

LEGISLATIVE COUNCIL BRIEF

Maximum Amount of Election Expenses (District Council Election) Regulation

INTRODUCTION

At the meeting of the Executive Council on 8 May 2007, the Council **ADVISED** and the Chief Executive **ORDERED** that the Maximum Amount of Election Expenses (District Council Election) Regulation (“the Regulation”), at **Annex**, should be made.

BACKGROUND AND JUSTIFICATIONS

2. Under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554)(“ECICO”), “election expenses” means expenses incurred or to be incurred, before, during or after the election period, by or on behalf of the candidate for the purpose of promoting the election of the candidate or prejudicing the election of another candidate, and includes the value of election donations consisting of goods and services used for that purpose. At present, the Maximum Scale of Election Expenses (District Council) Order 1999 stipulates that a candidate standing for District Council (“DC”) election may incur election expenses of no more than \$45,000.

3. The setting of election expense limit is to allow candidates to compete on a level playing field in an election. The limit does not restrict the way in which a candidate runs his campaign. Candidates are free to spend as much or as little as they wish, provided that their election expenses stay within the prescribed limit.

4. In setting the election expense limit, our principle has always been that the limit must not be so low as to place unreasonable restriction on electioneering activities, or so high as to deter less well-off candidates from standing for election. The existing limit of \$45,000 has been adopted in ordinary elections and by-elections of DCs (District Boards before 1999) since 1994. The limit is reviewed prior to every DC ordinary election.

5. We have considered the following options regarding the election expense limit for the 2007 DC election –

Option 1: Status Quo --- maintaining the election expense limit at the existing level of \$45,000

Option 2: Inflation Adjustment --- adjusting the election expense limit upwards to \$48,000, taking into account the cumulative inflation rate of 8.2% since 1994.

6. We consulted Members of the Legislative Council (“LegCo”) Panel on Constitutional Affairs at its meeting on 8 February 2007 (vide LC Paper No. CB(2)1024/06-07(02)). A few Members indicated that they preferred the status quo (i.e. Option 1). However, the majority of Members considered it appropriate to adjust the election expense limit in line with inflation, and therefore supported Option 2.

7. Having regard to the fact that the election expense limit has not been adjusted since 1994 and taking into account the views of Members as mentioned in paragraph 6 above, we consider it appropriate to adopt Option 2, i.e. to adjust the election expense limit upwards to \$48,000.

THE REGULATION

8. The existing election expense limit for DC elections is stipulated in the Maximum Scale of Election Expenses (District Councils) Order 1999 made under the Corrupt and Illegal Practices Ordinance (Cap. 288) (“CIPO”). The CIPO was subsequently repealed and replaced by the ECICO in 2000. Section 48 of the ECICO provides that any subsidiary legislation made under the CIPO before its repeal and in force at the commencement of the ECICO is, so far as it is not inconsistent with the ECICO, to continue in force and have the like effect for all purposes as if made under the ECICO.

9. To give effect to the proposed increase in the election expense limit for DC elections, a new regulation will have to be made by the Chief Executive in Council under section 45 of the ECICO to prescribe a new election expense limit. The Regulation at **Annex** provides that the maximum amount of election expenses that can be incurred by or on behalf of a candidate at a DC election should be \$48,000. The Maximum Scale of Election Expenses (District Councils) Order 1999 will be repealed upon the commencement of the Regulation.

LEGISLATIVE TIMETABLE

10. The legislative timetable will be as follows-

Publication in the Gazette	11 May 2007
Tabling at the LegCo	16 May 2007

IMPLICATIONS OF THE PROPOSAL

11. The Regulation is in conformity with the Basic Law, including the provisions concerning human rights. The Regulation will not affect the binding effect of the principal Ordinance.

12. The Regulation has no civil service, environmental, productivity or sustainability implications.

13. A modest increase of the election expense limit from \$45,000 to \$48,000 may lead to a slight increase in the amount of expenditure incurred by DC election candidates and hence, in certain circumstances, the amount of financial assistance payable to the candidates. Under the financial assistance scheme for DC election candidates, the amount of financial assistance payable to a DC election candidate is \$10 per vote, capped by 50% of the declared election expenses of the candidate. Accordingly, the amount of financial assistance is not only determined by the amount of election expenses but also by the number of candidates and the votes they obtained. Therefore, the additional financial implication of the proposed increase in election expense limit, if any, is likely to be very limited and will be absorbed within the Secretary for Constitutional Affairs' global allocation.

PUBLIC CONSULTATION

14. We consulted the LegCo Panel on Constitutional Affairs on the options regarding the election expense limit for the 2007 DC election on 8 February 2007. Views of the Panel are set out in paragraph 6 above.

PUBLICITY

15. A spokesman will be available to answer media enquiries. The new election expense limit will also be set out in the electoral guidelines to be published by the Electoral Affairs Commission nearer the time.

ENQUIRIES

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

Constitutional Affairs Bureau
9 May 2007

File Ref : CAB C2/8

LL0532

**MAXIMUM AMOUNT OF ELECTION EXPENSES
(DISTRICT COUNCIL ELECTION) REGULATION**

(Made by the Chief Executive in Council under section 45 of the Elections
(Corrupt and Illegal Conduct) Ordinance (Cap. 554))

1. Commencement

This Regulation shall come into operation on 1 September 2007.

2. Application

This Regulation applies to any candidate at –

- (a) an ordinary election to elect the elected members of a District Council; or
- (b) a by-election to fill a vacancy in the membership of a District Council.

3. Maximum amount of election expenses

The maximum amount of election expenses that can be incurred by or on behalf of a candidate at an election is \$48,000.

4. Repeal

The Maximum Scale of Election Expenses (District Councils) Order 1999 (Cap. 288 sub. leg. J) is repealed.

Clerk to the Executive Council

COUNCIL CHAMBER

Explanatory Note

The purpose of this Regulation is to increase the maximum amount of election expenses that may be incurred by or on behalf of a candidate for election to a District Council from \$45,000 to \$48,000.