

立法會
Legislative Council

LC Paper No. CB(2)1097/99-00

Ref : CB2/SS/3/99

Paper for the House Committee meeting on 18 February 2000

**Fourth report of the Subcommittee on subsidiary legislation
relating to 2000 Legislative Council election**

Purpose

This paper reports on the deliberations of the Subcommittee on the following four items of subsidiary legislation which shall come into operation on 3 March 2000 -

- (a) Maximum Scale of Election Expenses (Legislative Council) Order 1997 (Amendment) Order 2000;
- (b) Legislative Council (Formation of Election Committee) (Appeals) (Amendment) Regulation 2000;
- (c) Legislative Council (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2000; and
- (d) Distribution of Number of Members Among Designated Bodies (Election Committee) (Legislative Council) Order 2000.

Deliberations of the Subcommittee

Maximum Scale of Election Expenses (Legislative Council) Order 1997 (Amendment) Order 2000

2. The present Maximum Scale of Election Expenses (Legislative Council) Order 1997 prescribed the election expense limits for the 1998 LegCo election as follows -

- (a) the election expense limits for the Kowloon East (KE) and Kowloon West (KW) Geographical Constituencies (GCs) should be set at \$1,500,000, Hong Kong Island (HKI) at \$2,000,000, and New Territories East (NTE) and New Territories West (NTW) at \$2,500,000;

- (b) a four-tier structure of election expense limits for functional constituencies (FCs) should be set, namely \$100,000 for designated small constituencies, \$160,000 for constituencies with not more than 5 000 electors, \$320,000 for constituencies with 5 001 to 10 000 electors, and \$480,000 for constituencies with over 10 000 electors;
- (c) the election expense limit for the election by the 800-member Election Committee (EC) should be set at the second tier of the FC election expense limit, i.e. \$160,000; and
- (d) the same four-tier structure of election expense limits for the FC elections should be adopted in the EC subsector elections.

3. The Administration proposes that the same election expense limits be adopted in the 2000 LegCo election. The Amendment Order seeks to introduce a number of technical amendments.

4. The Subcommittee has mainly focused its discussion on the election expense limit for GC elections. Members note that in setting the limit, the Administration has taken into account the unchanged geographical size of the five GCs, the slight increase in population and the experience in the 1998 LegCo election.

Number of GC seats

5. Members point out that the election expense limit for each GC list in the 1998 LegCo election was set having regard to the number of seats in a GC (i.e. \$1,500,000 for a 3-seat constituency, \$2,000,000 for a 4-seat constituency and \$2,500,000 for a 5-seat constituency). As an additional seat has been allocated to each GC except the NTE in the 2000 LegCo election, they have asked why no corresponding increase has been proposed for the election expense limit for the GCs concerned.

6. The Administration has explained that the number of Members returned by GC elections in the second term of LegCo is increased to 24 having regard to the provisions in Annex II of the Basic Law. However, the increase in the number of GC seats is unlikely to have any significant implications on election expenses incurred by candidates as electioneering activities would be conducted on the basis of GC lists instead of individual candidates. In addition, of the 34 lists of candidates in the 1998 LegCo GC elections, 32 lists spent less than 75% of the maximum limit, while two lists spent less than 90%. It is therefore considered appropriate for the same election expense limit for each of the GCs in the 1998 LegCo election to be adopted for the 2000 LegCo election.

Population size

7. The Administration has advised that since the 1998 LegCo election, the total population of Hong Kong is estimated to have increased by only 3.2% by 2000. In response to members' request, the Administration has provided the following information -

1998 LegCo Election

<u>Constituency</u>	<u>Estimated Population</u>	<u>Seats</u>	<u>Election Expense Limits (\$)</u>
KE	1 046 200	3	1,500,000 (1.43)
KW	1 026 000	3	1,500,000 (1.46)
HKI	1 360 700	4	2,000,000 (1.47)
NTE	1 411 000	5	2,500,000 (1.77)
NTW	1 682 800	5	2,500,000 (1.49)

2000 LegCo Election

<u>Constituency</u>	<u>Estimated Population</u>	<u>Seats</u>	<u>Election Expense Limits (\$)</u>
KE	1 016 100	4	1,500,000 (1.47)
KW	1 029 000	4	1,500,000 (1.46)
HKI	1 343 400	5	2,000,000 (1.49)
NTE	1 543 500	5	2,500,000 (1.62)
NTW	1 804 900	6	2,500,000 (1.39)

() Limit per person

8. Some members have asked whether it is more logical to peg the election expense limit of NTE to that of HKI (\$2,000,000) than NTW (\$2,500,000) because both NTE and HKI have five seats and comparable population size. The Administration holds the view that it is more appropriate to maintain the 1998 election expense limit for NTE because comparatively speaking, its geographical size and estimated population is larger than HKI.

9. In response to some members' suggestion that the election expense limit for GC elections should be set on the basis of the population size of each GC, (i.e. limit per person x population size of a GC), the Administration has agreed to review the situation in the 2004 LegCo election when the number of Members returned by GC elections will be increased to 30. However, it has pointed out that the election expense limit per person in respect of the 1998 and 2000 elections, as indicated in paragraph above 7, is considered comparable among the five GCs.

Number of registered electors

10. Members consider that it is important to consider the question of election expense limit in the light of the number of registered electors. The Administration has advised that the number of registered electors for the 2000 LegCo election will not be available until the final register is published, and the deadline for its publication is 25 May 2000. As for the 1998 LegCo election, about 2.8 million persons have registered as electors and a breakdown by GCs is as follows -

<u>Constituency</u>	<u>No of registered electors</u>
KE	483 876
KW	411 466
HKI	596 244
NTE	595 341
NTW	708 444

11. Members reckon that the increase in the population of a GC does not necessarily imply that the number of registered electors of the GC will be increased correspondingly as certain persons such as children are not eligible to be registered as electors.

12. Members have asked whether a 10% increase in the number of registered electors for the 2000 LegCo election would affect the Administration's thinking on the proposed election expense limit for GC elections. The Administration has replied in the negative. In its view, the proposed limit is considered adequate as the majority of the GC lists in the 1998 LegCo election had incurred less than 75% of the same limit.

13. Given that the majority of the candidates had not incurred up to the prescribed limit in the 1998 LegCo GC elections, Hon Emily LAU considers that the proposed election expense limit for GC elections excessive. In addition, the proposed limit would not provide a level playing field for all candidates as those who are financially better-off would be at an advantage by spending more in their electioneering campaign.

Legislative Council (Formation of Election Committee) (Appeals) (Amendment) Regulation 2000

14. The Amendment Regulation amends the principal Regulation to revise the appeal procedures in relation to the registration of ex-officio membership of the Election Committee (EC) and nomination of members from the Religious subsector. The proposed amendments take into account the revised arrangements under the Legislative Council (Amendment) Ordinance 1999 (48 of 1999).

Registration of ex-officio membership of the EC

15. Under the previous arrangement, a person who is registered as an elector for an FC as well as an ex-officio member of the EC can object to his registration as an ex-officio member of the EC on the ground that he has declined registration as an ex-officio member. Members note that under the new mechanism for registering the ex-officio membership of the EC as provided in the Legislative Council (Amendment) Ordinance 1999, LegCo Members and Hong Kong Deputies to the National People's Congress holding office on 30 June 2000 will be automatically registered as ex-officio members of the EC, although they may choose not to vote in the EC election. Ex-officio members who are also registered electors for FCs will be allowed to choose to vote in either the relevant FC or the EC. Their choice will be marked in the register of members of the EC to indicate their voting rights. They may lodge an appeal to

the Revising Officer if their choices are wrongly marked. The Amendment Regulation seeks to give effect to the proposal in relation to appeals on registration of ex-officio members.

Nomination of members from the Religious subsector

16. Members note that the Legislative Council (Amendment) Ordinance 1999 also introduces a new arrangement in relation to the process of nomination by the Religious subsector. If the number of persons nominated by a designated religious body in the religious subsector is greater than the number of representatives assigned to it, and the body does not indicate preferences as to which of the nominees should become its representatives on the EC, the Returning Officer may determine which of the nominees should become members of the EC by drawing lots. It is proposed that any material irregularity in the process should become a ground for appeal, in addition to the existing ones such as a material irregularity in the process of nomination. The Amendment Regulation seeks to provide for this additional ground for appeal.

Legislative Council (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2000

17. The present Legislative Council (Subscribers and Election Deposit for Nomination) Regulation prescribed the numbers and qualifications of subscribers and the amounts of election deposit required for nomination in the 1998 LegCo election. It also set the thresholds for forfeiture of election deposits. The Administration proposes to keep the subscriber and election requirements unchanged.

18. The Subcommittee notes that the Amendment Regulation seeks to revise the requirements for return of election deposit and for the number of nomination papers that a subscriber can subscribe, to take into account the revised arrangements under the Legislative Council (Amendment) Ordinance 1999 relating to -

- (a) decision by a Returning Officer as to whether a person is validly nominated as a candidate;
- (b) variation of such decision;
- (c) termination of election proceedings; and
- (d) declaration of failure of election;

and to make other related revisions.

Distribution of Number of Members Among Designated Bodies (Election Committee) (Legislative Council) Order 2000

19. The Order specifies the number of EC seats distributed to each of the designated bodies. It also repeals the previous Order made for the purposes of the 1998 LegCo election.

20. The Subcommittee notes that the Religious subsector of the EC is composed of six designated bodies representing Buddhists, Catholics, Confusians, Muslims, Christians and Taoists which are all members of Hong Kong Colloquium for Religious Leaders. The subsector is to return 40 members of the EC by nomination for the purposes of the 2000 LegCo election. The EC will in turn return six members of the second term LegCo.

21. Compared to the 1998 LegCo election, members have noted that the number of EC seats to be returned by the Chinese Muslim Cultural and Fraternal Association is reduced by one and that by the Hong Kong Buddhist Association is increased by one under the present proposal. The Administration has advised that in line with the previous practice, it has consulted the Hong Kong Colloquium for Religious Leaders on the manner in which the 40 seats could be distributed. It is understood that the bodies have resolved among themselves the number of seats to be assigned to each body.

Conclusion

22. The majority of members of the Subcommittee supports the above four items of subsidiary legislation. Hon Emily LAU opposes the proposed maximum scale of election expenses for GC elections and would consider amending the Maximum Scale of Election Expenses (Legislative Council) Order 1997 (Amendment) Order 2000. She also opposes the Legislative Council (Formation of Election Committee) (Appeals) (Amendment) Regulation 2000 and the Distribution of Number of Members Among Designated Bodies (Election Committee) (Legislative Council) Order 2000 because she does not support in principle "small circle" type of elections.

23. In order to allow adequate time for Members to consider the subsidiary legislation, the Subcommittee has agreed that the period for scrutiny should be extended to the Council meeting on 1 March 2000. The Chairman will move a motion to this effect at the Council meeting on 23 February 2000.

Advice sought

24. Members are invited to note this report.