

LEGISLATIVE COUNCIL BRIEF

District Councils Ordinance
(Chapter 547)

District Councils (Amendment) Bill 2006

INTRODUCTION

At the meeting of the Executive Council on 28 November 2006, the Council **ADVISED** and the Chief Executive **ORDERED** that the District Councils (Amendment) Bill 2006, at **Annex A**, should be introduced into the Legislative Council (“LegCo”).

BACKGROUND AND JUSTIFICATIONS

2. Financial assistance for election candidates was first introduced in the 2004 LegCo election with the aim of encouraging more public-spirited candidates to participate in the LegCo elections and cultivating an environment to facilitate the development of political talents in Hong Kong. For the 2004 LegCo election, the Registration and Electoral Office (“REO”) received 47 applications for financial assistance from candidates. The total amount of financial assistance provided was around \$14 million.

3. There have been calls by political groups and parties to extend the financial assistance scheme to DC elections. We consulted the LegCo Panel on Constitutional Affairs (“the LegCo Panel”) in April 2006 on our proposal to introduce a financial assistance scheme at a rate of \$10 per vote, capped at 50% of a candidate’s declared election expenses, for DC election candidates. The proposal was generally supported by the Panel. We also consulted the public on the proposal during the public consultation on the Review on the Role, Functions and Composition of DCs (“DC Review”) held between April and July 2006. There was broad support for the proposal. After considering the views received from the LegCo Panel and the public consultation exercise on DC Review, we have worked out the details of the financial assistance scheme as outlined in paragraphs 4 to 11 below.

The Proposal

(A) Amount Payable

4. Under the existing financial assistance scheme for LegCo election candidates, the amount of financial assistance payable to a candidate is \$10 per vote, capped by 50% of the declared election expenses of a candidate, or the difference between the declared election expenses and declared election donations of a candidate, whichever is lower.

5. During discussion with the LegCo Panel and the public consultation on DC Review, there were views that if, in calculating the amount of financial assistance payable to a candidate, the election expenses incurred by the candidate had to be net of any donation received by him, candidates would be discouraged from obtaining donations and sponsorship from political parties, individuals, corporations, etc. We were also given to understand that in the 2004 LegCo election, political parties had to work out loan arrangements with candidates in order to maximize the amount of financial assistance the candidates may claim. Parties concerned considered the arrangements to be convoluted and inconvenient. Therefore, there were calls for the Government not to take into account the amount of election donations received by candidates for the purpose of calculating the amount of financial assistance payable.

6. We have considered this issue carefully. The existing arrangement of capping the amount of financial assistance payable to a LegCo election candidate by the difference between his declared election expenses and declared election donations is aimed at avoiding the candidate benefiting financially from an election. On the other hand, it could be argued that candidates should not be “penalized” if, through their own hard work, they are able to secure election donations and to win votes which qualify them for Government’s financial assistance. If election donation is not netted off, it may be that in some cases the amount of financial assistance payable to a candidate would be greater than the amount of his net election expenses¹. Any such “surplus” financial assistance may be used by the candidates for their future political or community work, or it may be expended generally as a token recognition of their efforts in elections. Over the long term, this arrangement may also be conducive to the development of political groups and parties in Hong Kong.

¹ This may occur if the candidate secures donations which exceed 50% of the total election expenses.

7. On balance, we propose to exclude election donations from the formula for calculating the amount of financial assistance. The formula will, therefore, be as follows:

(a) in respect of a candidate in a contested constituency, the amount payable is-

(i) the amount obtained by multiplying the total number of valid votes cast for the candidate by the specified rate (i.e. \$10 per vote); or

(ii) 50% of the declared election expenses of the candidate,

whichever is the lower;

(b) in respect of a candidate in an uncontested constituency, the amount payable is-

(i) the amount obtained by multiplying 50% of the number of registered electors for the constituency by the specified rate (i.e. \$10 per vote); or

(ii) 50% of the declared election expenses of the candidate,

whichever is the lower.

8. We also propose to make amendments to the Legislative Council Ordinance (Cap. 542) (“LCO”), so that the formula in paragraph 7 above will also apply to the financial assistance scheme for LegCo election candidates².

Auditing Requirement

9. The existing financial assistance scheme for LegCo election candidates requires each applicant to submit an auditor’s report on the accounts of his election expenses and donations. The auditing fees, which are not counted as part of election expenses, are shouldered by the LegCo election candidates themselves. Payment of financial assistance will be made to the candidates

² For Members’ reference, applying the revised formula to the 2004 LegCo election, the proposed change to the formula for calculating the amount of financial assistance for LegCo election candidates would increase the financial implications slightly from \$14 million to \$15 million.

subject to the Chief Electoral Officer (“CEO”)’s satisfaction that the candidates have complied with all the relevant requirements (including the submission of auditors’ reports) when making the claims.

10. Due to the considerable difference in the electorate size between a DC election constituency and a LegCo election constituency, the number of votes received by a DC election candidate is much smaller than that of a LegCo election candidate³. Thus, the amount of financial assistance received by a DC election candidate will be much smaller than that received by a LegCo election candidate. Applying the figures for the 2003 DC election, the median amount of financial assistance payable to a DC election candidate would be \$10,602⁴, assuming the formula outlined in paragraph 7 above is adopted. Rough estimates obtained by the REO from some accounting firms indicate that the cost of auditing the accounts of a DC election candidate would be around \$3,000 to \$5,000. If mandatory auditing requirement is imposed on the applicants of the proposed financial assistance scheme for DC election candidates, the auditing fee will take up a significant proportion of the financial assistance payable to candidates. This would undermine the purpose of the scheme.

11. As the electoral legislation already requires candidates to make statutory declarations of their election expenses, and given the average amount of financial assistance that would be payable to a candidate is not sizeable, we have considered the possibility of doing away with all auditing requirement on the financial assistance scheme for DC election candidates. However, we recognize that, to safeguard public expenditure, it would be necessary to put in place some control measures to ensure that the returns submitted by the candidates are accurate. Hence, we propose that REO should endeavour to check whether the election returns, including the accounts of declared election expenses, submitted by the applicants comply with the relevant requirements. Where necessary, REO will seek clarification from the applicants. For cases which REO considers that more in-depth checking is required (and to the extent that REO staff do not possess the required expertise to conduct such checking), REO can refer such cases to an outside audit firm, to be chosen by the REO through open tender, for further checking. The CEO will effect payment of financial assistance to the applicants concerned only after he is satisfied that the returns submitted by the applicants have set out accurately all the election

³ In the 2003 DC election, the average number of valid votes cast in each DC constituency was 3,225. In the 2004 LegCo election, the average number of valid votes cast in each geographical constituency was 352,038.

⁴ The median amount of financial assistance received by candidates in the 2004 LegCo election was \$525,640.

expenses incurred by the applicants.

The Bill

12. The Bill seeks to provide a legal basis to implement the financial assistance scheme for DC election candidates, on the basis of the proposal we consulted the LegCo Panel in April 2006 and having regard to the implementation details proposed in paragraphs 4 to 11 above. The main provisions of the Bill are explained below.

13. A new Part (Part VA) is introduced to the DCO by clause 6 to provide for a financial assistance scheme in respect of election expenses incurred by DC election candidates. The amount of financial assistance is to be computed according to the formula set out in the proposed section 60D in clause 6 and as outlined in paragraph 7 above.

14. The claim for financial assistance is to be presented to the CEO within the period or extended period⁵ for lodging election returns as specified in the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554)("ECICO"), and must be made according to regulations made under the Electoral Affairs Commission Ordinance (Cap. 541)("EACO"). The CEO is empowered to appoint an auditor to assist in verifying the claim (the proposed section 60H in clause 6).

15. A payment of financial assistance cannot be made during the period for lodging an election petition or while an election petition is pending (the proposed section 60I in clause 6).

16. At present, the Returning Officer has to declare the failure of an election or the termination of election proceedings, as the case may be, if the death or disqualification of a candidate comes to his knowledge. Under the proposed section 60E in clause 6, an entitlement to financial assistance will not be affected if an election fails⁶, but financial assistance is not payable if election

⁵ Under section 37(2)(a)(ii) of the ECICO, a DC election candidate must lodge his election return with the appropriate authority not later than 30 days after the date of publication of the result of the election, or within such extended period as may be allowed by the Court under section 40 of the ECICO.

⁶ Under section 40(2) and (3) of the DCO, if, after the close of polling for an election for a constituency but before declaring the result of the election, it comes to the knowledge of the Returning Officer that a candidate has died or is disqualified from being elected, and that candidate is found to be successful at the election after the counting of votes is finished, the Returning Officer must publicly declare the election to have failed.

proceedings are terminated⁷. To bring the relevant provisions of the DCO in line with those in the LCO, clause 4 amends the relevant provisions of the DCO to require the Returning Officer to make the relevant declaration only when proof is given to his satisfaction of the death or disqualification of the candidate.

17. Clause 8 adds a new Schedule 7 to the DCO to set out the rate of financial assistance, which is \$10 per valid vote.

18. Clause 7 empowers the Chief Executive in Council to amend the new Schedule 7 by order published in the Gazette.

19. Clause 10 consequentially amends section 7(1) of the EACO to authorize the Electoral Affairs Commission (“EAC”) to make regulations to implement the scheme to provide financial assistance to DC election candidates, and clause 9 amends the long title of the EACO in view of the amendments made to that section 7(1).

20. The Bill also makes related amendments to the LCO, so that the same formula is adopted for calculating the amount of financial assistance payable to LegCo election candidates (clauses 11 to 16).

21. The existing provisions which are being amended are at **Annex B**.

LEGISLATIVE TIMETABLE

22. The legislative timetable will be-

Publication in the Gazette	8 December 2006
First reading and commencement of Second Reading debate	20 December 2006

⁷ Under section 40(1) of the DCO, the Returning Officer must publicly declare that the proceedings for the election for a constituency are terminated if it comes to the knowledge of the Returning Officer that a validly nominated candidate has died or is disqualified from being elected on the day specified for the holding of the election but before the close of polling for the election. As the vote counting result is not available in the circumstances, it is not possible to determine the amount of financial assistance payable to each candidate. Therefore, financial assistance is not payable if election proceedings are terminated.

Resumption of Second Reading
debate, committee stage and Third
Reading

to be notified

After the passage of the Bill, the EAC will make regulations under the EACO to set out the detailed operational procedures of the scheme. The regulations should be in place by July 2007, so that the scheme can be implemented in time for the 2007 DC election.

IMPLICATIONS OF THE PROPOSAL

23. The financial and civil service implications of the proposal are set out in Annex C.

24. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no economic, productivity, environmental or sustainability implications. The Bill will not affect the current binding effect of the relevant legislation.

PUBLIC CONSULTATION

25. We consulted the LegCo Panel on our proposal in April 2006. Members of the public and the 18 DCs were also consulted on the proposal as part of the consultation exercise on the DC Review held between April and July 2006. The proposal was generally well received, but there were views that donations received by candidates should not be deducted from their election expenses for the purpose of calculating the amount of financial assistance payable. Our proposal has taken on board such views.

26. Further, there were suggestions that the upper limit of financial assistance payable (i.e. 50% of the declared election expenses of candidates) should be raised. In response, we have explained that all parties, including the Government, political parties or political groups as well as candidates, play an important role in elections. The election expenses should, therefore, be borne collectively by the Government and the candidates or their political parties/groups. Hence, it is reasonable to cap the financial assistance at 50% of the declared election expenses of candidates.

PUBLICITY

27. A press release will be issued and a spokesman will be made available to answer media and public enquiries.

ENQUIRIES

28. Enquiries in relation to the Bill should be directed to Mr Ivanhoe CHANG, Principal Assistant Secretary for Constitutional Affairs, at 2810 2908.

Constitutional Affairs Bureau
7 December 2006

File Ref : CAB C2/7

A BILL

To

Amend the District Councils Ordinance to establish a scheme to provide financial assistance in respect of election expenses incurred by candidates in District Council elections, and to make related amendments to the Legislative Council Ordinance so that the same formula is adopted for calculating the amounts of financial assistance payable to candidates in Legislative Council elections and to candidates in District Council elections, and to make consequential amendments to the Electoral Affairs Commission Ordinance; to require the Returning Officer in a District Council election to be satisfied that there is proof of death or disqualification of a candidate before taking certain actions regarding the election; and to provide for matters necessary for those purposes.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the District Councils (Amendment) Ordinance 2006.

2. Commencement

This Ordinance shall come into operation on a day to be appointed by the Secretary for Constitutional Affairs by notice published in the Gazette.

3. Who are validly nominated candidates

Section 36 of the District Councils Ordinance (Cap. 547) is amended -

- (a) in subsection (2), by repealing "it comes to the knowledge" and substituting "proof is given to the satisfaction";
- (b) in subsection (4), by repealing "it comes to the knowledge" and substituting "proof is given to the satisfaction".

4. When election proceedings are terminated or when an election fails

Section 40 is amended -

- (a) in subsection (1), by repealing "it comes to the knowledge" and substituting "proof is given to the satisfaction";
- (b) in subsection (2), by repealing "it comes to the knowledge" and substituting "proof is given to the satisfaction".

5. System of voting and counting of votes

Section 41(5) is amended by repealing "it comes to the knowledge" and substituting "proof is given to the satisfaction".

6. Part VA added

The following is added -

"PART VA

FINANCIAL ASSISTANCE FOR CANDIDATES
IN RESPECT OF ELECTION EXPENSES

60A. Interpretation: Part VA

(1) In this Part -

"auditor" (核數師) means a certified public accountant

(practising) as defined in the Professional Accountants Ordinance (Cap. 50);

"Chief Electoral Officer" (總選舉事務主任) means the Chief Electoral Officer appointed under section 9 of the Electoral Affairs Commission Ordinance (Cap. 541);

"claim" (申索) means a claim for financial assistance payable under this Part;

"declared election expenses" (申報選舉開支) means, in relation to a candidate, the amount set out as election expenses incurred by the candidate in the election return lodged for the relevant election;

"disqualified candidate" (喪失資格的候選人) means a candidate in respect of whom proof is given to the satisfaction of the Returning Officer under section 40(2) that the candidate is disqualified from being elected;

"elected as an elected member" (當選為民選議員), in relation to a candidate, means -

- (a) a candidate who is declared to be duly elected in a notice published under section 46, unless he or she is determined under section 55(1) or (2) to be not duly elected;
- (b) a deceased candidate who is found to be successful at the election under section 40(3), unless proof is given to the satisfaction of the Returning Officer under section 40(2) that he or she is disqualified from being elected; or
- (c) a candidate who becomes an elected member under section 60(2);

"election return" (選舉申報書) has the meaning assigned to it by section 2(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554);

"eligible candidate" (合資格候選人) means a candidate who is eligible for financial assistance under section 60C(a) or (b);

"political party" (政黨) means -

- (a) a political body or organization operating in Hong Kong, that purports to be a political party; or
- (b) a body or organization the principal function or main object of which is to promote or prepare a candidate for election as a Member of the Legislative Council or as a member of any District Council;

"specified rate" (指明資助額) means the amount specified in Schedule 7.

(2) Subject to any determination the Court may make on the validity of a vote in the course of determining an election petition, for the purposes of this Part -

- (a) the total number of valid votes cast in any constituency is the total number of ballot papers containing valid votes received in that constituency; and
- (b) the total number of valid votes cast for a candidate for such a constituency is the total number of ballot papers containing valid votes cast for that candidate.

(3) For the purposes of section 60D(2)(a), the number of registered electors for a constituency is the number of electors registered for that constituency in the final register of geographical constituencies compiled and published by the Electoral Registration Officer under section 32 of the Legislative Council Ordinance (Cap. 542) which is in force at the time the election is held.

60B. Financial assistance payable to candidates

(1) An eligible candidate is entitled to financial assistance in the form of a monetary payment, in accordance with this Part, in respect of the declared election expenses of that candidate for an election.

(2) Subject to this Part, financial assistance is payable to an eligible candidate whether or not that candidate -

- (a) represents a political party or an organization that is not a political party; or
- (b) is an independent candidate.

(3) An amount payable as financial assistance is payable whether or not the declared election expenses have been paid or are due for payment in whole or in part.

(4) For the avoidance of doubt, it is stated that financial assistance payable under this Part is not an election donation within the meaning of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

60C. Eligibility for financial assistance

A candidate for a constituency is eligible for financial assistance only if he is -

- (a) a candidate who is elected as an elected member; or
- (b) a candidate who is not elected as an elected member but who -
 - (i) is not a disqualified candidate; and
 - (ii) obtains at least 5% of the total number of valid votes cast in the constituency concerned.

60D. Amount payable as financial assistance

(1) If the election for a constituency is contested, the amount payable as financial assistance to a candidate is the lower of the following amounts -

- (a) the amount obtained by multiplying the total number of valid votes cast for the candidate by the specified rate;
- (b) 50% of the declared election expenses of the candidate.

(2) If the election for a constituency is uncontested, the amount payable as financial assistance to a candidate is the lower of the following amounts -

- (a) the amount obtained by multiplying 50% of the number of registered electors for the constituency by the specified rate;
- (b) 50% of the declared election expenses of the candidate.

60E. Entitlement to financial assistance not affected by failure of election, but financial assistance not payable if election proceedings are terminated

(1) A declaration by the Returning Officer under section 40(3) that an election has failed does not affect any entitlement to financial assistance under this Part.

(2) If the proceedings for an election are terminated under section 40(1), financial assistance is not payable in respect of that election.

60F. Financial assistance to be paid out of general revenue

An amount payable as financial assistance under this Part is a charge on, and is to be met from, the general revenue.

60G. Recovery of payment of financial assistance

(1) Where a payment of financial assistance is made under this Part and the recipient is not entitled to receive the whole or part of the amount paid -

(a) the Chief Electoral Officer shall give a written notice to the recipient requiring repayment of the whole or part, as the case may be, of the amount paid; and

(b) the recipient must repay the whole or part, as the case may be, of the amount paid, to the Government within 3 months after the date of the notice,

in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541).

(2) Any amount that is not repaid under subsection (1) may be recovered as a civil debt due to the Government.

(3) If a person from whom an amount is recoverable as a civil debt under subsection (2) dies before such recovery, the estate of that deceased person is liable to the extent of the deceased person's liability.

(4) In any proceedings for the purposes of subsection (2), a certificate signed by the Chief Electoral Officer, stating, in relation to a payment of financial assistance under this Part, the amount, the date and the recipient of the payment is admissible as evidence of the matters stated in the certificate.

60H. How financial assistance is to be claimed and paid

(1) A claim must be -

- (a) presented to the Chief Electoral Officer within the period or extended period provided for in section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) for lodging an election return; and
- (b) accompanied by an election return.

(2) A claim must be made, supported and verified also in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541).

(3) Without limiting the generality of subsection (2), the Chief Electoral Officer may appoint an auditor to assist in verifying any claim (including the auditing of the accounts in the election return accompanying the claim).

(4) A payment of financial assistance is to be made by the Chief Electoral Officer.

(5) The manner of payment of financial assistance must also be in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541).

(6) Where a person entitled to financial assistance dies before a claim is made, a claim may be made on behalf of the estate of the deceased person, and any payment of financial assistance in such case is to be made for the benefit of the estate.

(7) Where a person entitled to financial assistance dies after a claim is made but before a payment of financial assistance is made or the claim is otherwise disposed of, the claim may be continued on behalf of the estate of the deceased person, and any payment of financial assistance in such case is to be made for the benefit of the estate.

(8) Where a person entitled to financial assistance dies before or after a claim is made, his or her legal personal representative or such other person as specified in regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541) may take any action in respect of the claim that the deceased person may have taken.

60I. Financial assistance not to be paid until disposal of election petition

(1) The Chief Electoral Officer must not make any payment of financial assistance during the period specified in section 53 for lodging an election petition, but may receive or process a claim during that period.

(2) If an election petition relating to an election for a constituency is lodged, the Chief Electoral Officer must not make any payment of financial assistance to any candidate

for that constituency until the determination, abandonment or termination of the petition under Division 4 of Part V.

(3) In this section, a reference to the abandonment of an election petition includes a reference to withdrawing or ceasing to prosecute an election petition."

7. Chief Executive in Council may amend Schedule 4 or 5

Section 82 is amended -

(a) in the heading, by repealing "or 5" and substituting ", 5 or 7";

(b) by repealing "or 5." and substituting ", 5 or 7."

8. Schedule 7 added

The following is added -

"SCHEDULE 7 [ss. 60A & 82]

FINANCIAL ASSISTANCE: SPECIFIED RATE

The rate of financial assistance for the purposes of Part VA of this Ordinance is \$10."

Consequential and Related Amendments

Electoral Affairs Commission Ordinance

9. Long title amended

The long title to the Electoral Affairs Commission Ordinance (Cap. 541) is amended by adding "and under the District Councils Ordinance" after "Legislative Council Ordinance".

10. Regulations

Section 7(1) is amended by adding -

"(hc) the procedure to implement the scheme for the payment of financial assistance set out in Part VA of the District Councils Ordinance (Cap. 547), including, in particular, the procedure for -

- (i) making or withdrawing claims for financial assistance;
- (ii) repaying to the Government amounts or parts of amounts paid as financial assistance;
- (iii) supporting and verifying claims for financial assistance;
- (iv) making a payment of financial assistance to a candidate; and
- (v) making a claim for financial assistance in respect of the estate of a deceased person, the payment of financial assistance on such a claim, and the taking of any action for those purposes by a legal personal representative of a deceased person or by such other person as specified in the regulations;".

Legislative Council Ordinance

11. Interpretation: Part VIA

Section 60A of the Legislative Council Ordinance (Cap. 542) is amended -

- (a) in subsection (1), by repealing the definition of "declared election donations";
- (b) by repealing subsection (3).

12. Financial assistance payable to list of candidates and candidates for functional constituencies

Section 60B is amended by adding -

"(4) For the avoidance of doubt, it is stated that financial assistance payable under this Part is not an election donation within the meaning of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).".

13. Amount payable as financial assistance: list of candidates

Section 60D is amended -

(a) in subsection (1) -

- (i) by repealing "Subject to subsections (3)(a) and (4), if" and substituting "If";
- (ii) by repealing "lowest" and substituting "lower";
- (iii) in paragraph (b), by repealing the semicolon and substituting a full stop;
- (iv) by repealing paragraph (c);

(b) in subsection (2) -

- (i) by repealing "Subject to subsections (3)(b) and (4), if" and substituting "If";
- (ii) by repealing "lowest" and substituting "lower";
- (iii) in paragraph (b), by repealing the semicolon and substituting a full stop;
- (iv) by repealing paragraph (c);

(c) by repealing subsections (3) and (4).

14. Amount payable as financial assistance: candidates for functional constituencies

Section 60E is amended -

- (a) in subsection (1) -
 - (i) by repealing "Subject to subsections (3)(a) and (4), if" and substituting "If";
 - (ii) by repealing "is the lowest" and substituting "to a candidate is the lower";
 - (iii) in paragraph (a), in the English text, by repealing "concerned";
 - (iv) in paragraph (b), by repealing the semicolon and substituting a full stop;
 - (v) by repealing paragraph (c);
- (b) in subsection (2) -
 - (i) by repealing "Subject to subsections (3)(b) and (4), if" and substituting "If";
 - (ii) by repealing "is the lowest" and substituting "to a candidate is the lower";
 - (iii) in paragraph (b), by repealing "concerned;" and substituting a full stop;
 - (iv) by repealing paragraph (c);
- (c) by repealing subsections (3) and (4).

15. How financial assistance is to be claimed and paid

Section 60I(1)(b) is amended by repealing "and the declared election donations".

16. Financial assistance not to be paid until disposal of election petition

Section 60J is amended by adding -

"(4) In this section, a reference to the abandonment of an election petition includes a reference to withdrawing or ceasing to prosecute an election petition."

Explanatory Memorandum

The main object of this Bill is to amend the District Councils Ordinance (Cap. 547)("DCO") to establish a scheme to provide financial assistance to candidates at a District Council election, who meet the criteria prescribed in the Bill, at a rate specified in the Bill, in respect of election expenses incurred by them.

2. A new Part (Part VA) of the DCO is introduced by clause 6 to provide a scheme for financial assistance in respect of election expenses incurred by candidates at a District Council election.

3. Under this scheme, a candidate (irrespective of whether the candidate represents a political party operating in Hong Kong or an organization that is not such a political party, or whether he is an independent candidate) is eligible for financial assistance in respect of election expenses incurred by the candidate, if the candidate meets the eligibility criteria in the Bill (the proposed sections 60B and 60C in clause 6).

4. The amount of financial assistance is to be computed according to the proposed section 60D in clause 6, and is not to exceed 50% of the election expenses declared under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554)("ECICO").

5. The payments of financial assistance are to be made from the general revenue (the proposed section 60F in clause 6).

6. An amount paid to a recipient who is not entitled to the payment of financial assistance can be recovered as a civil debt (the proposed section 60G in clause 6).

7. The claim for financial assistance is to be presented to the Chief Electoral Officer within the period or extended period for lodging election returns as specified in the ECICO and must be made according to regulations made under the Electoral Affairs Commission Ordinance (Cap. 541)("EACO"). In making a claim for financial assistance, the accounts in the election return accompanying the claim are not required to be audited by an auditor, but the claim will be verified in accordance with regulations made under the EACO and the Chief Electoral Officer may appoint an auditor to assist in verifying the claim (the proposed section 60H in clause 6).

8. A payment of financial assistance cannot be made during the period for lodging an election petition or while an election petition is pending (the proposed section 60I in clause 6).

9. Under the proposed section 60E in clause 6, an entitlement to financial assistance will not be affected if an election fails, but financial assistance is not payable if election proceedings are terminated.

10. Clause 8 adds a new Schedule 7 to the DCO to set out the rate of financial assistance, which is \$10 per valid vote.

11. Clause 7 makes an amendment to empower the Chief Executive in Council to amend the new Schedule 7 by order published in the Gazette.

12. Clause 10 consequentially amends section 7(1) of the EACO to authorize the Electoral Affairs Commission to make regulations to implement the scheme to provide financial assistance to candidates at a District Council election, and clause 9 enlarges the long

title of the EACO in view of the amendments made to that section 7(1).

13. The Bill also makes related amendments to the LCO so that the same formula is adopted for calculating the amount of financial assistance payable to a candidate or a list of candidates in the Legislative Council election, which means the difference in amount between the candidate's election expenses and the election donations received by him will not be taken into account (clauses 11 to 16).

14. Besides, the Bill also makes amendments to the DCO to require the Returning Officer to take certain actions in relation to the nomination of candidates for a District Council election and the conduct of the election (including, in particular, the declaration of the failure of the election or the termination of the election proceedings) only when proof is given to his satisfaction of the death or disqualification of the candidate. At present, the Returning Officer will take those actions if the death or disqualification of the candidate comes to his knowledge. The amendments made by clauses 3, 4 and 5 will bring the relevant provisions of the DCO in line with those in the LCO.

DISTRICT COUNCILS (AMENDMENT) BILL 2006

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PART VA

FINANCIAL ASSISTANCE FOR CANDIDATES IN RESPECT OF ELECTION EXPENSES

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Annex B

Chapter:	547	DISTRICT COUNCILS ORDINANCE	Gazette Number	Version Date
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Section:	36	Who are validly nominated candidates	L.N. 77 of 1999	19/03/1999
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(1) The Returning Officer must, as soon as practicable after receiving a nomination form that complies with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541), decide in accordance with those regulations whether or not a person is validly nominated as a candidate.

(2) If, after the Returning Officer has made a decision under subsection (1) that a candidate is validly nominated for election for a constituency but before the date specified for holding the election, it comes to the knowledge of the Returning Officer that the candidate has died, that Officer must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541)-

- (a) publicly declare that the candidate has died; and
- (b) further declare which candidate or candidates are validly nominated for election for that constituency.

(3) Subsection (2) does not apply if the Returning Officer has publicly declared under section 39(1) that the candidate was duly elected as an elected member.

(4) If, after the Returning Officer has made a decision under subsection (1) that a candidate is validly nominated for election for a constituency but before the date specified for holding the election, it comes to the knowledge of the Returning Officer that the candidate is disqualified from being nominated as a candidate, the Returning Officer must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541), vary the decision to the effect that the candidate is not validly nominated. If the Returning Officer so varies the decision, that Officer must, in accordance with those regulations-

- (a) publicly declare that the decision has been varied; and
- (b) further declare which candidate or candidates are validly nominated for election for that constituency.

(5) Subsection (4) does not apply if the Returning Officer has publicly declared under section 39(1) that the candidate was duly elected as an elected member.

Chapter:	547	DISTRICT COUNCILS ORDINANCE	Gazette Number	Version Date
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Section:	40	When election proceedings are terminated or when an election fails	L.N. 77 of 1999	19/03/1999
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(1) If, on the day specified for the holding of an election but before the close of polling for the election, it comes to the knowledge of the Returning Officer that a validly nominated candidate for election for a constituency has died or is disqualified from being elected, that Officer must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541), publicly declare that the proceedings for the election for the constituency are terminated.

(2) If, after the close of polling for an election but before declaring the result of the election, it comes to the knowledge of the Returning Officer that a candidate for election for a constituency has died or is disqualified from being elected, the proceedings for the election for the constituency are not to be terminated at that stage. If the counting of votes in respect of the election has not begun or is being conducted, the counting of votes is to begin or to continue as if the death or disqualification had not occurred.

(3) If, after the counting of votes is finished, the candidate referred to in subsection (2) is

found to be successful at the election, the Returning Officer must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541), publicly declare the election to have failed.

Chapter:	547	DISTRICT COUNCILS ORDINANCE	Gazette Number	Version Date
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Section:	41	System of voting and counting of votes	L.N. 77 of 1999	19/03/1999
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- (1) At every election which is contested-
 - (a) a poll shall be taken in each constituency or constituencies in which the election is held; and
 - (b) the voting at that poll shall be by secret ballot; and
 - (c) the election shall be conducted in accordance with the regulations and regulations in force under the Electoral Affairs Commission Ordinance (Cap 541).
- (2) The votes shall be given and counted in accordance with the simple or relative majority system of election (otherwise known as the "first past the post" voting system) whereby the elector shall vote for not more than one of the candidates and the candidate to whom the greatest number of votes have been given shall be declared by the Returning Officer as the only candidate to be elected.
- (3) If, after the counting of votes is finished, 2 or more of the most successful candidates have an equal number of votes, the Returning Officer must determine the result of the election by drawing lots. The person on whom the lot falls must be determined by the Returning Officer to be the elected member for the constituency concerned.
- (4) As soon as practicable after determining the result of the election, the Returning Officer must publicly declare as elected the candidate who was successful at the election.
- (5) Despite subsection (4), if, before declaring the result of an election for a constituency, it comes to the knowledge of the Returning Officer that the candidate who was successful at the election has died or is disqualified from being elected, that Officer-
 - (a) must not declare that candidate as elected; and
 - (b) must publicly declare, under section 40(3), that the election has failed.

Chapter:	547	DISTRICT COUNCILS ORDINANCE	Gazette Number	Version Date
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Section:	82	Chief Executive in Council may amend Schedule 4 or 5	L.N. 77 of 1999	19/03/1999
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The Chief Executive in Council may, by order published in the Gazette, amend Schedule 4 or 5.

Chapter:	541	ELECTORAL AFFAIRS COMMISSION ORDINANCE	Gazette Number	Version Date
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		Long title	L.N. 189 of 2003	15/07/2004
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An Ordinance to provide for the establishment of the Electoral Affairs Commission as a body corporate, for the purpose of making recommendations regarding the delineation of geographical constituencies and District Council constituencies and demarcation of their boundaries and to be responsible for the conduct and supervision of elections, regulating the procedure for providing financial assistance to candidates under the Legislative Council Ordinance, and matters incidental thereto.

(Amended 8 of 1999 s. 89; 25 of 2003 s. 51)

[29 August 1997]

(Originally 129 of 1997)

Chapter:	541	ELECTORAL AFFAIRS COMMISSION ORDINANCE	Gazette Number	Version Date
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Section:	7	Regulations	L.N. 189 of 2003	15/07/2004
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- (1) The Commission may, by regulation, provide for the following-
- (a) the-
 - (i) registration of electors;
 - (ii) determination (where applicable) of-
 - (A) the appropriate constituency; (Amended 2 of 2003 s. 68)
 - (B) in the case of the Election Committee, the appropriate sectors or subsectors; or (Amended 21 of 2001 s. 59; 2 of 2003 s. 68)
 - (C) in the case of an election held for the purpose of electing a Village Representative for a Village, the appropriate Village or Villages, (Added 2 of 2003 s. 68)
 for such registration;
 - (iii) form, compilation, revision and correction, and the manner of publication of the register of persons entitled under any electoral law to vote at an election; and
 - (iv) ascertainment of qualifications of electors;
 - (b) the conduct or supervision of, and procedure at any election;
 - (c) the conduct or supervision of, and procedure for the formation of, or the filling of vacancies in the membership of, the Election Committee; (Amended 21 of 2001 s. 59)
 - (d) without limiting the generality of paragraphs (b) and (c)-
 - (i) the procedure for the nomination of candidates in an election, including provision for consent by a candidate for nomination, and withdrawal of a nomination;
 - (ii) the procedure for lodging a deposit in respect of the nomination of a candidate;
 - (iii) the appointment by the candidate, of agents and other persons to assist him in an election and matters relating to such appointments;
 - (iv) the designation of polling stations;
 - (v) the supervision of polling stations and the regulation of the ballot;
 - (vi) the procedure or procedures for voting and counting at an election;
 - (vii) the designation and supervision of counting stations;
 - (viii) the declaration and publication of results of an election;
 - (ix) the disposal of ballot or other papers after an election; and
 - (x) the making of a report to the Commission by any person, or any person

specified in the regulations, regarding any occurrence considered by such a person as an irregularity relating to an election, the poll or a counting of the votes;

- (e) the appointment and conduct of persons authorized to incur election expenses on behalf of candidates and matters relating to the display or use of election advertisements or other publicity materials relating to an election;
- (f) the Commission or such other person specified in the regulations to require any information reasonably required in respect of any matter referred to in paragraph (a), from a person or a class or description of persons specified in the regulations;
- (g) the establishment or appointment of committees (including or consisting of a person or persons other than members of the Commission) and provide for the functions, proceedings and regulation of those committees;
- (h) the termination of proceedings for an election on the ground of the death or disqualification of a candidate; (Amended 8 of 1999 s. 89)
- (ha) the declaration of failure of an election; (Added 48 of 1999 s. 51)
- (hb) the procedure to implement the scheme for the payment of financial assistance set out in Part VIA of the Legislative Council Ordinance (Cap 542), including, in particular, the procedure for -
 - (i) making or withdrawing claims for financial assistance;
 - (ii) repaying to the Government amounts or parts of amounts paid as financial assistance;
 - (iii) supporting and verifying claims for financial assistance;
 - (iv) making a payment of financial assistance to a candidate or in respect of a list of candidates;
 - (v) making a claim for financial assistance in respect of the estate of a deceased person, the payment of financial assistance on such a claim, and the taking of any action for those purposes by a legal personal representative of a deceased person or by such other person as specified in the regulations; (Added 25 of 2003 s. 52)
- (i) the determination or specification of forms; and
- (j) generally providing for the better carrying into effect the provisions and purposes of this Ordinance or any electoral law.

(1A) The Commission may by regulation-

- (a) prescribe offences for the purposes of section 14(h) of the Chief Executive Election Ordinance (Cap 569);
- (b) specify the form and manner of nomination of a candidate for the purposes of section 16(1) of the Chief Executive Election Ordinance (Cap 569);
- (c) provide for withdrawal of candidature for the purposes of section 19(2) of the Chief Executive Election Ordinance (Cap 569);
- (d) provide for the postponement or adjournment of a poll or the counting of votes in respect of a poll under section 21 of the Chief Executive Election Ordinance (Cap 569) and the appointment of a new date for the poll or the count. (Added 21 of 2001 s. 59)

(2) Subject to subsection (3), the Commission may make regulations to provide for the postponement or adjournment of-

- (a) an election;
- (b) the poll; or
- (c) the counting of votes ("the count"),

where the Commission or any person specified in the regulations is of the opinion that the election, the poll or the count is likely to be or is being obstructed, disrupted or undermined or seriously affected by-

- (i) a typhoon or other climatic condition of a serious nature;
- (ii) riot or open violence or any other occurrence of public danger; or
- (iii) an occurrence which appears to the Commission or the specified person to be a material irregularity relating to the election, the poll or the count.

- (3) Subsection (2) shall not be construed as empowering the Commission to postpone or adjourn-
- (a) a general election;
 - (b) (Repealed 78 of 1999 s. 7)
 - (ba) an ordinary election; or (Added 8 of 1999 s. 89)
 - (c) the poll (at all the polling stations) or the count in respect of a general election or an ordinary election, (Amended 78 of 1999 s. 7)
- on any ground referred to in subsection (2)(ii). (Amended 8 of 1999 s. 89)
- (4) The Commission may by regulation provide for-
- (a) the appointment of a new date-
 - (i) for an election, the poll or the count postponed or adjourned pursuant to subsection (2); and
 - (ii) which shall be not later than 2 days from the original date fixed for the election, the poll or the count, as the case may be, in the case of a postponement or adjournment on a ground referred to in subsection (2)(iii) and not later than 14 days from the original date in any other case;
 - (b) the procedure for the postponement or adjournment of a general election or an ordinary election or the poll or the count in respect of a general election or an ordinary election, on any ground referred to in subsection (2)(ii) by the authority or person who has power under any electoral law to effect the postponement or adjournment, and the procedure for the appointment of a new date for the election, the poll or the count by that authority or person. (Amended 8 of 1999 s. 89; 48 of 1999 s. 51; 78 of 1999 s. 7)
 - (c) (Repealed 48 of 1999 s. 51)
- (5) Regulations under this section may provide that any contravention of a requirement in or made under the regulations is an offence and is punishable by a fine not exceeding level 2 and imprisonment not exceeding 6 months. (Amended 8 of 1999 s. 89)
- (6) Regulations under this section may provide that-
- (a) where a body corporate is convicted of an offence under these regulations and the offence is proved to have been committed with the consent, connivance of, or was attributable to the neglect or omission on the part of a director, manager, secretary or any other person concerned in the management of the body corporate, the director, manager or secretary or that other person is liable for the offence; and
 - (b) where a partner of a partnership is convicted of an offence and it is proved that the offence was committed with the consent or connivance of, or was attributable to the neglect or omission on the part of any other partner or person concerned in the management of the partnership, the partner or that other person is liable for the offence.
- (7) In this section, "constituency" (選區或選舉界別) means-
- (a) a geographical constituency; or
 - (b) a constituency of any other description by which one or more members may be returned to the Legislative Council under any electoral law.

Chapter:	542	LEGISLATIVE COUNCIL ORDINANCE	Gazette Number	Version Date
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Section:	60A	Interpretation: Part VIA	10 of 2005	08/07/2005
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PART VIA

FINANCIAL ASSISTANCE FOR CANDIDATES

AND LISTS OF CANDIDATES IN RESPECT OF
ELECTION EXPENSES

(1) In this Part—

- “ auditor ” (核數師) means a certified public accountant (practising) as defined in the Professional Accountants Ordinance (Cap 50); (Amended 10 of 2005 s. 231)
- “ Chief Electoral Officer ” (總選舉事務主任) means the Chief Electoral Officer appointed under section 9 of the Electoral Affairs Commission Ordinance (Cap 541);
- “ claim ” (申索) means a claim for financial assistance payable under this Part;
- “ declared election donations ” (申報選舉捐贈) means, in relation to—
- (a) a list of candidates for a geographical constituency, the amount set out as election donations received in respect of the list, in the election return lodged for the relevant election; and
 - (b) a candidate for a functional constituency, the amount set out as election donations received by the candidate, in the election return lodged for the relevant election;
- “ declared election expenses ” (申報選舉開支) means, in relation to—
- (a) a list of candidates for a geographical constituency, the amount set out as election expenses incurred in respect of the list, in the election return lodged for the relevant election; and
 - (b) a candidate for a functional constituency, the amount set out as election expenses incurred by the candidate, in the election return lodged for the relevant election;
- “ disqualified candidate ” (喪失資格的候選人) means a candidate in respect of whom proof is given to the satisfaction of the Returning Officer under section 46A(2) that the candidate is disqualified from being elected;
- “ elected as a Member ” (當選為議員), in relation to a candidate, means—
- (a) a candidate who is declared to be duly elected in a notice published under section 58, unless he or she is determined under section 67(1) or (2) to be not duly elected;
 - (b) a deceased candidate, who is found to be successful at the election under section 46A(3), unless proof is given to the satisfaction of the Returning Officer under section 46A(2) that he or she is disqualified from being elected; or
 - (c) a candidate who becomes a Member under section 72(2);
- “ election return ” (選舉申報書) has the meaning assigned to it by section 2(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554);
- “ eligible candidate ” (合資格候選人) means a candidate who is eligible for financial assistance under section 60C(2)(a) or (b);
- “ eligible list of candidates ” (合資格的候選人名單) means a list of candidates that is eligible for financial assistance under section 60C(1)(a) or (b);
- “ political party ” (政黨) means—
- (a) a political body or organization operating in Hong Kong, that purports to be a political party; or
 - (b) a body or organization the principal function or main object of which is to promote or prepare a candidate for election as a Member or as a member of any District Council;
- “ specified rate ” (指明的資助額) means the amount specified in Schedule 5.

(2) A reference in this Part to an amount set out as election expenses incurred in respect of a list of candidates or the declared election expenses of a list of candidates is to be construed, in relation to a list of candidates consisting of more than one candidate, as the amount set out as the election expenses of all the candidates on the list or, if the election expenses are declared separately by the candidates on the list, as the aggregate of the separately declared election expenses.

(3) A reference in this Part to an amount set out as election donations received in respect of a list of candidates or the declared election donations of a list of candidates is to be construed, in

relation to a list of candidates consisting of more than one candidate, as the amount set out as the election donations received by all the candidates on the list or, if the election donations are declared separately by the candidates on the list, as the aggregate of the separately declared election donations.

(4) Subject to any determination the Court may make on the validity of a vote in the course of determining an election petition, for the purposes of this Part—

- (a) the total number of valid votes cast—
 - (i) in a geographical constituency is the total number of ballot papers containing valid votes received in that constituency; and
 - (ii) for a list of candidates for a geographical constituency is the total number of ballot papers containing valid votes cast for that list; and
- (b) the total number of valid votes cast—
 - (i) in a functional constituency specified in section 20(1)(a) to (d) is the total number of ballot papers containing valid first preference votes received in that constituency; and
 - (ii) for a candidate for such a functional constituency is the total number of ballot papers containing valid first preference votes for that candidate; and
- (c) the total number of valid votes cast—
 - (i) in any other functional constituency is the total number of ballot papers containing valid votes received in that constituency; and
 - (ii) for a candidate for such a functional constituency is the total number of ballot papers containing valid votes cast for that candidate.

(5) For the purposes of sections 60D(2)(a) and 60E(2)(a), the number of registered electors for a constituency is the number of electors registered for that constituency in the final register in force at the time the election is held.

(Part VIA added 25 of 2003 s. 38)

Chapter:	542	LEGISLATIVE COUNCIL ORDINANCE	Gazette Number	Version Date
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Section:	60B	Financial assistance payable to list of candidates and candidates for functional constituencies	L.N. 189 of 2003	15/07/2004
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(1) An eligible list of candidates for a geographical constituency or an eligible candidate for a functional constituency is entitled to financial assistance in the form of a monetary payment, in accordance with this Part, in respect of the declared election expenses for an election, of that list or candidate.

(2) Subject to this Part, financial assistance is payable to an eligible list of candidates or an eligible candidate whether or not that list or candidate represents a political party or an organization that is not a political party or is an independent list of candidates or an independent candidate.

(3) An amount payable as financial assistance is payable whether or not the declared election expenses have been paid or are due for payment in whole or in part.

(Part VIA added 25 of 2003 s. 38)

Chapter:	542	LEGISLATIVE COUNCIL ORDINANCE	Gazette Number	Version Date
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Section:	60D	Amount payable as financial assistance: list of candidates	L.N. 189 of 2003	15/07/2004
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(1) Subject to subsections (3)(a) and (4), if the election for a geographical constituency is contested, the amount payable as financial assistance in respect of the list of candidates is the lowest of the following amounts—

- (a) the amount obtained by multiplying the total number of valid votes cast for the list of candidates by the specified rate;
- (b) 50% of the declared election expenses of the list of candidates;
- (c) if the declared election expenses of the list of candidates exceed the declared election donations of the list, the difference in amount between those expenses and donations.

(2) Subject to subsections (3)(b) and (4), if the election for a geographical constituency is uncontested, the amount payable as financial assistance in respect of the list of candidates is the lowest of the following amounts—

- (a) the amount obtained by multiplying 50% of the number of registered electors for the constituency by the specified rate;
- (b) 50% of the declared election expenses of the list of candidates;
- (c) if the declared election expenses of the list of candidates exceed the declared election donations of the list, the difference in amount between those expenses and donations.

(3) If there are no declared election donations, the amount payable as financial assistance under—

- (a) subsection (1) is the lesser of the amounts referred to in subsection (1)(a) and (b); and
- (b) subsection (2) is the lesser of the amounts referred to in subsection (2)(a) and (b).

(4) If the declared election donations of a list of candidates equal or exceed the declared election expenses of the list, financial assistance is not payable in respect of the list.

(Part VIA added 25 of 2003 s. 38)

Chapter:	542	LEGISLATIVE COUNCIL ORDINANCE	Gazette Number	Version Date
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Section:	60E	Amount payable as financial assistance: candidates for functional constituencies	L.N. 189 of 2003	15/07/2004
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(1) Subject to subsections (3)(a) and (4), if the election for a functional constituency is contested, the amount payable as financial assistance is the lowest of the following amounts—

- (a) the amount obtained by multiplying the total number of valid votes cast for the candidate concerned by the specified rate;
- (b) 50% of the declared election expenses of the candidate;
- (c) if the declared election expenses of the candidate exceed the declared election donations, the difference in amount between those expenses and donations.

(2) Subject to subsections (3)(b) and (4), if the election for a functional constituency is uncontested, the amount payable as financial assistance is the lowest of the following amounts—

- (a) the amount obtained by multiplying 50% of the number of registered electors for the constituency by the specified rate;
- (b) 50% of the declared election expenses of the candidate concerned;
- (c) if the declared election expenses of the candidate exceed the declared election donations, the difference in amount between those expenses and donations.

(3) If there are no declared election donations, the amount payable as financial assistance

under—

- (a) subsection (1) is the lesser of the amounts referred to in subsection (1)(a) and (b); and
 - (b) subsection (2) is the lesser of the amounts referred to in subsection (2)(a) and (b).
- (4) If the declared election donations of a candidate equal or exceed the declared election expenses of the candidate, financial assistance is not payable to the candidate.

(Part VIA added 25 of 2003 s. 38)

Chapter:	542	LEGISLATIVE COUNCIL ORDINANCE	Gazette Number	Version Date
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Section:	60I	How financial assistance is to be claimed and paid	L.N. 189 of 2003	15/07/2004
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- (1) A claim must be—
 - (a) presented to the Chief Electoral Officer within the period or extended period provided for in section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) for lodging an election return; and
 - (b) accompanied by an election return, with the accounts of the declared election expenses and the declared election donations audited by an auditor.
- (2) A payment of financial assistance is to be made by the Chief Electoral Officer.
- (3) A claim must be made, supported and verified also in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap 541). The manner of payment must also be in accordance with those regulations.
- (4) Where a person entitled to financial assistance dies before a claim is made, a claim may be made on behalf of the estate of the deceased person and any payment of financial assistance be made for the benefit of the estate.
- (5) Where a person entitled to financial assistance dies after a claim is made, but before a payment of financial assistance is made or the claim is otherwise disposed of, the claim may be continued on behalf of the estate of the deceased person and any payment of financial assistance be made for the benefit of the estate.
- (6) Where a person entitled to financial assistance dies before or after a claim is made, his or her legal personal representative or such other person as specified in regulations in force under the Electoral Affairs Commission Ordinance (Cap 541) may take any action in respect of the claim that the deceased person may have taken.

(Part VIA added 25 of 2003 s. 38)

Chapter:	542	LEGISLATIVE COUNCIL ORDINANCE	Gazette Number	Version Date
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Section:	60J	Financial assistance not to be paid until disposal of election petition	L.N. 189 of 2003	15/07/2004
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- (1) The Chief Electoral Officer must not make any payment of financial assistance during the period specified in section 65 for lodging an election petition, but may receive or process a claim during that period.
- (2) If in relation to an election for a geographical constituency, an election petition is lodged, the Chief Electoral Officer must not make any payment of financial assistance in respect

of any list of candidates for that constituency, until the determination, abandonment or termination of the petition under Part VII.

(3) If in relation to an election for a functional constituency, an election petition is lodged, the Chief Electoral Officer must not make any payment of financial assistance to any candidate for that constituency, until the determination, abandonment or termination of the petition under Part VII.

(Part VIA added 25 of 2003 s. 38)

District Councils (Amendment) Bill 2006

Financial and Civil Service Implications
(c.f. Paragraph 23 of the Legislative Council Brief)

- At this stage we cannot assess accurately the financial implications of the proposal because the total amount of financial assistance payable to the candidates is dependent on a number of factors, such as the number of candidates, votes obtained by each candidate and the actual election expenses of each candidate. Using the actual figures in the 2003 DC election, the total amount of financial assistance payable would be around \$8.35 million if the formula outlined in paragraph 7 of the LegCo Brief is adopted. Applying the 2004 LegCo election figures, the proposal to change the existing formula for the financial assistance scheme for LegCo election candidates would slightly increase the financial implications from \$14 million to \$15 million. However, the way candidates plan and run their election campaigns and the way political parties or groups provide financial support (in the form of loans or donations) for their candidates may change if the formula is revised as proposed. This may have some impact on the amount of financial assistance that candidates may claim from the scheme. Therefore, the above figures are for illustrative purpose only.

- REO will incur additional cost for engaging an audit firm to conduct audit checks on accounts submitted by the applicants which require more in-depth checking (paragraph 11 of the LegCo Brief refers). In the 2003 DC election, there were 837 validly nominated candidates. Assuming that the cost of auditing each account is around \$4,000 and that about 84 (i.e. 10% of 837) accounts would need to be audited, the total auditing cost would be around \$336,000.

- Under existing arrangement, each elector will receive a set of election-related materials, including a poll card, an appeal letter from the relevant District Officer (DO), etc, from REO before the polling day of a DC election. We suggest dispensing with the printing of the DOs' appeal letters as the Government will be making use of many other more effective channels, for example, TV APIs to encourage electors to vote.

Further, by adopting more cost-effective measures to encourage electors to vote in the election, we expect that savings can be achieved in the expenditure on publicity for the 2007 DC election.

- ❑ REO will administer the proposed scheme with the staff to be provided to the REO for the 2007 DC election. The proposal has no additional staffing implications.

- ❑ We will make use of the savings in the cessation of the printing of DOs' appeal letters, publicity expenditure and/or other electoral activities, as well as the provision earmarked for the 2007 DC election in the Secretary for Constitutional Affairs (SCA)'s envelope allocation, to cover the cost of the proposed financial assistance scheme. The additional expenditure for implementing the proposed formula in the 2008 LegCo election financial assistance scheme will also be met from SCA's envelope allocation.