

L.N. 113 of 1999

DISTRICT COUNCILS (SUBSCRIBERS AND ELECTION
DEPOSIT FOR NOMINATION) REGULATION

(Made by the Chief Executive in Council under
section 81 of the District Councils
Ordinance (8 of 1999))

1. Interpretation

(1) In this Regulation, unless the context otherwise requires---
"deposit" (按金) means the deposit lodged under section 2(1).

(2) In this Regulation, any reference to the appropriate regulations shall be construed as a reference to any regulations made under section 7 of the Electoral Affairs Commission Ordinance (Cap. 541) relating to procedure at an election.

2. Amount of deposit

(1) The amount of deposit to be lodged by or on behalf of a candidate in respect of his nomination as a candidate in an election is \$3,000.

(2) Where any deposit is lodged with a Returning Officer, he shall forthwith deposit it with the Director of Accounting Services.

3. Return of deposit on invalid nomination etc.

(1) Where, as regards any constituency---

(a) a deposit is lodged by or on behalf of a candidate in respect of his nomination as a candidate, and---

(i) the Returning Officer makes a decision under section 36(1) of the Ordinance that the candidate is not validly nominated in respect of that constituency;

(ii) the candidate withdraws his nomination for election in respect of that constituency under section 35 of the Ordinance; or

(iii) the Returning Officer has made a decision under section 36(1) of the Ordinance that the candidate is validly nominated in respect of that constituency, and subsequently---

(A) comes to the knowledge that the candidate has died and makes the declarations referred to in section 36(2) of the Ordinance; or

(B) varies the decision to the effect that the candidate is not validly nominated and makes the declarations referred to in section 36(4) of the Ordinance, the deposit so lodged; or

(b) the proceedings for the election are terminated under section 40(1) of the Ordinance, the deposit lodged in respect of each candidate for that constituency, shall be returned in accordance with this section.

(2) The Returning Officer for the constituency concerned shall, in the case referred to in---

(a) subsection (1)(a)(i) and (ii), as soon as practicable after the publication under the appropriate regulations of a notice containing particulars of the candidates validly nominated in respect of that constituency, notify the Director of Accounting Services in writing that the deposit lodged by or on behalf of that candidate is returnable to that candidate or to the person who lodges the deposit on behalf of such candidate, as the case may be;

(b) subsection (1)(a)(iii), as soon as practicable after the declarations referred to in section 36(2) or (4), as the case may be, of the Ordinance are made in accordance with the appropriate regulations, notify the Director of Accounting Services in writing that the deposit lodged by or on behalf of that candidate is returnable to that candidate or to the person who lodges the deposit on behalf of such candidate, as the case may be;

(c) subsection (1)(b), as soon as practicable after the publication under the appropriate regulations of a notice declaring that the proceedings for the election are terminated, notify the Director of Accounting Services in writing that the deposit lodged by or on behalf of each candidate for the constituency concerned is returnable to such candidate or to the person who lodges the deposit on behalf of such candidate, as the case may be.

(3) The Director of Accounting Services shall, as soon as practicable after the receipt of a notification under subsection (2), return the amount of the deposit to the candidate or to the person who lodges the deposit on behalf of such candidate, as the case may be, specified in the notification.

4. Disposal of deposit after publication of election result or declaration of failure of election

(1) Subject to subsection (2), as regards---

(a) an election in which a candidate is declared under section 39(1) of the Ordinance to be duly elected as an elected member in respect of a constituency;

(b) an election in which a candidate is declared under section 41(4) of the Ordinance as elected in respect of a constituency; or

(c) an election which is declared under section 40(3) of the Ordinance to have failed, after such declaration, the deposit lodged by or on behalf of the candidate for the constituency concerned, unless it shall be returned in accordance with section 3, shall be returned in accordance with this section.

(2) Where the total number of ballot papers containing valid votes in favour of an unsuccessful candidate in respect of a constituency received by such candidate is less than 5% of the total number of ballot papers containing valid votes received in that constituency, as determined by a counting of the votes and any re-count, the deposit lodged in respect of his nomination shall be forfeited to the general revenue

in accordance with this section.

(3) Subject to subsection (5), the Returning Officer for the constituency concerned shall, in the case of---

(a) an election referred to in subsection (1)(a), as soon as practicable after the publication under the appropriate regulations of a notice declaring that the candidate is duly elected in respect of that constituency;

(b) an election referred to in subsection (1)(b), as soon as practicable after the publication under the appropriate regulations of a notice of the result of the election in respect of that constituency;

(c) an election referred to in subsection (1)(c), as soon as practicable after the publication under the appropriate regulations of a notice declaring that the election have failed,

notify the Director of Accounting Services in writing that the deposit lodged by or on behalf of the candidate for the constituency concerned is returnable to such candidate or to the person who lodges the deposit on behalf of such candidate, as the case may be.

(4) The Director of Accounting Services shall, as soon as practicable after the receipt of a notification under subsection (3), return the amount of the deposit to the candidate or to the person who lodges the deposit on behalf of such candidate, as the case may be, specified in the notification.

(5) The Returning Officer shall, as soon as practicable after the publication of the notice referred to in subsection (3)(b) or (c), notify the Director of Accounting Services in writing, as regards any unsuccessful candidate referred to in subsection (2), that the deposit lodged in respect of his nomination for that constituency at the relevant election is to be forfeited to the general revenue.

5. Disposal of deposit in case of death of candidate

(1) Where---

(a) a deposit is lodged by a candidate, or by a person on his behalf, in respect of his nomination as a candidate;

(b) the deposit shall be returned to that candidate or that person, as the case may be, in accordance with section 3 or 4; and

(c) that candidate or that person, as the case may be, dies after the deposit is lodged,

the deposit shall, notwithstanding those sections, be paid to the estate of that candidate or that person, as the case may be, and the Returning Officer for the constituency concerned shall notify the Director of Accounting Services in writing accordingly.

(2) The Director of Accounting Services shall, as soon as practicable after the

receipt of a notification under subsection (1), pay the deposit to the legal personal representative of the candidate or person referred to in subsection (1), as the case may be.

6. Notifications in specified form

Any notification for the purposes of this Regulation shall be in a form specified in the appropriate regulations.

7. Number and qualifications of subscribers to a nomination paper

(1) The nomination paper of any person seeking nomination as a candidate in respect of any constituency shall be subscribed by at least 10 other persons each being an elector registered in respect of the relevant constituency.

(2) Subject to subsection (4), an elector may subscribe only one nomination paper as regards a particular election.

(3) If an elector subscribes more than one nomination paper in contravention of subsection (2), his signature shall, subject to subsection (4), be inoperative on any nomination paper other than the one first delivered.

(4) Where, as regards any constituency---

(a) the Returning Officer makes a decision under section 36(1) of the Ordinance that a candidate is not validly nominated in respect of that constituency;

(b) a candidate withdraws his nomination for election in respect of that constituency under section 35 of the Ordinance; or

(c) the Returning Officer has made a decision under section 36(1) of the Ordinance that a candidate is validly nominated in respect of that constituency, and subsequently---

(i) comes to the knowledge that the candidate has died and makes the declarations referred to in section 36(2) of the Ordinance; or

(ii) varies the decision to the effect that the candidate is not validly nominated and makes the declarations referred to in section 36(4) of the Ordinance, the elector who has subscribed the nomination paper of that candidate in accordance with this section may subscribe another nomination paper, and---

(A) his signature shall not be inoperative on that other nomination paper only because he has previously subscribed the nomination paper of that candidate;

(B) if he subscribes more than one nomination paper in contravention of this subsection, his signature shall be inoperative on any nomination paper so subscribed other than the first one delivered.

Mable CHAN

Clerk to the Executive Council

Council Chamber

4 May 1999

Explanatory Note

This Regulation in---

(a) section 2 specifies the amount of the deposit to be lodged for the purpose of nominating a candidate at an election held under the District Councils Ordinance (8 of 1999);

(b) section 3 provides for the return of the deposit in the case of invalid nomination, withdrawal of nomination, death of candidate or termination of election proceedings;

(c) section 4 provides for the return of the deposit after the publication of the election result or the declaration of the failure of an election, and for the forfeiture of the deposit of any unsuccessful candidate if the total number of votes received by him is less than 5% of the total number of valid votes cast;

(d) section 5 specifies the procedure for the payment of a deposit to the estate of a deceased candidate or a deceased person who lodges the deposit on behalf of a candidate;

(e) section 6 requires notifications sent by a Returning Officer to the Director of Accounting Services to be in the form specified in regulations to be made under section 7 of the Electoral Affairs Commission Ordinance (Cap. 541);

(f) section 7 specifies the minimum number of subscribers required for subscribing a nomination paper and the number of nomination papers that a subscriber can subscribe.