

Legislative Council Panel on Constitutional Affairs

Number of Subscribers on Nomination Papers for Legislative Council Elections and District Council Elections

Introduction

This paper sets out our proposed measures to tackle the problem of election candidates submitting very large numbers of subscribers in their nomination papers.

Background

2. The relevant subscription requirements in respect of Legislative Council (LegCo) elections and District Council (DC) elections are stipulated in, respectively, the LegCo (Subscribers and Election Deposit for Nomination) Regulation and the DCs (Subscribers and Election Deposit for Nomination) Regulation. As currently worded, the regulations provide that a nomination for a candidate list in respect of any LegCo geographical constituency (GC) election shall be subscribed by **at least** 100 voters registered for that constituency, and that a nomination for a candidate in a LegCo functional constituency (FC) election or a DC election shall be subscribed by **at least** 10 voters registered for the relevant constituency. Due to the way the regulations are worded, candidates are free to submit more names than are required.

3. The regulations also provide that a voter shall not subscribe more than one nomination; otherwise, his signature shall be inoperative in respect of any nomination paper other than the one first delivered. A Returning Officer (RO) has a statutory obligation to determine the validity of a nomination^(Note). To fulfil this obligation, the RO has to ensure that the nomination paper has been subscribed by the minimum number of eligible subscribers, and that none of these subscribers have already subscribed nomination papers previously submitted. To do so, the RO has to check all the subscribers on the previously submitted nomination papers and to “lock in” all the valid subscribers, so that they will not be counted as subscribers in the nomination papers of other candidates received afterwards.

^(Note) Section 42A of the LegCo Ordinance (and a similar provision in the DC Ordinance) provides that the RO should decide, as soon as practicable after receiving a nomination paper, whether or not a person is validly nominated as a candidate.

4. In the 1999 DC elections, and again in the 2000 LegCo GC elections, there were candidates who submitted very large numbers of subscribers, including a significant proportion which were ineligible. These cases generated a large amount of work for the staff of the ROs, causing unnecessary strain on public resources. The Electoral Affairs Commission (EAC) recommended in its Report on the 2000 LegCo elections that consideration should be given to imposing a maximum limit on the number of subscribers to prevent candidates from submitting very large number of subscribers. The Administration also agrees that certain measures should be taken to tackle the problem in order to ensure more efficient use of public resources.

Proposal

5. We consider that the present legal provisions should be amended to the effect that nomination papers need not be subscribed by more than the minimum specified by law. We, therefore, recommend amending the LegCo (Subscribers and Election Deposit for Nomination) Regulation and the DCs (Subscribers and Election Deposit for Nomination) Regulation so that –

- (a) a nomination for a LegCo GC election shall be subscribed by 100 eligible voters registered for that constituency; and
- (b) a nomination for a LegCo FC election or a DC election shall be subscribed by 10 eligible voters registered for the relevant constituency.

6. We recognise that, for a variety of legitimate reasons, some candidates might hand in their nominations close to the deadline. In these circumstances, there would be practical difficulties for a candidate to ascertain whether subscribers on his nomination paper are all valid, in the sense that they have not subscribed another nomination previously submitted. Thus, we consider it reasonable to allow a candidate to submit more potential subscribers than the legal requirement. This buffer will help ensure that there would be a sufficient reserve of potential subscribers that could be used to make up the shortfall in case any of the first 100 subscribers (in a LegCo GC election), or the first 10 subscribers (in a LegCo FC or DC election), is found to be invalid. According to past experience, a 100% buffer would definitely be sufficient. We will invite the EAC –

- (a) to amend its regulations on electoral procedures to allow a candidate list in the LegCo GC elections to submit no more than 200 potential subscribers registered for that constituency, and a candidate in a LegCo FC or DC election no more than 20 potential subscribers registered for the relevant constituency; and
- (b) to prescribe and design nomination papers in such a way so as not to allow candidates to submit more than the minimum requirement plus the 100% buffer .

7. Under the new arrangements, the RO will stop verifying the names on the nomination papers once the legal subscription requirement (100 subscribers for a LegCo GC candidate list and 10 for a LegCo FC or DC candidate) has been reached. Any “surplus” would not be regarded as having subscribed the nomination concerned.

Way Forward

8. Members are invited to give views on the above proposals.
9. Subject to Members’ views, we will proceed with the necessary legislative procedures to amend the LegCo (Subscribers and Election Deposit for Nomination) Regulation and the DCs (Subscribers and Election Deposit for Nomination) Regulation. Concurrently, the EAC will make amendments to the EAC (Electoral Procedure) (LegCo) Regulation and the EAC (Electoral Procedure) (DCs) Regulation to reflect new practical arrangements. All the above amendment regulations will be subject to the scrutiny of the LegCo by way of negative vetting.

Constitutional Affairs Bureau
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