

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

(Made by the Chief Executive in Council under section 82
of the Legislative Council Ordinance (Cap. 542))

1. Commencement

This Regulation shall come into operation on 3 March 2000.

2. Interpretation

Section 1(1) of the Legislative Council (Subscribers and
Election Deposit for Nomination) Regulation (Cap. 542 sub. leg.) is
amended by adding---

"list of candidates" (候選人名單) means a list of candidates referred
to in section 38(10) of the Ordinance or a new list of candidates
referred to in section 38(14) of the Ordinance;"

3. Return of deposit on invalid
nomination etc.

Section 3 is amended---

(a) in subsection (1)---

(i) in paragraph (a), by repealing everything after
"candidates" and substituting---
", and---

(i) all the nominees on the nomination list withdraw their
nomination for election in respect of that geographical constituency
under section 42 of the Ordinance;

(ii) the Returning Officer rejects the nomination list under
section 38(7) of the Ordinance; or

(iii) where the nominees or any of them are taken, under
section 38(10) or (14) of the Ordinance, as constituting a list of
candidates, the Returning Officer rejects that list of candidates under
section 38(13) of the Ordinance after striking out from that list of
candidates the name of a geographical
constituency candidate who has died or is disqualified from being
nominated as such a candidate,
the deposit so lodged; or";

(ii) in paragraph (b), by repealing "the election is
countermanded under the appropriate regulations" and substituting "the
proceedings for the election are terminated under section 46A(1) of the
Ordinance";

(b) by repealing subsection (2) and substituting---

"(2) Where, as regards any functional constituency or the Election
Committee---

(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
42A(1) of the Ordinance that the candidate is not validly nominated in
respect of that functional constituency or Election Committee;

(ii) the candidate withdraws his nomination for election in

respect of that functional constituency or Election Committee under section 42 of the Ordinance; or

(iii) the Returning Officer has made a decision under section 42A(1) of the Ordinance that the candidate is validly nominated in respect of the Election Committee, and subsequently---

(A) comes to the knowledge that the candidate has died and gives notice of the death under section 42B(1) of the Ordinance; or

(B) varies the decision to the effect that the candidate is not validly nominated and gives notice of the variation under section 42B(4) of the Ordinance,

the deposit so lodged; or

(b) the proceedings for the election are terminated under section 42C or 46A(1) of the Ordinance, as the case may be, the deposit lodged in respect of each candidate for that functional constituency or Election Committee,

shall be returned in accordance with this section.

(2A) Where, as regards any Election Committee subsector, a deposit is lodged by or on behalf of a candidate in respect of his nomination as a candidate, and the candidate---

(a) is not validly nominated in respect of that Election Committee subsector under the appropriate regulations; or

(b) withdraws his nomination for election in respect of that Election Committee subsector under section 17 of Schedule 2 to the Ordinance,

the deposit so lodged shall be returned in accordance with this section.";

(c) in subsection (3)---

(i) in paragraph (a)---

(A) by repealing "(1)(a) or (2)(a)" and substituting "(1)(a)(i) or (ii), (2)(a)(i) or (ii) or (2A)";

(B) by repealing "that nomination list" where it first appears and substituting "the nomination list concerned";

(C) by repealing "that candidate" where it first appears and substituting "the candidate concerned";

(D) by repealing "the nominees on that nomination list" where it secondly appears and substituting "those nominees";

(E) by repealing "and" at the end;

(ii) by adding---

"(aa) subsection (1)(a)(iii), as soon as practicable after---

(i) in case no declarations referred to in section 42B(2) or (5) of the Ordinance are to be made in accordance with the appropriate regulations in relation to the death, or the variation of decision relating to the disqualification, the publication under the appropriate regulations of a notice containing particulars of the geographical constituency candidates validly nominated in respect of that geographical constituency;

(ii) in case declarations referred to in section 42B(2) or (5) of the Ordinance are to be made in accordance with the appropriate

regulations in relation to the death, or the variation of decision relating to the disqualification, as the case may be, such declarations are so made,

notify the Director of Accounting Services in writing that the deposit lodged on behalf of the nominees on the nomination list concerned is returnable to the person who lodges the deposit on behalf of those nominees;"

(iii) in paragraph (b)---

(A) by repealing "the election is countermanded" and substituting "the proceedings for the election are terminated";

(B) by adding "for that geographical constituency," before "or by or on behalf of";

(C) by adding "for that functional constituency or Election Committee" before ", as the case may be,";

(D) by repealing "the nominees on each nomination list or to each candidate" and substituting "those nominees or to such candidate";

(E) by repealing the full stop and substituting "; and";

(iv) by adding---

"(c) subsection (2)(a)(iii), as soon as practicable after---

(i) in case no declarations referred to in section 42B(2) or (5) of the Ordinance are to be made in accordance with the appropriate regulations in relation to the death or the variation of decision, the publication under the appropriate regulations of a notice containing particulars of the candidates validly nominated in respect of the Election Committee;

(ii) in case declarations referred to in section 42B(2) or (5) of the Ordinance are to be made in accordance with the appropriate regulations in relation to the death or the variation of decision, as the case may be, such declarations are so made, notify the Director of Accounting Services in writing that the deposit lodged by or on behalf of the candidate concerned is returnable to that candidate or to the person who lodges the deposit on behalf of such candidate, as the case may be.";

(d) in subsection (4), by repealing everything after "指明的" where it secondly appears and substituting "就有關候選人繳存該等按金的人。".

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

Section 4 is amended---

(a) by repealing subsections (1) and (2) and substituting---

"(1) Subject to subsection (3), as regards---

(a) an election in which a geographical constituency candidate is declared under section 46(1) of the Ordinance to be duly elected as a Member in respect of a geographical constituency;

(b) an election in which a geographical constituency candidate is declared under section 49(13) or (15) of the Ordinance as elected as a Member in respect of a geographical constituency; or

(c) an election for a geographical constituency which is declared under section 46A(3)(a) of the Ordinance to have failed,

after such declaration, the deposit lodged on behalf of the nominees on the nomination list for that geographical constituency, unless it shall be returned in accordance with section 3, shall be returned in accordance with this section.

(2) Subject to subsection (3), as regards---

(a) an election in which a candidate is declared under section 46(1) of the Ordinance to be duly elected as a Member in respect of a functional constituency or the Election Committee;

(b) an election in which a candidate is declared under section 50(7) or 51(7), or section 52(6), of the Ordinance as elected as a Member in respect of a functional constituency, or the Election Committee; or

(c) an election for a functional constituency or the Election Committee, which is declared under section 46A(3)(a) of the Ordinance to have failed,

after such declaration, the deposit lodged by or on behalf of the candidate for that functional constituency or Election Committee, unless it shall be returned in accordance with section 3, shall be returned in accordance with this section.

(2A) Subject to subsection (3), as regards---

(a) an election in which a candidate is declared under section 19 of Schedule 2 to the Ordinance to be duly elected as a member of the Election Committee representing an Election Committee subsector; or

(b) an election for an Election Committee subsector, in which a candidate is declared under the appropriate regulations as being successful at the election,

after such declaration, the deposit lodged by or on behalf of the candidate for that Election Committee subsector, unless it shall be returned in accordance with section 3, shall be returned in accordance with this section.";

(b) in subsection (3)(b)(i), by repealing "Parts 1 and 2 of Schedule 1 to" and substituting "section 20(1)(a) to (d) of";

(c) by repealing subsection (4) and substituting---

"(4) Subject to subsection (6), the Returning Officer for the geographical constituency, functional constituency, Election Committee or Election Committee subsector concerned shall, in the case of---

(a) an election referred to in subsection (1)(a), (2)(a) or (2A)(a), as soon as practicable after the publication under the appropriate regulations of a notice declaring that the geographical constituency candidate or the candidate, as the case may be, is duly elected in respect of that geographical constituency, functional constituency, Election Committee or Election Committee subsector;

(b) an election referred to in subsection (1)(b), (2)(b) or (2A)(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 geographical constituency, functional constituency, Election Committee or Election Committee subsector;

(c) an election referred to in subsection (1)(c) or (2)(c), as soon

as practicable after the publication under the appropriate regulations of a notice declaring that the election has failed, notify the Director of Accounting Services in writing that the deposit lodged on behalf of the nominees on the nomination list for that geographical constituency, or by or on behalf of the candidate for that functional constituency, Election Committee or Election Committee subsector, as the case may be, is returnable to the person who lodges the deposit on behalf of those nominees or to such candidate or to the person who lodges the deposit on behalf of such candidate, as the case may be.";

(d) in subsection (5), by repealing "each" wherever it appears and substituting "the";

(e) in subsection (6), by adding "or (c)" after "(4)(b)".

5. Disposal of deposit in case of death

Section 5(1) is repealed and the following substituted---

"(1) Where---

(a) a deposit is lodged by a candidate or by a person on behalf of such candidate or by a person on behalf of the nominees on a nomination list;

(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 geographical constituency, functional constituency, Election Committee or Election Committee subsector concerned shall notify the Director of Accounting Services in writing accordingly."

6. Number and qualifications of subscribers to a nomination paper

Section 7 is amended---

(a) in subsection (2)---

(i) by repealing paragraph (a)(i);

(ii) in paragraph (a)(ii), by repealing "other than a functional constituency referred to in subparagraph (i)";

(iii) in paragraphs (b) and (c), by adding ", member of the Election Committee" after "elector";

(b) by repealing subsection (3) and substituting---

"(3) Where---

(a) as regards any geographical constituency---

(i) all the nominees on a nomination list withdraw their nomination for election in respect of that geographical constituency under section 42 of the Ordinance; or

(ii) the Returning Officer rejects a nomination list under section 38(7) of the Ordinance;

(b) as regards any functional constituency or the Election Committee---

(i) the Returning Officer makes a decision under section

42A(1) of the Ordinance that a candidate is not validly nominated in respect of that functional constituency or Election Committee;

(ii) a candidate withdraws his nomination for election in respect of that functional constituency or Election Committee under section 42 of the Ordinance; or

(iii) the Returning Officer has made a decision under section 42A(1) of the Ordinance that a candidate is validly nominated in respect of the Election Committee, and subsequently---

(A) comes to the knowledge that the candidate has died and gives notice of the death under section 42B(1) of the Ordinance; or

(B) varies the decision to the effect that the candidate is not validly nominated and gives notice of the variation under section 42B(4) of the Ordinance;

(c) as regards any Election Committee subsector---

(i) a candidate is not validly nominated in respect of that Election Committee subsector under the appropriate regulations; or

(ii) a candidate withdraws his nomination for election in respect of that Election Committee subsector under section 17 of Schedule 2 to the Ordinance,

the elector, member of the Election Committee or voter, as the case may be, who has subscribed the nomination paper of the nominees on that nomination list (in the case of paragraph (a)) or the nomination paper of that candidate (in the case of paragraph (b) or (c)) in accordance with this section may subscribe another nomination paper, and---

(i) his signature shall not be inoperative on that other nomination paper only because he has previously subscribed the nomination paper of those nominees or that candidate, as the case may be;

(ii) 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."

CHENG Mei-sze, Maisie

Clerk to the Executive Council

Council Chamber

18 January 2000

Explanatory Note

This Regulation amends the Legislative Council (Subscribers and Election Deposit for Nomination) Regulation (Cap. 542 sub. leg.) 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 Ordinance (Cap. 542) relating to---

(a) decision by a Returning Officer as to whether a person is validly nominated as a candidate;

(b) variation of such a decision;

(c) termination of election proceedings; and

(d) declaration of failure of election,

and to make other related revisions.