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10 January 2019

Legislative Council Secretariat
Legislative Council Complex,
1 Legislative Council Road,
Central, Hong Kong.
(Attn: Ms Joanne MAK)

Dear Ms MAK,

Panel on Constitutional Affairs

Motion passed at the meeting on 17 December 2018

Thank you for your letter dated 18 December 2018. Our written response to the motion passed under agenda item III "Review on the subsidy rate of the financial assistance for candidates and the election expenses limit for the 2019 District Council Ordinary Election" at the meeting on 17 December 2018 is set out at **Annex**.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Cherie'.

(Ms Cherie YEUNG)

for Secretary for Constitutional and Mainland Affairs

Panel on Constitutional Affairs

Motion passed under agenda item III

“Review on the subsidy rate of the financial assistance for candidates and the election expenses limit for the 2019 District Council Ordinary Election”

at the meeting on 17 December 2018

This Panel requests the Government to expeditiously introduce legislative amendments, so that the financial assistance payable to candidates, the payment of which has been delayed, can be paid as early as possible, and if another ruling is made by the court in future, controversies concerning the amount of financial assistance can be dealt with in accordance with the law.

Moved by: Hon LAM Cheuk-ting

Government’s response

Financial assistance for election candidates was first introduced in 2004 to Legislative Council (“LegCo”) elections, with the aim of encouraging more public-spirited candidates to participate in LegCo elections and cultivating an environment conducive to the development of political talent in Hong Kong. In 2007, the financial assistance scheme was extended to District Council (“DC”) elections.

2. Under the existing scheme, those eligible for financial assistance include candidates/ lists of candidates on which at least one is elected in LegCo/ DC elections, or those getting at least 5% of the total number of valid votes cast in the constituency concerned. And, the claim for financial assistance must be made within 60 days after the LegCo election/ 30 days after the DC election. The financial assistance should be the lowest of the following amounts –

- (a) the amount obtained by multiplying the subsidy rate (currently \$14) by the total number of valid votes cast for the list of candidates/ the candidate (if the election is contested) or 50% of the number of registered electors for the constituency concerned (if the election is uncontested);

- (b) 50% of the election expenses limit; and
- (c) the declared election expenses of the list of candidates/ candidate.

3. Currently, if an election petition is lodged in relation to an election for a constituency, section 60J of the Legislative Council Ordinance (Cap. 542) and section 60I of the District Councils Ordinance (Cap. 547) prohibits the Chief Electoral Officer from making any payment of financial assistance to the lists of candidates/ candidates of the concerned constituency before the election petition lodged has been determined, abandoned¹ or terminated under Part 7 of Cap. 542 and Part 5 of Cap. 547.

4. In pursuant to sections 67 and 70B of Cap. 542 and sections 55 and 58B of Cap. 547, the determination of an election petition may touch upon whether a list of candidates/ a candidate is duly elected, thereby affecting the eligibility for and amount payable of the financial assistance. If the Government makes payment to lists of candidates/ candidates involved in election petitions before the petitions have been determined, abandoned or terminated, there are chances that part of, or even the entire financial assistance paid to the concerned lists of candidates/ candidates needs to be recovered. While we understand the importance of the financial assistance to candidates, political parties and political groups, etc. in terms of allowing them greater flexibility in the preparation of electoral activities, the Government needs to uphold the principle of prudent use of public funds, and should not underestimate the difficulties in recovering the financial assistance. In the light of the views expressed by Members, we will carefully consider the feasibility of the suggestion from the legal perspective. We will consult the Panel again if any amendments to the existing legislation are considered necessary.

Constitutional and Mainland Affairs Bureau
January 2019

¹ Including withdrawal from or cessation of prosecuting an election petition.