents in the New Territories.

4. After the enactment of the legislation, the number of seats of Indigenous Inhabitant Representatives for each indigenous village (ranging from one to five seats) has been retained and one seat of Resident Representative had been established for each existing village.

#### Cheung Chau and Peng Chau

5. Cheung Chau and Peng Chau are not included in the VREO because they have never had any VR election system, and are not indigenous villages already in existence in 1898. We have made reference to the following records, which indicate that –

- (1) on the List of Established Villages in the New Territories jointly compiled by the Government and the Heung Yee Kuk in 1991 after years of deliberation, it was clearly shown that both Cheung Chau and Peng Chau are “Market Towns” instead of “Villages”;
- (2) the Block Lease of land in the New Territories normally contains the names of villages alongside the names of landowners. However, the Block Lease of Cheung Chau and Peng Chau does not contain any village names; and
- (3) Cheung Chau and Peng Chau are not included in the List of Recognized Villages under the New Territories Small House Policy.

6. When proposed amendments to the VREO were introduced by the Government in 2009, the Legislative Council Panel on Home Affairs and the Bills Committee on Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009 had thorough deliberations on why Cheung Chau had not been included in the VREO, and the Government had given detailed replies<sup>2</sup>. In sum, as Cheung Chau and Peng Chau had not been indigenous villages already in existence in 1898 and had never had any VR election, they had not been brought under the regulation of the VREO.

---

<sup>2</sup> For the Government’s written replies, please refer to LC Paper Nos. CB(2)580/08-09(01), CB(2)1506/08-09(02) and CB(2)2156/08-09(01) (paragraphs 13 to 20).

7. It is worth noting that under the Rural Representative Election Legislation (Amendment) Bill 2013, when the KFR elections are brought under statutory regulation, Cheung Chau and Peng Chau are still “Market Towns” and will not become “Villages”, and that a new term “Rural Area” will include both “Villages” (i.e. Existing Villages, Indigenous Villages and Composite Indigenous Villages) and “Market Town”. KFRs returned by statutory elections in future will not become VRs.

## **(2) KFR Election System**

8. The KFR seats of Cheung Chau RC and Peng Chau RC are established around the 1950/60s. The whole island of Cheung Chau and that of Peng Chau have always been a single constituency, and the block vote system has been in use. At present, each KFR elector on Cheung Chau can vote for not more than 39 candidates while each KFR elector on Peng Chau can vote for not more than 17 candidates. The turnout rates of the KFR elections for Cheung Chau and Peng Chau in 2010 were 29% (2 505 electors) and 57% (1 745 electors) respectively.

9. Our legislative principle is to respect and retain the original number of seats and voting method of the KFR election while bringing it under statutory regulation. This is in line with the principle when regulating VR elections by statute. We consulted Cheung Chau RC and Peng Chau RC on the operational arrangements of the legislative proposal in early 2013 and they both considered that the election system which had been in use for years should remain unchanged.

10. In response to the request made by the Bills Committee on Rural Representative Election Legislation (Amendment) Bill 2013 at the meeting on 3 December 2013, the Government has consulted Cheung Chau RC and Peng Chau RC again. The two RCs maintained that Cheung Chau and Peng Chau should each be retained as a single constituency and objected to the suggestion of dividing Cheung Chau and Peng Chau into a number of constituencies and making any changes to the existing election system. Their reasons are as follows –

- (1) Cheung Chau and Peng Chau have always been a single constituency and the block vote system has been in use for voting in the KFR elections;
- (2) Cheung Chau and Peng Chau are small communities where electors are familiar with the vision, conduct and contributions to the community of the candidates. Electors vote for candidates in recognition of their contributions. Independent candidates stand an equal chance to be elected;
- (3) while candidates may join as a group to campaign, electors may vote for only individual candidates in the group according to their wishes;
- (4) Cheung Chau and Peng Chau are integrated communities where the interests of the residents are interconnected and indivisible;
- (5) if Cheung Chau and Peng Chau are each divided into a number of constituencies, the KFRs elected in future might only represent some of the electors and their interests, affecting the overall development of Cheung Chau and Peng Chau; and
- (6) there is no unfairness under the present electoral arrangements since electors have the rights to nominate, stand for elections and vote in a fair and free manner.

11. The block vote system, i.e. the multi-seat, multi-vote system, is in line with the “first past the post” principle. While electors can vote for a maximum of 39 or 17 candidates in the election, they have the right to vote for a smaller number of candidates or even one candidate. Under the block vote system, electors have the right to choose more than one candidates of their choice. This voting system can therefore reflect more fully the wish of electors in multiple voting, and the legitimacy and representativeness of the elected persons will be enhanced as they may obtain a higher number of votes<sup>3</sup>.

---

<sup>3</sup> In the KFR elections in 2010, the number of votes obtained by the elected persons of Cheung Chau ranged from 561 to 2 059 while the number of votes obtained by the elected persons of Peng Chau ranged from 710 to 1 016.

12. As the area<sup>4</sup> and population of Cheung Chau and Peng Chau are not large, if Cheung Chau and Peng Chau are to be strictly divided into as many as 39 and 17 individual constituencies by population and “one person, one vote” election system is adopted, a candidate will only need a rather small number of votes to win a seat. This may affect the representativeness of the elected person. Also, given that each elector can vote for a maximum of 39 or 17 candidates at present, if Cheung Chau and Peng Chau are divided into a number of constituencies, the number of candidates that each elector can vote for will be less. Rural Representative elections are different from geographical constituency elections of the Legislative Council and elections of the District Councils in that population is not a major consideration for the purpose of delineation of constituency boundaries. Cheung Chau and Peng Chau are each an integrated community and all residents are closely related and their interests are interconnected, division is therefore not appropriate.

13. After comprehensive review and due consideration of the views of the RCs, and having regard to the main objective of the present legislative amendment exercise which is to regulate by statute the long established KFR elections on Cheung Chau and Peng Chau and that the KFR elections on Cheung Chau and Peng Chau have been operating smoothly for years with the election system widely known and accepted by electors and candidates, we consider that the most appropriate arrangement is to retain as far as practicable the elements of the existing KFR elections widely known and accepted by electors and candidates, which include retaining the block vote system and voting on the basis of a single constituency each for Cheung Chau and Peng Chau.

### **(3) Requirements on the Maximum Amount of Election Expenses**

14. The maximum amount of election expenses for public elections is governed by the Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) (Cap. 554) under which the subsidiary legislation prescribes the maximum amount of election expenses that can be incurred by or on behalf of a candidate or a group of candidates (where the list system of voting is used at an election) in various public elections. The legislation does not prohibit different candidates or groups of candidates from conducting joint electioneering

---

<sup>4</sup> The area of Cheung Chau is around 2.46 square kilometres while the area of Peng Chau is around 0.99 square kilometres.

activities (such as publishing joint election advertisements). The expenses incurred, however, shall be shared by the candidates on a pro rata basis according to their respective expenses and declared in the return of election expenses. The above requirements are applicable to all public elections governed by the ECICO (including Legislative Council election, District Councils election, VR election and KFR election after the enactment of the legislation, etc.).

15. In addition, the Electoral Affairs Commission (EAC) has issued guidelines on election-related activities in respect of public elections under section 6 of the Electoral Affairs Commission Ordinance (Cap. 541) to provide a code of conduct for conducting election-related activities and directions for the candidates on how to comply with the relevant electoral legislation. Chapter 4 of the existing Guidelines on Election-related Activities in respect of Village Representative Elections covers election advertisements. It sets out in paragraph 4.29 that candidates may put up joint advertisements for campaigning, and the expenses incurred for the joint election advertisements will have to be borne by the candidates concerned in equal or unequal shares as their respective election expenses, to be calculated by the proportion of the size of the portion advertising each. Other requirements on joint election advertisements include –

- an election advertisement advertising two or more candidates is allowed to be displayed on the designated spots allocated to the candidates concerned;
- the total area of all the spaces actually occupied for joint advertisements and for advertising each one of the joined candidates (i.e. measured by the dimension of election advertisements) should not exceed the total area of the designated spots allocated to each of the candidates and subject to size restriction; and
- section 23 of ECICO provides that only the candidate himself or his election expense agent(s) may incur election expenses on behalf of the candidate. Moreover, under section 27 of ECICO, if the election advertisement of a candidate implies that the candidate has the support of another person, the candidate must have the written consent of that person before publishing the election advertisement.

Therefore, the candidates should secure the written consent of support from the person concerned and ensure that an authorisation by the election expense agent(s) was obtained before publishing the joint election advertisement in order to comply with the requirements in sections 23 and 27 under the ECICO.

Guidelines on election-related activities issued by EAC in respect of other public elections also contain the above requirements on joint election advertisement.

16. After the passage of the Rural Representative Election Legislation (Amendment) Bill 2013, the above requirements will also be applicable to the KFR election.

17. As other public elections (including those public elections adopting the block vote system<sup>5</sup>) do not prohibit different candidates or groups of candidates from conducting joint electioneering activities (including the publication of joint election advertisements), we consider it sufficient to stipulate only the maximum amount of election expenses to be incurred by each candidate.

18. As regards the maximum amount of election expenses, the existing requirement in the VR election (i.e. the maximum amount of election expenses is \$18,000 where there are 1 000 or fewer electors; and \$28,000 where there are over 1 000 electors) will also be applicable to the KFR election after the enactment of the legislation.

19. As the number of electors was as many as 8 600 in the KFR election on Cheung Chau in 2010, which were four times more than that of the village with the most electors at present<sup>6</sup>, we consider that it is necessary to introduce a new

---

<sup>5</sup> Public elections adopting the block vote system include –

- (1) Election Committee Subsector Elections (depending on the subsector, electors can vote for a maximum of 16 to 60 candidates);
- (2) Labour Functional Constituency Election of the Legislative Council (Electors can vote for a maximum of three candidates); and
- (3) Indigenous Inhabitant Representative Election (depending on the indigenous village, electors can vote for a maximum of five candidates).

<sup>6</sup> According to the final register of electors of 2013, the village with the most electors is Sheung Shui Heung (indigenous village) with a total of 2 040 electors.

tier of maximum amount of election expenses. After consulting the EAC and the Independent Commission Against Corruption, we propose to stipulate the maximum amount of election expenses that can be incurred by each candidate or by other persons on behalf of each candidate at \$38,000 for Rural Representative elections with more than 5 000 electors. As mentioned at the meeting on 3 December 2013, KFR elections were conducted administratively in the past and there was no specified limit on election expenses, we have no record of the actual election expenses incurred by candidates previously. Nevertheless, as the proposed new tier of maximum amount of election expenses will be applicable to both VR elections and KFR elections with more than 5 000 electors, reference has been made to the actual election expenses incurred by candidates in the VR elections in 2011 when drawing up the proposed amount<sup>7</sup>.

**Home Affairs Department**  
**December 2013**

---

<sup>7</sup> In the 2011 VR elections, the highest actual election expense incurred by candidates of Sheung Shui Heung (indigenous village) was \$7,000 (i.e. the election expenses spent on each elector by a candidate were \$3.43). In the KFR election in 2010, there were about 8 600 electors on Cheung Chau. Under the proposed limit of election expenses (\$38,000), the maximum amount of election expenses that a candidate can spend on each elector is \$4.42, which is around the current level actually incurred in VR elections.