

# 立法會

## *Legislative Council*

LC Paper No. CB(2)404/13-14(03)

Ref : CB2/BC/1/13

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

#### **Background brief prepared by the Legislative Council Secretariat**

#### **Purpose**

This paper provides background information on the Administration's proposal to regulate Kaifong Representative ("KFR") elections for Cheung Chau and Peng Chau by statute and summarizes the deliberations by the Panel on Home Affairs ("the Panel") on the legislative proposal.

#### **Background**

##### Village Representative ("VR") elections

2. According to the Administration, there are three levels of election in the villages of the New Territories, namely the election of VRs, Rural Committees ("RCs") and Heung Yee Kuk ("HYK"). In accordance with the Village Representative Election Ordinance (Cap. 576) ("VREO"), VRs are members of their respective RCs, of which the Chairmen and Vice-Chairmen are elected on a one-person-one-vote basis. While the Chairmen of RCs are ex-officio members of the relevant District Councils ("DCs"), the Chairmen and Vice-Chairmen of RCs are ex-officio councillors of HYK. The Chairman and Vice-Chairman of HYK are also returned on a one-person-one-vote basis from the councillors of HYK. HYK functional constituency is one of the functional constituencies in Legislative Council ("LegCo") election. The HYK functional constituency is composed of the Chairman and Vice-Chairmen of HYK and the ex-officio, special and co-opted councillors of the full Council of HYK.

3. Under VREO, VR elections are held for indigenous villages (comprising Indigenous Villages and Composite Indigenous Villages<sup>1</sup>) already in existence in

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<sup>1</sup> Composite Indigenous Villages are villages that comprise more than one indigenous village where there indigenous inhabitants jointly elect their Indigenous Inhabitant Representatives.

1898, and existing village settlements (i.e. Existing Villages) already included in the village representation system in the New Territories in 1999 when the last round of VR elections was held before the enactment of VREO. VR elections are conducted every four years. Since 2003, three rounds of such elections, including the latest 2011 VR elections concluded on 23 January 2011, have been held.

4. There are two types of VRs, namely Indigenous Inhabitant Representatives ("IIRs") for indigenous villages, and Resident Representatives ("RRs") for Existing Villages. The functions of an IIR are to reflect views on the affairs of an indigenous village on behalf of the indigenous inhabitants of that 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. The function of an RR is to reflect views on the affairs of an Existing Village on behalf of the residents of that village. There will be one RR for each Existing Village. An RR shall not deal with any affairs relating to the lawful traditional rights and interests of indigenous inhabitants.

#### Kaifong Representative elections

5. According to the Administration, KFR seats have existed in the Cheung Chau RC and the Peng Chau RC since the 1950/60s. KFRs currently make up all of the 39 seats in Cheung Chau RC, and 17 out of 21 seats in Peng Chau RC, with around 8 600 and 3 100 electors respectively. Similar to RRs, the function of KFRs is to reflect views of Cheung Chau and Peng Chau residents on local affairs.

6. At present, KFR elections are conducted administratively according to the respective RC's constitution once every four years. The elections are supported by the staff of the Islands District Office, with the Islands District Officer ("DO") serving as the Returning Officer and being responsible for providing all logistical support and handling election complaints, etc.

7. According to the LegCo Brief on the Rural Representative Election Legislation (Amendment) Bill 2013 ("the Amendment Bill") [File Ref.: HAD HQ CR/11/15/8/(C)], as KFR election is not statute-based, the Administration is facing a number of operational difficulties and inadequacies in conducting the election. For instance, claims and objections in relation to the register of electors can only be determined by the Islands DO, not by magistrates appointed by the Chief Justice as Revising Officers ("ROs"), as in the case of elector registration for VR election. Under the existing system, all election complaints and petitions are handled by the Islands DO, with no independent authority to review his or her decision. In the absence of statutory authorization, Islands DO has difficulties in making arrangements for persons under custody to register as electors, or for registered electors in custody to cast their votes in the election.

Islands DO also has no statutory power to request other departments (e.g. the Housing Department ("HD"), the Registration and Electoral Office ("REO") and the Immigration Department ("ImmD")) to provide from their records information on the electors, so as to verify their eligibility and registration particulars.

## **The Amendment Bill**

### Proposal to bring KFR election under statutory regulation

8. The Amendment Bill seeks to introduce statutory regulation of KFR election for Cheung Chau and Peng Chau, which are the market towns in which the last KFR ordinary election was held in 2010. In view of the similarities between KFRs and RRs, the Administration proposes to extend the existing legislative framework concerning VR election (particularly RR election) to KFR elections to be held in and after 2015.

9. Under the Amendment Bill, VREO will be renamed as "Rural Representative Election Ordinance", with a new term "Rural Representative" covering both VR and KFR. The Electoral Affairs Commission Ordinance (Cap. 541) ("EACO"), the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO") and other related legislation will also be amended to apply to KFR elections.

### Voting and counting arrangements

10. Currently, votes in VR elections are counted manually. Considering the relatively large number of electors and candidates in KFR elections, the Administration proposes to introduce computer counting<sup>2</sup> to facilitate the vote counting process, and to introduce "roundtable counting"<sup>3</sup> as an alternative fallback counting method. The Administration also proposes to align the counting arrangements for VR and KFR elections with those for LegCo and DC elections. With the introduction of computer counting, the voting procedures for VR and KFR elections will be adjusted accordingly.

### Maximum amount of election expense to be incurred by each candidate

11. Currently, the maximum amount of election expenses that can be incurred by or on behalf of a candidate in VR election is \$18,000 where there are 1 000 or fewer electors; and \$28,000 where there are over 1 000 electors. In view of the larger number of electors in KFR elections, the Administration proposes that

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<sup>2</sup> The Administration intends to adopt the Optical Mark Recognition System used in Election Committee Subsector elections.

<sup>3</sup> In "roundtable counting", the candidate(s) marked on each ballot paper will be recorded on forms and counted by counting staff sitting roundtable.

where there are over 5 000 electors, the maximum amount of election expense that can be incurred be set at \$38,000.

### **Deliberations by the Panel**

12. The Panel discussed at its meeting on 12 July 2013 the legislative proposal to bring KFR election under statutory control from the ordinary election in 2015 onwards. The views and concerns expressed by Panel members are summarized below.

#### Legislative proposal in relation to KFR election

13. Members in general were supportive of the Administration's proposal to extend the provisions of VREO and other VR-related legislation (including EACO and ECICO) to cover KFR elections. Members were concerned whether the Administration had consulted the relevant parties on the proposal.

14. The Administration advised that the proposal was agreed by the Working Group formed between Home Affairs Department ("HAD") and HYK, membership of which included representatives of RCs. The Electoral Affairs Commission ("EAC"), Cheung Chau RC and Peng Chau RC were consulted on the proposal to bring KFR elections under statutory control and they all supported the proposal. According to the Administration, the proposal to bring KFR elections under statutory control sought to improve the electoral arrangements for such election. The numbers of KFR seats in Cheung Chau RC and Peng Chau RC would not be changed as a result of the introduction of the legislative proposal for KFR elections.

#### Further improvement measures for VR elections

##### *Reduction in the number of polling days*

15. While expressing support for the Administration's proposal to reduce the number of polling days for the 2015 VR election to three, members considered that VR elections should be held on one polling day in the long run. Members were advised that due to manpower constraints, the polling for VR elections had to be conducted over a number of weekends. The Government had been improving the situation by reducing the number of polling days from 12 days in the first statutory VR election in 2003 to 10 days in 2007 and four days in 2011. Subject to availability of manpower and financial resources and the agreement of EAC, the Administration aimed to further reduce the number of polling days for the VR election in 2015 to three, and it was the Administration's long-term goal to hold the VR elections on one polling day, similar to other public elections sanctioned by EAC.

*Verification of the eligibility of electors and candidates in VR elections*

16. Concern was raised about possible abuse of the procedures for lodging claims, objections and reviews in relation to elector registration and the possibility of the lodging of malicious complaints/appeals by a candidate's competitors in the elections for the purpose of depriving the candidate or his/her supporters of their right to be elected or to vote. Members enquired about the measures for preventing possible abuse of the existing electoral system.

17. According to the Administration's explanation, the elector registration for VR elections operated on the basis of an "honour" system. Under the existing mechanism, the relevant provisional registers of electors would be made available for public inspection. Any person who questioned the eligibility of a person whose name appeared on the provisional register might raise objection through a legal proceeding. ROs, who were magistrates, would make rulings allowing or dismissing such objections. The Administration also pointed out that upon receipt of a complaint, the District Office would conduct investigation into the eligibility of the elector concerned, by cross-checking the registration particulars of the elector concerning his/her status as an indigenous inhabitant or resident of a village. All relevant evidence and information obtained would be placed before ROs for consideration.

18. Members asked about the verification exercise conducted by the Government to ascertain electors' eligibility. The Administration advised that to ensure accuracy of the electors' registers of VR elections and to prevent potential vote-rigging, the Government had stepped up its efforts to verify the eligibility of electors. The verification measures taken by the Administration included (a) investigating into cases where seven or more electors, or five or more electors with different surnames, registered with the same residential address; (b) performing random checks on other registered electors as well as new applicants; (c) cross-checking the particulars of all electors at least annually against the data records of HD, the Hong Kong Housing Society, REO and ImmD; and (d) following-up on undelivered election mail/poll card sent to a registered elector which was returned to HAD. The Administration would continue its efforts on this front as an on-going exercise.

Measures to encourage participation in VR elections

19. Some members were concerned that the overall elector turnout rates of the last three rounds of VR elections were on the downward trend, while the numbers of VR seats left vacant with no valid nomination and the numbers of elected VRs returned uncontested had remained persistently high. They asked about the measures to be taken by the Administration to encourage more people to participate in VR elections.

20. The Administration advised that the Government would organize and launch publicity campaigns to encourage eligible persons to register as electors and to cast their votes in VR elections. The campaigns were supported by a range of key publicity programmes, including broadcasting announcements on television and radio, placing advertisements in newspapers, displaying posters, banners and notices in villages, and putting across the message through RCs and the incumbent VRs. HAD staff also appealed to the local community and villagers in-person.

21. Some members were concerned about the low participation of women and youth in VR elections. Pointing out that there were three levels of election in the villages of the New Territories, they emphasized that the low participation of females and youths in VR elections would have impact on the representativeness of all three levels of rural elections. These members considered that the Administration should formulate a policy and come up with concrete measures to boost female and youth participation in VR elections. The Panel passed a motion urging the Government to step up publicity and to encourage women as well as young people to participate in various levels of rural elections.

22. In its response to the motion passed by the Panel [LC Paper No. CB(2)100/13-14(01)], the Administration advised that it planned to launch a series of publicity and promotion activities to encourage women as well as young people to participate in rural elections. These activities include distributing rural election voter registration forms and leaflets during district activities (especially activities for women and young people), appealing through the Women and Youth Affairs Committee of HYK and carrying out promotions during its activities and stepping up publicity on the Internet.

### **Relevant papers**

23. A list of the relevant papers on the LegCo website is in the **Appendix**.

**Relevant paper on the  
Rural Representative Election Legislation (Amendment) Bill 2013**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Home Affairs	12.7.2013 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>

Council Business Division 2  
Legislative Council Secretariat  
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