

LN205E

L.N. 205 of 2001

Election Committee (Subscribers and Election
Deposit For Nomination) Regulation

(Made by the Chief Executive in Council under section 46 of the
Chief Executive Election Ordinance (Cap. 569))

1. Commencement

This Regulation shall come into operation on 23 November 2001.

2. Interpretation

In this Regulation, unless the context otherwise requires---

"candidate" (候選人) means a person nominated as a candidate for a subsector at a subsector election;

"subsector" (界別分組) has the meaning assigned to it by section 1 of the Schedule to the Ordinance;

"subsector by-election" (界別分組補選) has the meaning assigned to it by section 1 of the Schedule to the Ordinance;

"subsector election" (界別分組選舉) means a subsector ordinary election or a subsector by-election;

"subsector ordinary election" (界別分組一般選舉) has the meaning assigned to it by section 1 of the Schedule to the Ordinance;

"voter" (投票人) means a voter within the meaning of section 11(1) of the Schedule to the Ordinance.

3. Amount of deposit

(1) The amount of the deposit to be lodged under section 19 of the Schedule to the Ordinance by or on behalf of a candidate in respect of his nomination as a candidate is \$1,000.

(2) Where a deposit is lodged with a Returning Officer, he shall forthwith deposit it with the Director of Accounting Services.

4. Return of deposit on invalid nomination etc.

(1) A deposit lodged in respect of a candidate's nomination shall be returned in accordance with subsections (2) and (3), if---

(a) the candidate withdraws his candidature under section 21 of the Schedule to the Ordinance;

(b) the Returning Officer makes a decision under section 22(1) of the Schedule to the Ordinance that the candidate is not validly nominated;

(c) the Returning Officer gives the notice of the death of the candidate under section 23(1) of the Schedule to the Ordinance;

(d) the Returning Officer gives the notice of the variation of the decision under section 23(4) of the Schedule to the Ordinance; or

(e) proof is given to the satisfaction of the Returning Officer that the candidate has died or is disqualified from being elected as referred to in section 26(1) of the Schedule to the Ordinance.

(2) The Returning Officer shall as soon as practicable---

(a) in the case of subsection (1)(a) or (b), after the publication under the EAC Regulations of a notice containing particulars of the candidates validly nominated in respect of the subsector concerned;

(b) in the case of subsection (1)(c), after the notice of the death is given under section 23(1) of the Schedule to the Ordinance or the declarations are made under section 23(2) of that Schedule (as may be applicable);

(c) in the case of subsection (1)(d), after the notice of the variation of the decision is given under section 23(4) of the Schedule to the Ordinance or the declarations are made under section 23(5) of that Schedule (as may be applicable);

(d) in the case of subsection (1)(e), after the publication under section 35 of the Schedule to the Ordinance of a notice containing the names of the persons duly elected as members of the Election Committee at the subsector election, notify the Director of Accounting Services in writing that the deposit lodged in respect of the candidate's nomination is returnable to the person who lodged the deposit.

(3) The Director of Accounting Services shall, as soon as practicable after receiving a notification under subsection (2), return the deposit to the person who lodged the deposit, as specified in the notification.

5. Disposal of deposit after publication of subsector election result

(1) Subject to subsection (2), when in a subsector election---

(a) a candidate is declared under section 25(1) of the Schedule to the Ordinance to be duly elected as a member of the Election Committee representing the subsector concerned; or

(b) a candidate is declared under section 29(7) or (9) of the Schedule to the Ordinance as elected,

the deposit lodged in respect of his nomination shall be returned after such declaration to the person who lodged the deposit.

(2) In a subsector election, if the total number of ballot papers containing valid votes in favour of an unsuccessful candidate is less than---

(a) 2.5% of the total number of ballot papers containing valid votes received in the subsector concerned (as determined by a counting of the votes and any re-count); or

(b) the minimum number of persons required under section 8(1) to subscribe to the

nomination paper of a person seeking nomination in that subsector, whichever is the greater, the deposit lodged in respect of the candidate's nomination shall be forfeited to the general revenue.

(3) The Returning Officer shall as soon as practicable---

(a) in the case of subsection (1)(a), after the publication of the declaration that the candidate is duly elected;

(b) in the case of subsection (1)(b), after the publication of a notice under section 35 of the Schedule to the Ordinance,

notify the Director of Accounting Services in writing that the deposit lodged in respect of the candidate's nomination is returnable to the person who lodged the deposit.

(4) The Director of Accounting Services shall, as soon as practicable after receiving a notification under subsection (3), return the deposit to the person who lodged the deposit, as specified in the notification.

(5) The Returning Officer shall, as soon as practicable after the publication of the notice referred to in subsection (3)(b), notify the Director of Accounting Services in writing, as regards any unsuccessful candidate referred to in subsection (2), that the deposit lodged in respect of the candidate's nomination shall be forfeited to the general revenue.

6. Disposal of deposit in case of death

(1) Where---

(a) a deposit is required to be returned to the person who lodged it in accordance with section 4 or 5; and

(b) that person dies after the deposit is lodged, the deposit shall, notwithstanding those sections, be paid to the estate of that person and the Returning Officer shall notify the Director of Accounting Services in writing accordingly.

(2) The Director of Accounting Services shall, as soon as practicable after receiving a notification under subsection (1), pay the deposit to the legal personal representative of that person referred to in subsection (1).

7. Notifications in specified form

Any notification for the purposes of this Regulation shall be in a form specified by the Electoral Affairs Commission.

8. Number and qualifications of subscribers to nomination paper

(1) The nomination paper of any person seeking nomination as a candidate for a subsector at a subsector election shall be subscribed by at least 5 other persons each being a voter registered for the subsector concerned.

(2) A voter registered for a subsector can, subject to subsection (4), subscribe

any number of nomination papers up to the number of---

(a) members allocated to that subsector, if the nomination is for a subsector ordinary election; or

(b) members to be returned for that subsector, if the nomination is for a subsector by-election.

(3) The signature of a voter shall, subject to subsection (4), be inoperative on any nomination paper delivered after the delivery of the maximum number of nomination papers that can be subscribed under subsection (2).

(4) Where---

(a) a candidate has withdrawn his candidature under section 21 of the Schedule to the Ordinance;

(b) the Returning Officer has made a decision under section 22(1) of the Schedule to the Ordinance that the candidate is not validly nominated;

(c) the Returning Officer has made a decision under section 22(1) of the Schedule to the Ordinance that the candidate is validly nominated, but before the close of nominations---

(i) proof is given to the satisfaction of the Returning Officer that the candidate has died, and the Returning Officer gives notice of the death under section 23(1) of the Schedule to the Ordinance; or

(ii) the Returning Officer varies the decision to the effect that the candidate is not validly nominated and gives notice of the variation of the decision under section 23(4) of the Schedule to the Ordinance, the voter who has subscribed the nomination paper of that candidate may subscribe another nomination paper, and---

(d) his signature shall not be inoperative on that other nomination paper only because he has previously subscribed the nomination paper of that candidate;

(e) if he subscribes more than one nomination paper in contravention of this subsection, his signature shall be inoperative on any nomination paper so subscribed other than the first one delivered.

CHENG Mei-sze, Maisie

Clerk to the Executive Council

Council Chamber

9 October 2001

Explanatory Note

The object of this Regulation is to provide for the number and qualifications of subscribers, the amount of election deposit required for nomination and the conditions for forfeiture of the election deposit, in respect of Election Committee subsector elections.

2. Section 1 provides for the commencement of the Regulation.
3. Section 2 sets out the definitions necessary for the interpretation of the Regulation.
4. Section 3 prescribes the amount of election deposit for nomination to be lodged by a candidate for a subsector at a subsector election.
5. Section 4 sets out the circumstances of invalid nominations for the return of the election deposit.
6. Sections 5 and 6 provide for the manners of disposal of the election deposit after publication of the subsector election result, and in the case of death of candidate respectively.
7. Section 7 requires specified forms for notifications.
8. Section 8 sets out the requirements on the number and qualifications of the subscribers to a nomination paper.