

Legislative Council Panel on Constitutional Affairs

Election Expense Limits for the 2008 Legislative Council Election

Introduction

This paper seeks Members views on the following options regarding the election expense limits for the 2008 Legislative Council (“LegCo”) Election.

- (a) For the 2008 LegCo geographical constituency (“GC”) elections, we propose the following two options –

Option 1: to adjust the election expense limits having regard to the population change in each GC. The election expense limits of the New Territories West and New Territories East GCs will be increased by 20% and 15%, to \$3,000,000 and \$2,875,000 respectively. The election expense limits of the other three GCs will remain the same as in the 2004 LegCo Election; or

Option 2: to adopt the same election expense limits in the 2004 LegCo Election for the 2008 LegCo Election.

- (b) For the 2008 LegCo functional constituency (“FC”) elections, we propose that the four-tier election expense limits used in the 2004 LegCo Election should continue to apply in the 2008 LegCo Election.

Background

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. Under section 45 of the ECICO, the Chief Executive in Council may, by regulation, prescribe the maximum amount of election expenses that can be incurred. The current election expense limits for LegCo elections are set out in the Maximum Scale of Election Expenses (Legislative Council) (Election Committee) Order (Cap. 288I)¹.

3. The setting of the 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 like, 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 restrictions on electioneering activities, or so high as to deter less well-off candidates from standing for election.

(A) Geographical Constituency (“GC”) Election

(a) Existing Limits

5. The current election expense limits for the five GCs are set out below. These expense limits were set when the list system of voting was first adopted in the 1998 LegCo Election, and have not been revised since then.

¹ The Order was made under the Corrupt and Illegal Practices Ordinance (CIPO) which was replaced by the ECICO in 2000. Under section 48 of the ECICO, any subsidiary legislation made under the CIPO is to continue to be in force so far as it is not inconsistent with the ECICO.

<u>GC</u>	<u>Election Expense Limit</u>
Hong Kong Island	\$2,000,000
Kowloon East	\$1,500,000
Kowloon West	\$1,500,000
New Territories East	\$2,500,000
New Territories West	\$2,500,000

6. In general, the existing election expense limits worked well for the 1998, 2000 and 2004 LegCo Elections, and there has not been any strong demand for adjusting the election expense limits either upwards or downwards.

(b) Considerations

7. As the election expense limits have not changed since 1998, it is pertinent to compare the current situation with that in 1998. In this regard, the following considerations are relevant –

- (a) The total population of Hong Kong is estimated to have increased by 6.9% by the year 2008 since 1998. The details of population change in the GCs are set out in **Annex** .
- (b) There is a deflation of 8.2% (negative cumulative change in the Composite Consumer Price Index (“CCPI”) during the period between September 1998 and December 2007).
- (c) In the 2000 LegCo Election, about 86% of all the candidate lists in the five GCs incurred not more than 80% of the applicable election expense limit. The percentage of such candidates dropped slightly to 83% in the 2004 LegCo Election.
- (d) The GC boundaries basically have not been changed since the 1998 LegCo Election². Therefore, the geographical sizes of the five GCs remain largely the same.

² There was a minor rectification of boundaries between Kowloon West and New Territories West GCs necessitated by a minor change of district boundaries between Sham Shui Po and Kwai Tsing districts in the 2008 LegCo GC boundaries demarcation exercise.

- (e) The total number of GC electors has increased by 17.9% since the 1998 LegCo Election³.

(c) Proposed Options

8. Having regard to para. 7 above, two options for dealing with the election expense limits for the 2008 LegCo Election are put forth for consideration. They are set out in the ensuing paragraphs.

(i) Option One – Increase Limits of Certain GCs

9. As shown at **Annex**, the population of the New Territories East and New Territories West GCs is projected to increase by 15.4% and 20.7% respectively by mid-2008 as compared with 1998. We may consider increasing their election expense limits by 15% and 20%, to \$2,875,000 (to be rounded off to either \$2,800,000 or \$2,900,000) and \$3,000,000 respectively. For Hong Kong Island, Kowloon East and Kowloon West GCs, their population changes are -6.8%, -2.6% and +0.4% respectively. It would not be necessary to adjust the election expense limits of these GCs as the changes are relatively insignificant. Under this option, the GC election expense limits will be –

<u>GC</u>	<u>Election Expense Limit</u>
Hong Kong Island	\$2,000,000 (remain unchanged)
Kowloon East	\$1,500,000 (remain unchanged)
Kowloon West	\$1,500,000 (remain unchanged)
New Territories East	\$2,875,000 (increased from \$2,500,000)
New Territories West	\$3,000,000 (increased from \$2,500,000)

10. Although there is a 8.2% deflation during the period, we do not recommend adjusting the proposed increase in election expense limits downwards to take into account the deflation. Otherwise, to ensure consistency, we would need to lower the election expense limits of the Hong

³ The changes in the numbers of electors in the five GCs during the period between 1998 and 2007 are as follows: Hong Kong Island (+3.7%), Kowloon East (+9.6%), Kowloon West (+5.2%), New Territories East (+34.3%) and New Territories West (+29.1%).

Kong Island, Kowloon East and Kowloon West GCs. Furthermore, the total number of registered electors in the five GCs has increased during the period between 1998 and 2007. Such a decrease in election expense limits of some GCs may not be welcomed by potential candidates, particularly since the economy has been growing steadily in recent years.

(ii) Option Two – Maintaining Status Quo

11. Another option is to keep the election expense limits unchanged having regard to the following considerations –

- (a) although the population of New Territories East and New Territories West has grown since 1998, several types of election expenses are not dependent on the population size, such as banners, publicity boards and posters displayed and travelling expenses for polling and election agents;
- (b) the effect of the population increase on other expenses is, to a certain extent, offset by the effect of the 8.2% deflation;
- (c) there has not been any strong demand from political parties to raise or lower the election expense limits; and
- (d) generally the current limits worked well in previous LegCo elections.

(B) Functional Constituency (“FC”) Election

12. The election expense limits for FC elections are currently classified into four tiers according to the number of registered electors. This four-tier structure, and the respective election expense limit for each tier, have been in use since 1998. The current election expense limits are as follows –

<u>FC</u>	<u>Election Expense Limit</u>
Heung Yee Kuk, Agriculture and Fisheries, Insurance, and	\$100,000

Transport FCs (“the designated FCs”) ⁴	
FCs with not more than 5,000 registered electors	\$160,000
FCs with 5,001 to 10,000 registered electors	\$320,000
FCs with over 10,000 registered electors	\$480,000

13. Other than the designated FCs, the election expense limits for the FCs are dependent on the number of registered electors, and the limit applicable to individual FCs will be adjusted automatically when the number of registered electors increases or decreases to such an extent that the FC would move to another tier. With such a mechanism, it is not necessary to change the FC election expense limits to reflect changes in the size of the FCs. Whilst there is a cumulative deflation of 8.2% since 1998, we do not propose to reduce the election expense limits of each tier since this may not be welcomed by potential candidates as the economy has been growing recently. We therefore propose to maintain the status quo.

Advice Sought

14. Members are invited to comment on the options regarding the election expense limits for the 2008 LegCo Election as set out in paragraphs 8 – 13 above.

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⁴ The designated FCs have relatively small electorates. In the 2007 electoral register, there are 151, 160, 141 and 180 electors in the Heung Yee Kuk, Agriculture and Fisheries, Insurance, and Transport FCs respectively.

Population Projections in 1998, 2000, 2004 and 2008

GC	1998	2000	2004	2008
Hong Kong Island	1,360,700	1,343,400	1,274,600	1,267,900
Kowloon East	1,046,200	1,016,100	1,034,300	1,018,700
Kowloon West	1,026,000	1,029,100	999,600	1,030,000
NT East	1,411,000	1,543,500	1,644,900	1,628,200
NT West	1,682,800	1,804,900	2,004,300	2,030,300
Total	6,526,700	6,736,900	6,957,700	6,975,100

(percentage change over population in 1998)

GC	1998	2000	2004	2008
Hong Kong Island	n/a	-1.3%	-6.3%	-6.8%
Kowloon East	n/a	-2.9%	+1.8%	-2.6%
Kowloon West	n/a	+0.3%	-2.9%	+0.4%
NT East	n/a	+9.4%	+16.6%	+15.4%
NT West	n/a	+7.3%	+19.1%	+20.7%
Total	n/a	+3.2%	+6.6%	+6.9%