

**立法會**  
**Legislative Council**

LC Paper No. LS47/14-15

**Paper for the House Committee Meeting  
on 13 March 2015**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 6 March 2015**

**Tabling in LegCo** : Council meeting of 18 March 2015

**Amendment to be made by** : Council meeting of 15 April 2015 (or that of 6 May 2015 if extended by resolution)

**District Councils Ordinance (Amendment of  
Schedule 7) Order 2015** (L.N. 49)

**Maximum Amount of Election Expenses (District  
Council Election) (Amendment) Regulation 2015** (L.N. 50)

Background

Part VA of the District Councils Ordinance (Cap. 547) provides for a financial assistance scheme in respect of election expenses incurred by candidates at a District Council (DC) election. Pursuant to sections 60C and 60D under Part VA of Cap. 547, a candidate who meets certain criteria<sup>1</sup> is eligible for financial assistance, which would be the lowest of the following<sup>2</sup>—

- (a) the amount obtained by multiplying the specified rate by the total number of valid votes cast for the candidate (if the election is contested) or 50% of the number of registered electors for the constituency concerned (if the election is uncontested);

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<sup>1</sup> Section 60C of Cap. 547 provides that a candidate for a constituency is eligible for financial assistance only if he is (a) a candidate who is elected as an elected member; or (b) a candidate who is not elected as an elected member but who (i) is not a disqualified candidate; and (ii) obtains at least 5% of the total number of valid votes cast in the constituency concerned.

<sup>2</sup> Section 60D(1) and (2) of Cap. 547.

- (b) 50% of the maximum amount of election expenses<sup>3</sup> that can be incurred by or on behalf of the candidate under section 3 of the Maximum Amount of Election Expenses (District Council Election) Regulation (Cap. 554C); and
- (c) the declared election expenses of the candidate.

2. The current rate of financial assistance specified in Schedule 7 to Cap. 547 for the purposes of Part VA of Cap. 547 is \$12. Under section 82 of Cap. 547, the Chief Executive in Council (CE in Council) may, by order published in the Gazette, amend Schedule 7.

3. Section 45 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) provides that the CE in Council may make regulations prescribing the maximum amount of election expenses that can be incurred by or on behalf of a candidate at a DC election. The maximum amount of election expenses prescribed in section 3 of Cap. 554C is \$53,800.

L.N. 49 and L.N. 50

4. L.N. 49 and L.N. 50 are made by the CE in Council under section 82 of Cap. 547 and section 45 of Cap. 554 respectively. L.N. 49 amends Schedule 7 to Cap. 547 to provide that the rate of financial assistance for the purposes of Part VA thereof—

- (a) remains to be \$12 for an election of a member for the term of office of a DC ending on 31 December 2015; and
- (b) will be increased from \$12 to \$14 for an election of a member for any subsequent term of office of a DC.

5. L.N. 50 amends section 3 of Cap. 554C to provide that the maximum amount of election expenses—

- (a) remains to be \$53,800 for an election of a member for the term of office of a DC ending on 31 December 2015; and
- (b) will be increased from \$53,800 to \$63,100 for an election of a member for any subsequent term of office of a DC.

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<sup>3</sup> Under section 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), election expenses, in relation to a candidate or group of candidates at an election, means expenses incurred or to be incurred, before, during or after the election period, by or on behalf of the candidate or group for the purpose of (a) promoting the election of the candidate or group; or (b) prejudicing the election of another candidate or group, and includes the value of election donations consisting of goods and services used for that purpose.

6. According to paragraphs 7 and 11 of the LegCo Brief (File Ref: CMAB C2/8) issued by the Constitutional and Mainland Affairs Bureau on 4 March 2015, the adjustments are made taking into account the cumulative increase in the Composite Consumer Price Index from 2012 to 2015 which is expected to be 17.3%. The rate of financial assistance and the maximum amount of election expenses were last revised in 2011 (paragraphs 6 and 10 of the LegCo Brief).

#### Consultation with LegCo Panel

7. As advised by the Clerk to the Panel on Constitutional Affairs (the Panel), the Panel was consulted on the proposed adjustments at its meeting on 16 February 2015. Some members considered that the Administration should review the calculation of the amount of financial assistance payable to each eligible candidate. They also enquired about the additional financial implications involved if candidates were to receive the highest of the three amounts set out in paragraph 1 above. The Administration advised that it would be difficult to estimate such financial implications, as the financial assistance payable under such a proposal in future elections would depend on a number of factors, such as the number of candidates eligible for financial assistance, votes obtained by each candidate, etc. In response to the views of Panel members to review the method for calculating the amount of financial assistance, the Administration stated in paragraph 20 of the LegCo Brief that as the current method was only passed by the Legislative Council and implemented in 2011, it has been able to strike a reasonable balance between encouraging candidates to take part in the elections and ensuring prudent use of public funds, the Administration currently does not plan to alter the arrangements.

#### Commencement

8. L.N. 49 and L.N. 50 will come into operation on 8 May 2015.

#### Concluding observations

9. The Legal Service Division is seeking clarification with the Administration on certain drafting aspects of L.N. 49 and L.N. 50 and a further report will be made, if necessary.

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