

## **Section 1 – Introduction**

### ***Background***

1.1 In accordance with section 21 of the Village Representative Election Ordinance, Cap 576 (“VREO”), the Electoral Affairs Commission (“EAC” or “the Commission”) made arrangements for the conduct of the sixth round of village representative by-election on 15 October 2006 to return 9 Village Representatives (“VRs”) for filling 4 Resident Representative (“RR”) and 5 Indigenous Inhabitant Representative (“IIR”) vacancies in 9 villages. The reasons for conducting the by-election are set out in paragraph 1.3 below.

1.2 The by-election was originally scheduled for November/December, with reference to the recommendation made by the EAC in its *Report on the Village Representative By-election* held in March 2004, which stated that any VR by-elections conducted thereafter should be held twice a year in April/May and November/December, unless there are special circumstances that warrant a departure from the scheduled time. The polling date of the by-election was brought forward to 15 October 2006 to avoid clashing with the nomination period of the 2007 Ordinary Election (which will start in November 2006) and other public holidays in October 2006.

### ***The Vacancies***

1.3 A total of 9 vacancies comprising 4 RR and 5 IIR seats had arisen in 9 villages after the conclusion of the fifth round of VR by-election in May 2006. These vacancies are classified into three different groups as follows:–

- (a) **2 vacancies** – comprising 1 RR and 1 IIR vacant seats in 2

villages. These vacancies arose because 1 elected RR had resigned from his office after being elected, and 1 elected IIR had passed away and the by-election to fill the 2 vacancies held in May 2006 had failed; and

- (b) **4 vacancies** – comprising 3 RR and 1 IIR vacant seats in 4 villages. These vacancies arose because 4 elected representatives (3 RRs and 1 IIR) had passed away; and
- (c) **3 vacancies** – comprising 3 IIR vacant seats in 3 villages. These vacancies arose because 3 elected representatives (3 IIRs) was disqualified under section 9(1)(d) of the VREO.

1.4 The Islands, Tsuen Wan, Tai Po, Sai Kung, Yuen Long and North districts were involved in this election. A list showing details of the vacancies and the dates on which the vacancies were declared in the Gazette notice is at **Appendix I**.

## **Section 2 – Appointments**

### ***Polling Date and Nomination Period***

2.1 Pursuant to section 6 of the Electoral Procedure (Village Representative Election) Regulation, Cap 541L, the Director of Home Affairs (“DHA”) published a notice in the Gazette on 1 September 2006, appointing 15 October 2006 as the polling day of the by-election and specifying the period from 7 to 20 September 2006, both dates inclusive, as the nomination period. The by-election aimed at returning candidates to fill 4 RR and 5 IIR vacancies in 9 villages. A breakdown of the number of RRs and IIRs to be returned by district is shown in **Appendix II**.

### ***Appointment of Returning Officers, Assistant Returning Officers and Assistant Returning Officer (Legal)***

2.2 In accordance with section 54 of the VREO, the Commission appointed the District Officers (“DOs”) of the six District Offices concerned as Returning Officers (“ROs”) and 12 members of their staff as Assistant Returning Officers (“AROs”). A Senior Government Counsel was appointed as ARO(Legal). The appointment of ROs was published in the Gazette on 1 September 2006. A list of the ROs and AROs is shown at **Appendix III**.

### ***Briefing for Returning Officers and Assistant Returning Officers***

2.3 To enable all parties concerned to be familiarised with the rules and operation of the by-election, the Home Affairs Department (“HAD”) prepared and issued operational manuals to the ROs and AROs as well as the polling and counting staff for reference.

2.4 A briefing for ROs and AROs was held on 29 August 2006 at the Conference Room of the Home Affairs Department. The EAC Chairman, accompanied by the Deputy Director of Home Affairs, representatives from the Independent Commission Against Corruption (“ICAC”) and the Chief Electoral Officer of the Registration and Electoral Office (“REO”) briefed those present on the electoral arrangements and reminded them of the salient provisions of electoral legislation and guidelines. The briefing was concluded with a “Questions and Answers” session.

2.5 A briefing for candidates to be conducted by the EAC Chairman with representatives from the ICAC, DoJ and the REO was scheduled for 23 September 2006. All validly nominated candidates were invited to attend the briefing.

### **Section 3 – Publicity**

3.1 Information on the by-election was published on the websites of the EAC and the HAD throughout the election period for general reference of candidates, electors and the public. Press releases were also issued to publicise the major events of the by-election, eg the nomination period and the polling date. These measures helped to enhance the transparency of and public interest in the by-election.

3.2 Apart from the publicity measures mentioned in paragraph 3.1 above, the HAD had also placed advertisements on local newspapers to invite nominations for the by-election. The efforts were made in response to the EAC’s recommendation in its Report on the January 2006 Village Representative By-election advising the HAD to strengthen the publicity programme in order to encourage greater participation of the villagers in the VR elections.

## **Section 4 – Nomination of Candidates**

### *The Nomination Period*

4.1 The nomination period started on 7 September and ended on 20 September 2006. Candidates handed in their nomination forms to the relevant RO in person. At the close of nomination, the ROs received a total of 6 nominations.

### *Validly Nominated Candidates*

#### *Validity*

4.2 After vetting the nominations, the ROs determined that all the 6 nominations were valid. Of the 6 valid nominations, 3 were for the RR elections, and 3 for the IIR elections.

#### *Uncontested elections*

4.3 Having examined the nominations, the ROs declared that 6 candidates were uncontested, as there was only one validly nominated candidate for each of the villages concerned. The lists of candidates who were returned uncontested in the by-election were published in the Gazette on 29 September 2006 and are shown at **Appendix IV**.

#### *Elections that failed*

4.4 The ROs also declared that the elections of 1 RR and 2 IIRs had failed because there was no validly nominated candidate. The lists of villages where the elections had failed were also published in the Gazette on 29 September 2006 and are shown at **Appendix V**.

4.5 A notice was issued to notify the electors concerned that no poll would be conducted on 15 October 2006 as scheduled. An introductory leaflet on the duly elected candidates was sent to the electors together with the notices.

4.6 The briefing for candidates as mentioned in para 2.5 was cancelled.

## **Section 5 – The Complaints**

### ***Complaints-handling Period***

5.1 The complaints-handling period was originally scheduled to end on the 45<sup>th</sup> day after the polling day. Since the by-elections were uncontested, the ending date of the complaint-handling period was brought forward to 4 November 2006, ie the 45<sup>th</sup> day after the close of the nomination period.

### ***Complaints-handling Parties***

5.2 The parties involved in assisting the EAC to handle complaints included the Complaints Unit of the EAC secretariat, the RO, the Police and the ICAC.

5.3 The Complaints Unit of the EAC secretariat assumed the role of the co-ordinator for collating the complaint-related statistical information from the other parties and compiling a consolidated return for submission to the Commission on a weekly basis during the complaints-handling period.

### ***Number and Nature of Complaints***

5.4 According to the records of the complaint handling bodies, no complaint was received during the complaint-handling period.

## **Section 6 – Review and Recommendation**

6.1 This was the sixth VR by-election conducted under the supervision of the Commission after the first ordinary election held in 2003. Having carefully reviewed the preparation work for conducting the VR by-election, the EAC is satisfied that the electoral arrangements were in general smoothly conducted and the principle of fairness, openness and honesty had been upheld.

6.2 After reviewing the arrangements of the by-election, the EAC was pleased to note that as a result of the HAD's additional efforts to enhance the publicity of this by-election by placing advertisements in local newspapers to invite nominations for the by-election, six nominations were received in this by-election, as against 9 vacant seats. However, there are still three villages which did not receive any nominations.

6.3 **Recommendation:** The Commission recommends that the HAD should make continuous efforts to encourage the participation of the villagers in the VR elections through strengthened publicity measures and other appropriate means such as sending staff to visit the villages before the elections to encourage eligible villagers to participate either as an elector or a candidate in the coming VR Ordinary Election to be held in January 2007.



## **Section 7 – Acknowledgement**

7.1 Although the by-elections were uncontested, the Commission would like to thank all those involved in making the necessary preparations, particularly the HAD Officers who had served as ROs and AROs.

7.2 The Commission is also thankful to the REO for preparing this report.

## **Section 8 – The Way Ahead**

8.1 The imminent task of the EAC/HAD is to prepare for the conduct of the next VR Ordinary Election in January 2007 to return candidates to fill 787 IIRs and 693 RRs for 707 villages. The Commission will continue with its mission to ensure that all public elections are conducted in an open, fair and honest manner.

8.2 The Commission would like to recommend that this report be made public, at a time when the Chief Executive thinks fit, to be in line with the long standing practice to uphold the principle of maintaining transparency of elections.