

ELECTORAL AFFAIRS COMMISSION

REPORT ON THE RURAL BY-ELECTION

(December 2015)

Submitted to

**the Honourable C Y Leung
the Chief Executive of the Hong Kong Special Administrative Region
of the People's Republic of China**

3 March 2016

選舉管理委員會

ELECTORAL AFFAIRS COMMISSION

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3 March 2016

The Honourable C Y Leung, GBM, GBS, JP
The Chief Executive
Hong Kong Special Administrative Region
People's Republic of China
Chief Executive's Office
Hong Kong

Dear Mr Leung,

Pursuant to section 8(1) of the Electoral Affairs Commission Ordinance, we have the pleasure in submitting to you the enclosed report on the Rural By-election (December 2015).

Yours sincerely,



Barnabas Wah FUNG, Chairman



Arthur Yee-shun LUK, Member



Fanny Mui-ching CHEUNG, Member

ABBREVIATIONS

ARO, AROs	Assistant Returning Officer, Assistant Returning Officers
BPSS	Ballot Paper Sorting Station
CSD	Correctional Services Department
DoJ	Department of Justice
DHA	Director of Home Affairs
DPS, DPSs	dedicated polling station, dedicated polling stations
EAC	Electoral Affairs Commission
EV, EVs	Existing Village, Existing Villages
HAD	Home Affairs Department
HQ	Headquarters
ICAC	Independent Commission Against Corruption
IIR, IIRs	Indigenous Inhabitant Representative, Indigenous Inhabitant Representatives
IV, IVs	Indigenous Village, Indigenous Villages
LEAs	law enforcement agencies
PROs	Presiding Officers
ReR, ReRs	Resident Representative, Resident Representatives
REO	Registration and Electoral Office
RO, ROs	Returning Officer, Returning Officers

RR, RRs

Rural Representative,
Rural Representatives

RREO

Rural Representative Election Ordinance
(Cap. 576)

CONTENTS

<u>Sections</u>	<u>Page</u>
Section 1 Introduction	1
Section 2 Appointments	3
Section 3 Publicity	5
Section 4 Nomination of Candidates	6
Section 5 Preparation Work	9
Section 6 The Poll	12
Section 7 The Count	14
Section 8 The Complaints	17
Section 9 Review and Recommendation	18
Section 10 Acknowledgement	19
Section 11 The Way Ahead	20
<u>Appendices</u>	
Appendix I Details of Vacancies	21
Appendix II Breakdown of Number of Rural Representatives to be Returned (By District)	22
Appendix III Appointment of Returning Officers and Assistant Returning Officers	23
Appendix IV Voter Turnout Rates	24
Appendix V(A) Results for Resident Representative Elections	25
Appendix V(B) Results for Indigenous Inhabitant Representative Elections	26

Section 1 - Introduction

Background

1.1 In accordance with section 21 of the Rural Representative Election Ordinance, Cap 576 (“RREO”), after the ordinary election held in 2015, the Electoral Affairs Commission (“EAC”) made arrangements for the conduct of the second round of Rural By-election on 6 December 2015 to return seven Rural Representatives (“RRs”) for filling three Resident Representative (“ReRs”) and four Indigenous Inhabitant Representative (“IIRs”) vacancies in six villages. The reasons for conducting the by-election are set out in paragraph 1.3 below.

1.2 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. Hence, the EAC arranged for the conduct of the second round of Rural By-election on 6 December 2015.

The Vacancies

1.3 After the conclusion of the first round of Rural By-election in June 2015, a total of 7 RR vacancies including 3 ReR and 4 IIR seats have arisen in 3 Existing Villages (“EVs”) and 3 Indigenous Villages (“IVs”) respectively. These vacancies are classified into 4 different groups as follows:

- (a) **2 vacancies** – comprising 2 IIR vacant seats in 2 IVs. These

vacancies arose because the elected IIRs had resigned from their offices;

- (b) **2 vacancies** – comprising 1 ReR vacant seat in an EV and 1 IIR vacant seat in an IV. These vacancies arose because the elected ReR and IIR had passed away;
- (c) **2 vacancies** – comprising 1 IIR vacant seat in an IV and 1 ReR vacant seat in an EV. These vacancies arose because no one sought candidature for these seats in the first round of Rural by-election held on 14 June 2015; and
- (d) **1 vacancy** for a ReR vacant seat in an EV 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).

1.4 Four Districts of the New Territories, namely Islands, North, Sai Kung and Tai Po 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 Director of Home Affairs (“DHA”) published a notice in the Gazette on 16 October 2015, appointing 6 December 2015 as the polling day of the By-election and specifying the period from 27 October 2015 to 9 November 2015, both days inclusive, as the nomination period. The By-election was held to return 3 ReRs and 4 IIRs to fill the vacancies in 3 EVs and 3 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 4 District Officers and 1 Assistant District Officer of the 4 New Territories District Offices concerned as the Returning Officers (“ROs”), an Assistant District Officer and 5 members of their staff as the Assistant ROs (“AROs”) and a staff from the Home Affairs Department Headquarters (“HAD HQ”) as the ARO (Ballot Paper Sorting Station) (“BPSS”) to take charge of the operation of the BPSS. A Government Counsel was appointed as the ARO (Legal). The appointment of ROs was published in the Gazette on 16 October 2015. A list of the ROs and AROs is shown at **Appendix III**.

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 27 October 2015 and ended on 9 November 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 8 nominations.

Validly Nominated Candidates

Validity

4.2 After vetting the nominations, the relevant ROs determined that all the 8 nominations (4 for the ReR elections and 4 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 Sha Lo Wan, Tai O in the Islands District, a candidate for the ReR election for Ping Chau Sha Tau, Sai Kung North in the Tai Po District and a candidate for the IIR election for Shek Kiu Tau, Sha Tau Kok in the North 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 20 November 2015.

Contested election

4.4 As the number of validly nominated candidates for Tai No, an EV in the Sai Kung District, and Ping Yeung, an IV in the North District, exceeded the number of ReR and IIRs to be returned for the respective villages, a poll was arranged to be held on 6 December 2015 for each of these villages. The names and relevant particulars of the validly nominated candidates were published in the Gazette on 20 November 2015.

Elections that failed

4.5 As for the 1 IIR seat in Po Toi, Lamma Island (South) in the Islands District, the RO concerned declared that the IIR election had failed due to no nomination received by the close of the nomination period. The notice of failure of election for this village was also published in the Gazette on 20 November 2015.

The Briefing for Candidates

4.6 The EAC Chairman conducted a briefing session for candidates on 12 November 2015 at the Conference Room of the HAD HQ in Wan Chai. Also present with the EAC Chairman were the Assistant Director of the HAD, representatives of the ICAC, the Department of Justice (“DoJ”) and the Registration and Electoral Office (“REO”).

4.7 The EAC Chairman briefed the candidates on the major provisions of the electoral legislation and guidelines on the electoral arrangements.

4.8 The RO for Tai No and the RO for Ping Yeung drew lots at the Conference Room of the HAD HQ and North District Office respectively to allocate candidate numbers and designated spots for displaying election advertisements to the candidates on 12 November 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 1 December 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 Ta Kwu Ling Rural Centre Government Building as the polling-cum-counting station for the IIRs election for Ping Yeung in the North District and Tsang Yat Fat Tso Office, Tai No Tin Liu as the polling-cum-counting station for the ReR election for Tai No in the Sai Kung District.

Dedicated Polling Stations

5.3 To enable registered electors of the contested villages 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 5 December 2015, no registered elector of Ping Yeung or Tai No 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 villages 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 villages 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 20 November 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” leaflet, voting guide, location map of polling station and an ICAC leaflet, were sent to each of the electors of the contested villages, notifying them of the polling date, polling hours and location of the polling station on 20 November 2015. A notice was also sent to each of the electors of the uncontested villages on 20 November 2015 informing them that no poll would be conducted for their villages.

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 venues for use as alternative polling stations. The designation of these alternative polling stations was also gazetted by the DHA on 20 November 2015. These venues, together with Mei Tin Community Hall, which was designated as a DPS, were also reserved for use on the fallback day on 13 December 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, 6 December 2015. According to the established arrangement for the RR election, the polling hours for the polling stations at the contested villages 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 stations 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 electors of all the contested villages was 483. Of these, 428 were electors of IIR election and 55 were electors of ReR election. A total of 165 IIR electors (i.e. 38.55%)

and 28 ReR electors (i.e. 50.91%) cast their votes on the polling day. A detailed breakdown of the turnout rates of both the IIR and ReR elections is shown in **Appendix IV**.

Section 7 – The Count

Counting Station and Ballot Paper Sorting Station

7.1 Both polling stations at Ta Kwu Ling Rural Centre Government Building and Tsang Yat Fat Tso Office, Tai No Tin Liu were converted into counting stations for counting of votes after the close of the poll. The counting stations were supervised by the ROs concerned.

7.2 As polling was required for two contested villages involving 483 electors, HAD set up a BPSS to sort the ballot papers cast at the DPS, if any, before sending them to the respective counting stations for counting.

Counting Method

7.3 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

7.4 After the close of poll, all polling stations (except for the DPS) were converted into counting stations. The conversion was completed at around 7:28 p.m. for Ping Yeung and 7:21 p.m. for Tai No. No vote was cast in the DPS at Mei Tin Community Hall. In accordance with the operational procedure, the ARO (BPSS), after opening the ballot box from the DPS and confirming that no votes are therein, informed the ROs concerned of the result and that no ballot paper would be delivered to the

counting stations. This enabled the ROs to immediately commence the counting process. The ballot box opened at the counting station of Ping Yeung was jointly emptied by Mr Justice Fung, the EAC Chairman and the concerned RO; while the one at the counting station of Tai No was jointly emptied by Mr Arthur Luk, EAC Member, and the concerned RO. The count then commenced immediately.

7.5 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 193 ballot papers cast, there were two which contained vote for more than the number of RRs to be returned for the concerned village. These two ballot papers were determined as invalid and were not counted.

Declaration of Result

7.6 The election results were declared at each counting station by the respective RO after the completion of the count at around 8:00 p.m. for Ping Yeung and 7:43 p.m. for Tai No. The results of these contested elections were promulgated in the Gazette notice published on 11 December 2015.

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

EAC Visits

7.8 Mr Justice Fung, the EAC Chairman and Mr Arthur Luk, EAC Member conducted visits to different polling stations according to their individual itineraries. Mr Justice Fung visited the polling station at Ta Kwu Ling Rural Centre Government Building while Mr Luk visited the polling station at Tsang Yat Fat Tso Office, Tai No Tin Liu. They also observed the count at the aforesaid venues separately after the polling stations were converted into counting stations. They considered the polling and counting arrangements generally satisfactory.

Section 8 – The Complaints

Complaints-handling Period

8.1 The complaints-handling period started on 27 October 2015, when the nomination period commenced, and ended on 20 January 2016 (i.e. 45 days after the polling day on 6 December 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 At the election for Ping Yeung, there were 3 candidates contesting 2 IIR seats and electors could vote for up to 2 candidates of different combinations. For the counting of votes, manual counting using multiple receptacles for sorting the ballot papers was adopted. Clear counting procedures have been set out for this by-election, which enabled all counting staff to have a clear idea of the arrangements. In accordance with the counting procedure, the counting staff sorted the ballot papers into different receptacles corresponding to the voting combinations marked thereon. The Counting Supervisor then carefully vetted all ballot papers and accurately recorded the votes counted on the counting form. The ARO then double-checked the counting records and the election result to ensure the accuracy of the calculation prior to the declaration of election result by the RO. The EAC appreciated the prudent and efficient manner in which the staff had performed their duties.

9.3 The EAC recommended that for future multiple seats elections, HAD should continue to provide detailed guidelines and checking procedures for counting staff to follow. Counting staff should be given sufficient hands-on training-cum-practice on the completion of counting forms and verification of counting results.

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 May 2016 to fill RR 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.

**Rural By-election (December 2015)
Details of Vacancies**

Causes of Vacancy		District	Rural Committee	Name of Village	Type of Rural Representative	Date of Gazettal of Vacancy
(A)	Resigned	North	Ta Kwu Ling	Ping Yeung	IIR	08.05.2015
			Sha Tau Kok	Shek Kiu Tau	IIR	28.08.2015
(B)	Deceased	North	Ta Kwu Ling	Ping Yeung	IIR	19.06.2015
		Sai Kung	Sai Kung	Tai No	ReR	17.07.2015
(C)	By-election held on 14 June 2015 failed*	Islands	Lamma Island (South)	Po Toi	IIR	23.01.2015
			Tai O	Sha Lo Wan	ReR	20.03.2015
(D)	The number of registered electors on the 2015 Final Register increases to more than 6 (the requisite number of subscribers for a valid nomination is 5)	Tai Po	Sai Kung North	Ping Chau Sha Tau	ReR	-

*The By-election held on 14 June 2015 for filling an IIR vacancy in Po Toi and a ReR vacancy in Sha Lo Wan (arising from resignation) failed because no nomination was received.

Note:

IIR : Indigenous Inhabitant Representative

ReR : Resident Representative

Rural By-election (December 2015)
Breakdown of Number of Rural Representatives to be Returned
(By District)

District	No. of Indigenous Inhabitant Representatives (“IIRs”)	No. of Resident Representatives (“ReRs”)	Total no. of IIRs and ReRs
Islands	1	1	2
North	3	0	3
Sai Kung	0	1	1
Tai Po	0	1	1
Total	4	3	7

**Rural By-election (December 2015)
Appointment of Returning Officers and
Assistant Returning Officers**

The following officers were appointed as Returning Officers, Assistant Returning Officers, Assistant Returning Officer (Ballot Paper Sorting Station) and Assistant Returning Officer (Legal) of the captioned By-election:

(I) Returning Officers

<u>Name</u>	<u>Post</u>
Mr LI Ping-wai, Anthony	District Officer (Islands)
Ms KWONG Ting-lok, Maggie	District Officer (North) Acting
Ms SIU Mo-lin, Maureen	District Officer (Sai Kung)
Mr SO Chek-leung, Bassanio	District Officer (Tai Po)
Miss TSANG Hiu-tung, Josephine	Assistant District Officer (Islands) ¹

(II) Assistant Returning Officers

<u>Name</u>	<u>Post</u>
Mr KWOK Chung-kai, Peter	Assistant District Officer (Sai Kung) ¹
Ms HUI Yuen-mei, May	Senior Liaison Officer (1) (Islands)
Ms CHAN Hing-kwan, Patty	Senior Liaison Officer (2) (Islands)
Mr NG Chong-fai, Spillet	Senior Liaison Officer (1) (North)
Mr NG Wing-keung, Henry	Senior Liaison Officer (1) (Sai Kung)
Mr CHAN Hoi-ming, Peter	Senior Liaison Officer (1) (Tai Po)

(III) Assistant Returning Officer (Ballot Paper Sorting Station)

<u>Name</u>	<u>Post</u>
Mr CHAN Chi-ho, Billy	Senior Liaison Officer (1) (4), HAD

(IV) Assistant Returning Officer (Legal)

<u>Name</u>	<u>Post</u>
Ms NG Suet-ching, Anita	Senior Government Counsel, DoJ

**Rural By-election (December 2015)
Voter Turnout Rates**

Indigenous Inhabitant Representative

District	Name of Rural Committee	Name of Village	Electorate	Cumulative Turnout (actual number of electors) Cumulative Turnout Rate (%)			
				13:00	15:00	17:00	19:00
North	Ta Kwu Ling	Ping Yeung	428	69 16.12%	120 28.04%	147 34.35%	165 38.55%

Resident Representative

District	Name of Rural Committee	Name of Village	Electorate	Cumulative Turnout (actual number of electors) Cumulative Turnout Rate (%)			
				13:00	15:00	17:00	19:00
Sai Kung	Sai Kung	Tai No	55	10 18.18%	18 32.73%	25 45.45%	28 50.91%

**Rural By-election (December 2015)
Results for Resident Representative Elections**

District / Rural Committee	Name of Village	Candidate Number and Name of Candidate	Votes Received	Result of Election
Islands				
Tai O	Sha Lo Wan	CHAN, CHI KUEN	—	Uncontested
Sai Kung				
Sai Kung	Tai No	1 TSANG, HON PING	9	
		2 TSANG, WAI LEUNG	19	Elected
Tai Po				
Sai Kung North	Ping Chau Sha Tau	MO, CHUN KAU	—	Uncontested

**Rural By-election (December 2015)
Results for Indigenous Inhabitant Representative Elections**

District / Rural Committee	Name of Village	Candidate Number and Name of Candidate	Votes Received	Result of Election
Islands				
Lamma Island (South)	Po Toi	—	—	Election Failed
North				
Sha Tau Kok	Shek Kiu Tau	LEE, WOON SZE	—	Uncontested
Ta Kwu Ling	Ping Yeung	1 CHAN, SHIU WING	62	
		2 CHAN, SAN PING	127	Elected
		3 CHAN, FU PANG	100	Elected