

Section 1 - Introduction

Background

1.1 The 2015 Rural Ordinary Election (“ROE”) was held on the Sundays in four consecutive weeks during the period from 4 to 25 January 2015 with a view to returning 1,540 Rural Representatives (“RRs”) comprising 695 Resident Representatives (“ReRs”), 789 Indigenous Inhabitant Representatives (“IIRs”) and 56 Kaifong Representatives (“KFRs”) for 709 villages and 2 Market Towns in Cheung Chau and Peng Chau in the New Territories. A total of 1,420 RR (585 ReRs, 779 IIRs and 56 KFRs) were returned. The elections for the remaining 120 RR seats (110 ReRs and 10 IIRs) in 110 Existing Villages (“EVs”) and 9 Indigenous Villages (“IVs”)/Composite Indigenous Village (“CIV”) had failed as there was no validly nominated candidate or insufficient registered electors to serve as subscribers. The Returning Officers (“ROs”) concerned declared the failure of the elections for these villages in the Gazette published on 11 December 2014 in accordance with section 29(2) of the Rural Representative Election Ordinance, Cap. 576 (“RREO”).

1.2 2 ReRs and an IIR resigned from the office of RR (designate) in 2 EVs and an IV respectively after the conclusion of the 2015 ROE. Pursuant to section 12 of the RREO, the Director of Home Affairs (“DHA”) declared the existence of these vacancies in the Gazette notices published on 20 March and 17 April 2015 and 23 January 2015 respectively.

The Vacancies

1.3 After the conclusion of the 2015 ROE in January 2015, a total of 112 ReR and 12 IIR vacancies have arisen in 112 EVs and 11 IVs/CIV respectively. These vacancies are classified into 4 different groups as follows:

- (a) **38 vacancies** – comprising 33 ReR vacant seats in 33 EVs and 5 IIR vacant seats in 5 IVs. These vacancies arose because no one sought candidature for these seats in the 2015 ROE (please see paragraph 1.1 above);
- (b) **3 vacancies** – comprising 2 ReR vacant seats in 2 EVs and 1 IIR vacant seat in an IV. These vacancies arose because the elected ReRs and IIR had resigned from their offices (please see paragraph 1.2 above);
- (c) **1 vacancy** for an IIR vacant seat in an IV arose because the elected IIR had passed away; and
- (d) **82 vacancies** – comprising 77 ReR vacant seats in 77 EVs and 5 IIR vacant seats in 4 IVs/CIV. These vacancies arose because the total number of registered electors of the village was less than 6 (the requisite number of subscribers is 5 for a nomination) (please see paragraph 1.1 above).

1.4 In accordance with section 21 of the RREO, a by-election had to be held to return RRs to fill the vacancies. With the agreement of the Electoral Affairs Commission (“EAC”), the Home Affairs Department (“HAD”), which is responsible for the conduct of RR elections, decided

that a by-election should be held to fill the 42 RR vacancies (35 ReRs and 7 IIRs) as mentioned in paragraph 1.3 (a) to (c) above in the first instance. A second round of by-election would be held in December 2015 to fill the vacancies set out in paragraph 1.3 (d) above only if the villages concerned have sufficient number of electors for subscribing candidate(s) after the completion of the 2015 voter registration exercise in October 2015.

1.5 According to a recommendation made by the EAC in its Report on the Village Representative By-election held in March 2004, by-elections conducted thereafter should normally be held twice a year in April/May and November/December unless there are special circumstances that warrant a departure from the scheduled time. As HAD was heavily engaged in other rural elections (i.e. the Rural Committee Elections and the Heung Yee Kuk Elections) in the first half of 2015, conducting the by-election in April/May 2015 was not recommended. The first round of by-election was thus conducted on 14 June 2015.

1.6 7 Districts of the New Territories, namely Islands, North, Sai Kung, Sha Tin, Tai Po, Tsuen Wan and Tuen Mun were involved in this By-election. A list showing the details of the vacancies and dates on which the vacancies were declared in the Gazette notices is at **Appendix I**.

Section 2 – Appointments

Polling Day and Nomination Period

2.1 Pursuant to section 6 of the Electoral Procedure (Rural Representative Election) Regulation, Cap 541L, the DHA published a notice in the Gazette on 24 April 2015, appointing 14 June 2015 as the polling day of the By-election and specifying the period from 5 to 18 May 2015, both days inclusive, as the nomination period. The By-election was held to return 35 ReRs and 7 IIRs to fill the vacancies in 35 EVs and 7 IVs respectively. A breakdown of the number of ReRs and IIRs to be returned by District is shown at **Appendix II**.

Appointment of Returning Officers, Assistant Returning Officers, Assistant Returning Officer (Ballot Paper Sorting Station) and Assistant Returning Officer (Legal)

2.2 In accordance with section 54 of the RREO, the EAC appointed 7 District Officers and 2 Assistant District Officers of the 7 New Territories District Offices concerned as the ROs, an Assistant District Officer and 8 members of their staff as the Assistant ROs (“AROs”) and a staff from HAD Headquarters (“HQ”) as the ARO (Ballot Paper Sorting Station) (“BPSS”) to take charge of the operation of the BPSS¹. A Government Counsel was appointed as the ARO (Legal). The appointment of ROs was published in the Gazette on 24 April 2015. A list of the ROs and AROs is shown at **Appendix III**.

¹ The ARO (BPSS) was eventually not required to carry out the relevant duties as after the close of nomination, it was clear that setting up of a BPSS was not necessary. Please see paragraph 7.2 below.

Operational Manual for Returning Officers and Assistant Returning Officers

2.3 To enable all parties concerned to familiarise with the rules and operation of the By-election, HAD prepared and issued operational manuals to the ROs/AROs as well as the polling and counting staff for reference. As, by virtue of their previous experience and work knowledge, the ROs and AROs were familiar with the electoral arrangements, it was considered unnecessary to conduct a briefing for them.

Section 3 – Publicity

3.1 Information on the By-election was published on the websites of the EAC, HAD and the Independent Commission Against Corruption (“ICAC”) 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, e.g. the nomination period and the polling day. These measures helped enhance the transparency of and public interest in the By-election.

3.2 Apart from the publicity measures mentioned in paragraph 3.1 above, HAD also placed advertisements on local newspapers to invite nominations for the By-election. Appeal letters were also issued to electors before the commencement of the nomination period to encourage the registered electors of the villages concerned to participate in the By-election.

Section 4 – Nomination of Candidates

The Nomination Period

4.1 The nomination period started on 5 May 2015 and ended on 18 May 2015. Candidates were required to hand in their nomination forms to the relevant ROs in person. At the close of the nomination period, the ROs had received a total of 13 nominations.

Validly Nominated Candidates

Validity

4.2 After vetting the nominations, the relevant ROs determined that all the 13 nominations (11 for the ReR elections and 2 for the IIR elections) were valid.

Uncontested elections

4.3 Having examined the nominations, the ROs declared that a candidate for the ReR election for Keung Shan, Upper and Luk Wu in the Islands District, a candidate for the ReR election for Che Keng Tuk in the Sai Kung District, a candidate for the IIR election for Tai Shui Hang in the Sha Tin District, 5 candidates for the ReR elections for Kau Liu Ha, Lin Au, Lei Uk, Pak Ngau Shek Ha Tsuen, Shui Wo and Tai Yeung Che and a candidate for the IIR election for Kau Liu Ha in the Tai Po District and 2 candidates for the ReR elections for Tsuen Wan Sam Tsuen and Yeung Uk in the Tsuen Wan District were elected uncontested as there was only one validly nominated candidate for each vacancy. The names

of the aforesaid candidates who were returned uncontested in the By-election were published in the Gazette on 29 May 2015.

Contested election

4.4 As the number of validly nominated candidates for Yin Kong, an EV in the North District, exceeded the number of ReR to be returned for the village, a poll was arranged to be held on 14 June 2015 for the village. The names and relevant particulars of the validly nominated candidates were published in the Gazette on 29 May 2015.

Elections that failed

4.5 As for the remaining 25 ReR and 5 IIR seats in 25 EVs and 5 IVs, the ROs concerned declared that the ReR and IIR elections had failed due to no nomination received by the close of the nomination period. The notices of failure of election for these villages were also published in the Gazette on 29 May 2015.

The Briefing for Candidates

4.6 As the validly nominated candidates for the contested election indicated that they would not attend the briefing session for candidates scheduled for 22 May 2015, the briefing session was cancelled.

4.7 The RO concerned drew lots at the North District Office to allocate candidate numbers and designated spots for displaying election advertisements to the candidates on 21 May 2015.

Section 5 – Preparation Work

Appointment and Training of Polling and Counting Staff

5.1 Staff of HAD were deployed as polling and counting staff for the By-election. A training session was held on 11 June 2015 for the staff who would perform polling and counting duties and operate the command centre on the polling day. It aimed at familiarising the staff concerned with the rules, operational procedures and their respective tasks.

Polling and Counting Stations

5.2 HAD identified the Yin Kong (Ho Tung) Recreation Centre as the polling-cum-counting station for the ReR election for Yin Kong in the North District.

Dedicated Polling Stations

5.3 To enable registered electors of Yin Kong who were imprisoned or remanded by the Correctional Services Department (“CSD”) to cast their votes on the polling day, dedicated polling stations (“DPSs”) would be set up in penal institutions for this By-election as needed. As advised by CSD on 13 June 2015, no registered elector of Yin Kong would be in their custody on the polling day. Hence, there was no need to set up a DPS in any penal institutions.

5.4 Mei Tin Community Hall in the Sha Tin District was designated as the DPS for registered electors of the contested village who were remanded or detained by law enforcement agencies (“LEAs”) (other

than CSD) on the polling day to cast votes. Since the LEAs might arrest persons who happened to be registered electors of the contested village at any time on the polling day, the polling hours of this DPS were the same as those of an ordinary polling station, that is, from 12:00 noon to 7:00 p.m.

5.5 A notice of designation of the polling stations (including the DPSs) and the counting station was gazetted by the DHA on 29 May 2015.

Introduction to Candidates and Polling Notices to Electors

5.6 HAD had produced the “Introduction to Candidates” to provide registered electors with information on the relevant personal particulars, election platform and photographs of the validly nominated candidates to enable electors to make an informed choice on the polling day.

5.7 A polling notice, together with the relevant “Introduction to Candidates” and an ICAC leaflet, were sent to each of the electors of the contested village, notifying them of the polling date, polling hours and location of the polling station on 29 May 2015. A notice was also sent to each of the electors of the uncontested villages informing them that no poll would be conducted for their villages on 14 June 2015.

The Contingency Plan

5.8 To cope with any unforeseeable situations (e.g. inclement weather conditions, occurrence of public danger, etc.), in which the poll at the designated polling station could not be carried out as scheduled, HAD

had identified a venue for use as an alternative polling station. The designation of this alternative polling station was also gazetted by the DHA on 29 May 2015. This venue, together with Mei Tin Community Hall, which was designated as a DPS, were also reserved for use on the fallback day on 21 June 2015. The arrangements in case of emergencies or inclement weather on the polling day were included in the Operational Manual for ROs and AROs and that for Polling and Counting Staff for reference.

Section 6 – The Poll

Polling Date and Polling Hours

6.1 The poll was held on Sunday, 14 June 2015. According to the established arrangement for the ReR election, the polling hours for the polling station at Yin Kong (Ho Tung) Recreation Centre and the DPS at Mei Tin Community Hall were from 12:00 noon to 7:00 p.m.

Logistical Arrangements

6.2 The designated polling station at Yin Kong (Ho Tung) Recreation Centre and the DPS at Mei Tin Community Hall operated as scheduled on the polling day. A Central Command Centre was set up at HAD HQ to oversee the operation of the polling and counting stations as well as the District Command Centre and to co-ordinate the communication and dissemination of information for all parties concerned on the polling day.

6.3 In REO HQ at Harbour Centre, a Complaints Centre, operated by the staff of the EAC Secretariat, was set up to receive and handle complaints from members of the public throughout the polling hours.

6.4 There were also designated ICAC and Police officers on duty to attend to complaints on the polling day.

Voter Turnout Rates

6.5 The total number of registered ReR electors of Yin Kong was 178. A total of 127 ReR electors (i.e. 71.35%) cast their votes on the polling day. A detailed breakdown of the turnout rates of the ReR election is shown in **Appendix IV**.

Section 7 – The Count

Counting Station and Ballot Paper Sorting Station

7.1 The polling station at Yin Kong (Ho Tung) Recreation Centre was converted into a counting station for counting of votes after the close of the poll. The counting station was supervised by the RO concerned.

7.2 As polling was required for only one village, it was not necessary to set up a BPSS to sort the ballot papers cast in the DPS at Mei Tin Community Hall before sending them to the counting station.

7.3 After the close of poll, the Presiding Officer (“PRO”) of the DPS at Mei Tin Community Hall sealed the ballot box in the presence of a police officer and delivered it to the counting station under Police escort.

Counting Method

7.4 Manual counting was adopted in the By-election. Ballot papers were separated with reference to the candidate for whom the vote had been recorded and placed into the relevant box, and then the valid ballot papers were counted.

Counting Arrangements

7.5 After the close of poll, the polling station at Yin Kong (Ho Tung) Recreation Centre was converted into a counting station. The conversion was completed at around 7:25 p.m. No vote was cast in the DPS at Mei Tin Community Hall. The empty ballot box thereat was delivered to the counting station for opening. The first ballot box opened thereat was jointly emptied by Mr Justice Fung Wah, Barnabas, the EAC Chairman, Mr Arthur Luk, EAC Member, and the concerned RO. The RO also unsealed the empty ballot box from the DPS at Mei Tin Community Hall. After verifying that there was no ballot paper contained therein, which tallied with the ballot paper account of the DPS, the count commenced immediately.

7.6 Counting staff then sorted the ballot papers into different transparent plastic boxes according to the votes marked thereon, before starting the count of the number of votes obtained by each candidate. Among the 127 ballot papers cast, there was one which was unmarked. The unmarked ballot paper was determined as invalid and was not counted.

Declaration of Result

7.7 The election result was declared at the counting station by the RO after the completion of the count at around 7:50 p.m. The result of the contested election was promulgated in the Gazette notice published on 19 June 2015.

7.8 The lists of successful and unsuccessful candidates (including those uncontested) are shown in **Appendices V(A) and (B)**.

EAC Visits

7.9 Mr Justice Fung, the EAC Chairman, and Mr Arthur Luk, EAC Member, visited the polling station at Yin Kong (Ho Tung) Recreation Centre during the polling hours and observed the count after the polling station was converted into a counting station. They considered the polling and counting arrangements smooth and satisfactory.

Section 8 – The Complaints

Complaints-handling Period

8.1 The complaints-handling period started on 5 May 2015, when the nomination period commenced, and ended on 29 July 2015 (i.e. 45 days after the polling day on 14 June 2015).

Complaints-handling Parties

8.2 The parties involved in handling complaints relating to the By-election included the EAC, the ROs, Police and ICAC. The EAC, supported by the EAC Secretariat, would deal with cases that were within its jurisdiction and not covered by any statutory provisions involving criminal sanction.

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

Number and Nature of Complaints

8.4 By the end of the complaints-handling period, no complaint had been received by any of the complaints-handling parties.

Section 9 – Review and Recommendation

9.1 The EAC reviewed the electoral procedures and arrangements made for the By-election. Overall, the EAC considered the polling and counting arrangement smooth and satisfactory.

9.2 For this By-election, a polling-cum-counting station was set up at the Yin Kong (Ho Tung) Recreation Centre. In the 2015 ROE, a clustered polling station was set up at the Kam Tsin Village Ho Tung School (i.e. a number of polling stations set up at the same venue to serve a number of villages in the same locality) for Yin Kong and other villages, in order to optimise the deployment of resources and make available more space for on-site logistical support at polling station. Since this By-election only involved Yin Kong, a venue closer to the electors, i.e. the Yin Kong (Ho Tung) Recreation Centre, was designated as the polling-cum-counting station. The only drawback is that the venue is rather small and could not accommodate all the public who went to the counting station to observe the counting process and declaration of election result. It was noticed that a large number of villagers who could not enter the counting station have to stay outside the station to wait for the result of the election. While the order of the counting station was in general satisfactory, the EAC recommends HAD to continue to look for a more spacious venue which is convenient to the electors and can accommodate more people for observation of the counting process.

Section 10 – Acknowledgement

10.1 The EAC wishes to extend its gratitude towards HAD, particularly those serving as ROs, AROs, PROs, polling and counting officers for their part in validating nominations and in making the necessary preparations for the By-election. The EAC is thankful to the various government departments for rendering valuable assistance throughout the By-election, including REO which was responsible for drafting this report, preparing the EAC visit programme and co-ordinating the handling of complaints for the By-election. The EAC would like to thank CSD, Police and other LEAs for their assistance provided to HAD in making necessary arrangements for the operation of the DPSs. The EAC is also grateful to the police officers who conscientiously performed their duties in maintaining law and order in the By-election.

10.2 The EAC would also like to express its appreciation to the electors who turned up to cast their votes at the polling station and all those who complied with the electoral legislation and guidelines.

Section 11 – The Way Ahead

11.1 HAD is planning the conduct of another round of by-election in December 2015 to fill RR vacancies which have arisen but have not yet been filled in this By-election and those vacancies that may arise subsequent to this By-election.

11.2 The EAC would like to recommend that this report be made public, at a time when the Chief Executive thinks appropriate, to uphold the principle of transparency.