

Chapter:	541N	ELECTORAL AFFAIRS COMMISSION (FINANCIAL ASSISTANCE FOR LEGISLATIVE COUNCIL ELECTIONS AND DISTRICT COUNCIL ELECTIONS) (APPLICATION AND PAYMENT PROCEDURE) REGULATION	Gazette Number	Version Date
----------	------	---	----------------	--------------

		Empowering section	L.N. 80 of 2007	01/09/2007
--	--	--------------------	-----------------	------------

(Cap 541, section 7)

[15 July 2004]

(Originally L.N. 269 of 2003)

Section:	1	(Omitted as spent)	L.N. 80 of 2007	01/09/2007
----------	---	--------------------	-----------------	------------

Section:	2	Interpretation	L.N. 80 of 2007	01/09/2007
----------	---	----------------	-----------------	------------

(1) In this Regulation, unless the context otherwise requires—

"auditor" (核數師) means a certified public accountant (practising) as defined in the Professional Accountants Ordinance (Cap 50); (23 of 2004 s. 56)

"claim" (申索) means, in relation to—

- (a) a list of LC candidates, a claim made in respect of the list for financial assistance payable under Part VIA of the Legislative Council Ordinance (Cap 542);
- (b) an LC candidate, a claim made by that candidate for financial assistance payable under Part VIA of the Legislative Council Ordinance (Cap 542); or
- (c) a DC candidate, a claim made by that candidate for financial assistance payable under Part VA of the District Councils Ordinance (Cap 547); (L.N. 80 of 2007)

"claim form" (申索表格) means the specified form for making a claim;

"DC candidate" (區議會選舉候選人) means a candidate nominated for election for a District Council constituency; (L.N. 80 of 2007)

"declared election expenses" (申報選舉開支) means, in relation to—

- (a) a list of LC candidates, the amount set out as election expenses incurred in respect of the list, in the election return lodged for the relevant election; (L.N. 80 of 2007)
- (b) an LC candidate, the amount set out as election expenses incurred by the candidate, in the election return lodged for the relevant election; or (L.N. 80 of 2007)
- (c) a DC candidate, the amount set out as election expenses incurred by the candidate, in the election return lodged for the relevant election; (L.N. 80 of 2007)

"election expenses" (選舉開支) has the meaning assigned to it by section 2(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554); (L.N. 80 of 2007)

"election return" (選舉申報書) has the meaning assigned to it by section 2(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554);

"eligible DC candidate" (合資格的區議會選舉候選人) means a DC candidate who is eligible for financial assistance under section 60C of the District Councils Ordinance (Cap 547); (L.N. 80 of 2007)

"eligible LC candidate" (合資格的立法會選舉候選人) means an LC candidate who is eligible for financial assistance under section 60C(2)(a) or (b) of the Legislative Council Ordinance (Cap 542); (L.N. 80 of 2007)

"eligible list of LC candidates" (合資格的立法會選舉候選人名單) means a list of LC candidates that is eligible for financial assistance under section 60C(1)(a) or (b) of the Legislative Council Ordinance (Cap 542); (L.N. 80 of 2007)

"Hong Kong Standards on Assurance Engagements" (《香港核證準則》) means the standards of auditing and assurance practices of that name issued by the Council of the Hong Kong Institute of Certified Public

Accountants, as amended from time to time; (L.N. 80 of 2007)

“LC candidate” (立法會選舉候選人) means a candidate nominated for election for a functional constituency within the meaning of section 3(1) of the Legislative Council Ordinance (Cap 542); (L.N. 80 of 2007)

“list of LC candidates” (立法會選舉候選人名單) means a list of candidates nominated for election for a geographical constituency within the meaning of section 3(1) of the Legislative Council Ordinance (Cap 542); (L.N. 80 of 2007)

“specified form” (指明表格), in relation to any purpose under this Regulation, means the form specified for that purpose under section 14. (L.N. 80 of 2007)

(L.N. 80 of 2007)

(2) A reference in this Regulation to an amount set out as election expenses incurred in respect of a list of LC candidates is to be construed, in relation to a list of LC candidates consisting of more than one candidate, as the amount set out as the election expenses of all the candidates on the list or, if the election expenses are declared separately by the candidates on the list, as the aggregate of the separately declared election expenses. (L.N. 80 of 2007)

(3) (Repealed L.N. 80 of 2007)

Section:	3	Requirements to be complied with when making claims	L.N. 80 of 2007	01/09/2007
----------	---	---	-----------------	------------

(1) A claim must be made on the specified form.

(2) If the claim is made by an LC candidate or a DC candidate, the claim form must be signed by the candidate who makes the claim.

(3) If the claim is made in respect of a list of LC candidates, the claim form must be signed by all the candidates on the list, or if there is only one candidate on the list, by that candidate.

(3A) If the claim is made in respect of a list of LC candidates consisting of more than one candidate, one of the candidates on the list must be nominated in the claim form to receive the payment of financial assistance on behalf of all the candidates on the list. (L.N. 80 of 2007)

(4) The claim form must be accompanied by—

(a) if the claim is made by an LC candidate or made in respect of a list of LC candidates, an election return and an auditor’s report; or

(b) if the claim is made by a DC candidate, an election return. (L.N. 80 of 2007)

(5) The auditor’s report referred to in subsection (4)(a) must— (L.N. 80 of 2007)

(a) state that the auditor has audited the account of the declared election expenses by conducting a reasonable assurance engagement in accordance with the Hong Kong Standards on Assurance Engagements; and (L.N. 80 of 2007)

(b) state the auditor’s opinion as to whether the election return complies with section 37(1)(a) and (2)(b)(i) and (v) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) in all material respects.

(6) The amount of the claim must not exceed the amount payable as financial assistance as specified—

(a) in the case of an LC candidate, in section 60E of the Legislative Council Ordinance (Cap 542);

(b) in the case of a list of LC candidates, in section 60D of the Legislative Council Ordinance (Cap 542); or (L.N. 80 of 2007)

(c) in the case of a DC candidate, in section 60D of the District Councils Ordinance (Cap 547). (L.N. 80 of 2007)

(L.N. 80 of 2007)

Section:	4	Presentation of claims	L.N. 80 of 2007	01/09/2007
----------	---	------------------------	-----------------	------------

(1) The claim form must be presented in person—

(a) if the claim is made by an LC candidate or a DC candidate or made in respect of a list of LC candidates consisting of only one candidate, by the candidate who has signed the claim form or his agent; or

(b) if the claim is made in respect of a list of LC candidates consisting of more than one candidate, by one of the candidates who has signed the claim form or the agent of one of the candidates. (L.N. 31 of 2007)

2004; L.N. 80 of 2007)

(2) The claim form (together with the documents referred to in section 3(4)) must be presented at the office of the Chief Electoral Officer during ordinary business hours.

(3) The claim form must be presented within the period or extended period provided for in section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) for lodging an election return. (L.N. 31 of 2004)

Section:	5	Verification of claims (eligibility, further information, etc.)	L.N. 80 of 2007	01/09/2007
----------	---	---	-----------------	------------

(1) On receiving a claim, the Chief Electoral Officer must verify— (L.N. 80 of 2007)

- (a) if the claim is made by an LC candidate, whether the candidate is eligible for financial assistance under section 60C(2) of the Legislative Council Ordinance (Cap 542);
- (b) if the claim is made in respect of a list of LC candidates, whether the list of candidates is eligible for financial assistance under section 60C(1) of the Legislative Council Ordinance (Cap 542); or
- (c) if the claim is made by a DC candidate, whether the candidate is eligible for financial assistance under section 60C of the District Councils Ordinance (Cap 547). (L.N. 80 of 2007)

(2) The Chief Electoral Officer must also verify whether the claim conforms to the requirements set out in section 3.

(3) The Chief Electoral Officer may require the candidate who makes the claim or any candidate on the list of LC candidates in respect of which the claim is made to provide further information as he may reasonably require to verify the claim. (L.N. 80 of 2007)

(3A) The Chief Electoral Officer may also, in relation to a claim made by a DC candidate, appoint an auditor to assist in verifying the claim (including the auditing of the accounts in the election return accompanying the claim). (L.N. 80 of 2007)

(3B) An auditor appointed under subsection (3A) must, after he has assisted in verifying the claim, provide an auditor's report to the Chief Electoral Officer. (L.N. 80 of 2007)

(3C) The auditor's report provided under subsection (3B) must—

- (a) state that the auditor has audited the account of the declared election expenses by conducting a reasonable assurance engagement in accordance with the Hong Kong Standards on Assurance Engagements; and
- (b) state the auditor's opinion as to whether the election return complies with section 37(1)(a) and (2)(b)(i) and (v) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) in all material respects. (L.N. 80 of 2007)

(4) A requirement for further information made under subsection (3) must be in writing and sent by registered post to whichever is applicable of the following addresses— (L.N. 80 of 2007)

- (a) if the claim is made by an LC candidate or a DC candidate or made in respect of a list of LC candidates consisting of only one candidate, the address of the candidate as stated on the claim form;
- (b) if the claim is made in respect of a list of LC candidates consisting of more than one candidate, the address of the candidate nominated under section 3(3A), as stated on the claim form;
- (c) if the candidate nominated under section 3(3A) has died, the address of the candidate nominated under section 10(5), as stated in the notice of variation. (L.N. 80 of 2007)

(5) A candidate required to provide further information must provide that information within whichever is the later of the following periods—

- (a) within 14 days from the date of receipt of the written requirement;
- (b) within the period or extended period provided for in section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) for lodging an election return.

(6) If a candidate fails to provide further information within the period specified in subsection (5), the Chief Electoral Officer may, without any prior notice, stop processing the claim.

Section:	6	Part processing of claims	L.N. 80 of 2007	01/09/2007
----------	---	---------------------------	-----------------	------------

If an auditor's report provided under section 3(4)(a) or 5(3B) states that the election return only partially complies with the requirements set out in section 37(1)(a) and (2)(b)(i) and (v) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554), the Chief Electoral Officer may—

- (a) process the part of the return that complies with those requirements; and

- (b) stop processing the part of the return that does not comply with those requirements.

(L.N. 80 of 2007)

Section:	7	Withdrawal of claims	L.N. 80 of 2007	01/09/2007
----------	---	----------------------	-----------------	------------

(1) A claim may be withdrawn, before a payment of financial assistance is made or the claim is otherwise disposed of, by means of a notice of withdrawal presented to the Chief Electoral Officer.

(2) The notice of withdrawal must be signed—

- (a) if the claim is made by an LC candidate or a DC candidate or made in respect of a list of LC candidates consisting of only one candidate, by the candidate; and
- (b) if the claim is made in respect of a list of LC candidates consisting of more than one candidate, by all the candidates on the list. (L.N. 80 of 2007)

(3) The notice of withdrawal must be in the specified form.

(4) The notice of withdrawal must be presented in person—

- (a) if the claim is made by an LC candidate or a DC candidate or made in respect of a list of LC candidates consisting of only one candidate, by the candidate who has signed the notice or his agent; or
- (b) if the claim is made in respect of a list of LC candidates consisting of more than one candidate, by one of the candidates who has signed the notice or the agent of one of the candidates. (L.N. 31 of 2004; L.N. 80 of 2007)

(5) The notice of withdrawal must be presented at the office of the Chief Electoral Officer during ordinary business hours.

Section:	8	Payment of claims after verification	L.N. 80 of 2007	01/09/2007
----------	---	--------------------------------------	-----------------	------------

(1) Subject to— (L.N. 80 of 2007)

- (a) (in the case of a claim made by an eligible LC candidate or made in respect of an eligible list of LC candidates) section 60J of the Legislative Council Ordinance (Cap 542); or
- (b) (in the case of a claim made by an eligible DC candidate) section 60I of the District Councils Ordinance (Cap 547),

the Chief Electoral Officer is to effect a payment of financial assistance according to this section. (L.N. 80 of 2007)

(2) After verifying the claim, the Chief Electoral Officer must certify the amount of financial assistance payable on the claim and notify the Director of Accounting Services of the amount and the person to whom it is to be paid.

(3) As soon as practicable after receiving the notification, the Director of Accounting Services must make the payment in accordance with the notification.

(4) The payment under subsection (1) is to be made—

- (a) in the case of a claim made by an eligible LC candidate or eligible DC candidate or made in respect of an eligible list of LC candidates consisting of only one candidate, to the candidate who has signed the claim form; or
- (b) in the case of a claim made in respect of an eligible list of LC candidates consisting of more than one candidate, to the candidate nominated under section 3(3A) to receive the payment on behalf of the candidates on the list. (L.N. 80 of 2007)

Section:	9	Payment in cases of death of candidate (single candidate)	L.N. 80 of 2007	01/09/2007
----------	---	---	-----------------	------------

(1) If the candidate to whom a payment of financial assistance is to be made under section 8(4)(a) dies before the payment is made, the payment is to be made to the legal personal representative of the deceased candidate and the Chief Electoral Officer must notify the Director of Accounting Services accordingly.

(2) The Director of Accounting Services must make the payment in accordance with the notification.

Section:	10	Payment in cases of death of candidate (multi-candidate list)	L.N. 80 of 2007	01/09/2007
----------	----	---	-----------------	------------

(1) If the candidate to whom a payment of financial assistance is to be made under subsection (5) or section 8(4)(b) dies before the payment is made, all the candidates on the eligible list of LC candidates and the legal personal

representative of the deceased candidate must nominate another candidate to receive the payment on behalf of the candidates on the list, by signing a notice of variation. (L.N. 80 of 2007)

(2) The notice of variation must be in the specified form.

(3) The notice of variation must be presented in person at the office of the Chief Electoral Officer during ordinary business hours by one of the candidates who has signed the claim form or the agent of one of the candidates. (L.N. 31 of 2004)

(4) On receiving the notice of variation, the Chief Electoral Officer must notify the Director of Accounting Services of the person to whom the payment is to be made and the Director of Accounting Services must make the payment in accordance with the notification.

(5) The payment under subsection (4) is to be made to the candidate nominated in the notice of variation to receive the payment on behalf of the candidates on the list.

(6) If all the candidates on the eligible list of LC candidates die before the payment is made, the payment is to be made to the legal personal representative of the candidate last nominated to receive the payment on behalf of the candidates on the list. (L.N. 80 of 2007)

Section:	11	Mode of service of notice requiring repayment of financial assistance	L.N. 80 of 2007	01/09/2007
----------	----	---	-----------------	------------

The written notice required to be given by the Chief Electoral Officer under section 60H of the Legislative Council Ordinance (Cap 542) or section 60G of the District Councils Ordinance (Cap 547) must be sent by registered post.

(L.N. 80 of 2007)

Section:	12	Mode of repayment of financial assistance to Government	L.N. 80 of 2007	01/09/2007
----------	----	---	-----------------	------------

(1) Any amount paid as financial assistance that is required to be repaid to the Government under section 60H of the Legislative Council Ordinance (Cap 542) or section 60G of the District Councils Ordinance (Cap 547) may be repaid as follows— (L.N. 80 of 2007)

- (a) in person (by the recipient or the agent of the recipient), at the office of the Chief Electoral Officer; or
- (b) if payment is by cheque, draft or cashier order, by sending the cheque, draft or cashier order by post, to the office of the Chief Electoral Officer.

(2) As soon as practicable after receiving any amount under subsection (1), the Chief Electoral Officer must pay the amount to the Director of Accounting Services.

Section:	13	Making claims on behalf of deceased candidates	L.N. 80 of 2007	01/09/2007
----------	----	--	-----------------	------------

(1) If an eligible LC candidate or eligible DC candidate or a candidate on an eligible list of LC candidates dies before a claim is made or before a payment is made on a claim, anything that a deceased candidate may do or is required to do by or under this Regulation may be done by the legal personal representative of the deceased candidate. (L.N. 80 of 2007)

(2) If there is no legal personal representative or the legal personal representative is unwilling to act, anything that a legal personal representative may do under subsection (1) may be done by the next of kin of the deceased candidate.

Section:	14	Commission to specify forms	L.N. 80 of 2007	01/09/2007
----------	----	-----------------------------	-----------------	------------

(1) The Commission may specify forms for the purposes of this Regulation.

(2) The specified forms must be made available by the Chief Electoral Officer free of charge during ordinary business hours at his office.