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人事編制小組委員會
會議程序

ESTABLISHMENT SUBCOMMITTEE PROCEDURE
FINANCE COMMITTEE
OF THE LEGISLATIVE COUNCIL
OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

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ESTABLISHMENT SUBCOMMITTEE PROCEDURE

Role

The Establishment Subcommittee (ESC) of the Finance Committee (FC) is established under Rule 71(5) of the Rules of Procedure of the Legislative Council for the purpose of assisting the FC in the performance of its functions. The subcommittee examines requests for variations in the establishment of the civil service and makes recommendations to the FC, but has no independent functions or powers. It is the FC that must make the decisions; and in doing so, the FC is not bound in any way by the recommendations of the ESC.

Terms of Reference

2. The terms of reference of the ESC are -
 - (a) To consider submissions from the Administration and, as appropriate, to recommend to the FC :
 - (i) the creation, redeployment and deletion of permanent and supernumerary posts remunerated at the directorate pay scales;
 - (ii) the retention of supernumerary directorate posts;
 - (iii) the creation of supernumerary posts held against permanent posts in ranks with a lower notional annual mid-point salary value;
 - (iv) the creation of individual consultancy positions at directorate level lasting more than one year;
 - (v) changes to the departmental establishment ceilings shown in the approved Estimates;
 - (vi) changes to the arrangements for the creation, redeployment and deletion of directorate posts;

- (vii) changes to the structure of civil service ranks and grades (including pay scales, new grades and new ranks) recommended by the Standing Commission on Civil Service Salaries and Conditions of Service, or the Standing Committee on Directorate Salaries and Conditions of Service, or the Standing Committee on Judicial Salaries and Conditions of Service, or the Standing Committee on Disciplined Services Salaries and Conditions of Service, and the consequential creation and deletion of posts in affected ranks; and
 - (viii) changes to the organizational structure of the Government and consequential transfers of posts.
- (b) To report to the FC on changes in departmental establishments shown in the Estimates and on the size and cost of the civil service.

Membership

3. The ESC comprises those FC members who elect to join the ESC by submission of a return to the Secretariat by noon on the Saturday immediately following the first Council meeting of a new term. For each of the remaining sessions of the term, FC members who elect to join the ESC may do so by submission of a return to the Secretariat by noon on the Saturday immediately prior to the first Council meeting of that session. *(FCR(1999-2000)27; FCR(2002-03)36)*

3A. A Member who joins the Council after the start of a session may join the ESC by submission of a return to the Secretariat within one month of the date on which he is declared elected as Member of the Council. His membership of the ESC shall take effect from the time his return is received by the Secretariat. *(FCR(2002-03)36)*

3B. The Chairman may agree to accept late membership on grounds of indisposition or absence from Hong Kong. A request for late membership on grounds other than indisposition or absence from Hong Kong shall be put to the Subcommittee. The Subcommittee shall accept such applications only when sufficient grounds have been provided. Any Member joining the Subcommittee after the election of the Chairman and Deputy Chairman has taken place cannot seek a re-election of the Chairman and Deputy Chairman. Any Member whose application for late membership is turned down may put the case to the FC for a decision. *(FCR(2002-03)36)*

4. FC members who have not elected to join the ESC may attend ESC meetings and take part in the discussion but have no right to vote.

Chairman and Deputy Chairman

5. The Chairman and Deputy Chairman shall be elected by and from among its members¹ at an open meeting and shall hold office until the Chairman and Deputy Chairman of the ESC for the next session are respectively elected in that next session or, in case that election is held before that next session commences, until that commencement. In the event of the temporary absence of the Chairman and Deputy Chairman, the Subcommittee may elect a Chairman to act during such absence. Notwithstanding the provision in paragraph 38, the Chairman or the member presiding, as the case may be, shall have his original vote in addition to his casting vote in such elections [Rule 71(2)]². *(FCR(2002-03)36)*

6. The election of the Chairman and Deputy Chairman for the first session of a term shall be conducted at the first ESC meeting in the session. The member who has the highest precedence in the Council [Rule 1A] shall be responsible for calling that meeting. For the second and each subsequent session of a term, the election of the Chairman and Deputy Chairman of the ESC may be conducted at a meeting held before that session commences. The meeting shall be called by the Chairman in office. *(FCR(1999-2000)27; FCR(2002-03)36)*

7. The procedure for the election of the Chairman is as follows:

- (a) Where the election takes place at the first ESC meeting of a term, the member present who has the highest precedence shall preside at the election. If he is being nominated for the office, the member present who has the highest precedence among the members not nominated for the office shall preside.
- (b) At any other election of Chairman, the member who was the Chairman of the ESC before the election shall preside at the election. If he is absent or is being nominated for the office, the member who was Deputy Chairman of the ESC before the election shall preside. If both members who were Chairman and Deputy Chairman before the election are absent or are being nominated for the office, the member present who has the highest precedence shall preside. If he is being nominated for the office, the member present who has the highest precedence among the members not nominated for the office shall preside.

¹ The term "members" or "member" as used in the text refers to members or a member of the Establishment Subcommittee unless specified otherwise.

² The term [Rule 71(2)] means reference is made to Rule 71(2) of the Rules of Procedure of the Legislative Council.

- (c) At the start of the election, the presiding member shall call for nominations for the chairmanship. A valid nomination shall be made orally by a member, seconded by at least one other member who should not be the member being nominated, and accepted by the member being nominated. A member who nominates an absent member for the office is required to state that the absent member's acceptance of the nomination has been secured.
- (d) If the presiding member is being nominated for the office, he shall be replaced in accordance with (a) or (b) above, as appropriate, unless otherwise decided by the ESC.
- (e) If there is only one nomination, the presiding member shall declare the nominee elected as chairman.
- (f) If there are two or more nominations, the presiding member shall announce a vote by secret ballot and shall order the clerk to distribute a ballot paper to each of the members present, including the presiding member. After all the members present who wish to vote have done so, the clerk shall count the ballot papers in front of all the members present and report the result to the presiding member who shall check the result for confirmation. The presiding member shall declare elected as chairman the nominee who receives the highest number of valid votes among all the nominees. If two or more nominees receive the same highest number of valid votes, the presiding member shall then draw lots and give the casting vote to one of the nominees in accordance with the lot drawn, and shall forthwith declare that nominee elected as chairman.

(FCR(2002-03)36)

7A. The Chairman of the ESC shall preside at the election of the Deputy Chairman. If the Chairman is absent, the member present who has the highest precedence shall preside at the election. If he is being nominated for the office, the member present who has the highest precedence among the members not nominated for the office shall preside. The election procedure in paragraph 7(c) to (f) above then follows.

(FCR(2002-03)36)

Clerk to the Establishment Subcommittee

8. The Clerk shall attend the meetings of the ESC, keep a record of the proceedings of the ESC, and distribute a copy thereof to each member before the FC meeting at which the ESC recommendations are considered. The record is kept in the form of minutes, recording the members attending, the gist of proceedings and the decisions taken. The Clerk will not normally clear the minutes with the Administration and outside parties except in respect of those parts of the record which relate to the statements made by these parties at the meeting.

Meetings

9. After the Chairman is elected, the Clerk shall seek the Chairman's agreement to a provisional schedule of dates of ESC meetings for the session and inform members and the Administration accordingly. The Chairman may decide to convene special meetings to consider urgent items.

10. The Clerk shall give members written notice of every meeting at least five clear days³ before the day of the meeting but shorter notice may be given in any case where the Chairman so directs [Rule 71(6)]. Meetings will be held in public unless the Chairman otherwise orders in accordance with any decision of the ESC [Rule 71(7)]. Any items on the agenda scheduled for discussion but not dealt with at the meeting will be carried over to the next meeting or, if the Chairman decides, to a special meeting.

10A. The Subcommittee may extend a meeting beyond the appointed ending time where (a) the meeting venue is available during a proposed extension of meeting time; and (b) the meeting time so extended does not clash with the meeting time of the Council if that Council's meeting is going to be held on the same day (preconditions). Unless the Subcommittee decides otherwise, the Chairman may announce during the appointed time that the meeting is extended for not more than 15 minutes beyond the appointed ending time of the meeting. The Subcommittee may further extend a meeting for a specified period of time where the same preconditions as set out above are satisfied, and where there is no dissenting voice when deciding such a further extension. No new motion should be proposed during the period of extension decided by the Subcommittee unless the motion is in relation to an item on the agenda which is raised for discussion during the extension period. *(FCR(2007-08)33)*

11. The Chairman or, if he is not available, the Deputy Chairman, chairs an ESC meeting. If neither of them is present within 15 minutes of the time appointed for a meeting or if both of them have notified the Clerk that they will not be present at the meeting, the members present shall elect one from among themselves to chair the meeting. If the Chairman decides that he is unable to act for a particular item, or if so decided by the ESC, the Deputy Chairman shall chair the meeting for that particular item. If both of them decide that they are unable to act, or if so decided by the ESC, the

³ The term "clear days" excludes the day of the giving of a notice, the day of the meeting and intervening Sundays and public holidays.

members present shall elect one from among themselves to chair the meeting for that item.

Quorum

12. The Chairman and three members or the Chairman and one-seventh of the members, whichever is the greater, form a quorum. Members should confirm their attendance with the Clerk before an ESC meeting; otherwise, the Clerk will assume their absence for the purpose of determining whether there will be a quorum present at the meeting. The meeting will not be held unless a quorum is present within 15 minutes after the time appointed for the meeting.

13. If the attention of the Chairman during a meeting is drawn to the fact that a quorum is not present, he shall direct the members to be summoned. If after 15 minutes have expired and a quorum is still not present, he shall adjourn the meeting without questions put.

14. The Chairman shall ensure that a quorum is present before he orders the ESC to proceed to making a decision.

Attendance of Public Officers and Other Persons

15. The Chairman or the ESC may invite any public officer, or, in the case of a head of Estimates relating to a non-government body or organization, any member or employee of that body or organization to give information or any explanation or to produce any records or documents which the ESC may require in the performance of its duties. The ESC may also invite any other person to assist the ESC in relation to any such information, explanation, records or documents [Rule 71(12)]. The Clerk will state in the agenda the office of the public officers and other persons invited for discussion of the particular items.

16. When the Secretary for Financial Services and the Treasury, the Permanent Secretary for Financial Services and the Treasury (Treasury) or a Deputy Secretary for Financial Services and the Treasury (Treasury) attends ESC meetings in the absence of the Financial Secretary, he is responsible for advising the Chairman on public finance procedures and coordinating the Administration's presentation at meetings including withdrawal or modification of a proposal. *(FCR(2003-04)17)*

Information Note

17. The Administration may provide information notes to members in response to a request by members made at a previous meeting or on the Administration's own initiative. Information notes are issued by the Clerk under a serially-numbered cover.

Agenda Item

18. The Financial Secretary, the Secretary for Financial Services and the Treasury, the Permanent Secretary for Financial Services and the Treasury (Treasury) or a Deputy Secretary for Financial Services and the Treasury (Treasury), each being a public officer designated by the Government of the Hong Kong Special Administrative Region, or any member may give notice to the Clerk of the items of business to be included in the agenda of the ESC [Rule 9(2)]. The notice of agenda items should reach the Clerk at least six clear days before the meeting concerned, but shorter notice may be given if the Chairman so directs. *(FCR(2003-04)17)*

19. An ESC agenda item is normally a discussion paper proposing for ESC's recommendation to the FC the establishment proposals submitted by the Administration as well as a motion from any member of the Establishment Subcommittee. The Clerk shall despatch papers for discussion to members at least five clear days before the meeting at which the papers are to be considered, unless on grounds of urgency the Chairman directs otherwise.

Open and Confidential Items

20. Non-confidential ESC agenda items are discussed in public unless the Chairman otherwise orders in accordance with any decision of the ESC [Rule 71(7)]. If there is a confidential item and members have questions on it, the ESC will discuss the item in closed session normally after the discussion of all the non-confidential items, unless the Chairman otherwise orders in accordance with a decision of the ESC. If the Administration considers it necessary to classify an agenda item as confidential, there must be a paragraph in the submission explaining the reason for confidentiality.

21. The Clerk delivers papers relating to a confidential item to members in a sealed envelope. Members should take care to ensure that such papers are kept in safe custody and should not disclose their content, in part or in full, to any unauthorized person.

Consideration by Circulation

22. Where the Chairman so orders, any matter for the recommendation of the ESC may be considered by circulation of papers to the members of the ESC and each member may signify his endorsement in writing submitted to the Chairman. If a majority of the members so signify before the expiry of the period specified by the Chairman for the purpose, and if upon expiry of that period no member has (in writing submitted to the Chairman) signified disagreement to the matter or requested that the matter be referred for discussion at a meeting of the ESC, it shall be deemed to be endorsed by the ESC.

Withdrawal of Agenda Items

23. At an ESC meeting, the Financial Secretary or, in his absence, the Secretary for Financial Services and the Treasury, the Permanent Secretary for Financial Services and the Treasury (Treasury) or a Deputy Secretary for Financial Services and the Treasury (Treasury) may withdraw an item -

- (a) at any time before it is put to the vote; or
- (b) by unanimous consent of the ESC after it has been put to the vote but the result is not yet declared by the Chairman.

(FCR(2003-04)17)

Amendments to the Administration's Proposals

24. Under section 8 of the Public Finance Ordinance, proposals to change the approved Estimates of Expenditure must come from the Financial Secretary, and members cannot amend the Financial Secretary's proposals. The ESC must discuss and vote on any proposal as it stands. If the ESC does not approve the proposal, it would then be for the Financial Secretary to consider whether to make a fresh proposal amended in such a way as may make it acceptable to the ESC.

Practice and Procedure of the Establishment Subcommittee

25. Subject to the Rules of Procedure of the Legislative Council and the procedure endorsed by the FC, the ESC determines its own practice and procedure [Rule 71(13)].

Order in the Establishment Subcommittee

26. The Chairman is responsible for the observance of the rules of order in the ESC and his decision on a point of order shall be final [Rule 44].

27. The Chairman, after having called the attention of the ESC to the conduct of a member who persists in irrelevance or tedious repetition of his own or other members' arguments in the discussion, may direct him to discontinue his speech [Rule 45(1)].

28. A member shall not interrupt another member except -

- (a) on a point of order which he wishes to bring to notice for the Chairman's decision; or

- (b) to seek elucidation on some matters raised by that member in the course of discussion, if the member speaking is willing to give way and the Chairman agrees [Rule 39].

Language

29. A member may address the ESC orally in either Putonghua, Cantonese or English. Replies by the public officers and others persons attending may likewise be in either Putonghua, Cantonese or English. All ESC papers are in both Chinese and English.

Manner at Meetings

30. Members should remain seated at meetings and need not rise in order to speak. There is no need to stand when the Chairman enters or leaves.

31. Members should raise their hands or press the "Request to speak" button (where one is installed at their seats) to indicate their intention to speak.

(FCR(2011-12)70)

Motions

31A. During the deliberation of an agenda item, prior to the question on it being put to vote, a member may move a motion without notice to express a view or views on the agenda item if the motion is considered by the Chairman as directly related to the agenda item and if agreed by a majority of members that it should be proceeded forthwith. No debate shall take place to ascertain if members will so agree. Each member may propose no more than one such motion, which is not amendable. Any proposed motion has to be in written form and presented by a time specified by the Chairman.

(FCR(2007-08)33; FC168/17-18)

Adjournment of Proceedings

32. A member when speaking on a proposal in the Subcommittee may move without notice that discussion on an item be now adjourned. Thereupon the Chairman shall propose the question on the motion to adjourn [Rule 40]. A member, when speaking on the question, may not speak more than once [Rule 38] and shall not make a speech for more than three minutes or any time period as decided by the Chairman. When no or no more member indicates his intention to speak on the question, the Chairman shall forthwith put the question on the motion to the Subcommittee for its decision. No member may speak on the question after it has been put [Rule 33].

(FCR(2007-08)33; FC168/17-18)

Pecuniary Interest to be Disclosed

33. Rule 83A and Rule 84 of the Rules of Procedure shall apply to the proceedings of the ESC.

34. There are situations in which the usual rules regarding pecuniary interests do not apply, such as when an item concerns an establishment proposal where members would benefit no more or no less than any other resident of Hong Kong. In these cases, there is no need for members to declare their individual interests. The Chairman shall declare that all members have the same pecuniary interest in the question and the Clerk records the statement. Members may then speak and vote.

Questions

35. After the Chairman calls a meeting to order, he normally deals first with the business left over from a previous meeting, if any. The Chairman then gives a brief summary of each item (except confidential items) for the benefit of members of the public who do not have copies of the item, and introduces the persons at the meeting responsible for answering questions on the item. Members then discuss the item or put questions to the persons responsible for answering them.

36. Members' questions on a proposal must relate directly to the contents of the agenda item. On wider questions of policy, members should raise them either in the full Council or at an appropriate Legislative Council Panel. In determining whether questions are in order, the Chairman shall have regard to Rule 25 of the Rules of Procedure on contents of questions where appropriate.

37. Representatives from the relevant bureau and/or department are in attendance to answer questions which members may have. Any member who requires a comprehensive or very technical oral reply to his question at the meeting should notify the Clerk beforehand so that the answer can be prepared. If the Administration cannot give a full or definite answer at the meeting, the representative concerned may supplement his answer in writing by subsequently providing an information note to the ESC or a letter to the member who asked the question with copies to other members as appropriate.

Voting

38. The ESC makes decisions on all matters by a majority of the members present and voting. Neither the Chairman nor any other member presiding shall vote, unless the votes of the other members are equally divided, in which case he shall have a casting vote [Rule 71(5B)], but the casting vote shall not be exercised in such a way as to produce a majority vote in favour of the question put.

39. Before putting an item to the vote, the Chairman shall ask members if they have any further questions. When the Chairman puts a question to the ESC for its decision, he shall first call upon those members who are in favour of the question to raise their hands and then shall call upon those who are against the question to raise their hands. The Chairman shall then, according to his judgement, state whether or not he thinks the majority of the members present and voting are in favour of the question. If no member challenges his statement, the Chairman shall declare the question to have been so decided. If a member challenges the statement of the Chairman by claiming a division, then the Chairman shall order the ESC to proceed to a division and the division shall be held forthwith immediately after a division bell has been rung for five minutes.
[Rule 47(1)] *(FCR(2005-06)11; FCR(2016-17)85)*

39A. When a division has been ordered, Rules 48 and 49 of the Rules of Procedure shall apply to the proceedings of the ESC. Immediately after the Chairman has declared the result of a division under an agenda item, a member may move without notice that in the event of further divisions being claimed in respect of any motions or questions under the same agenda item, the ESC do proceed to each of such divisions immediately after the division bell has been rung for one minute. Thereupon the Chairman shall propose the question on that motion. In the event that the division bell does not function or may not be rung, the Chairman shall order the Clerk to arrange for members of the ESC within the precincts of the Chamber to be notified of the division. The division shall be held 10 minutes after the order has been made.

(FCR(2005-06)11; FCR(2010-11)39; FCR(2016-17)85)

40. If a member fails to declare that he has a direct pecuniary interest in an item in accordance with Rule 84 of the Rules of Procedure, and has voted on it, then his vote stands (and the decision of the ESC is valid) unless his vote is disallowed under Rule 84(4) of the Rules of Procedure.

Adverse Weather

41. The following arrangements shall apply to the ESC during adverse weather conditions:

- (a) All meetings shall continue to be held when a Tropical Cyclone Warning Signal No. 1 or No. 3, or an Amber or a Red Rainstorm Warning Signal is in force.
- (b) Unless directed otherwise by the Chairman, all meetings shall be cancelled if a Tropical Cyclone Warning Signal No. 8 or above or a Black Rainstorm Warning Signal is issued or in force within two hours before the appointed time of the meeting.
- (c) If a Tropical Cyclone Warning Signal No. 8 is issued while a meeting is in progress, the Chairman should adjourn the meeting.

- (d) If a Black Rainstorm Warning Signal is issued while a meeting is in progress, the Chairman should decide whether to adjourn or continue with the meeting.

(FCR(2016-17)85)
