

**Legislative Council Panel on Constitutional Affairs**

**Review of Various Election Expenses Limits and  
Adjustments to Free Mailing Arrangements for Candidates**

This paper sets out the Administration's proposals regarding the election expenses limits ("EELs") for the Election Committee ("EC") Subsector Elections in December 2011 and the Chief Executive ("CE") Election in March 2012; financial assistance and EEL for the District Councils ("DC") election in November 2011; and promotional letters sent by candidates free of postage.

**PROPOSALS**

**(A) EEL for EC Subsector and CE Elections**

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

4. Under the Chief Executive Election (Amendment) Ordinance 2011, the number of EC members will be increased from 800 to 1 200. In the first three sectors, the number of seats allocated to the existing subsectors will be increased generally by proportion according to the existing distribution of seats. For the fourth sector, among the 100 new seats, 75 will be allocated to elected DC members. In other words, there will be an increase in the number of candidates for the EC Subsector Elections in December 2011 and an expansion of the electorate size for the CE Election in March 2012. We have taken the opportunity to review the need for adjusting the respective EELs for the two elections.

## **EC Subsector Elections**

5. The existing EELs for the EC Subsector Elections, as stipulated in the Maximum Scale of Election Expenses (Election Committee) Order (Cap. 554 sub. Leg. I), are at **Annex A**. In the 2006 EC Subsector Elections, the average election expense per candidate was far lower than the relevant EEL of respective subsectors. The relevant figures are set out at **Annex B**. For example, in the subsector which had the highest average election expense per candidate as a percentage of the relevant EEL (i.e. the Textile and Garment Subsector), the average election expense only amounted to 26.3% of the EEL of that subsector.

6. For the coming EC Subsector Elections, there are no substantial changes to the subsector electorates. Also, the expansion of the EC from 800 to 1 200 members will increase the chance for candidates to be elected. In the circumstances and given the average election expense pattern as set out in paragraph 5 above, we consider that there is no need to adjust the EELs for the 2011 EC Subsector Elections.

## **CE Election**

7. Article 43 of the Basic Law (“BL”) provides that the CE shall be the head of the Hong Kong Special Administrative Region (“HKSAR”) and shall represent the HKSAR. The functions and powers conferred on the CE by the BL cover a wide range of matters relating to the HKSAR. The policies of the CE will affect the well being of all residents in the HKSAR. As such, candidates running for the office of the CE have a legitimate need to publicize and explain their election platform to the public at large.

### **Current EEL**

8. The existing EEL for the CE Election, as stipulated in the Maximum Amount of Election Expenses (Chief Executive Election) Regulation (Cap. 554 sub. leg. A), is \$9.5 million. It was set and enacted in 2001 according to the price level in 2000, and has not been adjusted since then. This EEL was used in the 2002, 2005 (by-election) and 2007 CE Elections. The total election expenses incurred by the candidates in 2002, 2005 (by-election) and 2007 CE Election are set out below :

<b>Year</b>	<b>No. of validly nominated candidates</b>	<b>Total election expenses of candidate (% of the EEL)</b>
2002	1	\$6.79 million (71%)
2005 (by-election)	1	\$4.12 million (43%)
2007	2	Candidate A: \$8.36 million (88%) Candidate B: \$4 million (42%)

9. The current EEL was derived having regard to the following five categories of expenses back in 2001 :

- (a) expenses for setting up an election office in Central;
- (b) expenses for employing campaign staff;
- (c) expenses for engaging professional services;
- (d) expenses for carrying out policy research; and
- (e) expenses for publicity and promotion.

#### Parameters of Review

10. In reviewing the EEL for the CE Election in 2012, we have considered the following factors :

- (a) the inflation from 2000 to 2012;
- (b) the impact on the mode of canvassing as a result of the expansion of the EC and the revised voting system of the CE Election; and
- (c) the need for additional expense items in light of the experience in previous CE Elections.

### *Inflation*

11. The election expenses will be affected by the inflation since 2000. It is forecast that the composite consumer price index (“CCPI”) in 2012 will have risen by 12.8%<sup>1</sup> over 2000.

### *Expansion of the EC and the revised CE Election voting system*

12. The expansion of and the allocation of new seats in the EC under the Chief Executive Election (Amendment) Ordinance 2011 will increase the demand for canvassing resources for the CE candidates. The next term of the EC will be expanded by 50% from 800 to 1 200 members. The canvassing team of the CE candidates will need to deploy more manpower and resources in soliciting the support of individual EC members. Furthermore, out of the 100 new seats to be allocated to the fourth sector of the EC, 75 seats will be allocated to elected DC members. Together with the existing 42 seats, there will be 117 seats in the two DC subsectors. In soliciting support from the EC members of the two DC subsectors, the CE candidates will need to conduct more publicity activities at district level. The CE candidates will also need to publicize and explain their election platform to the public at large.

13. Under the Chief Executive Election (Amendment) Ordinance 2011, the voting system of the CE Election is amended to the effect that a candidate shall only be elected if he or she obtains more than 600 valid votes, instead of the existing provision of half of the total number of valid votes cast. This is to enhance the representativeness of the CE-elect. It is expected that under this revised voting system, CE candidates will have to enhance their canvassing activities to solicit more EC members to vote and to support their candidacy.

### *Additional expense items*

14. A number of election expense items were not included among the factors considered when the existing EEL was formulated back in 2001. One of the examples is the expense for conducting election meetings. These expense items are considered reasonable and common canvassing activities in other elections. We recommend incorporating these items into the estimation when proposing adjustment to the EEL for the 2012 CE Election.

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<sup>1</sup> The CCPI for 2000 was 107.4. The CCPI for 2012 is estimated to be 121.2, based on the forecast inflation rate of 4.5% for 2011 and the assumed trend inflation rate of 3.5% for 2012 as set out in the 2011-12 Budget.

15. Having considered the factors above, we recommend increasing the EEL for the CE Election from \$9.5 million to \$13 million. This will provide sufficient resources to enable the CE candidates not only to solicit support from members of the EC, but also to publicize and explain their election platform to the public at large and to conduct the necessary canvassing activities both territory-wide and at district level. Major calculations are set out below together with the relevant considerations in addition to the 12.8% increase in CCPI from 2000 to 2012 :

- (a) **expenses for setting up an election office** – taking the average rental for Grade A office in Central/Sheung Wan/Wan Chai/Causeway Bay, the estimated amount for setting up the election office is \$1.89 million (the estimated expense was \$1.2 million in 2001);
- (b) **expenses for employing campaign staff** – considering the expansion of the EC and the need for more publicity at district level, the estimated amount for employing campaign staff is \$3.17 million (the estimated expense was \$2.3 million in 2001);
- (c) **expenses for hiring professional services** – for enabling the CE candidates to hire PR consultancy and to seek legal opinion for the conduct of election activities, the estimated amount for hiring professional services is \$1.86 million (the estimated expense was \$1.5 million in 2001);
- (d) **expenses on policy research** – for enabling the CE candidates to conduct opinion surveys and organise focus group discussions to analyse Government policies and formulate election platform on various issues, as well as to deploy canvassing resources on publicity at district level, the estimated amount for carrying out policy research is \$1.86 million (the estimated expense was \$1.5 million in 2001); and
- (e) **expenses on publicity and promotion** – for incorporating a new expense item for conducting territory-wide and district-level election meetings, the estimated amount for publicity and promotion is \$4.38 million (the estimated expense was \$3 million in 2001).

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

**(B) Financial Assistance Scheme and EEL for DC Election**

16. Under the existing arrangement, the subsidy rate for the financial assistance scheme for a candidate standing for a DC election is the lower of \$10 per vote times the number of valid votes received by candidates, or 50% of the declared election expenses. The EEL for a candidate standing for a DC election is \$48,000.

17. At the meeting of the Legislative Council (“LegCo”) Panel on Constitutional Affairs (“CA Panel”) on 18 February 2011, we consulted Members on the following proposals for the 2011 DC election:

- (a) the subsidy rate of the financial assistance scheme for candidates of the DC election should be increased from \$10 per vote to \$12 per vote; and
- (b) the EEL for the DC election should be increased from \$48,000 to \$53,000.

18. Separately, under the LegCo (Amendment) Ordinance 2011 which was passed by the LegCo on 5 March 2011, the subsidy rate for the LegCo election was revised from the previous arrangement of the lower of \$11 per vote or 50% of the declared election expenses to the new arrangement of the lower of \$12 per vote or 50% of the EEL provided that the subsidy amount does not exceed the amount of the declared election expenses of the lists of candidates or candidates. We now propose that the same revised arrangements should be adopted for the financial assistance for the 2011 DC election, i.e. the lower of \$12 per vote or 50% of the EEL provided that the subsidy amount does not exceed the amount of the declared election expenses of a candidate.

19. As regards the EEL for the DC election, at the time we consulted the CA Panel on 18 February 2011, the forecast inflation rate from 2008 to 2011 was 11%. We thus recommended increasing the EEL to \$53,000 (i.e. 11% increase, rounded up to the nearest thousand). In the 2011-12 Budget announced on 23 February 2011, the forecast inflation rate for 2011 is 4.5%, which is higher than our previous assumption of a trend inflation rate of 3%. As the cumulative inflation rate from 2008 to 2011 has been revised to 12% (instead of 11%), we now propose to increase the EEL accordingly by 12% to \$53,800 (rounded up to the nearest hundred).

**(C) Candidates to send joint promotional letters to electors free of postage**

20. Under the existing arrangements, the relevant provisions of the Legislative Council Ordinance (Cap. 542) (“LCO”)<sup>2</sup>, District Councils Ordinance (Cap. 547) (“DCO”)<sup>3</sup> and the Chief Executive Election Ordinance (Cap. 569) (“CEEO”)<sup>4</sup> specify that a validly nominated candidate or list of candidates (as the case may be) of the DC, LegCo and EC subsector elections is entitled to send a letter free of postage to each elector/voter in the constituency or an EC subsector for which the candidate/list of candidates is nominated. The LCO, DCO and the CEEO further provide that the letter must relate to the election concerned and must comply with the requirements and limitations prescribed by the relevant Electoral Affairs Commission Regulations. The relevant regulations<sup>5</sup> specify that the letter must contain materials relating only to the candidature of the candidate at the election concerned.

21. At the meetings of the Bills Committee for the LegCo (Amendment) Bill 2010, some Members proposed that lists of candidates/candidates of different constituencies should be allowed to print their campaign materials in the same promotional letter to be sent free of postage. This would enable political parties to enhance the campaign publicity for their lists of candidates/candidates at the same election. This would also save paper if the lists of candidates/candidates concerned decide to jointly send one promotional letter free of postage to each elector.

22. Having regard to the above views, we propose to allow lists of candidates of different constituencies and candidates of the functional constituency (“FC”) or EC subsectors with multiple seats to send their promotional letters to the same elector/voter. These include:

- (a) a list of candidates in a geographical constituency (“GC”) and a list of candidates in the DC (second) FC;
- (b) candidates in the Labour FC which has three seats; and

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<sup>2</sup> Section 43 of the LCO.

<sup>3</sup> Section 37 of the DCO.

<sup>4</sup> Section 38 of the Schedule to the CEEO.

<sup>5</sup> The relevant provisions can be found in section 101A of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D), section 102 of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541 sub. leg. F) and section 99 of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I).

- (c) candidates standing for election in the same EC subsector, which has multiple number of seats (ranging from 16 seats to 60 seats).

The proposal should not cover elections at which lists of candidates/candidates of different constituencies would have different electors/voters, such as candidates of different GCs, candidates of different FCs and candidates of different EC subsectors.

23. Under the existing legislation specified in paragraph 20 above, a candidate/list of candidates may send one promotional letter to each elector/voter in the relevant constituency or an EC subsector free of postage. We do not propose to impose a restriction to the effect that the candidates/lists of candidates printing their campaign materials in the same promotional letter may send only one promotional letter jointly to each elector/voter. However, when the new arrangements are in place, some lists of candidates/candidates would possibly choose to send one promotional letter to each elector/voter to save their printing cost and paper. This should help to cut down the number of promotional letters to be sent.

24. Accordingly, we propose to amend the following provisions to take forward the proposed arrangements in paragraph 22 above:

- (a) section 43 of the LCO;
- (b) section 101A of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D);
- (c) section 38 of the Schedule to the CEEO; and
- (d) section 99 of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I).

## **ADVICE SOUGHT**

25. Members are invited to comment on the above proposals.

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

<b>Subsector</b>	<b>Election Expenses Limit</b>
(a) For an election for one of the following subsectors, viz, Hotel, Insurance, Transport, Agriculture and Fisheries, Chinese People's Political Consultative Conference, Heung Yee Kuk, Hong Kong & Kowloon District Councils and 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 subsector</i> ) where there are:  (i) no 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 where there are:  (i) no 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

**Annex B****Average Spending per Candidate for Each Subsector in the  
2006 Election Committee Subsector Elections**

Subsector		Average Spending	As Percentage of Election Expenses Limit
1	Catering (Uncontested)	\$10,247	3.2%
2	Commercial (First) (Uncontested)	\$1,321	0.8%
3	Commercial (Second) (Uncontested)	\$0	0.0%
4	Employers' Federation of Hong Kong (Uncontested)	\$0	0.0%
5	Finance (Uncontested)	\$818	0.5%
6	Financial Services	\$5,370	3.4%
7	Hong Kong Chinese Enterprises Association (Uncontested)	\$0	0.0%
8	Hotel	\$609	0.6%
9	Import and Export (Uncontested)	\$0	0.0%
10	Industrial (First) (Uncontested)	\$441	0.3%
11	Industrial (Second) (Uncontested)	\$1	0.0%
12	Insurance	\$8,060	8.1%
13	Real Estate and Construction	\$6,390	4.0%
14	Textiles and Garment	\$42,036	26.3%
15	Tourism	\$13,957	8.7%
16	Transport	\$1,443	1.4%
17	Wholesale and Retail	\$26,385	16.5%
18	Accountancy	\$37,977	7.9%
19	Architectural, Surveying and Planning	\$12,952	4.0%
20	Chinese Medicine	\$6,197	3.9%
21	Education	\$29,289	6.1%
22	Engineering	\$20,825	6.5%
23	Health Services	\$5,741	1.2%
24	Higher Education	\$7,121	2.2%
25	Information Technology	\$41,234	12.9%
26	Legal	\$20,411	6.4%
27	Medical	\$14,371	3.0%
28	Agriculture and Fisheries (Uncontested)	\$0	0.0%
29	Labour	\$467	0.3%
30	Social Welfare	\$4,081	0.9%
31	Sports (sub-subsector) (Uncontested)	\$408	0.3%
32	Performing Arts (sub-subsector) (Uncontested)	\$10	0.0%
33	Culture (sub-subsector)	\$5,185	3.2%
34	Publication (sub-subsector) (Uncontested)	\$0	0.0%
35	Chinese People's Political Consultative Conference (Uncontested)	\$6	0.0%
36	Heung Yee Kuk (Uncontested)	\$6	0.0%
37	Hong Kong and Kowloon District Councils	\$3,650	3.7%
38	New Territories District Councils	\$882	0.9%

**Detailed Estimation of the Election Expenses Limit for the Chief Executive Election**

<b>Expenses</b>	<b>Estimated amount</b> (\$ million as at November 2001) (as a % of the total limit)	<b>Estimation in 2001</b>	<b>Latest estimation</b>
1. Expenses for setting up an election office	<b>1.2</b> <b>(13%)</b>	<p>Assuming that a Grade A office of 400 m<sup>2</sup> in Central is rented for a period of five months. Details are as follows -</p> <p>Average rental for Grade A office in Central in 2000 : \$415 / m<sup>2</sup></p> <p>Estimated space required : 400 m<sup>2</sup></p> <p>Estimated rental for five months : \$830,000</p> <p>Overhead expenses (e.g. management fee and charges for water and electricity)(estimated to be 20% of the rental) : \$166,000</p> <p>One-off expenses for setting up and winding down the election office (e.g. decoration)(estimated to be 20% of rental) : \$166,000</p> <p>Total : \$1,162,000 ( say <b>\$1.2 million</b> )</p>	<p>Assuming that a Grade A office of 400 m<sup>2</sup> in Central / Sheung Wan / Wan Chai / Causeway Bay is rented for a period of five months. Details are as follows -</p> <p>As at December 2010, average rental for Grade A office in Central : \$776 m<sup>2</sup></p> <p>As at December 2010, average rental for Grade A office in Sheung Wan : \$692 m<sup>2</sup></p> <p>As at December 2010, average rental for Grade A office in Wan Chai/Causeway Bay : \$557 m<sup>2</sup></p> <p>Recommended average rental level : <math>(776 + 692 + 557) / 3 = \\$675 \text{ m}^2</math></p> <p>Estimated space required : 400 m<sup>2</sup></p> <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><b>Total : \$1.89 million</b></p>

<b>Expenses</b>	<b>Estimated amount</b> (\$ million as at November 2001) (as a % of the total limit)	<b>Estimation in 2001</b>	<b>Latest estimation</b>
2. Campaign staff	<b>2.3</b> <b>(24%)</b>	<p>Assuming that a total of 15 staff are required. Details are as follows -</p> <p>Salary for the campaign manager (1) : \$70,000 / month</p> <p>Salary for each senior staff (4 in total): \$50,000 / month</p> <p>Salary for each supporting staff (10 in total) : \$8,000 / month</p> <p>Salary expenses for five months : \$1,750,000</p> <p>Contract gratuity and fringe benefits (estimated to be 30% of salary) : \$525,000</p> <p>Total : \$2,275,000 (<b>say \$2.3 million</b>)</p>	<p>Taking into account the expansion of the Election Committee and the need for conducting publicity at the district level, one more senior staff and four more supporting staff are needed. Details are as follows -</p> <p>Salary for the campaign manager (1) : \$70,000 / month</p> <p>Salary for each senior staff (5 in total) : \$50,000 / month</p> <p>Salary for each supporting staff (14 in total) : \$8,000 / month</p> <p>Salary expenses for five months : \$2,160,000</p> <p>Contract gratuity and fringe benefits (estimated to be 30% of salary) : \$648,000</p> <p>Cumulative rate of change in CCPI in 2012 over 2000 : + 12.8%</p> <p>Total : 3,167,424 (<b>say \$3.17 million</b>)</p>

<b>Expenses</b>	<b>Estimated amount</b> (\$ million as at November 2001) (as a % of the total limit)	<b>Estimation in 2001</b>	<b>Latest estimation</b>
3. Professional services	<b>1.5</b> <b>(16%)</b>	Assuming that \$1.5 million is required for engaging PR consultancy and seeking legal opinion.	To raise the estimate by \$150,000 in addition to the original estimate of \$1.5 million required, in order to enable the CE candidates to hire PR consultancy and to seek legal opinion for the conduct of publicity in all the 18 districts.  Cumulative rate of change in CCPI in 2012 over 2000 : + 12.8%  Total : \$1,861,200 ( <b>say \$1.86 million</b> )
4. Policy research	<b>1.5</b> <b>(16%)</b>	Including conducting opinion surveys and holding focus group discussions. Details are as follows -  Estimated expenses for a single-subject research : \$0.3 million  Estimated number of research : 5  Total : <b>\$1.5 million</b>	To raise the estimate by \$150,000 in additional to the original estimate of \$1.5 million required, in order to enable the CE candidates to conduct opinion surveys and hold 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.  Cumulative rate of change in CCPI in 2012 over 2000 : + 12.8%  Total : \$1,861,200 ( <b>say \$1.86 million</b> )

Expenses	Estimated amount (\$ million as at November 2001) (as a % of the total limit)	Estimation in 2001	Latest estimation
5. Publicity and Promotion	<b>3 (31%)</b>	<p>Details are as follows -</p> <p>Sending publicity materials to each household/unit under the Hong Kong Post Circular Service (including postage and printing cost) : \$2.5 million</p> <p>Posters, banners, hand bills etc (including production and printing costs) : \$250,000</p> <p>Election advertisements (e.g. through newspaper) : \$250,000</p> <p>Total : <b>\$3 million</b></p>	<p>Details are as follows -</p> <p>Incorporating the cumulative rate of change in CCPI in 2012 over 2000 (12.8%) into the original \$2.5 million for sending publicity materials to each household/unit under the Hong Kong Post Circular Service (including postage and printing cost) : \$2.82 million</p> <p>Incorporating the cumulative rate of change in CCPI in 2012 over 2000 (12.8%) into the original \$250,000 for posters, banners, hand bills etc (including production and printing cost) : \$282,000 (say \$280,000)</p> <p>Incorporating the cumulative rate of change in CCPI in 2012 over 2000 (12.8%) into the original \$250,000 for election advertisements (e.g. through newspaper) : \$282,000 (say \$280,000)</p> <p>To conduct 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) : \$1 million</p> <p>Total : <b>\$4.38 million</b></p>
<b>Total</b>		<b>\$9.5 million</b>	<b>13.16 million</b>