

ELECTORAL AFFAIRS COMMISSION

**REPORT ON THE
RURAL BY-ELECTION**

(December 2019)

Submitted to

**the Honourable Mrs Carrie Lam Cheng Yuet-ngor
the Chief Executive of the Hong Kong Special Administrative Region
of the People's Republic of China**

10 February 2020

選舉管理委員會

ELECTORAL AFFAIRS COMMISSION

香港灣仔港灣道 25 號
海港中心 10 樓

10/F, Harbour Centre
25 Harbour Road
Wan Chai
Hong Kong

本函檔號 OUR REF.: REO CR/14/12/RB-19

圖文傳真 Fax: 2507 5810

來函檔號 YOUR REF.:

電話 Tel.: 2827 1419

網址 Web Site: <https://www.eac.hk>

10 February 2020

The Honourable Mrs Carrie Lam Cheng Yuet-ngor, GBM, GBS
The Chief Executive
Hong Kong Special Administrative Region
People's Republic of China
Chief Executive's Office
Hong Kong

Dear Madam,

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 2019).

Yours faithfully,



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 |
| DHA | Director of Home Affairs |
| EAC | Electoral Affairs Commission |
| EV, EVs | Existing Village, Existing Villages |
| HAD | Home Affairs Department |
| HQs | Headquarters |
| ICAC | Independent Commission Against Corruption |
| IIR, IIRs | Indigenous Inhabitant Representative, Indigenous Inhabitant Representatives |
| IV, IVs | Indigenous Village, Indigenous Villages |
| ReR, ReRs | Resident Representative, Resident Representatives |
| RO, ROs | Returning Officer, Returning Officers |
| RR, RRs | Rural Representative, Rural Representatives |
| RREO | Rural Representative Election Ordinance (Cap. 576) |

CONTENTS

| | | <u>Page</u> |
|------------------------------|---|-------------|
| Section 1 | Introduction | 1 |
| Section 2 | Appointments | 3 |
| Section 3 | Publicity | 5 |
| Section 4 | Nomination of Candidates | 6 |
| Section 5 | The Complaints | 8 |
| Section 6 | Review and Recommendation | 9 |
| Section 7 | Acknowledgement | 10 |
| Section 8 | The Way Ahead | 11 |
| <u>Appendices</u> | | |
| Appendix I | Details of Vacancies | 12 |
| Appendix II | Breakdown of Number of Rural Representatives to be Returned (By District) | 14 |
| Appendix III | Appointment of Returning Officers and Assistant Returning Officers | 15 |
| Appendix IV | Results for Resident Representative Elections Results for Indigenous Inhabitant Representative Elections | 16 |

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 January 2019, the Electoral Affairs Commission (“EAC”) made arrangements for the conduct of the second round of Rural By-election on 8 December 2019 to return 9 Rural Representatives (“RRs”) for filling the Resident Representative (“ReR”) vacancies and Indigenous Inhabitant Representative (“IIR”) vacancies in 9 villages.

1.2 Following the usual practice, Rural by-elections should normally be conducted twice a year in April/May and November/December unless there are special circumstances that warrant a departure from the scheduled time. Hence, the second round of Rural By-election was scheduled for 8 December 2019. The reasons for conducting the By-election are set out in paragraph 1.3 below.

The Vacancies

1.3 After the conclusion of the first round of Rural By-election in June 2019, a total of 9 RR vacancies, involving 7 ReR vacancies in 7 Existing Villages (“EVs”) and 2 IIR vacancies in 2 Indigenous Villages (“IVs”) respectively. The causes for these vacancies fall into 5 different groups as follows:

- (a) **2 vacancies** – comprising 1 ReR vacant seat in 1 EV and 1 IIR vacant seat in 1 IV. These vacancies arose because the elected ReR and IIR had resigned from their offices;

- (b) **2 vacancies** – involving 2 ReR vacant seats in 2 EVs arose because the elected ReRs had passed away;
- (c) **1 vacancy** – involving 1 ReR vacant seat in 1 EV. This vacancy arose because no one sought candidature for the seat in the first round of Rural By-election held on 16 June 2019;
- (d) **3 vacancies** – involving 3 ReR vacant seats in 3 EVs. These vacancies arose as early as after the 2019 Rural Ordinary Election. However, as the total number of registered electors of the villages concerned at that time was less than 6 (the requisite number of subscribers for a nomination is 5 registered electors of the village concerned but the subscriber must be an elector other than the candidate himself/herself), the Rural By-election held in June did not cover these vacancies. The total number of registered electors of the villages has increased to 6 or more after the issue of the Final Register on 18 October and therefore these villages can be included in this By-election for filling the vacancies; and
- (e) **1 vacancy** – involving 1 IIR vacancy in 1 IV. This vacancy arose because the elected IIR was disqualified from holding office.

1.4 Four Districts, namely Islands, Sai Kung, Tai Po and Yuen Long 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 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 18 October 2019, appointing 8 December 2019 as the polling day of the By-election and specifying the period from 29 October 2019 to 11 November 2019, both days inclusive, as the nomination period. The By-election was held to return 7 ReRs to fill the vacancies in 7 EVs and 2 IIRs to fill the vacancies in 2 IVs. 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 an Assistant District Officer of the 4 District Offices concerned as the Returning Officers (“ROs”), 4 members of their staff as the Assistant Returning Officers (“AROs”), and a staff member from the Home Affairs Department (“HAD”) Headquarters (“HQs”) as the ARO (Ballot Paper Sorting Station) (“BPSS”) to take charge of the operation of the BPSS. A Government Counsel was also appointed as the ARO (Legal). The appointment of ROs was published in the Gazette on 18 October 2019. 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 themselves with the rules and operation of the By-election, the HAD prepared and issued Operational Manuals to the ROs and 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 therefore considered not necessary to conduct a briefing by the EAC Chairman for them.

Section 3 – Publicity

3.1 Information on the By-election was uploaded onto the websites of the EAC, the HAD and the Independent Commission Against Corruption (“ICAC”) throughout the election period for general reference of candidates, electors and members of the public. Press releases were also issued to publicise major issues of the By-election such as the nomination period and the names of the validly nominated candidates. 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, the HAD also placed advertisements in local newspapers and put up banners and displayed posters at the villages concerned to invite nominations for the By-election. Appeal letters were also issued to registered electors of the villages concerned before the commencement of the nomination period to encourage active participation in the By-election.

Section 4 – Nomination of Candidates

The Nomination Period

4.1 The nomination period started on 29 October 2019 and ended on 11 November 2019. Candidates were required to hand in their nomination forms to the relevant ROs in person. At the close of the nomination, the ROs had received a total of 7 nominations.

Validly Nominated Candidates

Validity

4.2 After vetting the nominations, the relevant ROs determined that all the 7 nominations (5 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 Ngong Ping in the Islands District, a candidate each for the ReR election for Nam A and Tai Long respectively in the Sai Kung District, a candidate each for the ReR election for Fung Kong Tsuen and Wang Chau Yeung Uk Tsuen respectively in the Yuen Long District and a candidate each for the IIR election for Kau Sai San Tsuen and Uk Cheung respectively in the Sai Kung District were elected uncontested as there was only one validly nominated candidate for each vacancy. There were in total 7 candidates returned uncontested in the By-election and their names were published in the Gazette on 22 November 2019 and are shown at **Appendix IV**.

Election that failed

4.4 Regarding the ReR vacancies for Hoi Pong Street in the Sai Kung District and Pak Sha O in the Tai Po District, the ROs concerned declared that the ReR elections had failed because no nomination was received by the close of the nomination. The notice of failure of election for these villages was also published in the Gazette on 22 November 2019 and is shown at **Appendix IV**.

4.5 As no poll would have to be conducted, the briefing for candidates originally scheduled for 14 November 2019 was cancelled.

4.6 As 7 ReRs/IIRs were returned uncontested and 2 elections had failed because no nomination was received, each of the electors concerned was informed of the results by a notice that no poll would be conducted for their villages on 8 December 2019.

Section 5 – The Complaints

Complaints-handling Period

5.1 The complaints-handling period started on 29 October 2019 (i.e. commencement of the nomination period). Since the By-election was uncontested and concluded on 11 November 2019 (i.e. the closing date of the nomination period), the complaints-handling period ended on 26 December 2019 (i.e. 45 days after the close of the nomination).

Complaints-handling Parties

5.2 The parties responsible for the handling of complaints in relation 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.

5.3 The EAC Secretariat assumed the role of co-ordinator for collating the complaint-related statistical information from 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

5.4 By the end of the complaints-handling period on 26 December 2019, no complaint had been received by any of the complaints-handling parties.

Section 6 – Review and Recommendation

6.1 On 11 November 2019 (i.e. the last day of the nomination period), services at the office of the RO (located in Hang Hau, Tseung Kwan O) for 3 EVs (Hoi Pong Street, Nam A, Tai Long) and 2 IVs (Kau Sai San Tsuen and Uk Cheung) in the Sai Kung District were suspended due to special circumstances and therefore the office was unable to receive nomination forms. In view of this, the HAD HQs immediately adopted contingency measures and liaised with the RO concerned to change the office address for receiving nomination forms submitted by the candidates to 2/F, Sai Kung Government Offices Building, Chan Man Street, Sai Kung. The HAD HQs issued a press release on the same day to announce the relevant arrangements and specifically remind members of the public that day was the last day of the nomination period and the closing time was 5:00 p.m.. It also disseminated the information via a pop-up window at the dedicated website of the rural representative election, reminding candidates who intended to run in the By-election for the above villages to observe the change in the address of the RO's office. Thereafter, the HAD also published the arrangements in the Gazette.

6.2 The EAC is of the view that the HAD had taken swift and effective measures in response to the unforeseen incidents. It recommends that, with the experience gained in this By-election, the HAD should in future formulate contingency plans for receiving nomination forms from candidates during the nomination period in advance, and consider putting up notices at the locations originally specified for receiving nomination forms whenever practicable to allow parties concerned to learn about the latest arrangement of the change in the RO's office address through different channels.

Section 7 – Acknowledgement

7.1 Although the By-election was uncontested, the EAC wishes to extend its gratitude to the HAD, particularly those serving as ROs and AROs for their part in validating nominations and making the necessary preparatory works for the By-election.

7.2 The EAC is thankful to the Registration and Electoral Office which was responsible for drafting this report and co-ordinating the handling of complaints for the By-election.

Section 8 – The Way Ahead

8.1 The HAD is planning the conduct of another round of By-election in May 2020 to fill the RR vacancies which have arisen and those vacancies which may arise subsequent to this By-election.

8.2 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.

APPENDICES

**Rural By-election (December 2019)
Details of Vacancies**

| Cause of Vacancy | | District | Rural Committee | Name of Village | Type of Rural Representative | Date of Gazettal of Vacancy |
|------------------|---|-----------|-----------------|-----------------------------|------------------------------|-----------------------------|
| (A) | Resigned | Sai Kung | Sai Kung | Uk Cheung | IIR | 31.05.2019 |
| | | Yuen Long | Ha Tsuen | Fung Kong Tsuen | ReR | 17.05.2019 |
| (B) | Deceased | Yuen Long | Ping Shan | Wang Chau Yeung Uk Tsuen | ReR | 03.05.2019 |
| | | Islands | Tai O | Ngong Ping | ReR | 02.08.2019 |
| (C) | By-election held on 16 June 2019 failed ¹ | Sai Kung | Sai Kung | Hoi Pong Street | ReR | 04.04.2019 |
| (D) | The number of registered electors was less than 6 in the By-election of 16 June 2019 (the requisite number of subscribers for a nomination is 5 registered electors of the village concerned but the subscriber must be an elector other than the candidate himself/herself) ² | Sai Kung | Sai Kung | Nam A | ReR | - |
| | | | | Tai Long | ReR | - |
| | | Tai Po | Sai Kung North | Pak Sha O | ReR | - |

| Cause of Vacancy | | District | Rural Committee | Name of Village | Type of Rural Representative | Date of Gazettal of Vacancy |
|------------------|--------------|----------|-----------------|-------------------|------------------------------|-----------------------------|
| (E) | Disqualified | Sai Kung | Sai Kung | Kau Sai San Tsuen | IIR | 11.10.2019 |

- ¹ The By-election held on 16 June 2019 for filling a ReR vacancy in Hoi Pong Street (as the elected ReR had resigned) failed because no valid nomination was received.
- ² The relevant vacancies arose as early as after the 2019 Rural Ordinary Election. However, as the total number of registered electors of the villages concerned at that time was less than 6 (the requisite number of subscribers for a nomination is 5 registered electors of the village concerned but the subscriber must be an elector other than the candidate himself/herself), the Rural By-election held in June did not cover these vacancies. The total number of registered electors of the villages has increased to 6 or more after the issue of the Final Register on 18 October 2019 and therefore these villages can be included in this By-election for filling the vacancies.

Note:

IIR: Indigenous Inhabitant Representative

ReR: Resident Representative

Rural By-election (December 2019)
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 | 0 | 1 | 1 |
| Sai Kung | 2 | 3 | 5 |
| Tai Po | 0 | 1 | 1 |
| Yuen Long | 0 | 2 | 2 |
| Total | 2 | 7 | 9 |

Note:

For this By-election, **one** IIR/ReR was to be elected for each Indigenous Village or Existing Village concerned.

Rural By-election (December 2019)
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) |
| Mr CHIU Yin-wa, David | District Officer (Sai Kung) |
| Ms CHAN Hau-man, Eunice | District Officer (Tai Po) |
| Mr. YUEN Ka-lok, Enoch, JP | District Officer (Yuen Long) |
| Mr. NG Lak-sun, Nixon | Assistant District Officer (Yuen Long) ¹ |

(II) Assistant Returning Officers

| <u>Name</u> | <u>Post</u> |
|----------------------------|---|
| Mr AU Sheung-man, Benjamin | Assistant District Officer (Islands) ¹ |
| Miss MAK Wai-man, Sandy | Senior Liaison Officer (1) (Sai Kung) |
| Ms LEE Ching-ye, Patty | Senior Liaison Officer (1) (Tai Po) |
| Mr. FONG Kai-kit, Frankie | Senior Liaison Officer (2) (Yuen Long) |

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

| <u>Name</u> | <u>Post</u> |
|--------------------------|---|
| Ms PANG Suk-wah, Phyllis | Chief Liaison Officer (1) ² , Home Affairs Department |

(IV) Assistant Returning Officer (Legal)

| <u>Name</u> | <u>Post</u> |
|----------------------------|--|
| Miss IP Ling-sheung, Jeffy | Government Counsel, Department of Justice |

Rural By-election (December 2019)
Results for Resident Representative Elections

| District / Rural Committee | Name of Village | Name of Candidate | Votes Received | Result of Election |
|-----------------------------------|-----------------------------|--------------------------|-----------------------|---------------------------|
| Islands | | | | |
| Tai O | Ngong Ping | WONG, KAI WAH | — | Uncontested |
| Sai Kung | | | | |
| Sai Kung | Hoi Pong Street | — | — | Election failed |
| | Nam A | CHAN, YING CHING | — | Uncontested |
| | Tai Long | LAI, KWOK WAI | — | Uncontested |
| Tai Po | | | | |
| Sai Kung North | Pak Sha O | — | — | Election failed |
| Yuen Long | | | | |
| Ha Tsuen | Fung Kong Tsuen | WU, KA KIT | — | Uncontested |
| Ping Shan | Wang Chau Yeung Uk Tsuen | YANG, WEIJI | — | Uncontested |

Rural By-election (December 2019)
Results for Indigenous Inhabitant Representative Elections

| District / Rural Committee | Name of Village | Name of Candidate | Votes Received | Result of Election |
|-----------------------------------|------------------------|--------------------------|-----------------------|---------------------------|
| Sai Kung | | | | |
| Sai Kung | Kau Sai San Tsuen | SO, CHI WAH | — | Uncontested |
| | Uk Cheung | LAU, CHI TUNG | — | Uncontested |