

立法會
Legislative Council

LC Paper No. LS36/15-16

**Paper for the House Committee Meeting
on 26 February 2016**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 19 February 2016**

Tabling in LegCo : Council meeting of 24 February 2016

Amendment to be made by : Council meeting of 16 March 2016 (or that of 13 April 2016 if extended by resolution)

Maximum Amount of Election Expenses (Chief Executive Election) (Amendment) Regulation 2016 (L.N. 34)

L.N. 34 is made by the Chief Executive (CE) in Council under section 45 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) to amend the Maximum Amount of Election Expenses (Chief Executive Election) Regulation (Cap. 554A), by raising the election expenses limit (EEL) from \$13 million to \$15.7 million for candidates at the CE election(s) of which the date of the poll is on or after 26 March 2017.

2. According to paragraphs 4 and 5 of the Legislative Council (LegCo) Brief (File Ref: CMAB C5/7/7) issued by the Constitutional and Mainland Affairs Bureau in February 2016, the EEL for the CE election was first set at \$9.5 million in 2001, which was increased to \$13 million for the 2012 CE election after taking into account the inflation from 2000 to 2012. According to paragraph 6 of the LegCo Brief, the proposed increase of the EEL is based on the change in price level between 2012 and 2017 and a review of the actual election expenses incurred by candidates in the 2012 CE election.

3. L.N. 34 comes into operation on 15 April 2016.

4. According to the Clerk to the Panel on Constitutional Affairs, the Administration consulted the Panel at its meeting on 18 January 2016 on the proposals regarding the EEL for the 2016 Election Committee (EC) subsector elections and the 2017 CE election. Members of the Panel noted that while the Administration considered that there was no need to adjust the EEL for the 2016 EC

subsector elections, it proposed to increase the EEL for the 2017 CE election from \$13 million to \$16.3 million taking into account the changes in rental and price level forecast obtained in the third and fourth quarters of 2015. Some members supported the proposed increase, but there was an opposing view that since the EC was composed of only 1 200 members, the amount of election expenses should not be large and the EEL for the CE election should be reduced instead.

**International Organizations (Privileges and Immunities)
(ASEAN+3 Macroeconomic Research Office) Order**

(L.N. 35)

5. L.N. 35 is made by the Chief Executive (CE) in Council under section 3 of the International Organizations (Privileges and Immunities) Ordinance (Cap. 558), which provides that the CE in Council may, by order in the Gazette, declare that the provisions relating to the status, privileges and immunities of an international organization and of persons connected with such organization, and which are specified in the order, have the force of law in Hong Kong.

6. According to the Legislative Council (LegCo) Brief (File Ref: G10/34/9C) issued by the Financial Services and the Treasury Bureau on 17 February 2016, Hong Kong using the name of "Hong Kong, China" (HKC) has been participating in the Chiang Mai Initiative Multilateralisation (CMIM) since its establishment in March 2010 under the aegis of ASEAN+3.¹ By the Agreement Establishing ASEAN+3 Macroeconomic Research Office (AMRO Agreement) signed in 2014, parties to CMIM agreed to establish the ASEAN+3 Macroeconomic Research Office (AMRO) as an international organization² to support the implementation of CMIM.

7. L.N. 35 declares that the provisions of the AMRO Agreement relating to AMRO as specified in the Schedule to L.N. 35 have the force of law in Hong Kong. The specified provisions relate to the following matters:

- (a) the legal status, privileges, immunities and exemptions under the AMRO Agreement that are accorded to AMRO in the territory of each member to the AMRO Agreement (Article 16) and the full legal personality of AMRO to enter into contracts and institute legal proceedings (Article 17);

¹ According to paragraph 2 of the LegCo Brief, CMIM is a regional and multilateral arrangement that provides short-term US dollar liquidity support through currency swap transactions to its participants facing balance-of-payments and short-term liquidity difficulties. The participating economies of CMIM are: 10 ASEAN member states, the People's Republic of China, Japan, the Republic of Korea and HKC.

² According to paragraph 3 of the LegCo Brief, an interim vehicle company (limited by guarantee) under the name of ASEAN+3 Macroeconomic Research Office Limited (AMRO Limited) was set up in Singapore in 2011 to support the operation of CMIM in the interim while the parties to CMIM deliberated the provisions for establishing AMRO as an international organization.

- (b) AMRO's immunity from relevant legal process, and privileges and immunities in respect of AMRO's property and assets, archives and documents, official communications, and exemptions of AMRO from taxation and customs duties (Article 18);
- (c) the privileges and immunities of the personnel of AMRO in respect of their spoken and written words and their acts done in their official capacity, immunities from immigration restrictions, and exemptions from taxation on their salaries and emoluments (Article 19); and
- (d) the waiver of certain privileges and immunities, and such waiver may be exercised by the Executive Committee or the Director of AMRO (Article 21).

8. L.N. 35 comes into operation on 27 April 2016.

9. According to the Clerk to the Panel on Financial Affairs, the Panel was briefed on Hong Kong's participation in CMIM at its meeting on 2 November 2009. Members of the Panel enquired about the benefits of Hong Kong's participation and other related matters. The Administration provided an information paper to the Panel in May 2012 to update members on the increase in the size of CMIM and Hong Kong's commitment. An information paper (LC Paper No. CB(1)430/15-16(01)) on the Administration's plan to make an order under Cap. 558 to implement the AMRO Agreement in the first quarter of 2016 was issued to Panel members on 12 January 2016. At the Panel meeting on 15 February 2016, members noted the information paper but did not discuss it.

10. No difficulties have been identified in the legal and drafting aspects of the above items of subsidiary legislation.

Prepared by

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24 February 2016