

Chapter:	542C	LEGISLATIVE COUNCIL (SUBSCRIBERS AND ELECTION DEPOSIT FOR NOMINATION) REGULATION	Gazette Number	Version Date
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		Empowering section	L.N. 603 of 1997	19/12/1997
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(Cap 542, section 82)

[19 December 1997]

(Originally L.N. 603 of 1997)

Section:	1	Interpretation	2 of 2011	11/03/2011
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Remarks:

The amendments made to this section by the Legislative Council (Amendment) Ordinance 2011 (2 of 2011) shall come into operation on 11 March 2011 for the purpose only of enabling arrangements to be made for-

- (a) the holding of the elections of members of the Election Committee under the Chief Executive Election Ordinance (Cap 569) in 2011; and
- (b) the holding of the Legislative Council general election in 2012.

(1) In this Regulation, unless the context otherwise requires-
"deposit" (按金) means the deposit lodged under section 2(1);

"election" (選舉) means an election or a by-election held to elect a Member in respect of a geographical constituency or a functional constituency; (L.N. 206 of 2001; 25 of 2003 s. 50)

"list of candidates" (候選人名單) means a list of candidates referred to in section 38(10) of the Ordinance or a new list of candidates referred to in section 38(14) of the Ordinance; (L.N. 14 of 2000)

"nomination list" (提名名單) means a nomination list referred to in section 38 of the Ordinance;

"nominee" (獲提名人) means a nominee as defined in section 38(1) of the Ordinance.

(2 of 2011 s. 39)

(2) In this Regulation, any reference to the appropriate regulations shall be construed as a reference to any regulations made under section 7 of the Electoral Affairs Commission Ordinance (Cap 541) relating to procedure at an election. (L.N. 206 of 2001)

Section:	2	Amount of deposit	2 of 2011	11/03/2011
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Remarks:

The amendments made to this section by the Legislative Council (Amendment) Ordinance 2011 (2 of 2011) shall come into operation on 11 March 2011 for the purpose only of enabling arrangements to be made for-

- (a) the holding of the elections of members of the Election Committee under the Chief Executive Election Ordinance (Cap 569) in 2011; and
- (b) the holding of the Legislative Council general election in 2012.

(1) The amount of deposit to be lodged-

- (a) on behalf of the nominees on a nomination list in respect of their nomination as candidates for a geographical constituency in an election is \$50000;
- (ba) on behalf of the nominees on a nomination list in respect of their nomination as candidates for the District Council (second) functional constituency in an election is \$25000; (2 of 2011 s. 40)
- (b) by or on behalf of a candidate in respect of his or her nomination as a candidate for any other functional constituency in an election is \$25000. (25 of 2003 s. 50; 2 of 2011 s. 40)

(2) Where any deposit is lodged to a Returning Officer, he shall forthwith deposit it with the Director of Accounting Services.

Section:	3	Return of deposit on invalid nomination etc.	2 of 2011	11/03/2011
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Remarks:

The amendments made to this section by the Legislative Council (Amendment) Ordinance 2011 (2 of 2011) shall come into operation on 11 March 2011 for the purpose only of enabling arrangements to be made for-

- (a) the holding of the elections of members of the Election Committee under the Chief Executive Election Ordinance (Cap 569) in 2011; and
- (b) the holding of the Legislative Council general election in 2012.

- (1) Where, as regards any geographical constituency or the District Council (second) functional constituency-
- (a) a deposit is lodged on behalf of the nominees on a nomination list in respect of their nomination as candidates, and- (2 of 2011 s. 41)
 - (i) all the nominees on the nomination list withdraw their nomination for election in respect of that constituency under section 42 of the Ordinance;
 - (ii) the Returning Officer rejects the nomination list under section 38(7) of the Ordinance; or
 - (iii) where the nominees or any of them are taken, under section 38(10) or (14) of the Ordinance, as constituting a list of candidates, the Returning Officer rejects that list of candidates under section 38(13) of the Ordinance after striking out from that list of candidates the name of a candidate who has died or is disqualified from being nominated as such a candidate,
 the deposit so lodged; or
 - (b) the proceedings for the election are terminated under section 46A(1) of the Ordinance, the deposit lodged on behalf of the nominees on each nomination list for that constituency,
- shall be returned in accordance with this section. (2 of 2011 s. 41)
- (2) Where, as regards any functional constituency (other than the District Council (second) functional constituency)- (25 of 2003 s. 50; 2 of 2011 s. 41)
- (a) a deposit is lodged by or on behalf of a candidate in respect of his nomination as a candidate, and-
 - (i) the Returning Officer makes a decision under section 42A(1) of the Ordinance that the candidate is not validly nominated in respect of that functional constituency; or
 - (ii) the candidate withdraws his nomination for election in respect of that functional constituency under section 42 of the Ordinance,
 - (iii) (Repealed 25 of 2003 s. 50)
 the deposit so lodged; or
 - (b) the proceedings for the election are terminated under section 42C or 46A(1) of the Ordinance, as the case may be, the deposit lodged in respect of each candidate for that functional constituency,
- shall be returned in accordance with this section. (L.N. 14 of 2000; 25 of 2003 s. 50)
- (2A) (Repealed L.N. 206 of 2001)
- (3) The Returning Officer for the geographical constituency or functional constituency concerned shall, in the case referred to in- (L.N. 206 of 2001; 25 of 2003 s. 50)
- (a) subsection (1)(a)(i) or (ii) or (2)(a)(i) or (ii), as soon as practicable after the publication under the appropriate regulations of a notice containing particulars of the candidates, as the case may be, validly nominated in respect of that geographical constituency or functional constituency, notify the Director of Accounting Services in writing that the deposit lodged on behalf of the nominees on the nomination list concerned or by or on behalf of the candidate concerned, as the case may be, is returnable to the person who lodges the deposit on behalf of those nominees or to that candidate or the person who lodges the deposit on behalf of such candidate, as the case may be; (L.N. 206 of 2001; 25 of 2003 s. 50; 2 of 2011 s. 41)
 - (aa) subsection (1)(a)(iii), as soon as practicable after-
 - (i) in case no declarations referred to in section 42B(2) or (5) of the Ordinance are to be made in accordance with the appropriate regulations in relation to the death, or the variation of decision relating to the disqualification, the publication under the appropriate regulations of a notice containing particulars of the candidates validly nominated in respect of that constituency; (2 of 2011 s. 41)
 - (ii) in case declarations referred to in section 42B(2) or (5) of the Ordinance are to be made in accordance with the appropriate regulations in relation to the death, or the variation of decision relating to the disqualification, as the case may be, such declarations are so made,
 notify the Director of Accounting Services in writing that the deposit lodged on behalf of the nominees on the nomination list concerned is returnable to the person who lodges the deposit on behalf of those

nominees; and (L.N. 14 of 2000; 25 of 2003 s. 50)

- (b) subsection (1)(b) or (2)(b), as soon as practicable after the publication under the appropriate regulations of a notice declaring that the proceedings for the election are terminated, notify the Director of Accounting Services in writing that the deposit lodged on behalf of the nominees on each nomination list for that geographical constituency or the District Council (second) functional constituency, or by or on behalf of each candidate for that functional constituency (other than the District Council (second) functional constituency), as the case may be, is returnable to each person who lodges the deposit on behalf of those nominees or to such candidate or the person who lodges the deposit on behalf of such candidate, as the case may be. (25 of 2003 s. 50; 2 of 2011 s. 41)
- (c) (Repealed 25 of 2003 s. 50)
- (4) The Director of Accounting Services shall, as soon as practicable after the receipt of a notification under subsection (3), return the amount of the deposit to the person who lodges the deposit on behalf of the nominees on the nomination list or to the candidate or to the person who lodges the deposit on behalf of such candidate, as the case may be, specified in the notification.

(L.N. 14 of 2000)

Section:	4	Disposal of deposit after publication of election result or declaration of failure of election	2 of 2011	11/03/2011
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Remarks:

The amendments made to this section by the Legislative Council (Amendment) Ordinance 2011 (2 of 2011) shall come into operation on 11 March 2011 for the purpose only of enabling arrangements to be made for-

- (a) the holding of the elections of members of the Election Committee under the Chief Executive Election Ordinance (Cap 569) in 2011; and
- (b) the holding of the Legislative Council general election in 2012.

(1) Subject to subsection (3), as regards-

- (a) an election in which a candidate is declared under section 46(1) of the Ordinance to be duly elected as a Member in respect of a geographical constituency or the District Council (second) functional constituency;
- (b) an election in which a candidate is declared under section 49(13) or (15) of the Ordinance as elected as a Member in respect of a geographical constituency or the District Council (second) functional constituency;
- or
- (c) an election for a geographical constituency or the District Council (second) functional constituency which is declared under section 46A(3)(a) of the Ordinance to have failed,

after such declaration, the deposit lodged on behalf of the nominees on each nomination list for that constituency, unless it shall be returned in accordance with section 3, shall be returned in accordance with this section. (L.N. 14 of 2000)

(2) Subject to subsection (3), as regards-

- (a) an election in which a candidate is declared under section 46(1) of the Ordinance to be duly elected as a Member in respect of a functional constituency (other than the District Council (second) functional constituency);
- (b) an election in which a candidate is declared under section 50(7) or 51(7) of the Ordinance as elected as a Member in respect of a functional constituency (other than the District Council (second) functional constituency); or
- (c) an election for a functional constituency (other than the District Council (second) functional constituency) which is declared under section 46A(3)(a) of the Ordinance to have failed,

after such declaration, the deposit lodged by or on behalf of each candidate for that functional constituency, unless it shall be returned in accordance with section 3, shall be returned in accordance with this section. (L.N. 14 of 2000)

(2A) (Repealed L.N. 206 of 2001)

(3) Where-

- (a) the total number of ballot papers containing valid votes in favour of a nomination list which has no successful candidate in respect of a geographical constituency or the District Council (second) functional constituency received by such nomination list is less than 3% of the total number of ballot papers containing valid votes received in that constituency; or

- (b) (i) the total number of ballot papers containing valid first preference votes in favour of an unsuccessful candidate in respect of a functional constituency specified in section 20(1)(a) to (d) of the Ordinance received by such candidate is less than 3% of the total number of ballot papers containing valid first preference votes received in that constituency; or
- (ii) the total number of ballot papers containing valid votes in favour of an unsuccessful candidate in respect of a functional constituency (other than a functional constituency referred to in subparagraph (i) and the District Council (second) functional constituency) received by such candidate is less than 3% of the total number of ballot papers containing valid votes received in that functional constituency,
- (c) (Repealed 25 of 2003 s. 50)
- (d) (Repealed L.N. 206 of 2001)
- as determined by a counting of the votes and any re-count, the deposit lodged in respect of his or their nomination shall be forfeited to the general revenue, in accordance with this section. (L.N. 49 of 1998)
- (4) Subject to subsection (6), the Returning Officer for the geographical constituency or functional constituency concerned shall, in the case of- (L.N. 206 of 2001; 25 of 2003 s. 50)
- (a) an election referred to in subsection (1)(a) or (2)(a), as soon as practicable after the publication under the appropriate regulations of a notice declaring that the candidate is duly elected in respect of that geographical constituency or functional constituency;
- (b) an election referred to in subsection (1)(b) or (2)(b), as soon as practicable after the publication under the appropriate regulations of a notice of the result of the election in respect of that geographical constituency or functional constituency;
- (c) an election referred to in subsection (1)(c) or (2)(c), as soon as practicable after the publication under the appropriate regulations of a notice declaring that the election has failed,
- notify the Director of Accounting Services in writing that the deposit lodged on behalf of the nominees on each nomination list for that geographical constituency or the District Council (second) functional constituency, or by or on behalf of each candidate for that functional constituency (other than the District Council (second) functional constituency), as the case may be, is returnable to the person who lodges the deposit on behalf of those nominees or to such candidate or to the person who lodges the deposit on behalf of such candidate, as the case may be. (L.N. 14 of 2000; L.N. 206 of 2001)
- (5) The Director of Accounting Services shall, as soon as practicable after the receipt of a notification under subsection (4), return the amount of the deposit to the person who lodges the deposit on behalf of the nominees on the nomination list or to the candidate or to the person who lodges the deposit on behalf of such candidate, as the case may be, specified in the notification.
- (6) The Returning Officer shall, as soon as practicable after the publication of the notice referred to in subsection (4)(b) or (c), notify the Director of Accounting Services in writing, as regards any nomination list which has no successful candidate or any unsuccessful candidate, as the case may be, referred to in subsection (3), that the deposit lodged in respect of his or their nomination for that geographical constituency or functional constituency at the relevant election is to be forfeited to the general revenue. (L.N. 206 of 2001)
- (L.N. 14 of 2000; L.N. 119 of 2003; 25 of 2003 s. 50; 2 of 2011 s. 42)

Section:	5	Disposal of deposit in case of death	L.N. 189 of 2003	15/07/2004
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- (1) Where-
- (a) a deposit is lodged by a candidate or by a person on behalf of such candidate or by a person on behalf of the nominees on a nomination list;
- (b) the deposit shall be returned to that candidate or that person, as the case may be, in accordance with section 3 or 4; and
- (c) that candidate or that person, as the case may be, dies after the deposit is lodged,
- the deposit shall, notwithstanding those sections, be paid to the estate of that candidate or that person, as the case may be, and the Returning Officer for the geographical constituency or functional constituency concerned shall notify the Director of Accounting Services in writing accordingly. (L.N. 14 of 2000; L.N. 206 of 2001; 25 of 2003 s. 50)
- (2) The Director of Accounting Services shall, as soon as practicable after the receipt of a notification under subsection (1), pay the deposit to the legal personal representative of the candidate or person referred to in subsection (1), as the case may be.

Section:	6	Notifications in specified form	L.N. 206 of 2001	23/11/2001
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Any notification for the purposes of this Regulation shall be in a form specified by the Electoral Affairs Commission.

(L.N. 206 of 2001)

Section:	7	Number and qualifications of subscribers to a nomination paper	2 of 2011	11/03/2011
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Remarks:

The amendments made to this section by the Legislative Council (Amendment) Ordinance 2011 (2 of 2011) shall come into operation on 11 March 2011 for the purpose only of enabling arrangements to be made for-

- (a) the holding of the elections of members of the Election Committee under the Chief Executive Election Ordinance (Cap 569) in 2011; and
- (b) the holding of the Legislative Council general election in 2012.

(1) As regards any geographical constituency-

- (a) the nomination paper of the nominees on a nomination list seeking nomination in respect of any geographical constituency shall, subject to paragraph (aa), be subscribed by 100 other persons, each being an elector registered in respect of the constituency in respect of which the nominees on that nomination list are seeking nomination; (L.N. 119 of 2003)
- (aa) for the purposes of paragraph (a), the number of persons that may subscribe a nomination paper shall not in any case be more than 200; (L.N. 119 of 2003)
- (b) an elector shall not, subject to subsection (3), subscribe more than one nomination paper as regards a particular election;
- (c) if an elector subscribes more than one nomination paper in contravention of paragraph (b), his signature shall, subject to subsection (3), be inoperative on any nomination paper other than the one first delivered.

(1A) As regards the District Council (second) functional constituency-

- (a) the nomination paper of the nominees on a nomination list seeking nomination in respect of the constituency must be subscribed by not less than 15 other persons, each being an elector registered in respect of the District Council (first) functional constituency;
- (b) a person must not, subject to subsections (3), (3A) and (3B), subscribe more than one nomination paper as regards a particular election;
- (c) if a person subscribes more than one nomination paper in contravention of paragraph (b), his or her signature is, subject to subsections (3), (3A) and (3B), inoperative on any nomination paper other than the one first delivered. (2 of 2011 s. 43)

(2) As regards any functional constituency (other than the District Council (second) functional constituency)- (25 of 2003 s. 50; 2 of 2011 s. 43)

- (a) the nomination paper of any person seeking nomination in respect of any functional constituency shall, subject to paragraph (aa), be subscribed by 10 other persons, each being an elector registered in respect of the relevant functional constituency; (25 of 2003 s. 50)
- (aa) for the purposes of paragraph (a), the number of persons that may subscribe a nomination paper shall not in any case be more than 20; (L.N. 119 of 2003; 25 of 2003 s. 50)
- (b) an elector can, subject to subsections (3), (3A) and (3B), subscribe any number of nomination papers up to the number of seats in any functional constituency as regards a particular election; (2 of 2011 s. 43)
- (c) the signature of an elector shall, subject to subsection (3), be inoperative on any nomination paper delivered after the delivery of the maximum number of the nomination papers referred to in paragraph (b). (L.N. 14 of 2000)

(2A)-(2B) (Repealed 25 of 2003 s. 50)

(2C) A person whose signature as a subscriber to a nomination paper is in surplus having regard to the required number of subscribers for the purposes of subsection (1)(a) or (2)(a), as the case may be, shall be regarded as not having subscribed the nomination paper. (L.N. 119 of 2003 and L.N. 160 of 2003; 25 of 2003 s. 50)

(3) Where-

- (a) as regards any geographical constituency or the District Council (second) functional constituency- (2 of 2011 s. 43)

- (i) all the nominees on a nomination list withdraw their nomination for election in respect of that constituency under section 42 of the Ordinance; or (2 of 2011 s. 43)
- (ii) the Returning Officer rejects a nomination list under section 38(7) of the Ordinance;
- (b) as regards any functional constituency (other than the District Council (second) functional constituency)- (25 of 2003 s. 50; 2 of 2011 s. 43)
 - (i) the Returning Officer makes a decision under section 42A(1) of the Ordinance that a candidate is not validly nominated in respect of that functional constituency; or
 - (ii) a candidate withdraws his nomination for election in respect of that functional constituency under section 42 of the Ordinance,
 - (iii) (Repealed 25 of 2003 s. 50)

(c) (Repealed L.N. 206 of 2001)

the elector who has subscribed the nomination paper of the nominees on that nomination list (in the case of paragraph (a)) or the nomination paper of that candidate (in the case of paragraph (b)) in accordance with this section may subscribe another nomination paper, and- (25 of 2003 s. 50)

- (i) his signature shall not be inoperative on that other nomination paper only because he has previously subscribed the nomination paper of those nominees or that candidate, as the case may be;
- (ii) if he subscribes more than one nomination paper in contravention of this subsection, his signature shall be inoperative on any nomination paper so subscribed other than the first one delivered. (L.N. 14 of 2000)

(3A) If-

- (a) a person subscribes the nomination paper of any person seeking nomination in respect of the District Council (first) functional constituency; and
- (b) the nomination paper is delivered,

the signature of the person is inoperative on the nomination paper of the nominees on any nomination list seeking nomination in respect of the District Council (second) functional constituency that has not been delivered. (2 of 2011 s. 43)

(3B) If-

- (a) a person subscribes the nomination paper of the nominees on any nomination list seeking nomination in respect of the District Council (second) functional constituency; and
- (b) the nomination paper is delivered,

the signature of the person is inoperative on the nomination paper of any person seeking nomination in respect of the District Council (first) functional constituency that has not been delivered. (2 of 2011 s. 43)

(4) For the avoidance of doubt, it is declared that where the number of nomination papers subscribed by any person who has both of the following capacities- (25 of 2003 s. 50)

- (a) an elector registered in respect of a geographical constituency;
- (b) an elector registered in respect of a functional constituency,
- (c) (Repealed 25 of 2003 s. 50)
- (d) (Repealed L.N. 206 of 2001)

in any one of such capacities has reached the maximum number provided for in subsection (1)(b) or (2)(b) (as may be appropriate), subsections (1)(b) and (2)(b) shall not be construed as preventing such person to subscribe, subject to subsection (1)(b) or (2)(b) (as may be appropriate), other nomination papers in another such capacity of him.

(L.N. 206 of 2001; L.N. 119 of 2003 and L.N. 160 of 2003; 25 of 2003 s. 50)