

LEGISLATIVE COUNCIL BRIEF

Legislative Council Ordinance (Chapter 542)

Chief Executive Election Ordinance (Chapter 569)

ELECTION COMMITTEE (SUBSCRIBERS AND ELECTION DEPOSIT FOR NOMINATION) REGULATION

LEGISLATIVE COUNCIL (SUBSCRIBERS AND ELECTION DEPOSIT FOR NOMINATION) (AMENDMENT) REGULATION 2001

INTRODUCTION

At the meeting of the Executive Council on 9 October 2001, the Council **ADVISED** and the Chief Executive **ORDERED** that-

- (a) the Election Committee (Subscribers and Election Deposit for Nomination) Regulation should be made under section 46 of the Chief Executive Election Ordinance (Cap. 569); and
- (b) the Legislative Council (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2001 should be made under section 82 of the Legislative Council Ordinance (Cap. 542).

BACKGROUND AND ARGUMENT

General background

2. Under section 46 of the Chief Executive Election Ordinance (“the Ordinance”), the Chief Executive in Council is empowered to make regulations to provide for the following in respect of the Election Committee (“EC”) subsector elections-

- (a) the number and qualifications of subscribers required for nomination;

- (b) the amount of election deposit required for nomination; and
- (c) the minimum proportion of votes to be obtained by a candidate in order for the paid election deposit to be returned.

3. The above requirements in respect of EC subsector elections are now set out in a regulation made under the Legislative Council Ordinance, namely, the Legislative Council (Subscribers and Election Deposit for Nomination) Regulation (Cap. 542, sub. leg.). This regulation was approved by the Chief Executive in Council in 1997 and subsequently amended in 2000. With the removal of the relevant provisions on the constitution of the EC, including the power of making regulations relating to EC subsector elections, from the Legislative Council Ordinance to the Ordinance, we need to make a new regulation under the Ordinance to provide for the relevant requirements. As a direct result of the making of this new regulation, we need to revise the Legislative Council (Subscribers and Election Deposit for Nomination) Regulation, in the form of an amendment regulation.

THE REGULATIONS

Election Committee (Subscribers and Election Deposit for Nomination) Regulation

4. Basically, the new regulation reproduces the relevant sections of the Legislative Council (Subscribers and Election Deposit for Nomination) Regulation in respect of EC subsector elections, adopting the same set of requirements prescribed therein. The requirements are as follows-

- (a) the nomination paper of a candidate at a subsector election needs to be completed by a minimum of five subscribers (**section 8**);
- (b) a subscriber must be a registered voter in respect of the subsector in which the candidate is contesting. Each subscriber will be allowed to subscribe to the nominations of as many candidates as there are vacancies for the subsector concerned at the election (**section 8**);
- (c) the amount of election deposit required for nomination is \$1,000 (**section 3**); and

- (d) a candidate must receive not less than 2.5% of the valid votes in the relevant subsector in order to get back the paid deposit; otherwise, the deposit will be forfeited (**section 5**).

5. The new regulation will first come into use in the EC subsector by-elections that will be held to fill vacancies in the relevant subsectors before the current EC is called upon to elect the second term Chief Executive in 2002.

Legislative Council (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2001

6. The Legislative Council (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2001 which is made under the Legislative Council Ordinance contains amendments consequential to the new regulation. The amendment regulation removes provisions relating to the subscriber and election deposit requirements for the EC subsector elections when the EC was constituted according to the Legislative Council Ordinance with the sole function of returning six Members to the second term Legislative Council. The opportunity is also taken to make a number of improvements to the drafting of the existing regulation where appropriate.

LEGISLATIVE TIMETABLE

7. The two regulations will be published in the Gazette on 12 October 2001 and tabled in the Legislative Council on 17 October 2001 for negative vetting.

BASIC LAW IMPLICATIONS

8. The Department of Justice advises that the regulations do not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice advises that the regulations are consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

10. The regulations will not affect the current binding effect of the relevant ordinances.

FINANCIAL AND STAFFING IMPLICATIONS

11. The regulations have no additional financial and staffing implications.

PUBLIC CONSULTATION

12. Public consultation is considered unnecessary because the proposed regulations adopt in full the existing requirements on subscriber and election deposit for EC subsector elections.

PUBLICITY

13. A press release will be issued on 12 October 2001. A spokesman will be available to answer media and public enquiries.

ENQUIRIES

12. Any enquiries on this brief should be addressed to Ms Doris Ho, Principal Assistant Secretary (Constitutional Affairs) 4, on 28102159.

Constitutional Affairs Bureau
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