

**Legislative Council
Panel on Constitutional Affairs**

**Review on the Election Expenses Limits for
the 2016 Election Committee Subsector Elections
and the 2017 Chief Executive Election**

Purpose

This paper sets out the Government's proposals regarding the election expenses limits ("EELs") for the 2016 Election Committee ("EC") subsector elections and the 2017 Chief Executive ("CE") election and seeks Members' views on the proposals.

Background

2. Under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO"), "election expenses" means expenses incurred or to be incurred, before, during or after the election period, by or on behalf of a candidate or group of candidates for the purpose of promoting the election of the candidate or group, or prejudicing the election of another candidate or group, and includes the value of election donations consisting of goods and services used for that purpose. Under section 45 of the ECICO, the CE in Council may, by regulation, prescribe the maximum amount of election expenses that can be incurred.

3. The setting of EELs is to allow candidates to compete on a level playing field in an election. The limit does not restrict the way in which a candidate runs his/her campaign. Candidates are free to spend as much or as little as they like on each expense item, provided that their election expenses stay within the prescribed limit.

Proposals

Election Committee Subsector Elections

4. The existing EELs for the EC subsector elections, according to the

Maximum Scale of Election Expenses (Election Committee) Order (Cap. 554 sub. Leg. I), are at **Annex A**. We have reviewed the average actual expense per candidate in the 2011 EC subsector elections, and found that they were well below the EEL for the respective subsectors (see **Annex B**). Even in the Information Technology subsector in which the highest average actual expense per candidate as a percentage of the relevant EEL has been reported, the average actual expense amounted to only 16.5% of the EEL of that subsector. Moreover, only six out of 1 581 candidates spent more than 50% of their respective EELs and the highest one spent 73% of his EEL.

5. As there will be no substantial change to the electorate of the EC subsectors for the 2016 EC subsector elections, and the number of EC members to be returned from each EC subsector will remain unchanged, given the actual election expense pattern of the 2011 EC subsector elections as set out in paragraph 4 above, we consider that there is no need to adjust the EELs for the 2016 EC subsector elections.

Chief Executive Election

6. The EEL for the CE election was first set at \$9.5 million (at 2000 price level) in 2001, after taking into account the following five categories of expenses –

- (a) setting up an election office (estimated at \$1.2 million);
- (b) hiring campaign staff (estimated at \$2.3 million);
- (c) hiring professional services (estimated at \$1.5 million);
- (d) conducting policy research (estimated at \$1.5 million); and
- (e) publicity and promotion (estimated at \$3 million).

7. Taking into account the inflation from 2000 to 2012 and the impact of expanding the EC from 800 to 1 200 members, in 2011 the Government proposed increasing EEL for the CE election to \$13 million, which was subsequently adopted for the 2012 CE election.

8. For the current review on whether there is a need to amend the EEL for the CE election, we have considered the following factors –

- (a) the change in price level between 2012 and 2017; and
- (b) the actual election expenses incurred by candidates in the 2012 CE election, as summarised below –

	Total election expenses of candidate (% of EEL)
Candidate A	\$11.20 million (86%)
Candidate B	\$10.97 million (84%)
Candidate C	\$1.29 million (10%)

As seen from the above, the majority of candidates spent a relatively higher percentage of the EEL (around 85%). If the EEL for the 2017 CE election is not increased to reflect the change in price level between 2012 and 2017, there will be a reduction in the real purchasing power of the election expenses of the candidates and hence a *de facto* reduction of the EEL.

9. In light of the above, we recommend increasing the EEL to around \$16.3 million^{Note}, taking into account the following factors –

- (a) **election office** – to adopt the average rental for Grade A office in Central, Sheung Wan, Wan Chai and Causeway Bay as at June 2015, and assume a period of five months, arriving at an estimated rental of \$2.9 million^{Note}; and
- (b) **campaign staff; professional services; policy research; publicity and promotion** – to apply a 19.1%^{Note} price movement adjustment to the respective 2012 estimated amounts, arriving at an estimated total of \$13.43 million^{Note}.

The detailed calculations are set out at **Annex C**.

^{Note} The relevant figures are calculated from changes in rental and price level forecast obtained in the third and fourth quarters of 2015. If in future there is a need to introduce legislative amendments to adjust the EEL for CE election, we will calculate the corresponding EEL for CE election according to the latest changes in rental and price level forecast.

The Way Forward

10. After considering Members' views, the Government will decide whether and how the EELs should be adjusted. If there is a need to adjust the EELs, the Government will submit to the Legislative Council the necessary legislative amendments (subsidiary legislation for adjustments of EELs would have to be tabled at the Legislative Council for negative vetting).

Advice Sought

11. Members are invited to express views on the above proposals regarding the EELs for the EC subsector elections and the CE election.

**Constitutional and Mainland Affairs Bureau
January 2016**

**Existing Election Expenses Limits
for Election Committee Subsector Elections**

EC subsectors	Election Expenses Limit
(a) For an election for one of the following subsectors: (i) Hotel (ii) Insurance (iii) Transport (iv) Agriculture and Fisheries (v) Chinese People’s Political Consultative Conference (vi) Heung Yee Kuk (vii) Hong Kong & Kowloon District Councils (viii) New Territories District Councils	\$100,000
(b) For an election of the remaining subsectors (<i>except for the Religious subsector, National People’s Congress subsector and Legislative Council subsector¹</i>) where there are: (i) not more than 5 000 registered voters (ii) over 5 000 but not more than 10 000 registered voters (iii) over 10 000 registered voters	\$160,000 \$320,000 \$480,000
(c) For an election of any of the sub-subsectors ² where there are: (i) not more than 5 000 registered voters (ii) over 5 000 but not more than 10 000 registered voters (iii) over 10 000 registered voters	\$160,000 \$320,000 \$480,000

¹ Members of the religious subsector are nominated by the six designated religious bodies; the Hong Kong deputies to the National People’s Congress and Members of the Legislative Council are ex-officio members of the National People’s Congress and Legislative Council subsectors respectively.

² “Sub-subsectors” means the 4 sub-subsectors under the sports, performing arts, culture and publication subsector.

Average Election Expenses in the 2011 Election Committee Subsector Elections

Subsector		Average Spending	EEL of the Respective Subsector/ Sub-subsector	As Percentage of Election Expenses Limit
1	Catering	\$12,663	\$320,000	4.0%
2	Commercial (First)	\$18,506	\$160,000	11.6%
3	Commercial (Second) (Uncontested)	\$0	\$160,000	0.0%
4	Employers' Federation of Hong Kong (Uncontested)	\$0	\$160,000	0.0%
5	Finance (Uncontested)	\$527	\$160,000	0.3%
6	Financial Services	\$5,798	\$160,000	3.6%
7	Hong Kong Chinese Enterprises Association (Uncontested)	\$3	\$160,000	0.0%
8	Hotel	\$20	\$100,000	0.0%
9	Import and Export (Uncontested)	\$0	\$160,000	0.0%
10	Industrial (First) (Uncontested)	\$2,975	\$160,000	1.9%
11	Industrial (Second) (Uncontested)	\$0	\$160,000	0.0%
12	Insurance	\$2,478	\$100,000	2.5%
13	Real Estate and Construction (Uncontested)	\$50	\$160,000	0.0%
14	Textiles and Garment (Uncontested)	\$2,172	\$160,000	1.4%
15	Tourism	\$25,186	\$160,000	15.7%
16	Transport	\$4,628	\$100,000	4.6%
17	Wholesale and Retail	\$36,216	\$320,000	11.3%
18	Accountancy	\$66,273	\$480,000	13.8%
19	Architectural, Surveying and Planning	\$12,236	\$320,000	3.8%
20	Chinese Medicine	\$3,772	\$320,000	1.2%
21	Education	\$15,285	\$480,000	3.2%
22	Engineering	\$16,962	\$320,000	5.3%
23	Health Services	\$4,158	\$480,000	0.9%
24	Higher Education	\$5,768	\$320,000	1.8%
25	Information Technology	\$52,943	\$320,000	16.5%
26	Legal	\$17,868	\$320,000	5.6%
27	Medical	\$16,953	\$480,000	3.5%
28	Agriculture and Fisheries (Uncontested)	\$68	\$100,000	0.1%
29	Labour	\$372	\$160,000	0.2%
30	Social Welfare	\$6,977	\$480,000	1.5%
31	Sports (sub-subsector) (Uncontested)	\$0	\$160,000	0.0%
32	Performing Arts (sub-subsector) (Uncontested)	\$11	\$160,000	0.0%
33	Culture (sub-subsector) (Uncontested)	\$0	\$160,000	0.0%
34	Publication (sub-subsector) (Uncontested)	\$0	\$160,000	0.0%
35	Chinese People's Political Consultative Conference	\$56	\$100,000	0.1%
36	Heung Yee Kuk	\$77	\$100,000	0.1%
37	Hong Kong and Kowloon District Councils	\$456	\$100,000	0.5%
38	New Territories District Councils	\$63	\$100,000	0.1%

Note: only 6 candidates (out of 1 581 candidates) spent more than 50% of their respective EELs. The candidate with the highest election expense reported an election expense of 73% of the EEL of that subsector.

Estimation of the Election Expenses Limit for the Chief Executive Election by Expense Items

Expenses	Estimation in the 2011 exercise for the CE election in 2012	Latest estimation for the CE election in 2017	Remarks
<p>1. Election office</p>	<p>Assuming that a Grade A office of 400m² in Central / Sheung Wan / Wan Chai / Causeway Bay is rented for a period of five months, details are as follows –</p> <p>Average rental for Grade A office in Central as at Dec 2010: \$776 / m²</p> <p>Average rental for Grade A office in Sheung Wan as at Dec 2010: \$692 / m²</p> <p>Average rental for Grade A office in Wan Chai / Causeway Bay as at Dec 2010: \$557 / m²</p> <p>Recommended average rental level: $(776 + 692 + 557) / 3 = \\$675 / m^2$</p> <p>Estimated space required: 400 m²</p>	<p>Assuming that a Grade A office of 400m² in Central / Sheung Wan / Wan Chai / Causeway Bay is rented for a period of five months, details are as follows –</p> <p>Average rental for Grade A office in Central as at June 2015: \$878 / m²</p> <p>Average rental for Grade A office in Sheung Wan as at June 2015: \$1,047 / m²</p> <p>Average rental for Grade A office in Wan Chai / Causeway Bay as at June 2015: \$1,174 / m²</p> <p>Recommended average rental level: $(878 + 1,047 + 1,174) / 3 = \\$1,033 / m^2$</p> <p>Estimated space required: 400 m²</p>	<p>- Average rental figures are calculated from relevant rental figures published by the Rating and Valuation Department in the 3rd quarter of 2015. If in future there is a need to introduce legislative amendments to adjust the EEL for CE election, we will calculate the corresponding EEL for CE election according to the latest changes in rental level.</p>

Expenses	Estimation in the 2011 exercise for the CE election in 2012	Latest estimation for the CE election in 2017	Remarks
	<p>Estimated rental for five months: \$1.35 million</p> <p>Overhead expenses (e.g., management fee and charges for water and electricity) (estimated to be 20% of the rental): \$270,000</p> <p>One-off expenses for setting up and winding down the election office (e.g., decoration)(estimated to be 20% of rental): \$270,000</p> <p>Total: \$1.89 million</p>	<p>Estimated rental for five months: \$2.066 million</p> <p>Overhead expenses (e.g., management fee and charges for water and electricity) (estimated to be 20% of the rental): \$413,200</p> <p>One-off expenses for setting up and winding down the election office (e.g., decoration)(estimated to be 20% of rental): \$413,200</p> <p>Total: \$2,892,400 (say \$2.9 million)</p>	
2. Campaign staff	As the EC was expanded from 800 to 1200 and taking into account the need for conducting publicity at the district level, one more senior staff and four more supporting staff to form a team of 20 members are needed, i.e., 1 campaign manager, 5 senior staff, 14 supporting staff. Details are as	As the size of EC and electoral method for the CE election will not change in 2017, the same staff requirement as in 2012 is assumed.	- According to the Composite Consumer Price Index (CCPI), the actual annual inflation rates for 2013 and 2014 were 4.3% and 4.4% respectively. According to the forecast released on 14 August 2015, the headline inflation rate for 2015 as a whole is expected to

Expenses	Estimation in the 2011 exercise for the CE election in 2012	Latest estimation for the CE election in 2017	Remarks
	<p>follows –</p> <p>Salary for the campaign manager (1) : \$78,960* / month</p> <p>Salary for each senior staff (5 in total) : \$56,400* / month</p> <p>Salary for each supporting staff (14 in total) : \$9,024* / month</p> <p>Salary expenses for five months : \$2,436,480</p> <p>Contract gratuity and fringe benefits (estimated to be 30% of salary) : \$730,944</p> <p>(* Adjusted in the 2011 review exercise from the original estimate, taking into account the cumulative rate of change in CCPI in 2012 over 2000: +12.8%)</p> <p>Total (including salary for five months, gratuity and fringe benefits): \$3,167,424 (say \$3.17 million)</p>	<p>(Cumulative rate of change in CCPI in 2017 over 2012: +19.1%)</p> <p>Total (including salary for five months, gratuity and fringe benefits): \$3,772,402 (say \$3.77 million)</p>	<p>be 3.1%. According to the Medium Range Forecast in the 2015-16 Budget, the underlying trend inflation rate from 2016 to 2019 is 3% per annum. The cumulative increase in CCPI over the relevant period, according to the latest estimate available, is therefore expected to be around 19.1%.</p> <p>- If in future there is a need to introduce legislative amendments to adjust the EEL for CE election, we will calculate the corresponding EEL for CE election according to the latest changes in price level forecast.</p>

Expenses	Estimation in the 2011 exercise for the CE election in 2012	Latest estimation for the CE election in 2017	Remarks
3. Professional services	<p>Including engaging PR consultancy, seeking legal opinion, etc.</p> <p>Total: \$1,861,200 (say \$1.86 million)</p>	<p>As the electoral method for the CE election in 2017 would be the same as the CE election in 2012, the same requirement for professional services is assumed.</p> <p>(Cumulative rate of change in CCPI in 2017 over 2012: +19.1%)</p> <p>Total: \$2,216,689 (say \$2.22 million)</p>	
4. Policy research	<p>Including conducting opinion surveys, holding focus group discussions to analyse Government policies and election platform from the perspective of districts, as well as to deploy canvassing resources on publicity at district level.</p> <p>Total: \$1,861,200 (say \$1.86 million)</p>	<p>As the electoral method for the CE election in 2017 would be the same as the CE election in 2012, the same requirement for policy research is assumed.</p> <p>(Cumulative rate of change in CCPI in 2017 over 2012: +19.1%)</p> <p>Total: \$2,216,689 (say \$2.22 million)</p>	

Expenses	Estimation in the 2011 exercise for the CE election in 2012	Latest estimation for the CE election in 2017	Remarks
5. Publicity and promotion	Production and distribution of publicity materials, including posters, banners, hand bills, etc. (including production, printing, and postage cost); production and placing of election advertisements (e.g., through newspaper); conducting territory-wide election meetings (e.g., electioneering functions or launching ceremony of the election campaign); and to conduct district-level election meetings (e.g., bus parades, forums). Total: \$4.38 million	Including publicity items such as production and distribution of posters, handbills, banners, placing of election advertisements, website design and maintenance, etc.; as well as conducting election meetings and electioneering functions. (Cumulative rate of change in CCPI in 2017 over 2012: +19.1%) Total: \$5,216,580 (say \$5.22 million)	
Total:	\$13.16 million	\$16.33 million	
EEL Recommended:	\$13 million	\$16.3 million*	* If in future there is a need to introduce legislative amendments to adjust the EEL for CE election, we will calculate the corresponding EEL for CE election according to the latest changes in rental and price level forecast.