

立法會 *Legislative Council*

LC Paper No. CB(2)1156/14-15(05)

Ref : CB2/SS/5/14

Subcommittee on District Councils Ordinance (Amendment of Schedule 7) Order 2015 and Maximum Amount of Election Expenses (District Council Election) (Amendment) Regulation 2015

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper provides background information on the District Councils Ordinance (Amendment of Schedule 7) Order 2015 (the "Order") (L.N. 49) and the Maximum Amount of Election Expenses (District Council Election) (Amendment) Regulation 2015 (the "Amendment Regulation") (L.N. 50), and gives a brief account of previous discussion on the subjects.

Background

Financial assistance scheme

2. Financial assistance for election candidates was first introduced in 2004 to the Legislative Council ("LegCo") elections. In 2007, the financial assistance scheme was extended to District Councils ("DCs") elections. According to the Administration, the scheme was introduced to encourage more public-spirited candidates to participate in elections and to facilitate the development of political talents in Hong Kong.

3. Under the current scheme, a candidate who was elected or who received 5% of valid votes or more in a DC election is eligible for financial assistance, which would be the lowest of the following amounts -

- (a) the amount obtained by multiplying the subsidy rate (currently \$12) 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);
- (b) 50% of the election expenses limit ("EEL"); and
- (c) the declared election expenses of the candidate.

Election expenses limit

4. Under section 45 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the Chief Executive ("CE") in Council may, by regulation, prescribe the maximum amount of election expenses that can be incurred (i.e., EEL). At present, the Maximum Amount of Election Expenses (District Council Election) Regulation (Cap. 554C) stipulates that a candidate standing for DC election may incur election expenses of no more than \$53,800.

The Order (L.N. 49) and the Amendment Regulation (L.N. 50)

5. The Order is made by CE in Council under section 82 of the District Council Ordinance (Cap. 547). It amends Schedule 7 to Cap. 547 to increase the subsidy rate of the financial assistance scheme for candidates of DC election from \$12 to \$14 for elections for the fifth term (from 1 January 2016 to 31 December 2019) and subsequent terms of office of DCs. The subsidy rate for elections¹ for the fourth term of office of DCs (from 1 January 2012 to 31 December 2015) remains at \$12.

6. The Amendment Regulation is made by CE in Council under section 45 of Cap. 554. It amends Cap. 554C to raise EEL from \$53,800 to \$63,100 for candidates at elections for the fifth term (from 1 January 2016 to 31 December 2019) and subsequent terms of office of DCs. EEL for candidates at elections² for the fourth term of office of DCs (from 1 January 2012 to 31 December 2015) remains at \$53,800.

7. According to the LegCo Brief (File Ref: CMAB C2/8) issued by the Constitutional and Mainland Affairs Bureau on 4 March 2015, the proposed 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 subsidy rate of financial assistance and EEL were last revised in 2011.

8. The Order and the Amendment Regulation will come into operation on 8 May 2015.

Consultation with the Panel on Constitutional Affairs ("the Panel")

9. The Administration consulted the Panel on the above proposed increase in

¹ Including by-elections.

² Including by-elections.

the subsidy rate of the financial assistance and EEL at its meeting on 16 February 2015. The major concerns expressed by members are summarized below -

Calculation of the amount of financial assistance payable to eligible candidates

10. Hon Emily LAU considered that the Administration should review the calculation of the amount of financial assistance payable to each eligible candidate and let candidates receive the highest, instead of the lowest, of the three amounts calculated in accordance with paragraph 3(a) to (c) above, so as to enhance the provision of financial assistance for candidates. Hon Emily LAU also suggested that the Administration should make reference to overseas experience and grant subsidy in accordance with the total number of valid votes received by the candidate. In this way, the candidate who performed well and managed to get more valid votes would receive more subsidies. She considered that this would better support election candidates and the development of political parties in Hong Kong.

11. Members enquired about the amount of additional financial implications that would be incurred if candidates were to receive the highest of the three amounts. 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, and votes obtained by each candidate, etc.

12. Hon SIN Chung-kai queried the rationale of the arrangement (paragraph 3(a) above) whereby the subsidy amount payable to candidates from uncontested constituencies would generally be higher than that payable to those from contested constituencies. Taking a voter turnout rate of 50% in a DC election as an example, Mr SIN pointed out that if a candidate standing in a contested election obtained as high as 60% of valid votes in the constituency concerned, under the current scheme, he/she would still only receive financial assistance amounting to 30% of the number of registered electors for that constituency multiplied by the subsidy rate. On the other hand, a candidate returned through an uncontested election would receive financial assistance amounting to 50% of the number of registered electors for that constituency multiplied by the subsidy rate, while he/she probably did not need to carry out many electioneering activities since the election was uncontested.

13. The Administration explained that the situation envisaged might not arise, as a candidate eligible for financial assistance would only receive an amount which had to be the lowest of those calculated in accordance with the arrangements in paragraph 3(a) to (c) above.

14. Hon SIN Chung-kai expressed the view that the proposed adjustments to the subsidy rate of the financial assistance for DC candidates and EEL for DC elections were merely adjustments on the basis of inflation. He considered that there were no substantive increases in the subsidy rate and EEL. The Administration advised that under the current proposals, both the subsidy rate of the financial assistance for DC candidates and EEL for DC elections were to be increased concurrently to take account of the estimated cumulative inflation rate from 2012 to 2015.

Election expenses

15. Hon Claudia MO expressed concern that some prospective candidates might submit their nomination forms at a rather late stage, so that the expenses incurred in their conduct of activities that could potentially help their electioneering efforts before making public their candidacy in the election concerned would not be counted as election expenses. The Administration advised that under the existing law, once a person had publicly declared his or her intention to stand for election, regardless of whether he/she had submitted his or her nomination form, his or her spending of election expenses would start to be counted.

Relevant papers

16. A list of relevant papers which are available on the LegCo website is in **Appendix**.

Appendix

**Relevant documents on District Councils Ordinance
(Amendment of Schedule 7) Order 2015 and
Maximum Amount of Election Expenses
(District Council Election) (Amendment) Regulation 2015**

Committee	Date of meeting	Paper
Panel on Constitutional Affairs	16.2.2015 (Item III)	Agenda Minutes

Council Business Division 2
Legislative Council Secretariat
31 March 2015