

LEGISLATIVE COUNCIL BRIEF

Elections (Corrupt and Illegal Conduct) Ordinance
(Chapter 554)

MAXIMUM AMOUNT OF ELECTION EXPENSES (CHIEF EXECUTIVE ELECTION) REGULATION

INTRODUCTION

At the meeting of the Executive Council on 6 November 2001, the Council **ADVISED** and the Chief Executive **ORDERED** that the Maximum Amount of Election Expenses (Chief Executive Election) Regulation (“the Regulation”) should be made under section 45 of the Elections (Corrupt and Illegal Conduct) Ordinance (“ECICO”) (Cap. 554).

BACKGROUND AND ARGUMENT

General Background

2. Section 45 of the ECICO empowers the CE in Council to prescribe, by regulation subject to negative vetting by the Legislative Council (“LegCo”), election expense limits for elections, including the CE election.

3. Once an election expense limit is set for the CE election, no candidate is allowed to spend in excess of the limit. Any person in breach of this restriction is liable on conviction, if tried on indictment, to a fine of \$200,000 and to imprisonment for three years. Within the limit, a candidate has complete discretion to decide how and on what his election expenses are to be spent.

Principles for setting an election expense limit for the CE election

4. Article 45 and Annex I of the Basic Law (“BL”) provide that the CE shall be elected by a broadly representative Election Committee (“EC”), and be appointed by the Central People’s Government. Most EC members are elected from different sectors and represent different walks of life in the community. BL 43 provides that the CE shall be the head of the Hong Kong Special Administration Region (“HKSAR”) and shall represent the HKSAR. The functions and powers conferred on the CE by the BL cover a wide range of matters relating to the HKSAR. The policies of the CE will affect the well-being of all residents in the HKSAR. As such, candidates running for the office of the CE have a legitimate need to publicize their election platform to the public at large.

5. As a result, the election expense limit for the CE election has to be sufficient in order to enable candidates to publicize their election platform to all residents of the HKSAR. In this connection, it is pertinent to note that the total of the election expense limits for the five Geographical Constituencies of the LegCo elections is equal to \$10 million.

THE REGULATION

6. The Regulation provides that the election expense limit for the CE election shall be \$9.5 million. It will come into operation on 21 December 2001.

LEGISLATIVE TIMETABLE

7. The Regulation will be published in the Gazette on 9 November 2001 and tabled in the LegCo for negative vetting on 14 November 2001.

BASIC LAW IMPLICATIONS

8. The Department of Justice has advised that the Regulation does not conflict with the provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice has advised that the Regulation is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

10. The Regulation does not affect the current binding effect of the ECICO.

FINANCIAL AND STAFFING IMPLICATIONS

11. The making of the Regulation has no direct financial or staffing implications.

PUBLIC CONSULTATION

12. The Regulation is made after discussion with the LegCo Panel on Constitutional Affairs.

PUBLICITY

13. A press release will be issued before the Regulation is published in the Gazette. A spokesman will be available for answering media enquiries.

ENQUIRIES

14. Enquiries on this LegCo brief and the Regulation should be directed to Mr Chris SUN, Assistant Secretary for Constitutional Affairs, on 2810 2064.

8 November 2001
File Ref.: CAB C5/7/7