

File Ref.: CAB C1/30/11 & C2/10

LEGISLATIVE COUNCIL BRIEF

Legislative Council Ordinance
(Cap. 542)

District Councils Ordinance
(Cap. 547)

**LEGISLATIVE COUNCIL
(SUBSCRIBERS AND ELECTION DEPOSIT FOR NOMINATION)
(AMENDMENT) REGULATION 2003**

**DISTRICT COUNCILS
(SUBSCRIBERS AND ELECTION DEPOSIT FOR NOMINATION)
(AMENDMENT) REGULATION 2003**

INTRODUCTION

At the meeting of the Executive Council on 13 May 2003, the Council **ADVISED** and the Chief Executive **ORDERED** that –

(a) under section 82 of the Legislative Council Ordinance (Cap. 542) (LegCo Ordinance), the LegCo (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2003, at **Annex A**, should be made; and

Annex A

(b) under section 81 of the District Councils Ordinance (Cap. 547) (DCs Ordinance), the DCs (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2003, at **Annex B**, should be made.

Annex B

JUSTIFICATIONS

General Background

2. Under section 82 of the LegCo Ordinance, the Chief Executive (CE) in Council is empowered to make regulations to provide for, in respect of LegCo elections, the number or qualifications of subscribers required to complete a nomination paper for a candidate, and the forfeiture of deposit if a candidate fails to obtain a prescribed proportion of the votes cast at an election. A similar provision is found in section 81 of the DCs Ordinance in respect of DC elections. The LegCo (Subscribers and Election Deposit for Nomination) Regulation and the DCs (Subscribers and Election Deposit for Nomination) Regulation have accordingly been made to set out the subscription and election deposit requirements in respect of, respectively, LegCo elections and DC elections.

Changes in the subscription requirements

3. As currently worded, the regulations referred to above provide that a nomination for a candidate list in respect of any LegCo geographical constituency (GC) election shall be subscribed by at least 100 voters registered for that constituency, and that a nomination for a candidate in a LegCo functional constituency (FC) election or a DC election shall be subscribed by at least 10 voters registered for the relevant constituency. The regulations also provide that a voter shall not subscribe more than one nomination; otherwise, his signature shall be inoperative in respect of any nomination paper other than the one first delivered.

4. In the 1999 DC elections, and again in the 2000 LegCo elections, there were candidates who had submitted very large numbers of subscribers, including a significant proportion of ineligible subscribers. Due to the relevant legislative requirements, the Returning Officers (ROs) had to check all the subscribers on these nomination papers, even after the legal minimum requirement had been met, to “lock in” all valid subscribers so that their signatures appearing on any subsequent nomination papers would be invalidated. This generated a large amount of work for the ROs, and caused unnecessary strain on public resources. Therefore, the Administration considers that it is necessary to tackle the problem by changing the existing subscription requirements for nominations so that –

- (a) a nomination for a LegCo GC election shall be subscribed by 100 eligible voters registered for that constituency, and that a nomination for a LegCo FC election or a DC election shall be subscribed by 10 eligible voters registered for the relevant constituency;
- (b) a candidate standing in a LegCo GC election may submit no more than 200 subscribers, and that a candidate standing in a LegCo FC election or a DC election may submit no more than 20 subscribers. This is to allow a 100% buffer that could be used to make up the shortfall in case any of the first 100 subscribers in a LegCo GC election nomination or the first 10 subscribers in a LegCo FC or DC election nomination is found to be invalid. Appropriate nomination papers will be specified by the EAC and designed in such a way so as not to allow candidates to submit more than the minimum requirement plus the 100% buffer; and
- (c) the RO should stop verifying the names on the nomination papers once the legal subscription requirement (i.e. 100 subscribers for a LegCo GC candidate list and 10 for a LegCo FC or DC candidate) has been reached. Any surplus subscribers would not be regarded as having subscribed the nomination concerned.

5. The LegCo Panel on Constitutional Affairs was briefed on the above proposals at its meeting on 24 April 2003.

Threshold for the forfeiture of election deposit

6. Under the existing provisions in the LegCo (Subscribers and Election Deposit for Nomination) Regulation, the election deposit will be returned to candidates or lists with candidates who are elected at contested elections, as well as candidates or lists with candidates who are returned through uncontested elections. However, election deposit will be forfeited if an unsuccessful candidate or a candidate list with no candidate elected is unable to receive 5% of the valid votes cast in the relevant constituency. (Though implicit, the provisions also provide for the return of election deposit if an unsuccessful candidate or list has received 5% or more of the valid votes cast.) The purpose of the provision is to impose a deterrent against frivolous candidates.

7. As part of the electoral arrangements for the 2004 LegCo elections, a scheme will be implemented to provide financial assistance to LegCo election candidates to offset part of their election expenses^(Note). The scheme will be effected by way of the LegCo (Amendment) Bill 2003 which is being scrutinized by a LegCo Bills Committee. Under the proposed scheme, LegCo election candidates who are elected, or who have received 5% or more of valid votes, will be entitled to receive the assistance.

8. Since an unelected LegCo election candidate will receive financial assistance if he receives 5% or more valid votes, we propose to lower the existing threshold below which the forfeiture of LegCo election deposit will be triggered from 5% to 3%. The two proposals together should provide greater inducement for more public-spirited individuals to stand in LegCo elections, thereby facilitating Hong Kong's constitutional development. The LegCo Panel on Constitutional Affairs was briefed on these two proposals at its meetings in December 2002 and January 2003.

9. We would also take the opportunity to introduce technical amendments to the two Regulations, to put it beyond doubt that an unsuccessful LegCo or DC election candidate or a candidate list with no candidate elected will also have their election deposit returned, as long as the number of votes received by that candidate or list has met or exceeded the prescribed respective thresholds (i.e. 3% for LegCo, and 5% for DC).

THE REGULATIONS

10. The principal provisions of the two Amendment Regulations are explained in the ensuing paragraphs.

^(Note) Under the proposed arrangements, the Government will provide financial assistance to a candidate in accordance with the number of valid votes he has received. The rate is at \$10 per vote but capped at 50% of the declared election expenses of the candidate concerned or the difference in amount between the declared election expenses and the declared election donations (where the former exceed the latter), whichever is the lower. For candidates returned through uncontested elections, the amount payable is obtained by multiplying the rate (\$10) by 50% of the number of registered electors of the constituency concerned.

Legislative Council (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2003

11. **Clause 2** introduces technical amendments to section 4 of the Regulation, to put it beyond doubt that an unsuccessful LegCo election candidate or a candidate list with no candidate elected will also have the election deposit returned, as long as the number of votes received by that candidate or list has met or exceeded the prescribed threshold. This clause also seeks to lower the threshold from 5% to 3%.

12. **Clause 3** amends section 7 of the Regulation to provide that a nomination paper shall be subscribed by, in respect of a GC candidate, 100 voters registered for the relevant constituency and, in respect of a FC candidate, 10 voters registered for the relevant constituency. It also provides that notwithstanding the above, a nomination paper for a GC candidate list may contain not more than 200 voters registered for the relevant constituency, and a nomination paper for a FC candidate may contain not more than 20 voters registered for the relevant constituency. Where the number of persons subscribing a nomination paper has exceeded the required number (i.e. 100 for a GC candidate list and 10 for a FC candidate), any surplus person subscribing the nomination paper concerned will not be regarded as having subscribed the nomination paper concerned and may subscribe another nomination paper.

13. The existing provisions which are being amended are at Annex C.

District Councils (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2003

14. **Clause 2** introduces technical amendments to section 4 of the Regulation, to put it beyond doubt that an unsuccessful DC election candidate will also have his election deposit returned, as long as the number of votes received by that candidate has met or exceeded the prescribed threshold (i.e. 5%).

15. **Clause 3** amends section 7 of the Regulation to provide that a nomination paper shall be subscribed by 10 voters registered for the relevant constituency. It also provides that notwithstanding this, a nomination paper may contain not more than 20 subscribers who must be voters registered for the relevant constituency. However, where the number of persons subscribing a nomination paper has exceeded the required number (i.e. 10), any surplus person subscribing the nomination

paper concerned will not be regarded as having subscribed the nomination paper concerned and may subscribe another nomination paper.

Annex D 16. The existing provisions which are being amended are at **Annex D**.

LEGISLATIVE TIMETABLE

17. The legislative timetable is as follows –

Publication in the Gazette	16 May 2003
Tabling in LegCo	21 May 2003

18. The DCs (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2003 will be put into force earlier in time for DC elections to be held on 23 November 2003. However, the LegCo (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2003 will come into effect later to tie in with the next LegCo elections to be held in 2004.

IMPLICATIONS OF THE PROPOSAL

19. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no financial and civil service, economic, productivity, environmental or sustainability implications apart from ensuring a more efficient use of government resources.

PUBLIC CONSULTATION

20. We have consulted the LegCo Panel on Constitutional Affairs. In general, Members supported our proposals.

21. The Electoral Affairs Commission has also mentioned the proposals concerned at the launch of the public consultation on the proposed electoral guidelines for DC elections.

PUBLICITY

22. A spokesman will be made available to answer media and public enquirers.

ENQUIRERS

23. Enquirers on the brief should be made to Mr Bassanio SO, Principal Assistant Secretary for Constitutional Affairs, on telephone number 2810 2852.

Constitutional Affairs Bureau
15 May 2003

VK588

**LEGISLATIVE COUNCIL (SUBSCRIBERS AND ELECTION DEPOSIT
FOR NOMINATION)(AMENDMENT) REGULATION 2003**

(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 1 June 2004.

**2. Disposal of deposit after publication of
election result or declaration of
failure of election**

Section 4 of the Legislative Council (Subscribers and Election
Deposit for Nomination) Regulation (Cap. 542 sub. leg. C) is
amended -

- (a) in subsection (1), by repealing "the nomination"
and substituting "each nomination";
- (b) in subsection (2), by repealing "the candidate" and
substituting "each candidate";
- (c) in subsection (3), by repealing "5%" wherever it
appears and substituting "3%";
- (d) in subsection (4) -
 - (i) by repealing "the nomination" and
substituting "each nomination";
 - (ii) by repealing "the candidate for" and
substituting "each candidate for".

3. Number and qualifications of subscribers to a nomination paper

Section 7 is amended -

(a) in subsection (1) -

(i) in paragraph (a), by repealing "be subscribed by at least" and substituting ", subject to paragraph (aa), be subscribed by";

(ii) by adding after paragraph (a) -

"(aa) for the purposes of paragraph (a), the number of persons that may subscribe a nomination paper shall not in any case be more than 200;"

(iii) in paragraphs (b) and (c), by repealing "subsection (3)" and substituting "subsections (3) and (3A)";

(b) in subsection (2) -

(i) in paragraph (a)(ii), by repealing "be subscribed by at least" and substituting ", subject to paragraph (aa), be subscribed by";

(ii) by adding after paragraph (a) -

"(aa) for the purposes of paragraph (a)(ii), the number of persons

that may subscribe a
nomination paper shall not in
any case be more than 20;"

(iii) in paragraphs (b) and (c), by repealing
"subsection (3)" and substituting
"subsections (3) and (3A)";

(c) in subsection (3)(ii), by repealing everything
after "than one" and before "so subscribed" and
substituting "other nomination paper in
contravention of this subsection or subsection (3A),
his signature shall be inoperative on any of those
other nomination papers";

(d) by adding -

"(3A) Where the number of persons
subscribing a nomination paper for the
purposes of -

(a) subsection (1)(a), being
persons qualified to so
subscribe the nomination
paper, has exceeded the number
of persons required under that
subsection; or

(b) subsection (2)(a)(ii), being
persons qualified to so
subscribe the nomination

paper, has exceeded the number of persons required under that subsection,

any person who has subscribed the nomination paper but his signature is surplus may subscribe another nomination paper, and -

- (c) his signature shall not be inoperative on that other nomination paper only because he has previously subscribed the first-mentioned nomination paper; and
- (d) if he subscribes more than one other nomination paper in contravention of this subsection or subsection (3), his signature shall be inoperative on any of those other nomination papers so subscribed other than the first one delivered."

Clerk to the Executive Council

COUNCIL CHAMBER

2003

Explanatory Note

This Regulation amends the Legislative Council (Subscribers and Election Deposit for Nomination) Regulation (Cap. 542 sub. leg. C)("the principal Regulation").

2. Section 2 amends section 4 of the principal Regulation to provide that the election deposit lodged by or on behalf of each candidate who has received 3% of the total number of valid votes shall be returned.

3. Section 3 amends section 7 of the principal Regulation to provide that a nomination paper in respect of a geographical constituency shall be subscribed by 100 persons but not more than 200 persons in any event and a nomination paper in respect of a functional constituency shall be subscribed by 10 persons but not more than 20 persons in any event. A subscriber whose name is surplus (i.e. has exceeded the number of 100 or 10) on the nomination paper may subscribe one other nomination paper.

**DISTRICT COUNCILS (SUBSCRIBERS AND ELECTION DEPOSIT
FOR NOMINATION)(AMENDMENT) REGULATION 2003**

(Made by the Chief Executive in Council under section
81 of the District Councils Ordinance (Cap. 547))

1. Commencement

This Regulation shall come into operation on 1 September 2003.

**2. Disposal of deposit after publication of
election result or declaration of
failure of election**

Section 4 of the District Councils (Subscribers and Election
Deposit for Nomination) Regulation (Cap. 547 sub. leg. A) is
amended -

- (a) in subsection (1), by repealing "the candidate" and
substituting "each candidate";
- (b) in subsection (3), by repealing "of the candidate"
and substituting "of each candidate".

**3. Number and qualifications of subscribers
to a nomination paper**

Section 7 is amended -

- (a) in subsection (1), by repealing "be subscribed by
at least" and substituting ", subject to subsection
(1A), be subscribed by";
- (b) by adding -

"(1A) For the purposes of subsection (1), the number of persons that may subscribe a nomination paper shall not in any case be more than 20.";

- (c) in subsection (2), by repealing "subsection (4)" and substituting "subsections (4) and (5)";
- (d) in subsection (3), by repealing "subsection (4)" and substituting "subsections (4) and (5)";
- (e) in subsection (4)(c)(B), by repealing everything after "than one" and before "so subscribed" and substituting "other nomination paper in contravention of this subsection or subsection (5), his signature shall be inoperative on any of those other nomination papers";
- (f) by adding -

"(5) Where the number of persons subscribing a nomination paper for the purposes of subsection (1), being persons qualified to so subscribe the nomination paper, has exceeded the number of persons required under that subsection, any person who has subscribed the nomination paper but his signature is surplus 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 first-mentioned nomination paper; and

- (b) if he subscribes more than one other nomination paper in contravention of this subsection or subsection (4), his signature shall be inoperative on any of the other nomination papers so subscribed other than the first one delivered.".

Clerk to the Executive Council

COUNCIL CHAMBER

2003

Explanatory Note

This Regulation amends the District Councils (Subscribers and Election Deposit for Nomination) Regulation (Cap. 547 sub. leg. A)("the principal Regulation").

2. Section 2 amends section 4 of the principal Regulation to clarify that the election deposit lodged by or on behalf of each candidate who has received 5% of the total number of valid votes shall be returned.

3. Section 3 amends section 7 of the principal Regulation to provide that a nomination paper in respect of any constituency shall be subscribed by 10 persons but not more than 20 persons in any event. A subscriber whose name is surplus (i.e. has exceeded the number of 10) on the nomination paper may subscribe one other nomination paper.

(Date of this copy: 30/04/2003)

Chapter:	542C	LEGISLATIVE COUNCIL (SUBSCRIBERS AND ELECTION DEPOSIT FOR NOMINATION) REGULATION
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Section:	4	Disposal of deposit after publication of election result or declaration of failure of election
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- (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. (L.N. 14 of 2000)
- (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. (L.N. 14 of 2000)
- (2A)(Repealed L.N. 206 of 2001)
- (3) Where-
- (a) the total number of ballot papers containing valid votes in favour of a nomination list which has no successful geographical constituency candidate in respect of a geographical constituency received by such nomination list is less than 5% of the total number of ballot papers containing valid votes received in that geographical constituency;
 - (b) (i) the total number of ballot papers containing valid first preference votes in favour of an unsuccessful candidate in respect of a functional constituency specified in section 20(1)(a) to (d) of the Ordinance received by such candidate is less than 5% of the total number of ballot papers containing valid first preference votes received in that constituency; or
 - (ii) the total number of ballot papers containing valid votes in favour of an unsuccessful candidate in respect of a functional constituency other than a functional constituency referred to in subparagraph (i) received by such candidate is less than 5% of the total number of ballot papers containing valid votes received in that functional constituency;
 - (c) the total number of ballot papers containing valid votes in favour of an unsuccessful candidate in respect of the Election Committee received by such

candidate is less than 5% of the total number of ballot papers containing valid votes received in the Election Committee, (L.N. 206 of 2001)

(d) (Repealed L.N. 206 of 2001)

as determined by a counting of the votes and any re-count, the deposit lodged in respect of his or their nomination shall be forfeited to the general revenue, in accordance with this section. (L.N. 49 of 1998)

(4) Subject to subsection (6), the Returning Officer for the geographical constituency or functional constituency concerned or the Election Committee shall, in the case of- (L.N. 206 of 2001)

- (a) an election referred to in subsection (1)(a) or (2)(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 or the Election Committee;
- (b) an election referred to in subsection (1)(b) or (2)(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 or the Election Committee;
- (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 or the Election Committee, 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. (L.N. 14 of 2000; L.N. 206 of 2001)

(5) The Director of Accounting Services shall, as soon as practicable after the receipt of a notification under subsection (4), return the amount of the deposit to the person who lodges the deposit on behalf of the nominees on the nomination list or 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.

(6) The Returning Officer shall, as soon as practicable after the publication of the notice referred to in subsection (4)(b) or (c), notify the Director of Accounting Services in writing, as regards any nomination list which has no successful geographical constituency candidate or any unsuccessful candidate, as the case may be, referred to in subsection (3), that the deposit lodged in respect of his or their nomination for that geographical constituency, functional constituency or the Election Committee at the relevant election is to be forfeited to the general revenue. (L.N. 206 of 2001)

(L.N. 14 of 2000)

Section:	7	Number and qualifications of subscribers to a nomination paper
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- (1) As regards any geographical constituency-
 - (a) the nomination paper of the nominees on a nomination list seeking nomination in respect of any geographical constituency shall be subscribed by at least 100 other persons, each being an elector registered in respect of the constituency in respect of which the nominees on that nomination list are seeking nomination;
 - (b) an elector shall not, subject to subsection (3), subscribe more than one nomination paper as regards a particular election;
 - (c) if an elector subscribes more than one nomination paper in contravention of paragraph (b), his signature shall, subject to subsection (3), be inoperative on any

nomination paper other than the one first delivered.

- (2) As regards any functional constituency or the Election Committee-
- (a) the nomination paper of any person seeking nomination in respect of-
 - (i) (Repealed L.N. 14 of 2000)
 - (ii) any functional constituency shall be subscribed by at least 10 other persons each being an elector registered in respect of the relevant functional constituency; and
 - (iii) the Election Committee shall be subscribed by at least 10 other persons each being a member registered in respect of the Election Committee;
 - (iv) (Repealed L.N. 206 of 2001)
 - (b) an elector or member of the Election Committee, as the case may be, can, subject to subsection (3), subscribe any number of nomination papers up to the number of seats in any functional constituency or the Election Committee as regards a particular election;
 - (c) the signature of an elector or member of the Election Committee, as the case may be, shall, subject to subsection (3), be inoperative on any nomination paper delivered after the delivery of the maximum number of the nomination papers referred to in paragraph (b). (L.N. 14 of 2000)

(2A) Notwithstanding subsection (2)(a)(iii), a member of the Election Committee is not qualified to subscribe a nomination paper for the purposes of that subsection if he-

- (a) resigns under section 3(3) of the Schedule to the Chief Executive Election Ordinance (Cap 569);
- (b) is serving a sentence of imprisonment for the time being;
- (c) falls within paragraph (a), (b), (c), (f) or (g) of section 18 of the Schedule to the Chief Executive Election Ordinance (Cap 569); or
- (d) is or has been convicted, within the 3 years before the polling date of the relevant election, in the manner prescribed by subparagraph (i), (ii) or (iii) of section 18(e) of the Schedule to the Chief Executive Election Ordinance (Cap 569). (L.N. 206 of 2001)

(2B) Subsection (2A) does not affect a nomination paper subscribed by a member before he ceases to be qualified under that subsection. (L.N. 206 of 2001)

(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) (Repealed L.N. 206 of 2001)

the elector or member of the Election Committee, 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)) 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. (L.N. 14 of 2000)

(4) For the avoidance of doubt, it is declared that where the number of nomination papers subscribed by any person who has 2 or more of the following capacities-

- (a) an elector registered in respect of a geographical constituency;
- (b) an elector registered in respect of a functional constituency;
- (c) a member of the Election Committee,
- (d) (Repealed L.N. 206 of 2001)

in any one of such capacities has reached the maximum number provided for in subsection (1)(b) or (2)(b) (as may be appropriate), subsections (1)(b) and (2)(b) shall not be construed as preventing such person to subscribe, subject to subsection (1)(b) or (2)(b) (as may be appropriate), other nomination papers in another such capacity of him.

(L.N. 206 of 2001)

Chapter:	547A	Title:	DISTRICT COUNCILS (SUBSCRIBERS AND ELECTION DEPOSIT FOR NOMINATION) REGULATION	Gazette Number:	L.N. 113 of 1999
Section:	4	Heading:	Disposal of deposit after publication of election result or declaration of failure of election	Version Date:	07/05/1999

(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.

Chapter:	547A	Title:	DISTRICT COUNCILS (SUBSCRIBERS AND ELECTION DEPOSIT FOR NOMINATION) REGULATION	Gazette Number:	L.N. 113 of 1999
Section:	7	Heading:	Number and qualifications of subscribers to a nomination paper	Version Date:	07/05/1999

(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.