

2020 年立法會換屆選舉
申報選舉開支的相關政府付款的申索
2020 LEGISLATIVE COUNCIL GENERAL ELECTION
CLAIM FOR GOVERNMENT PAYMENT IN RESPECT OF
DECLARED ELECTION EXPENSES

指引
GUIDELINES

1. 根據《緊急情況（換屆選舉日期）（第七屆立法會）規例》（第 241L 章）（「該規例」）第 10 條的規定，就已中止的 2020 年立法會換屆選舉，政制及內地事務局局長可發出指引，示明須以何種方式及形式，作出、支持和核實該規例第 9(1)條提述的款項的申索；及該類申索所須載有的詳情。

Pursuant to section 10 of the Emergency (Date of General Election) (Seventh Term of the Legislative Council) Regulation (Cap. 241L) (“the Regulation”), for the discontinued 2020 Legislative Council General Election, the Secretary for Constitutional and Mainland Affairs may issue guidelines indicating the manner and form in which a claim for a payment referred to in section 9(1) of the Regulation must be made, supported and verified; and the particulars that such a claim must contain.

2. 根據該規例第 9(1)條的規定，就已中止的 2020 年立法會換屆選舉，合資格人士或合資格組合，有權從政府收取款額相等於申報選舉開支的款項。就第 9(1) 條而言，如符合以下情況，某人即屬合資格人士 —

- (a) 已中止的選舉的選舉主任，已接受該人的提名表格；
- (b) 該選舉主任並無在中止日期之前，根據《選舉管理委員會（選舉程序）（立法會）規例》（第 541D 章）（「《第 541D 章》」）第 16 條，決定該提名表格或有關提名屬無效；及
- (c) 該人並非經已退出而不再是已中止的選舉的候選人。

此外，如符合以下情況，某由個別人士組成的組合，即屬合資格組合 —

- (a) 已中止的選舉的選舉主任，已接受載有該組合的提名名單的提名表格；
- (b) 該選舉主任並無在中止日期之前，根據《第 541D 章》第 16 條，決定該提名表格屬無效；及
- (c) 該選舉主任並無在中止日期之前，根據《立法會條例》（第 542 章）第 38(7)條，拒絕接納該提名名單。

Pursuant to section 9(1) of the Regulation, for the discontinued 2020 Legislative Council General Election, an eligible person or eligible group is entitled to receive a payment from the Government in an amount equal to the declared election expenses. For the purposes of section 9(1), a person is an eligible person if—

- (a) a Returning Officer at the discontinued election accepted a nomination form in respect of the person;
- (b) the Returning Officer did not decide that the nomination form or the nomination was invalid under section 16 of Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D) (“Cap. 541D”) before the discontinuation date; and
- (c) the person did not withdraw the person’s candidature.

Furthermore, a group of persons is an eligible group if—

- (a) a Returning Officer at the discontinued election accepted a nomination form containing a nomination list in respect of the group;
- (b) the Returning Officer did not decide that the nomination form was invalid under section 16 of Cap. 541D before the discontinuation date; and
- (c) the Returning Officer did not reject the nomination list under section 38(7) of the Legislative Council Ordinance (Cap. 542) before the discontinuation date.

3. 任何合資格候選人或候選人名單如欲作出申索，必須填妥表格 REO/C/21A/2020LCE（申索表格）。請用中文或英文填寫申索表格。
Any eligible candidate or list of candidates wishing to lodge a claim must complete the claim form REO/C/21A/2020LCE. Please complete the claim form either in Chinese or English.
4. 申索表格必須由候選人或候選人名單上的所有候選人親自簽署。如候選人在作出申索前去世，申索表格則須由該名已去世候選人的合法遺產代理人簽署，或如沒有合法遺產代理人或合法遺產代理人不願意行事，由該名已去世候選人的最近親簽署。如被指定收取付款的候選人在付款前去世，則有關多於一名候選人的合資格候選人名單上的所有候選人及該名已去世候選人的合法遺產代理人或最近親須指定另一名候選人代表該名單上的候選人收取付款。
The claim form must be signed by the candidate or all the candidates on the list of candidates concerned. In case a candidate has died before the claim is made, the claim form must be signed by the legal personal representative of the deceased candidate, or by the next of kin of the deceased candidate if there is no legal personal representative or the legal personal representative is unwilling to act. If the candidate nominated to receive payment dies before the payment is made, all the candidates on the eligible list of candidates consisting of more than one candidate and the legal personal representative or next of kin of the deceased candidate must nominate another candidate to receive the payment on behalf of the candidates on the list.
5. 申索表格須連同一份《選舉（舞弊及非法行為）條例》（第 554 章）（「《第 554 章》」）第 2(1) 條所指的選舉申報書及一份核數師報告一併遞交。核數師報告必須述明核數師已藉按照〔《香港鑒證業務準則第 3000 號（經修訂）》〕進行的合理核證工作，審計有關申報選舉開支的賬目；及述明按核數師的意見，有關選舉申報書是否在所有要項上均符合《第 554 章》第 37(1)(a) 及 (2)(b)(i) 及 (v) 條。因此，填妥的申索表格須在《緊急情況（換屆選舉日期）（第七屆立法會）規例》第 8(2)(b) 條規定提交選舉申報書的限期屆滿之前（即 **2020 年 9 月 29 日**），在通常辦公時間內，由候選人或在候選人名單上的其中一名候選人或其代理人親自於總選舉事務主任的辦事處〔地址：九龍觀塘觀塘道 392 號創紀之城 6 期 23 樓 2301 至 03 室〕提交。“通常辦公時間”是指星期一至五上午 8 時 45 分至下午 6 時，公眾假期及午膳時間下午 12 時 30 分至 1 時 30 分除外。
The claim form must be accompanied by an election return referred to in section 2(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) (“Cap. 554”) and an auditor’s report. The auditor’s report must 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 3000 (Revised); and state the auditor’s opinion as to whether the election return complies with section 37(1)(a) and (2)(b)(i) and (v) of Cap. 554 in all material respects. The completed claim form must be presented by the candidate or one of the candidates on the list or his/her/their agent in person at the office of the Chief Electoral Officer (Address: Unit 2301-03, 23/F, Millennium City 6, 392 Kwun Tong Road, Kwun Tong, Kowloon) during ordinary business hours not later than the statutory deadline for submission of election return as required under section 8(2)(b) of the Emergency (Date of General Election) (Seventh Term of the Legislative Council) Regulation (**i.e. 29 September 2020**). “Ordinary business hours” means the hours between 8:45 a.m. and 6 p.m. from Monday to Friday, other than a general holiday and lunch break from 12:30 p.m. to 1:30 p.m.
6. 候選人或候選人名單須根據《第 554 章》第 19 條規定，處理選舉捐贈。選舉捐贈只可用於償付或分擔償付候選人的選舉開支。如某項選舉捐贈包含貨品或服務，則該項捐贈只可用於促使候選人當選或阻礙另一名候選人或另一些候選人當選。此外，(a)任何來自沒有表明姓名或名稱及地址的捐贈者，而金額或價值為 \$1,000 以上之選舉捐贈；或(b)任何沒有用於償付選舉開支或選舉有關用途之選舉捐贈或其一部分；或 (c)任何超出候選人可招致的選舉開支訂明的最高限額的選舉捐贈均須按照《第 554 章》第 19 條處置，在呈交選舉申報書之前捐贈候選人所選擇的屬公共性質的慈善機構或慈善信託，並在選舉申報書附上收款人發出的收據副本。否則，選舉申報書須附有書面解釋，列出沒有按照該條處置該項或該部分選舉捐贈的理由。候選人沒有遵守第 19 條規定的，即屬在選舉中作出舞弊行為。

The candidate or list of candidates must handle the election donations in accordance with the requirements under section 19 of Cap. 554. Election donations can only be used for meeting, or contributing towards meeting, a candidate's election expenses. In the case of an election donation consisting of goods or services, such donation may only be used for the purpose of promoting the election of the candidate or of prejudicing the election of another candidate or other candidates. Moreover, (a) any election donation in the amount or value of more than \$1,000 from a donor whose name and address are not identified; or (b) any election donation or part of it which has not been used to meet election expenses or for election-related purpose; or (c) any election donation which is in excess of the maximum prescribed amount of election expenses that the candidate is allowed to incur must, in accordance with section 19 of Cap. 554, be donated to charitable institutions or trusts of a public character chosen by the candidate before the election return is lodged. The return must be accompanied by copy(ies) of the receipt(s) given by the recipient(s) thereof. Otherwise, the election return must be accompanied by a written explanation setting out the reason why such election donation or part of it was not disposed of in accordance with that section. Candidate who fails to comply with the requirements under section 19 engages in corrupt conduct at an election.

7. 候選人或候選人名單須根據《第 554 章》第 37(2) 條規定，確保所提交的選舉申報書附有：(i)就每項 500 元或以上的選舉開支，載有該項支出的詳情的發票及收據(選舉開支的發票及收據可包括在同一份文件內)；及(ii)就每項 1,000 元以上，或每項包含貨品或服務而價值 1,000 元以上的選舉捐贈，發給捐贈者的載有關於該捐贈者及該項捐贈的詳情的收據的副本。作為申索的用途，候選人或候選人名單須確認選舉申報書內夾附的發票及收據真確及無誤。就選舉申報書內每項 500 元或以上的選舉開支項目，候選人或候選人名單必須呈交發票及收據，否則，在計算須付的金額時，該項相關的選舉開支將不會被考慮在內。

Pursuant to section 37(2) of Cap. 554, the candidate or list of candidates must ensure that his/her/their election return is accompanied: (i) in the case of each election expense item of \$500 or more, by an invoice and a receipt giving particulars of the expenditure (an invoice and a receipt for an election expense may be included in the same document); and (ii) in the case of each election donation of more than \$1,000 or, in the case of an election donation consisting of goods or service, of more than \$1,000 in value, by a copy of the receipt issued to the donor giving particulars of the donor and the donation. For the purpose of making a claim, the candidate or list of candidates is required to confirm the invoices and receipts accompanying the election return are true and correct. For each of the election expense items of \$500 or more included in the election return, the candidate or list of candidates must provide invoice and receipt, otherwise, the election expenses concerned will not be taken into account in determining the amount payable.

8. 如重用舊物資作選舉用途(例如重新使用舊的宣傳板)，重新修整舊物資所招致的費用和其估計價值，均須計入候選人的選舉開支內。重新修整舊物資所招致的費用會獲發還金額，但舊物資的估計價值就不會計算入可獲發還的金額內。重用其他舊的物品作選舉用途亦會使用上述的原則處理。

On re-use of old materials for election purpose (e.g. re-use of old publicity boards), the cost incurred for refurbishing and the estimated value of the old materials should be counted towards the candidate's election expenses. The cost incurred for refurbishment of the old materials will be considered in calculating the amount payable to the candidate, whilst the estimated value of the old materials will not be counted. The above principle will also apply to reuse of other old materials for election purpose.

9. 選舉申報書申報的選舉開支內包括的未支付之索款是指所有已經招致但尚未支付的選舉開支，例如待付的貸款利息等。如候選人或候選人名單申報的選舉開支包括未支付的索款，在提交申索表格時，該候選人或候選人名單須同時於申索表格內付上一份預定支付該等索款的時間表，並於支付索款的日期後的 30 天內，向總選舉事務主任提交每項 500 元或以上的選舉開支的發票及付款收據，以證明該等索款已如期支付。

Outstanding claims included as election expenses in the election return refer to all those election expenses that have been incurred but are yet to be settled, e.g. payable interests of loan, etc. In the case that a candidate's or list of candidates' declared election expenses have included any outstanding claim(s), the candidate or list of candidates is required to provide a schedule for settlement of these outstanding claim(s) in the claim form at the time of making a claim and then submit to the Chief Electoral Officer invoice(s) and receipt(s) in the case of each election expense item of \$500 or more in support of the settlement of the outstanding claim(s) within 30 days from the payment date.

10. 總選舉事務主任可要求候選人提供其認為合理並用於核實有關申索的進一步資料。該要求會以書面及郵遞送交在申索表格第 2 段述明的地址。如候選人未能於指明的限期內回覆，總選舉事務主任可無須事先通知而停止處理有關申索。
The Chief Electoral Officer may require the candidate to provide further information as he/she may reasonably require to verify the claim. A requirement for further information will be in writing and sent by post to the address stated in paragraph 2 of the claim form. If the candidate does not respond within the specified period, the Chief Electoral Officer may, without any prior notice, stop processing the claim.
11. 為免生疑問，已向政府就其申報選舉開支提出付款申索的候選人，如因涉嫌違反《中華人民共和國香港特別行政區維護國家安全法》的罪行而正接受調查或被刑事起訴，總選舉事務主任不得向有關候選人/候選人名單支付任何款項，直至有關調查或法律程序被最終裁定、放棄或終止為止。若候選人其後被法庭裁定因牽涉非法的選舉活動而觸犯上述法例，將一律失去符合收取全部政府付款的資格。
For the avoidance of doubt, if investigation or prosecution has been commenced against a candidate who has submitted the claim for Government payment in respect of his/her declared election expenses for suspected breach of an offence contrary to the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region, the Chief Electoral Officer must not release any payment to the candidate/list of candidates concerned until the final determination, abandonment or termination of the relevant investigation or judicial proceedings. If the candidate is subsequently found guilty by the court of breaching the above-mentioned law on the ground of having been involved in an illegal election-related activity, the candidate will not be eligible for payment from the Government in full.
12. 如候選人/候選人名單就已中止的 2020 年立法會換屆選舉獲政府付款，但並無權獲得全部或部分已付的款項，候選人/候選人名單須立即安排向香港特別行政區政府歸還多獲批發的款項。任何未歸還的款項，可作為拖欠政府的民事債項予以追討。
Where Government payment has been made to a candidate/list of candidates in relation to the discontinued 2020 Legislative Council General Election but the candidate(s) is/are not entitled to receive the whole or part of the amount paid, the candidate/list of candidates shall arrange to repay to the Government of the Hong Kong Special Administrative Region any overpaid amount immediately. Any amount that is not repaid may be recovered as a civil debt due to the Government.
13. 總選舉事務主任在核實有關申索後，會核證就該申索須付的款額，並通知庫務署署長該款額及該款額須付予何人。庫務署署長在接獲有關通知後，會在切實可行的範圍內盡快按照該通知付款。
After verifying the claim, the Chief Electoral Officer will certify the amount payable on the claim and notify the Director of Accounting Services of the amount and the person to whom it is to be paid. As soon as practicable after receiving the relevant notification, the Director of Accounting Services will make the payment in accordance with the notification.
14. 根據《第 541D 章》第 103 條，任何人在與選舉有關的文件中作出他明知在要項上屬虛假的陳述，或任何人罔顧後果地在該等文件中作出在要項上不正確的陳述，或任何人明知而在該等文件中遺漏任何要項，均屬犯罪，可導致喪失在選舉中獲提名為候選人或當選為議員的資格。
In accordance with section 103 of Cap. 541D, a person who, in an election related document, makes a statement which that person knows to be false in a material particular or recklessly makes a statement which is incorrect in a material particular or knowingly omits a material particular from an election related document commits an offence, which could lead to disqualification from being nominated as a candidate and from being elected in an election.