

立法會
Legislative Council

LC Paper No. LS10/15-16

**Paper for the House Committee Meeting
on 20 November 2015**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 13 November 2015**

Tabling in LegCo : Council meeting of 18 November 2015

Amendment to be made by : Council meeting of 16 December 2015 (or that of 6 January 2016 if extended by resolution)

**Legislative Council Ordinance (Amendment of Schedule 5)
Order 2015** (L.N. 225)

**Maximum Amount of Election Expenses (Legislative
Council Election) (Amendment) Regulation 2015** (L.N. 226)

Background

Part 6A of the Legislative Council Ordinance (Cap. 542) provides for a financial assistance scheme in respect of election expenses incurred by candidates for a Legislative Council (LegCo) election. An eligible candidate¹ (or an eligible list² of candidates) for the election is entitled to receive the lowest of the following amounts:-

- (a) if the election is contested, the amount obtained by multiplying the total number of valid votes cast for the candidate or list of candidates by the specified rate (which is \$12 at present as specified in Schedule 5 to Cap. 542) or, if the election is uncontested, the amount obtained by multiplying 50% of the number of registered electors for the constituency by the specified rate;

¹ In gist, an eligible candidate means a candidate who is elected as a LegCo Member or, if the candidate is not elected as a LegCo Member, the candidate is not a disqualified candidate and obtains at least 5% of the total number of valid votes cast in the constituency concerned.

² In gist, an eligible list of candidates means at least one candidate on the list concerned is elected as a LegCo Member or, if no candidate on the list is elected as a LegCo Member, at least one candidate on the list is not a disqualified candidate and the total number of valid votes cast for the list represents at least 5% of the total number of valid votes cast in the constituency concerned.

- (b) 50% of the maximum amount of election expenses (MEEs) that may be incurred by or on behalf of the candidate (or candidates on the list of candidates) under the Maximum Amount of Election Expenses (Legislative Council Election) Regulation (Cap. 554D);
- (c) the declared election expenses of the candidate or list of candidates.

L.N. 225 and L.N. 226

2. L.N. 225 is made by the Chief Executive (CE) in Council under section 83A of Cap. 542 to increase the specified rate of financial assistance in Schedule 5 to Cap. 542 from \$12 to \$14 for elections for the sixth term of office of LegCo commencing in 2016 and any subsequent term of office. The rate for elections (including by-elections) for the fifth term (i.e. the current term) of office of LegCo remains at \$12.

3. L.N. 226 is made by CE in Council under section 45 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) to raise the MEEs for a candidate or list of candidates at elections for the sixth term of office of LegCo commencing in 2016 and any subsequent term of office (new MEEs) under Cap. 554D as follows:-

Geographical constituencies	Current MEEs	New MEEs
Hong Kong Island	\$2,100,000	\$2,428,000
Kowloon East and Kowloon West	\$1,575,000	\$1,821,000
New Territories East and New Territories West	\$2,625,000	\$3,035,000
Functional constituencies ("FC")	Current MEEs	New MEEs
Heung Yee Kuk, Agriculture and Fisheries, Insurance, and Transport FCs	\$105,000	\$121,000
FCs other than Heung Yee Kuk, Agriculture and Fisheries, Insurance, and Transport FCs	Current MEEs	New MEEs
FCs with not more than 5 000 registered electors	\$168,000	\$194,000
FCs with 5 001 to 10 000 registered electors	\$336,000	\$388,000
FCs with over 10 000 registered electors	\$504,000	\$583,000
District Council (second) FC	\$6,000,000	\$6,936,000

The MEEs for elections (including by-elections) for the current term of office of LegCo remain unchanged.

4. According to paragraph 2 of the LegCo Brief (File Ref: CMAB C1/30/10) issued by the Constitutional and Mainland Affairs Bureau dated 11 November 2015, the adjustments in L.N. 225 and L.N. 226 are made on the basis of the estimated cumulative inflation rate between 2013 and 2016.

Consultation with LegCo Panel

5. As advised by the Clerk to the Panel on Constitutional Affairs, the Administration consulted the Panel on the above adjustments on 19 October 2015. Some members considered that the Administration should review the arrangement for calculating the amount of subsidy payable and/or consider further increasing the specified rate to enable an eligible candidate to recover at least 50% of the candidate's election expenses. There was also a suggestion that the MEEs should be reduced if the specified rate could not be further increased to prevent more resourceful political parties from having an unfair advantage in an election. The Administration explained that the financial assistance scheme had been enhanced starting from the 2012 LegCo general election. The scheme could be reviewed in the light of the experience gained from the 2016 LegCo general election.

Commencement

6. L.N. 225 and L.N. 226 come into operation on 8 January 2016.

Concluding observation

7. No difficulties have been identified in the legal and drafting aspects of L.N. 225 and L.N. 226.

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