

Chapter 7

Conduct of business in the Council

7.1 Decisions of the Legislative Council are made at Council meetings. Although the HKSAR Legislature has mainly adopted the operation model of the pre-1997 Legislature in transacting its business, some developments which have taken place since the establishment of the HKSAR have also resulted in changing the business pattern of the Legislature. Nevertheless, the deliberative nature of the Council's conduct of its core business has remained unchanged. In this Chapter, detailed explanation is given of the cycle of business of the Legislature in each session, the order of business at each regular meeting of the Council and how decisions are made. The Chapter also provides the historical background of the nature of business dealt with in the Council and the procedures for dealing with each item of business on the Agenda of the Council including the voting method.

Business cycle in each session

7.2 There are 4 sessions in each 4-year term of the Legislative Council. As explained in Chapter 2,¹ the dates on which a legislative session is to begin and to end are determined by the Chief Executive of the HKSAR.² Since the second session of the First Legislative Council,³ it has been a standing arrangement that a session commences in October and ends in July of the following year.

7.3 Originally, it had been the practice that the business of a session of the Legislative Council commenced with the delivery of the Chief Executive's Policy Address in the Council. This practice was changed during the period from 2002 to 2005 and also in 2012. Since the 2012-2013 session, the Policy Address is delivered in January, i.e. 3 months after the commencement of a session in October.⁴ As explained in Chapter 5⁵, the Government considers

¹ [See Chapter 2, para. 2.56.](#)

² [Section 9\(2\) of the Legislative Council Ordinance \(Cap. 542\), as reflected in Rule 11 of the Rules of Procedure.](#)

³ [The first session of the First Legislative Council commenced on 1 July 1998 as the term of the Council commenced on 1 July 1998.](#)

⁴ The Policy Addresses in the 2002-2003, 2003-2004 and 2004-2005 sessions were delivered on [8 January 2003](#), [7 January 2004](#) and [12 January 2005](#) respectively. In the 2012-2013, 2013-2014 and 2014-2015 sessions, the Policy Addresses were delivered on [16 January 2013](#), [15 January 2014](#) and [14 January 2015](#) respectively.

⁵ [See Chapter 5, para. 5.22-5.26.](#)

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that the narrowing of the time gap between the Policy Address and the Budget (scheduled for late February) would help ensure speedy implementation of new initiatives announced in the Policy Address. As a result of this change, the current practice is that discussions on the new initiatives of the Government for the coming year take place from January onwards with the debate on the Motion of Thanks held in February. Following the announcement of the Budget when introducing the Appropriation Bill in late February, scrutiny of the Estimates will take place with the second reading debate on the Appropriation Bill to be resumed before the end of April. It usually take another few meetings to complete the remaining legislative process of the Bill. In the meantime, legislative proposals for implementing the revenue measures in the Budget are proposed and scrutinized aiming at completion of the legislative process within a permissible timeframe. For those proposals which are covered by Public Revenue Protection Orders made by the Chief Executive under the Public Revenue Protection Ordinance (Cap. 120)⁶, the legislative process for their enactment into law must be completed within 4 months from the day when these orders came into force (which is usually the date when the Chief Executive signed the order following his approval of the introduction of the Appropriation Bill into the Legislative Council). As regards revenue measures to be implemented through new legislation or amendment to current legislation, the timetable for introducing the proposed legislation is determined by the Government.

7.4 As all bills will lapse only at the end of a term⁷, the scrutiny of a bill introduced in one of the first three sessions may continue in the following session(s). It is not uncommon that a bills committee makes use of the summer recess when the Council is not in session to continue the study of a bill so that proceedings on the bill in the Council may be resumed when the Council starts to meet in October.

7.5 Within the cycle of business covering the Policy Address, Motion of Thanks and Appropriation Bill (being fixed items of business set out in the Rules of Procedure) normally from January to May or June, the Council also deals with its ongoing legislative work as well as other business of the Council at its regular meetings from October to July.

⁶ [Section 5\(2\)\(d\) of the Public Revenue Protection Ordinance \(Cap. 120\) provides that, among other things, a public revenue order expires and ceases to be in force "upon the expiration of 4 months from the day on which the order came into force".](#)

⁷ [Section 9\(4\) of the Legislative Council Ordinance \(Cap. 542\).](#)

Meetings

Council meetings

7.6 As explained in Chapter 2, Council meetings are scheduled for each Wednesday in a session except public holidays and during long holiday breaks and the Budget period.⁸ The date and time of each meeting of the Council are determined by the President⁹ with the exception of the date of the first meeting of a new term which is specified by the Chief Executive¹⁰. The dates of the Council meetings of the first session of a term are announced as soon as the President is elected at the first meeting, while the dates of the meetings in the subsequent sessions are made known to Members and the Government before the end of each session, normally in early July. The President may at any time defer or advance the date and time of meeting after he has determined the meeting schedule.¹¹ Written notices of the meetings of the Council are given by the Clerk to Members at least 14 clear days before the day of each meeting but in case of emergency the President may dispense with such notice.¹²

7.7 When the President is of the opinion that the Council is to continue to meet on another day to complete the unfinished business on the Agenda, the President may suspend the meeting and order the meeting to resume on another day for that purpose.¹³ Under Rule 14(5) of the Rules of Procedure, the President may at any time suspend a meeting or adjourn the Council.¹⁴

7.8 It has been the practice since April 2005 that each meeting starts at 11:00 am¹⁵ and continues until all items on the Agenda for the meeting are dealt with. In the event that the meeting is unlikely to end before midnight, the practice before March 2015 was that the President would suspend the

⁸ [The Budget period refers to the period from the Council meeting at which the Appropriation Bill is introduced into the Council, which usually takes place in end February, to the Council meeting at which the Bill is resumed for second reading debate. During this period, the Finance Committee examines the Estimates referred to it by the President under Rule 71\(11\) of the Rules of Procedure, in a series of special meetings.](#)

⁹ [Rule 14\(1\) of the Rules of Procedure. This subrule reflects the power and function of the President under Article 72\(3\) of the Basic Law.](#)

¹⁰ [Section 10\(1\) of the Legislative Council Ordinance \(Cap. 542\).](#)

¹¹ [Rule 14\(3\) of the Rules of Procedure.](#)

¹² [Rule 14\(2\) of the Rules of Procedure.](#)

¹³ [Rule 14\(4\) of the Rules of Procedure.](#)

¹⁴ [Rule 14\(5\) of the Rules of Procedure.](#)

¹⁵ The First Legislative Council adopted the practice of the pre-1997 Legislature of starting a meeting of the Council at 2:30 pm. In April 2005, this starting time was changed to 11:00 am to allow for longer meetings. This arrangement has remained unchanged up to this date.

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meeting at around 10:00 pm¹⁶ and resume the remaining proceedings on another day either at 9:00 am or at 2:30 pm. Records showed that since the start of the Fifth Legislative Council, over half of the Council meetings lasted for over one day. To enable Members to discharge their other duties in their capacity as Members of the Legislative Council and to facilitate a healthy work-life balance for those who support the work of the Legislature, the House Committee decided on 30 January 2015 to recommend to the President that the suspension time of Council meetings should be adjusted to 8:00 pm if the business on the Agenda was unlikely to finish before 10:00 pm on the day of meeting. This recommendation was accepted by the President for implementation in March 2015.

7.9 Since the 2011-2012 legislative session, it has been the practice that where it is not feasible to hold any further days of meetings before the next scheduled regular Council meeting^{17 18}, the business not dealt with at the previous meeting stood over until the next meeting and placed on the Agenda in accordance with the normal order of business set out in Rule 18 of the Rules of Procedure.¹⁹

7.10 Under Article 72(4) and (5) of the Basic Law, which are reflected in Rule 15 of the Rules of Procedure, the President may call special meetings during the recess²⁰ and, if so requested by the Chief Executive, call emergency meetings. If the emergency meeting is to be conducted after the end of a term of office or the dissolution of the Council, Rule 15(1) provides that the meeting must be convened before the date specified for the holding of the general election of all the Members of the Legislative Council.²¹

Committee of the whole Council

7.11 When describing the procedures of Council meetings, it is necessary also to explain how the Council and a committee of the whole Council carry out their work at the same Council meeting. In the Hong Kong Legislature, a

¹⁶ [The practice of suspending a meeting of the Council at 10:00 pm, if all business was unlikely to finish before midnight, commenced in the 1998-99 session after the President took into account the view of the House Committee in May 1999. See Chapter 2, footnote 58.](#)

¹⁷ [For the practice before the 2011-2012 session, please see Chapter 2, footnote 60.](#)

¹⁸ The President may consult Members through the House Committee or the Clerk on the dates and time of the meetings to continue with the unfinished business of a meeting before he makes his decision.

¹⁹ [For details about the order of business at a Council meeting, please refer to paragraphs 7.37 to 7.39.](#)

²⁰ [A special meeting was held on 2 September 2010 in accordance with Rule 15\(2\) of the Rules of Procedure for holding a debate on an urgent motion on the tragedy of a Hong Kong tour group taken hostage by a gunman in the Philippines on 23 August 2010, at which 8 were killed and 7 injured.](#)

²¹ [Section 11 of the Legislative Council Ordinance \(Cap. 542\).](#)

committee of the whole Council comprises all Members of the Council with the President acting as Chairman²². The dual chairmanship of the President in Hong Kong is a unique arrangement since the chairmanship in the committee of the whole House in other legislatures which also adopt the Westminster model is not taken up by the Speaker but by another presiding officer.²³ This unique arrangement, adopted from the pre-1997 Legislature, owes more to expediency than to any special principle. It is not easy for an observer of a Council meeting to distinguish the proceedings of the Council from those of the committee of the whole Council as they both meet at the same venue and their businesses appear on the same Agenda.

7.12 A committee of the whole Council has the power to make amendments to a bill, including adding new clauses and new schedules provided that such amendments are admitted for consideration by the President acting as Chairman of the committee of the whole Council in accordance with the Rules of Procedure.²⁴ According to the 3-reading legislative process provided in the Rules of Procedure, a bill is committed to a committee of the whole Council (or a select committee if so decided by the Council or directed by the President) after a motion for the second reading of the bill has been agreed to by the Council.²⁵

7.13 In a committee of the whole Council, Members are addressed as "members" (委員) and the President as "the Chairman" (委員會主席). Almost all rules of speaking, decorum and order, voting and other procedures set out in Parts H (Rules of Speaking), I (Rules of Order) and J (Voting) of the Rules of Procedure which apply to the Council also apply to a committee of the whole Council. The only difference is that in committee of the whole Council, as an exception to the general rule that Members may only speak once on a question, a member may speak more than once²⁶. This will be explained in Chapter 8.

²² [Rule 3\(1\) of the Rules of Procedure.](#)

²³ In the UK the Committee of the Whole House is presided over by the Chairman of Ways and Means, the senior Deputy Speaker. He sits next to the Clerk at the Table of the House; the mace is lowered and the Speaker's chair is left vacant while the House is in Committee. Also see *House of Commons Procedure and Practice*, Canada (2009) 2nd Edition, p. 921.

²⁴ [See Rules 56 and 57 of the Rules of Procedure.](#)

²⁵ [Rule 55\(1\) of the Rules of Procedure.](#)

²⁶ [Rule 38\(1\)\(a\) of the Rules of Procedure.](#) The same rule applies at Westminster when the House is in Committee.

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Quorum

Quorum of the Council

7.14 Article 75 of the Basic Law stipulates that the quorum for the meeting of the Legislative Council shall be not less than one half of all its members. This is reflected in Rule 17(1) of the Rules of Procedure which stipulates that this number includes the President.

Quorum of the committee of the whole Council

7.15 The quorum requirement in Article 75 applies to the Council. Since the proceedings in a committee of the whole Council are part of the legislative process determined by the Legislative Council, the quorum requirement for this committee is for the Legislative Council to decide. The First Legislative Council decided to adopt the practice of using the quorum of the Council as the quorum of a committee of the whole Council, i.e. not less than one half of all its members including the Chairman, which is reflected in Rule 17(1) of the Rules of Procedure.²⁷

Calling for a quorum

7.16 At the designated starting time of a Council meeting, the President will direct the Clerk to count the Members present in the Chamber if it appears to him that a quorum is not present. If a quorum does not exist, the President will direct the Members to be summoned by having the quorum bell rung for 15 minutes. If a quorum is not present after 15 minutes, the President will order that the meeting cannot be held. Where a quorum is present and the meeting commences, it is the practice that the President will not conduct any further counting of Members in the course of that meeting including at the

²⁷ The quorum of the pre-1997 Legislature was stipulated in the Royal Instructions. The quorum of the committee of the whole Council was not stipulated until it was included for the first time in the 1968 Standing Orders. At that time, the quorum of the committee of the whole Council was not entirely identical to that of the Council. It was 10 members excluding the Chairman in 1968 increasing to 20 members including the Chairman in 1985 and had remained the same until 30 June 1997. The quorum of the Council was 5 Members including the President from 1869 to 1969, 10 Members including the President from 1969 to 1983 and 20 Members including the President from 1983 to 30 June 1997. When the Provisional Legislative Council drafted its Rules of Procedure in 1997, it adhered to the principle that unless it was required under the Basic Law, there should not be any changes to the rules and practices originally adopted by the pre-1997 Legislature until the future Legislature of the HKSAR considered it necessary to do so. As the quorum of the Council and committee of the whole Council in the pre-1997 Legislature was the same in the last Standing Orders, the quorum requirement for the Council as set out in Article 75 was adopted as the quorum of the committee of the whole Council.

resumption of the meeting on another day or after a period of suspension unless his attention is drawn to the fact that a quorum is not present.

7.17 When the President's attention is drawn to the fact that a quorum is not present in the course of a meeting, he is required to direct the Members to be summoned. If after 15 minutes a quorum does not exist, the President is required to adjourn the meeting.²⁸ In the case of a committee of the whole Council, if a quorum does not exist after the quorum bell has been rung for 15 minutes, the Council shall be resumed and the President is required to adjourn the Council without question put.^{29 30}

7.18 At the Council meeting of 17 November 2004, following the drawing of her attention to the lack of a quorum by a designated public officer in the course of a debate, the President asked for Members to be counted and ordered the ringing of the quorum bell. On the question of whether a person, other than a Member of the Council, may draw the President's attention to the lack of a quorum at a meeting, the President, on the basis of the way Rule 17(2) of the Rules of Procedure was constructed, considered that any person attending a meeting including designated public officers and any officers of the Council may draw her attention to the fact that a quorum is not present.³¹ On 12 July 2013, the House Committee decided to amend Rule 24(h) of the House Rules to the effect that only a member of a committee is allowed to draw the attention of the committee chairman to the fact that a quorum is not present during a meeting of the committee. There was no decision to apply the same principle to Council meetings.

7.19 During the committee stage of the Legislative Council (Amendment) Bill 2012, a few Members repeatedly called for a quorum under Rule 17(3) of the Rules of Procedure with the avowed intent of filibustering the proceedings. The repeated quorum calls prolonged the proceedings, resulting in two meetings to be adjourned due to a lack of quorum.³² The same situation was also found on a number of occasions³³ during the 2012-2013 and 2013-2014

²⁸ [Rule 17\(2\) of the Rules of Procedure.](#)

²⁹ [Rule 17\(3\) of the Rules of Procedure.](#)

³⁰ [Prior to 29 October 2014, the original Rule 17\(3\) provided that if a quorum was not present at the Committee of the whole Council after 15 minutes, the President was required to count the Council after the Council was resumed. However, as in practice no counting would again be called after the Council was resumed, Rule 17\(3\) was amended on 29 October 2014 to reflect the practice.](#)

³¹ [Council meeting of 17 November 2004, *Hansard*, pp. 1675-1676.](#)

³² [Council meeting of 2 May 2012 was adjourned on 3 May 2012 due to the lack of a quorum, *Hansard*, p. 9163; Council meeting of 9 May 2012 was adjourned on 11 May 2012 due to the lack of a quorum, *Hansard*, pp. 9801-9802.](#)

³³ [Council meetings to deal with the Appropriation Bill 2013 and Appropriation Bill 2014.](#)

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sessions when the same few Members decided to filibuster. In this respect, the President invited the Committee on Rules of Procedure to review the relevant provisions on quorum in the Rules of Procedure by referring to the practices in overseas legislatures with a view to achieving more effective use of Council's time.^{34 35} In its study, the Committee on Rules of Procedure has taken into account the experience in overseas legislatures and examined various proposals, such as confining the application of the quorum requirement to particular junctures of Council proceedings and imposing restrictions on Members' right to make quorum calls during Council meetings. It concluded that these proposals were either contradictory with the object or purpose of Article 75 of the Basic Law or constituting a disproportionate use of the President's power under the relevant Rules of Procedure and the Basic Law.

7.20 If the lack of a quorum is found in a division, the division will be invalid and the President or Chairman of the committee of the whole Council, as the case may be, is required to direct the Members to be summoned in accordance with the procedure explained above.³⁶ The division will be held again after a quorum is present. In practice, where a lack of a quorum is observed after the division bell has been rung for 5 minutes, the President will order the ringing of the quorum bell to summon Members.

7.21 If a meeting is adjourned due to the lack of a quorum, the matter which is under discussion or has not yet been dealt with at the time when the Council is adjourned will stand over until the next meeting.³⁷

How vacancies are considered in determining the quorum

7.22 On 25 January 2010, 5 Members resigned from office and a question was raised at the House Committee on 29 January 2010 on whether the 5 vacancies should be taken into account when calculating the quorum of the Council. According to the Legal Adviser's advice³⁸, Article 75 of the Basic Law provides that the quorum for the meeting of the Legislative Council shall

³⁴ There is a quorum requirement but no quorum call in the House of Commons in the UK. "Counting" was abolished in 1971. Standing Order No. 41(2) states that "[t]he House shall not be counted at any time". Under the same Standing Order if the results of a division show fewer than 40 Members are present, the House moves onto the next business on the Order Paper.

³⁵ In the Rules of United States House of Representatives, Clause 7 of Rule XX provides that the Speaker "may not entertain a point of order that a quorum is not present unless a question is put to vote".

³⁶ [See paragraph 7.17](#) and [Rule 17\(4\) of the Rules of Procedure](#).

³⁷ [Rule 17\(5\) of the Rules of Procedure](#).

³⁸ [Information note for all Members of the Legislative Council issued by the Legal Adviser on 2 February 2010 \(LC Paper No. LS44/09-10\)](#).

be not less than one half of "all its members" ("全體議員" in the Chinese text of the Basic Law). The expression "全體議員" is not defined in the Basic Law. Although the Legislative Council Ordinance (Cap. 542) provides in section 17 that a vacancy in the membership of the Council does not affect its power to transact business or the validity of its proceedings, the effect of a vacancy on the quorum for a Legislative Council meeting is not provided for. It would be for the President to interpret Article 75 for the purpose of conducting a Legislative Council meeting. Taking a purposive approach in interpreting "全體議員" in the context of Article 75, the expression is capable of meaning the full membership of the Council or the total membership in office.

7.23 Before the President made his ruling, he took advice from the Counsel to the Legislature³⁹ and an outside Counsel on the matter. He also referred to the practices of other legislatures on quorum requirements compiled by the Legislative Council Secretariat. The President announced his ruling at the Council meeting of 3 February 2010 which was the first Council meeting after the resignation of the five Members took effect from 29 January 2010.

7.24 In his ruling, the President stressed that he must preside over meetings in accordance with the Basic Law and the Rules of Procedure of the Council. He noted that the expression "全體議員" appeared in various articles of the Basic Law and also in Annex I and Annex II to the Basic Law. He considered that if he were to give a meaning to the expression for the purpose of ascertaining the number of Members required to form a quorum, the interpretation he was giving to it in the context of Article 75 might be regarded as also applicable to other provisions in the Basic Law in which the same expression had been referred to. This would give rise to unforeseeable implications on the application of these provisions.

7.25 In view of the complexity of the issues involved, the President decided to exercise great prudence and to act in accordance with Rule 17 of the Rules of Procedure which he considered to be a supplemented reproduction of the quorum provision in Article 75 of the Basic Law. He then fixed the number of members forming a quorum at 30 (membership of the Legislative Council was at that time 60), which was a number "not less than one half of all its Members" whether the expression "all its Members" should be taken to mean 60 or less than 60. The decision would therefore not be in contravention

³⁹ [The Counsel to the Legislature is the Legal Adviser of the Legislative Council Secretariat who also serves as the legal adviser to the House Committee.](#)

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of the relevant provisions of the Basic Law. The President further reiterated that this decision of his should not prejudice any further interpretation of the expression "all its Members" ("全體議員").

7.26 The Committee on Rules of Procedure supported the decision of the President, but it also conducted a study on the matter in response to a member's request. Apart from referring to the advice and reference materials considered by the President, the Committee also invited the Government to give views on the quorum of the Council, particularly whether the term "全體議員" in Article 75 of the Basic Law should mean the full Council of 60 or the total number of Members in office.

7.27 The Government submitted its views to the Committee in April 2010. The Government also studied the legal advice given to the President and conducted research on the principles adopted by overseas legislatures on quorum requirement and the deliberation of the Drafting Committee of the Basic Law and Standing Committee of the NPC on the subject. The Government came to the view that the expression "all the members of the Legislative Council" ("全體議員") in the Basic Law should mean the entire authorized membership of the Legislative Council, rather than all Legislative Council Members actually in office for the time being. Hence the basis for computing the quorum requirement under Article 75(1) should be the entire authorized membership of the Legislative Council, even if the offices of some members had become vacant at the time of the meeting of the Council. The Committee noted that the views of the Government on the matter were in line with the decision of the President and also the views expressed by its members. It concluded that no further study was required.

7.28 From the 2012-2013 session onwards, with the membership of the Legislative Council increased to 70, the quorum for meetings of the Council and committee of the whole Council is 35 Members including the President or Chairman.

Presiding in Council and in committee of the whole Council

7.29 Article 72(1) of the Basic Law provides that the President of the Legislative Council presides over meetings of the Council. This provision is reflected in Rule 3(1) of the Rules of Procedure which further provides that "There shall be a President of the Council who, when present at a meeting of the Council or a committee of the whole Council and able, in his opinion, to act, shall preside or be Chairman". Two elements have been built into this Rule: the President is the only person who can preside over the meeting if he

is present; and he is the person to decide if he is "able to act", i.e. able to preside over the meeting.

7.30 In the event that the President is absent from a meeting of the Council or a committee of the whole Council or when, in his opinion, he is unable to act, the following arrangement will apply:

- (a) the Chairman of the House Committee, who is the President's deputy, shall preside⁴⁰;
- (b) in the absence of the Chairman of the House Committee or when he considers himself unable to act, the Deputy Chairman of the House Committee, who shall act as the President's deputy, shall preside⁴¹; or
- (c) in the absence of both the Chairman and Deputy Chairman of the House Committee or when the Deputy Chairman also considers himself unable to act, Members shall elect among the Members present a Member to preside at that meeting⁴².

7.31 As explained in Chapter 2⁴³, the President's deputy enjoys all those powers conferred by the Rules of Procedure on the President or the Chairman that are exercisable in respect of the meeting, or part of the meeting, of the Council or a committee of the whole Council.

7.32 There have been occasions in the history of the Hong Kong Legislature when the Presidents of the Council were of the opinion that they were unable to act and requested the President's deputy to preside at relevant parts of the meetings:

- (a) At the Council sitting on 2 June 1993, President Sir John SWAINE advised the Council during Members' question time that in view of a potential conflict of interest with his being a director of the Hong Kong Bank, he invited Mrs Elsie TU, the President's deputy, to take the Chair when the question on bank charges for cash deposits was asked and answered during question time; and

⁴⁰ [Rule 3\(2\)\(a\) of the Rules of Procedure applies.](#)

⁴¹ [Rule 3\(2\)\(a\) and Rule 5\(2\) of the Rules of Procedure apply.](#)

⁴² [Rule 3\(2\)\(b\) of the Rules of Procedure applies.](#)

⁴³ [See Chapter 2, para. 2.80.](#)

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- (b) For the Council meeting of 29 February 2012, President Jasper TSANG considered himself unable to determine the application for an adjournment debate under Rule 16(2) of the Rules of Procedure in relation to the Chief Executive's responsibility for upholding the fairness and impartiality of the next Chief Executive Election as he had announced earlier in public that he would seriously consider standing in that Election. Ms Miriam LAU, the President's deputy, exercised the power of the President and permitted the adjournment debate to be put on the Agenda. However, as President Jasper TSANG subsequently announced that he would not run in the Chief Executive Election before the Council meeting, he presided over the adjournment debate.

7.33 There was also one occasion in the pre-1997 Legislature when Mr Andrew WONG, then President, was challenged by some Members, after his election as a member of the Provisional Legislative Council, that he would face conflicts of interest when required to adjudicate on issues relating to the provisional legislature. At that time, Mr WONG was also running for the presidency of the provisional legislature. A Member gave notice to move a motion to urge the Government to seek a declaration from the court that there were such conflicts of interest. Mr WONG, as President, allowed the motion and an amendment to the motion to be put on the Order Paper of the sitting of 29 January 1997 and he himself presided at the debate. On its conclusion, the Council passed the amended motion.⁴⁴

Language

7.34 Article 9 of the Basic Law provides that in addition to the Chinese language, English may also be used as an official language by the executive authorities, legislature and judiciary of the HKSAR. In the legislature, a Member may address the Council in either Putonghua, Cantonese or the English language.⁴⁵ Simultaneous interpretation and sign language interpretation services are provided for all Council meetings to facilitate the following of the proceedings of Council meetings in any of these languages.

⁴⁴ [The motion was moved by Mrs Elizabeth WONG and amended by Mr David CHU. The amended motion passed by the Council was that the Council believed that Mr Andrew WONG would still have the ability to safeguard the impartiality and integrity of his office after joining the provisional legislature, and would help in the continuity of the Council. No point of order was raised on Mr WONG's presiding over the motion debate.](#)

⁴⁵ [Rule 2 of the Rules of Procedure.](#)

All documents presented to the Council or generated by the Council are in both Chinese and English.

Agenda of the Council

7.35 Article 72(2) of the Basic Law provides that the President has the power and function to decide on the agenda⁴⁶, giving priority to government bills⁴⁷ for inclusion in the agenda. This article is reflected in the following Rules of Procedure:

- (a) Rule 19 which provides that the Agenda of the Council shall be decided by the President and all items of business on the Agenda should follow the order of business set out in Rule 18⁴⁸; and
- (b) Rule 18 which sets out the order of business at a Council meeting, with Government bills and motions being given priority over those initiated by Members⁴⁹.

7.36 The Agenda of the Council is issued by the Clerk to the Legislative Council setting out all the items of business as decided by the President. Owing to the time required by the President to consider proposed amendments to bills and motions, a preliminary Agenda is issued 6 clear days before the Council meeting and the formal Agenda one clear day before the meeting. The Agenda may be revised before the meeting or in the course of the meeting to include urgent items of business approved by the President, such as adjournment debates under Rule 16(2) or Rule 16(4) of the Rules of Procedure.

Order of business

7.37 The order of business of a regular meeting is set out in Rule 18 of the Rules of Procedure. This order basically follows that of the pre-1997 Legislature except that bills and motions proposed by the Government and by Members are separately itemized and bills are placed before motions.

⁴⁶ In the pre-1997 Standing Orders, the expression "Order Paper" was used to describe "Agenda" of the Council.

⁴⁷ [Government bills in this context refer to Government motions which include bills as "議案" is used in the Chinese version of Article 72\(2\) of the Basic Law.](#)

⁴⁸ [Rule 19\(1\) of the Rules of Procedure.](#)

⁴⁹ [Rule 18\(1\) of the Rules of Procedure.](#)

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Government's bills and motions are placed ahead of Members' bills and motions in compliance with the requirement set out in Article 72(2) of the Basic Law⁵⁰ although the same requirement was also stipulated in the pre-1997 Standing Orders.⁵¹ The giving of priority to Government bills and motions in the order of business of the Legislative Council is to reflect the constitutional obligations imposed on the Government by the Basic Law to draft and introduce bills, motions and subsidiary legislation⁵². The other change to the order of business after 1997 is the inclusion of a new item of business under which Members may debate subsidiary legislation tabled in the Council but to which no amendments have been proposed. This amendment to Rule 18 was approved by the Council on 2 December 2009 as explained in the latter part of this Chapter⁵³ and also in Chapter 10.

Rule 18

7.38 Rule 18(1) of the Rules of Procedure provides that the business of each Council meeting other than a meeting attended by the Chief Executive under Rule 8 or Rule 13, or the first meeting of a term or a meeting to elect the President shall be transacted in the following order:

- (a) Administration of oath or affirmation.
- (b) Obituary and other ceremonial speeches.
- (c) Reading by the President of messages and announcements by the President.
- (d) Presentation of petitions.
- (e) Laying on the Table of papers and of reports of committees.
- (f) Asking and answering of questions put to the Government.
- (g) Statements by designated public officers.
- (h) Personal explanations.
- (i) Government bills.
- (j) Government motions other than those on subsidiary legislation or other instruments made under an Ordinance.
- (ja) Government motions on subsidiary legislation and other instruments made under an Ordinance.

⁵⁰ [Article 72\(2\) of the Basic Law provides that the President of the Legislative Council has the power and function to decide on the agenda, giving priority to government bills for inclusion in the agenda.](#)

⁵¹ Standing Order 12(3) provided that motions proposed to be made by and bills in the charge of public officers should be placed on the Order Paper before motions proposed to be made by and bills in the charge of Members.

⁵² [Article 62\(5\) of the Basic Law.](#)

⁵³ [See paragraphs 7.63-7.64.](#)

- (jb) Members' motions on subsidiary legislation and other instruments made under an Ordinance.
- (k) Members' bills.
- (l) Members' motions other than those specified in (jb) above.
- (m) Requests for leave for Members to attend as witness in civil proceedings and for persons to give evidence of Council proceedings.
- (n) Motions for the adjournment of the Council under Rule 16(4) of the Rules of Procedure.

7.39 The above items of business come in two parts. Items (a) to (h) are matters which do not require a decision of the Council and no debates are allowed on any of them. With the exception of questions to the Government and petitions⁵⁴, notice is not required for these items.⁵⁵ Items (i) to (n) belong to the main part of the business of the Council where bills and motions are debated and voted on. This division of business is similar to the arrangements in the legislatures of common law jurisdictions. In these legislatures, "other business" comprises unopposed private business, questions and a number of miscellaneous items of business are taken before "public business" which primarily comprises business on which, in general, debates take place.⁵⁶ When the Committee on Rules of Procedure of the Provisional Legislative Council was drafting the first set of the Rules of Procedure in 1997-98, conscious efforts were made to realign the business relating to legislative proceedings and other motions in the light of Article 72(2) of the Basic Law.⁵⁷ Government bills under item (i) are placed ahead of all other items which require debate and decision of the Council.

Suspension of Rule 18

7.40 Where there is a need to alter the order of business set out in Rule 18 of the Rules of Procedure whether as a one-off or temporary arrangement, a suspension of the Rule by resolution of the Council under Rule 91 is

⁵⁴ [In the case of petitions, although no notice requirement is stipulated, the Member who wishes to present a petition is required to inform the President not later than the day before the meeting at which he wishes to present it. Rule 20\(2\) refers.](#)

⁵⁵ [Rule 18\(2\) of the Rules of Procedure.](#)

⁵⁶ Erskine May (2011), *Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 24th Edition, p.329.

⁵⁷ [Article 72\(2\) of the Basic Law provides that the President of the Legislative Council shall exercise the power and function to decide on the agenda, giving priority to government bills for inclusion in the agenda.](#)

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required.⁵⁸ The President is still required to give priority to government bills and motions after Rule 18 is suspended.

Administration of oath or affirmation

7.41 As explained in Chapter 3⁵⁹, when assuming office, Members of the Legislative Council must, in accordance with Article 104 of the Basic Law, swear to uphold the Basic Law of the HKSAR and swear allegiance to the HKSAR. The manner and form of The Legislative Council Oath are specified in the Oaths and Declarations Ordinance (Cap. 11). The taking of Oath (or Affirmation if the Member chooses to do so) takes place at the first meeting of a new term. For those Members who fail to take the Oath or Affirmation at the first meeting or those who are returned to the Council through a by-election during the term, the taking of the Oath or Affirmation is held at the start of the earliest Council meeting possible. According to Rule 1 of the Rules of Procedure, no Member of the Council shall attend a meeting or vote at a meeting until he has made or subscribed the Oath or Affirmation.

Obituary or ceremonial speeches

Obituary speeches

7.42 By convention, obituary speeches are made to mark the death of serving Members. Obituary speeches start with the President, followed by other Members. The observance of silence, if held, usually lasts for one minute as a token of respect for the deceased Member and is held after all obituary speeches are made.⁶⁰ Prior leave of the President is required for this item to be placed on the Agenda.⁶¹

⁵⁸ [An example is the motion moved by the Chief Secretary for Administration to suspend Rule 18 of the Rules of Procedure at the Council meeting of 20 June 2012 for the purpose of advancing the Government's motion on the restructuring of the Government Secretariat before the Government bills on the Agenda. *Hansard*, p. 15909-15911.](#)

⁵⁹ [See Chapter 3, para. 3.25-3.33.](#)

⁶⁰ [Examples are the obituary speeches made on 24 June 1992 in respect of Mr Stephen NG Ming-yum; 19 May 1993 in respect of Mr Stephen CHEONG Kam-chuen; 4 June 1997 in respect of Mr Samuel WONG Ping-wai. Speeches paying tribute to Mr MA Lik who died on 8 August 2007 when the Council was in recess were made during the debate on the Motion of Thanks on 24 October 2007 and on the Valedictory Motion on 13 July 2008.](#)

⁶¹ [Rule 18\(2\) of the Rules of Procedure.](#)

Observance of silence

7.43 The President may order or allow the observance of silence, usually for one minute, to mourn the death of serving Members and persons who were closely related to the Council⁶² or made great contributions to Hong Kong.⁶³ Generally speaking, serving heads of the Central People's Government or the HKSAR Government, or former Presidents of the Council are considered closely related to the Council. For deceased persons who fall outside this category, the President may allow Members to move an adjournment debate for paying respect to them.⁶⁴ Alternatively, the observance of silence may take place in the House Committee. It is out of order for Members without obtaining the permission of the President to initiate an observance of silence in the course of a Council meeting.⁶⁵

7.44 In recent years, the President has also allowed the observance of a one-minute silence to mourn the deaths in major incidents, including some which took place outside Hong Kong.^{66 67 68} On 2 September 2010, a special meeting of the Council was convened during the summer recess to debate on a motion in relation to the deaths of Hong Kong citizens in an incident which

⁶² [The Legislative Council observed a one-minute silence and paid obituary tributes to Sir Edward YOUDE, then Governor and President of the Council, at its sitting on 10 December 1986. The Council also observed a one-minute silence to mourn the death of Sir David TRENCH, past Governor and President of the Council, at its sitting on 7 December 1988.](#)

⁶³ [The Hong Kong Legislative Council paid tribute to the late Mr DENG Xiaoping by observing one minute's silence in memory of Mr DENG on 26 February 1997. The Provisional Legislative Council which held its meetings in Shenzhen at that time also observed silence as a tribute to Mr DENG on 22 February 1997 followed by an announcement made by the President.](#)

⁶⁴ [The President allowed a Member to move an adjournment debate at the Council meeting of 19 January 2005 under Rule 16\(4\) of the Rules of Procedure in relation to the death of Mr ZHAO Ziyang, former Premier of the People's Republic of China, but the Member did not give the relevant notice for moving the motion before the given deadline.](#)

⁶⁵ [On 19 January 2005, President Mrs Rita FAN suspended the meeting when a Member sought to initiate the observance of silence to pay tribute to Mr ZHAO Ziyang and some Members stood in response. The Council resumed but was adjourned due to the absence of a quorum. *Hansard*, pp. 3329-3330. Also on 4 June 2014, President Jasper TSANG suspended the meeting when a Member sought the observance of silence in memory of the deceased on 4 June 1989. The Council resumed after 2 minutes. *Hansard*, pp. 14225-14226.](#)

⁶⁶ [On 12 May 1999, the President allowed a one-minute silence to pay tribute to the compatriots killed in the bombing of the Chinese Embassy in Yugoslavia and also a debate moved by the Chairman of House Committee on the same day to condemn the North Atlantic Treaty Organization for the bombing.](#)

⁶⁷ [Examples of the observance of a one-minute silence to pay condolences to the victims of disasters are the victims of a tsunami in South Asia at the Council meeting of 5 January 2005, those of earthquakes in Sichuan at the Council meetings of 14 May 2008 and 24 April 2013, those of an earthquake in Haiti at the Council meeting of 14 January 2010, and those of an earthquake in Japan at the Council meeting of 16 March 2011.](#)

⁶⁸ [On 5 January 2005, the President allowed an adjournment debate moved by a Member on a tsunami in South Asia under Rule 16\(4\) of the Rules of Procedure. On 16 March 2011, the President allowed the asking of urgent questions and holding of an adjournment debate in respect of the earthquake in Japan.](#)

7. *Conduct of business in the Council*

occurred in the Philippines on 23 August 2010. A one-minute silence was observed at the start of the meeting.

Reading of messages and President's announcements

Historical background

7.45 Historically, during the early days of the pre-1997 Legislature when the Governor was the President of the Legislative Council, the President usually directed a public officer to read out messages from the Crown or the Secretary of State on matters relating to the Royalty or business of the Legislative Council.⁶⁹ Starting from mid 1860s, these messages were instead laid on the Table of the Council at the appropriate juncture, e.g. at the first reading of a bill if the message from the Secretary of State was related to that bill⁷⁰. The President's announcements were usually related to the turnover of the membership of the Council and appointment of members of standing committees.⁷¹ Apart from welcoming new Members to the Council, valedictories were also made at this juncture to pay tributes to retiring Members. On occasions, the President, as Governor, made announcements in the form of statements to set out the Government's position in response to pressing issues or major incidents of public concern.⁷² No question was allowed on the President's announcements or statements.

Current practice

7.46 In the HKSAR Legislature, announcements by the President at Council meetings are generally related to matters relating to the Council. For example, at the Council meeting of 3 February 2010, the President made a statement on his views regarding the quorum of the Council following the resignation of 5 Members in the week before the meeting.⁷³ On occasions, the President may announce changes to some of the standing meeting arrangements or his approach in controlling the order of the Council. For example, at the beginning of the Council meeting of 15 January 2014 at which the Chief Executive would deliver his Policy Address, the President made remarks on how he would deal with Members using offensive and insulting

⁶⁹ [The last time when a message from the Secretary of State was read at a Council sitting was on 22 January 1866.](#)

⁷⁰ [Council sitting on 26 April 1866; Council sitting on 5 May 1868.](#)

⁷¹ [For example, Council sittings on 24 January 1929 and 10 January 1968.](#)

⁷² [For example, Council sittings on 9 March 1938 and 21 June 1989.](#)

⁷³ [Council meeting of 3 February 2010, Hansard, pp. 4718-4719.](#)

language about the Chief Executive. The President may also announce a specific arrangement for the conduct of a Council meeting in the course of the meeting when he considers it necessary to do so.⁷⁴ The President's announcements are not subject to debate, but he may at his discretion respond to Members' questions for the purpose of elucidation.

7.47 Messages received from outside bodies or announcements of a general nature are usually circulated to Members outside the meetings of the Council. Prior leave of the President is required if they are to be entered into the order of business of a meeting.⁷⁵ Valedictory speeches are now made at the end of the last meeting of a term upon a motion moved by the Chairman of the House Committee.

Presentation of petitions

Historical background

7.48 The presentation of petitions by Members of the Legislative Council has a long history in Hong Kong. It was first provided for in the 1858 Standing Orders, and petitions were originally presented to the Governor after he had taken the chair at a sitting. It was not until 1913 that petitions were presented to the Council. Even so, the President, who was the Governor, had the authority to decide whether a petition should be presented to the Council based on the criteria laid down for petitions at the time. Under the Standing Orders in 1858, it was simply required that a petition should be respectful and deserving of presentation.

7.49 In the 1884 Standing Orders, presentation of petitions was linked with private rights and the examination of witnesses; and petitions were required to relate to "matters of Legislation". The 1929 Standing Orders removed the requirement for a petition to relate to matters of legislation, but other criteria were added. These included the need for the signification of the Governor's recommendation if the petition was to ask for a grant of public money or the release of a debt to public funds, and a provision for conforming with any other rules from time to time prescribed by the Council.

⁷⁴ [Council meeting of 8 May 2013, *Hansard*, pp. 9934-9936; Council meeting of 21 May 2014, *Hansard*, pp. 11613-11615.](#)

⁷⁵ [Rule 18\(2\) of the Rules of Procedure.](#)

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7.50 As regards the method of dealing with petitions, the initial requirement in 1858 was to have a motion passed by the Council for a petition to be read. A petition, once read, could be followed up by the Council itself or referred to a committee and witnesses could be called. The linking of petitions to the infringement of private rights affected by proposed bills in 1884 particularly highlighted the fact that "all parties interested may, upon petition for that purpose, and on motion made, seconded, and carried, be heard before the Council, or any Committee thereof, either in person, or by Counsel."⁷⁶ The Member who presented the petition, or the petitioner, or any other witnesses could be called and their evidence should be taken down by the Clerk.

7.51 The 1912 Standing Orders stated that the President should receive petitions but if he had any doubt about whether a petition related to legislation, he should refer the matter for the decision of a committee known as the Law Committee. However on the question of whether the petition was "properly and respectfully worded"⁷⁷, the President's decision was final. All petitions which the President agreed to receive should be laid on the Table without question put unless the Member presenting a petition moved that it be read, printed or referred to a select committee for consideration and report. Petitions relating to any bill being examined by a special or standing committee should be referred to that committee which was required to present the petitions back to the Council with its reports.

7.52 The standing orders for the presentation of petitions and referral of petitions to committees were substantially changed in 1968. The most significant change was that a motion was no longer required to be passed by the Council for a petition to be referred to a committee. Standing Order No. 13 provided that if not less than 10 Members rose to support a request from a Member that the petition presented before the Legislative Council be referred to a select committee, it should stand referred to a select committee. In 1968, the total number of Members in the Council was 26. The new provision had enabled a matter which was of great concern to a substantial number of Members of the Council, though not the majority of Members, to be studied by a select committee. The number of members required for giving support to this kind of referral was raised to 15 in 1976 (out of a membership of 42 (up to 46)⁷⁸) and to 20 in 1983 (out of a membership of 48 (up to 58)⁷⁹)

⁷⁶ Standing Orders Nos. 47-48 of the Standing Orders of the Hong Kong Legislative Council (1884).

⁷⁷ [See Chapter 6, para. 6.4.](#)

⁷⁸ [The figure in bracket shows the maximum number of Members allowed.](#)

⁷⁹ [The figure in bracket shows the maximum number of Members allowed.](#)

"to reflect the expansion of the Council membership". It should be noted that in 1968 select committees were the only form of committee in the Council other than standing committees which were given defined terms of reference.

7.53 The provisions included in the 1968 Standing Orders continued to be used in the pre-1997 Legislature until June 1997 and were adopted for use by the Provisional Legislative Council and included in the Rules of Procedure of the present HKSAR Legislature.

Current practice

Content and format

7.54 Under Rule 20 of the Rules of Procedure, petitions may only be presented by Members of the Council. A Member who wishes to present a petition to the Council should inform the President at least one day before the Council meeting at which the petition is intended to be presented. He should certify in writing that the petition is respectful and, in his opinion, deserving of presentation. The petition should be in the Chinese or English language.

7.55 Where the President is of the opinion that a petition is making provision:

- (a) for imposing or increasing a tax; for imposing or increasing a charge on the revenue or other public moneys of the HKSAR; or
- (b) for altering such a charge otherwise than by reducing it; or
- (c) for compounding or remitting a debt due to the Government,

the petition should not be allowed to be presented unless written consent has been given by the Chief Executive. The consent so given should be recorded in the minutes of proceedings of the Council.⁸⁰

7.56 When presenting a petition to the Council, a Member should not include in his speech anything more than a summary statement of the number and description of the petitioners and the substance of the petition.⁸¹

⁸⁰ [Rule 20\(3\) of the Rules of Procedure.](#)

⁸¹ [Examples are Mr Albert HO's presentation of a petition relating to an appeal for supporting the standing efforts of the United Nations Commission on Human Rights to prevent any inhuman acts, genocides and massacres in the light of the 63rd anniversary of the Nanking Massacre \(13 December 2000\), and Mr Michael MAK's presentation of a petition to urge the Government to take decisive initiatives to provide promptly comprehensive and sound preventive measures against infection \(30 April 2003\).](#)

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Referral of a petition to a select committee

7.57 A petition will be referred to a select committee if not less than 20 Members rise to support such a request made by a Member immediately after the petition has been presented. The arrangement, as explained above, has been adopted in the Rules of Procedure as it was part of the pre-1997 mechanism to enable a matter which was of great concern to a substantial number of Members of the Council to be studied by a select committee. Where the power to summon witnesses is to be exercised by the select committee, section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) provides that an authorization by a resolution of the Council is required.

7.58 The first referral of a petition to a select committee in the history of the HKSAR Legislature took place on 8 May 2013.⁸² The petition was related to the conduct of a former Commissioner of the Independent Commission Against Corruption, and was then referred to a select committee appointed by the President on 17 June 2013. The select committee met and decided to conduct an inquiry into the matter. It reported back to the Council on 9 July 2014. Since then, a number of petitions were referred to select committees for study.⁸³

7.59 After a petition is referred to a select committee appointed by the President, it is for the select committee to decide when and how the substance in the petition is to be followed up.⁸⁴ Where it is considered by the select committee that a full-scale inquiry should be conducted and the select committee should be authorized to exercise the power to summon witnesses for conducting the inquiry, a motion to that effect should be moved in the Council. The motion should contain the scope of the inquiry to be conducted. The select committee should carry out its work in accordance with the procedure set out in Rule 79 of the Rules of Procedure.

⁸² [Council meeting of 8 May 2013, *Hansard*, pp. 9414-9415.](#)

⁸³ [A petition was referred to a select committee at the Council meeting of 25 June 2014, *Hansard*, pp. 15428-15429; two petitions were referred to select committee\(s\) at the Council meeting of 15 October 2014, *Hansard*, pp 7-11.](#)

⁸⁴ [A decision was made by the House Committee on 14 June 2013 that the number of select committees established under Rule 20\(6\) of the Rules of Procedure without being authorized to exercise the powers under section 9\(1\) of Cap. 382 that could be in operation should be capped at one at any one time.](#)

Tabling of papers and committee reports

7.60 The papers that come within the scope of Rule 21 of the Rules of Procedure for presentation to the Council include the following:

- (a) any reports or documents⁸⁵ required to be laid on the Table of the Council under any ordinance in the Laws of Hong Kong, such as annual reports of statutory bodies⁸⁶;
- (b) any subsidiary legislation or other instrument published in the Government Gazette for laying on the Table of the Council;
- (c) a report of a Bills Committee after completion of the study of a bill referred to it under Rule 75(4) of the Rules of Procedure;⁸⁷
- (d) a report of the House Committee on the consideration of subsidiary legislation and other instruments laid on the Table of the Council in accordance with Rule 49D of the Rules of Procedure; and
- (e) any paper which The Legislative Council Commission, any committee of the Council, a Member or a designated public officer wishes to present.

7.61 Under Rule 21 of the Rules of Procedure, both designated public officers and Members may present papers to the Council but the papers presented by Members require the permission of the President.⁸⁸ A copy of the paper should be sent to the Clerk who will distribute it to each Member and arrange for its publication.⁸⁹

⁸⁵ [There are documents, such as the Road Users' Code under section 109 of the Road Traffic Ordinance \(Cap. 374\) which is required to be tabled in the Legislative Council but they are not required to be published in the Gazette.](#)

⁸⁶ [It is common that a statutory body receiving or incurring public funds is required by law to cause its annual report which includes a statement of account to be laid on the Table of the Legislative Council. Examples include yearly financial statements of certain organisations, e.g. the Fish Marketing Organisation under section 23\(3\) of the Marine Fish \(Marketing\) Ordinance \(Cap. 291\), and the Hong Kong Housing Authority under section 14\(4\) of the Housing Ordinance \(Cap. 283\).](#)

⁸⁷ [Rule 75\(4\) of the Rules of Procedure provides that at any time after a bill has been referred to the House Committee after it is moved at the Second Reading debate, the House Committee may allocate it to a Bills Committee for consideration.](#)

⁸⁸ [Rule 21\(1\) of the Rules of Procedure.](#)

⁸⁹ [Rule 21\(2\) of the Rules of Procedure.](#)

7. *Conduct of business in the Council*

Speaking on papers presented to the Council

General principles

7.62 The Member or the designated public officer presenting a paper in the Council may, with the permission of the President, address the Council on the paper.⁹⁰ As no debate may arise on any address,⁹¹ any Member who wishes to address the Council is required to provide an advance copy of his intended address to enable the President to decide whether it may provoke a debate.⁹² The President may in his discretion allow short questions to be put to the Member or the designated public officer making the address for the purpose of elucidating any matter raised by the Member or the designated public officer in the course of his address.⁹³

Speaking on subsidiary legislation

7.63 Any Member or designated public officer, with the permission of the President, may also address the Council on subsidiary legislation or other legislative instruments⁹⁴ which are tabled in the Council within the scrutiny period⁹⁵ unless a motion is to be moved at the same meeting to amend the subsidiary legislation (or instrument) or to take note of a report on the said subsidiary legislation (or instrument) tabled in accordance with Rule 49D of the Rules of Procedure. The arrangements set out in Rules 49D and 49E of the Rules of Procedure were introduced in 2009 after a study was conducted by the Committee on Rules of Procedure to address Members' concern over the restriction on their addresses in relation to subsidiary legislation under the scrutiny of the Council. While Members could speak at the debate on the subsidiary legislation if a motion to amend it is to be moved, not all subsidiary legislation would be amended and the only opportunity for Members to speak on such legislation was through addressing the Council under Rule 21 of the Rules of Procedure. It had become difficult for Members as such addresses could not provoke a debate.

7.64 After its study, the Committee on Rules of Procedure proposed a procedure which was endorsed by the Council on 2 December 2009. Under

⁹⁰ [Rule 21\(3\) of the Rules of Procedure.](#)

⁹¹ [Rule 21\(6\) of the Rules of Procedure.](#)

⁹² [Rule 2 of the House Rules.](#)

⁹³ [Rule 21\(6\) of the Rules of Procedure.](#)

⁹⁴ This type of subsidiary legislation is subject to negative vetting and no motion is required to be moved in the Council on the legislation unless to amend or repeal it.

⁹⁵ [See paragraph 7.82.](#)

this new procedure, a report of the House Committee which has the responsibility of overseeing the scrutiny of subsidiary legislation should be tabled at the expiry of the scrutiny period under Rule 49D of the Rules of Procedure. The Chairman of the House Committee will move a motion under Rule 49E to take note of the report if any Member indicates that he wishes to speak on any of the subsidiary legislation in the report. If notice of a motion has already been given to amend the same subsidiary legislation under Rule 29(2) of the Rules of Procedure, a separate motion to take note of the report will not be allowed. Similarly, if the subsidiary legislation is referred to in a report which is the subject of a motion to be debated in the Council, no Member is allowed to address the Council on the same subsidiary legislation under Rule 21(7) of the Rules of Procedure. More details on the manner of debating a motion moved under Rule 49E of the Rules of Procedure are provided in Chapter 10.⁹⁶

Speaking on the reports of Bills Committees

7.65 The requirement that the reports of Bills Committees should be tabled in the Council was only put in place by the First Legislative Council of the HKSAR. To establish a formal relationship between the Council and its committees, all committees are required to report to the Council upon completion of their work or as and when considered necessary. Under Rule 76(9) of the Rules of Procedure, a Bills Committee is required to, as soon as it has completed consideration of the bill allocated to it, advise the House Committee in writing of its deliberations and then report further to the Council. When the report of the Bills Committee has been laid on the Table of the Council, Rule 21(4) provides that the Member presenting it may address the Council on the report at the commencement of the resumption of the second reading debate on the bill. Rule 54(7) further provides that the Member making this report may, with the permission of the President, be the first Member to speak at the second reading debate on the bill.

7.66 Rule 21(4A) of the Rules of Procedure was added in 2005 to enable the Member presenting a report of the Bills Committee to speak at the meeting of the Council if an announcement is to be made at the same meeting for the withdrawal of the Bill. This arrangement was considered necessary because an announcement to withdraw or postpone a bill was originally only allowed to be made at the beginning of the proceedings for resumption of its second reading debate or for its third reading. Where a decision to withdraw a bill is

⁹⁶ [See Chapter 10, para. 10.96-10.98.](#)

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made in the course of the study of the bill by a Bills Committee after the debate on second reading is adjourned, the most appropriate occasion to announce the withdrawal of the bill is at the resumption of the second reading debate. On 4 May 2005, the Council endorsed the amendment to Rule 64 of the Rules of Procedure so that the Member or public officer in charge of the bill may announce the withdrawal of the bill at the beginning of proceedings for the resumption of the second reading debate if the purpose of the resumption is for making such an announcement.⁹⁷ Rule 21(4A) was added to enable the Member presenting a report of the Bills Committee to speak at the same meeting and before the Member or public officer in charge of the Bill makes such an announcement.

Question time

7.67 Under Article 73(5) of the Basic Law, the Legislative Council has the power and function to raise questions on the work of the government. The government must answer questions raised by Members of the Council in accordance with Article 64 of the Basic Law which enshrines various aspects of the government's accountability to the legislature. In specific terms, Rule 22(1) of the Rules of Procedure provides that any Member may address a question to the Government on its work by either seeking information on such matter or asking for official action with regard to it.

Oral and written questions

7.68 Members are required to give notice of the questions they wish to ask at a particular meeting except for urgent questions where permission is given by the President in accordance with Rule 24(4) of the Rules of Procedure.⁹⁸ A Member should specify whether an oral or a written reply is required.⁹⁹ Details on how Members are allocated with question slots to ensure a fair chance for each Member to ask oral and written questions are provided in Chapter 9.

⁹⁷ [Rule 64\(2\) of the Rules of Procedure.](#)

⁹⁸ [Rule 24\(1\) and \(4\) of the Rules of Procedure.](#)

⁹⁹ [Rule 22\(2\) of the Rules of Procedure.](#)

7.69 Under Rule 23 of the Rules of Procedure, with the exception of those meetings mentioned in subrule (1)¹⁰⁰, no more than 22 questions¹⁰¹ may be asked at each Council meeting and no more than 6 of which may require an oral reply where there are to be one or more debates on motion(s) not intended to have legislative effect.¹⁰² Where no such debate has been scheduled for a meeting, the President may allow up to 10 oral questions to be asked at that meeting.¹⁰³ The House Committee may recommend to the President that no oral questions should be asked in respect of a particular meeting.¹⁰⁴ In this respect, the House Committee decided, as reflected in Rule 7(e) of the House Rules, that no oral questions may be put to the Government at the Council meetings for debate on the Appropriation Bill and for the debate on the Motion of Thanks.

7.70 In practice, a 2-hour time slot (which has in practice been extended to 2.5 hours) is earmarked as Question Time for the asking of 6 oral questions at each Council meeting. With the broadcasting of Council proceedings on television and websites, the proceedings on oral questions in particular capture the attention of the general public. The asking of questions at Council meetings has become an important tool for calling the Government to account in respect of its work. Even if a Member is not allocated with a question slot at a meeting, he may ask supplementary questions. The queue for supplementary questions often becomes rather long. On 25 May 2012, the House Committee decided that the time taken by an oral question (including any supplementary or follow-up questions and answers) should not exceed 22 minutes in total. This is now reflected in Rule 9A of the House Rules. In order that Members may have a fair chance to ask supplementary questions, the President has made use of the electronic queuing system to register the time a Member pressed the button to indicate his intention to ask supplementary questions and he may accord priority to those who have asked the least number of supplementary questions in the session and those who are higher on the queuing list. Details are provided in Chapter 9.

¹⁰⁰ [Rule 23\(1\) of the Rules of Procedure provides that no questions may be asked at the first meeting of a term or a meeting at which the President is elected or the Chief Executive delivers the Policy Address.](#)

¹⁰¹ [On 20 March 2013, the Council amended Rule 23\(2\) of the Rules of Procedure to increase the number of questions that may be asked at each meeting from no more than 20 to no more than 22 in view of the increase in membership of the Fifth Legislative Council. *Hansard*, pp 7645-7647. The number of questions has been increased from 20 to 22 since the Council meeting of 17 April 2013.](#)

¹⁰² [Rule 23\(2\) and \(3\) of the Rules of Procedure.](#)

¹⁰³ [Rule 23\(3\) of the Rules of Procedure.](#)

¹⁰⁴ [Rule 23\(4\) of the Rules of Procedure.](#)

7. *Conduct of business in the Council*

Urgent questions

7.71 Notwithstanding the maximum number of questions permitted for each Council meeting¹⁰⁵ and the notice requirements¹⁰⁶ set out in the Rules of Procedure, a Member may still ask permission from the President to ask a question without notice under Rule 24(4) of the Rules of Procedure on the ground that it is of an urgent character and it relates to a matter of public importance, provided sufficient private notice has been given to the Government to enable the question to be answered. This applies at any meeting including any of the meetings mentioned in Rule 7(e) of the House Rules,¹⁰⁷ except those meetings set out in Rule 23(1) of the Rules of Procedure. Where the President has permitted two or more urgent questions on related subject matters to be asked at a Council meeting, he may invite the designated public officer(s) to first answer each of these questions according to the order of these questions on the Agenda and then to answer all supplementary questions. Details are provided in paragraph 9.64.

Statements by designated public officers

7.72 Statements by public officers are given after Question Time. There was a historical reason for this. It was not uncommon in the early years of the pre-1997 Legislature that Government officers made use of statements to explain anything that was misunderstood in their replies to Members' questions at previous sittings or to supplement their earlier replies.¹⁰⁸ For example, on 20 November 1968, the Attorney General made a statement to express regret for providing a wrong figure in his answer to an oral question at a previous sitting and made an apology for the mistake.¹⁰⁹ Another example was the Attorney General's statement made on 19 November 1969 to correct the wrong impression given to the general public as a result of a newspaper report on the privileges of Members of the Legislative Council.¹¹⁰ Generally speaking, statements were made to announce new legislation, Government's White Papers and results of inquiries conducted by the Government. The frequency of making statements was relatively high in late 1960s and

¹⁰⁵ [Rule 23 of the Rules of Procedure.](#)

¹⁰⁶ [Rule 24 of the Rules of Procedure.](#)

¹⁰⁷ [Examples are the question on the acceptance of passage and discounts by public officers at the Council meeting of 29 February 2012 and on West Kowloon Reclamation Concept Competition at the Council meeting of 15 February 2012.](#)

¹⁰⁸ [Council sitting on 30 July 1969, *Hansard*, pp. 446-448.](#)

¹⁰⁹ [Council sitting on 20 November 1968, *Hansard*, pp. 575-576.](#)

¹¹⁰ [Council sitting on 19 November 1969, *Hansard*, pp. 161-163.](#)

throughout the 1970s with some 6 to 8 statements made in each session. Although it had always been advocated by the Legislature that any new and important policies of the Government should first be made known to Members through the making of statements in the Council, this practice has become less frequently used in recent years. During the 4-year term of the Fourth Legislative Council, only two statements were made and both were related to the methods for electing the Chief Executive and forming the Legislative Council in 2012.

7.73 The current Rule 28 of the Rules of Procedure was adopted from Standing Order No. 20 of the pre-1997 Legislature. Under Rule 28(1), a designated public officer should inform the President of his wish to make a statement on any issue concerning public interest before the beginning of the meeting at which he wishes to make the statement. According to Rule 18(1) of the Rules of Procedure, statements should be made after Question Time and before the Council proceeds to the part of the business where Council's decisions are required. If it is considered necessary that a statement should be made but the Council has already commenced business under item (i) in Rule 18(1) of the Rules of Procedure or beyond, suspension of Rule 18 is required.

7.74 Rule 28(2) of the Rules of Procedure provides that there should be no debate on a statement but the President may allow short and succinct questions relevant to the statement to be put to the public officer making the statement. This subrule originally stipulated that the short questions should only be for the purpose of elucidation. However in practice Members' questions on a statement were usually not only for elucidation.¹¹¹ In 2007-2008, in response to the request of the President, the Committee on Rules of Procedure studied the rules and practices of overseas legislatures for asking questions on ministerial statements and recommended that Rule 28(2) be amended to its present form. The amendment was approved by the Council on 20 February 2008. Since then, the President has allowed at least one hour to enable the short and succinct questions put to the public officer making the statement to be answered as far as possible.¹¹²

¹¹¹ [The practice of the President allowing Members to ask long and substantive questions on statements made by public officers has long existed even during the days of the pre-1997 Legislature. See Council sitting on 17 June 1970, *Hansard*, pp. 715-716.](#)

¹¹² [Refer to Council meetings of 18 November 2009 \(1 hour 36 minutes\), 14 April 2010 \(1 hour 48 minutes\) and 4 December 2013 \(1 hour 2 minutes\).](#)

7. *Conduct of business in the Council*

Personal explanations

7.75 Where a Member wishes to make an explanation of a personal nature in the Council, he should inform the President and provide him with an advance copy of the intended explanation. He must obtain the President's agreement before he may make the explanation. The President should ensure that the explanation will not provoke a debate and that the contents are appropriate before he gives leave to the Member for making the explanation. The Member's explanation should not depart from the agreed contents.¹¹³

7.76 Similar to other addresses or statements, no debate may arise on an explanation but the President may allow short questions to be put to the Member making the explanation for the purpose of elucidation.¹¹⁴

7.77 If the explanation is in connection with a motion moved under Article 79(6) or 79(7) of the Basic Law for the disqualification of a Member from office, the President may direct that the explanation be copied and sent to every Member if the Member who wishes to make the explanation is unable to attend the meeting, and the text of the explanation is taken as read.^{115 116}

Government bills

7.78 Government bills are proposed by the Government with a public officer designated as the public officer in charge of each of these bills. A bill is passed by the Council after it has been read the third time in the Council. Details on the procedure on bills are set out in Part K of the Rules of Procedure and they are further explained in Chapter 11. In gist, a bill including a Government bill must go through the following 5 stages after publication in the Gazette and presentation to the Council:

- (a) The short title of the bill is read the first time by the Clerk; the Council is deemed to have ordered the bill to be set down for second reading;¹¹⁷

¹¹³ [Rule 28A\(1\) of the Rules of Procedure.](#)

¹¹⁴ [Rule 28A\(2\) of the Rules of Procedure.](#)

¹¹⁵ [Rule 28A\(3\) of the Rules of Procedure.](#)

¹¹⁶ [See Chapter 3, para. 3.107.](#)

¹¹⁷ [Rule 53 of the Rules of Procedure.](#)

- (b) The public officer in charge of the bill moves a motion "That the Bill be read the second time" and speaks on the motion. The Council proceeds to debating the general merits and principles of the bill.¹¹⁸ Normally the second reading debate is adjourned after the public officer in charge of the bill has spoken.¹¹⁹ The bill then stands referred to the House Committee for consideration.¹²⁰ At House Committee, the bill may then be referred to a Bills Committee for detailed study. Following receipt of a report on a bill from a Bills Committee, if one was formed, the public officer in charge of the Bill may give notice for the resumption of the second reading debate in the Council.
- (c) The second reading debate is resumed in the Council and the motion voted on after the debate. If passed, the bill is read the second time.
- (d) The Council resolves into a committee of the whole Council.¹²¹ At Committee stage, the Chairman proposes the motion "That the following clauses stand part of the bill". The number of each clause is then read by the Clerk and the clause is deemed to have been proposed and a debate will take place. If any amendment is to be proposed to a clause, a motion needs to be moved to amend the clause. A debate will then follow. If the motion to amend the clause is passed, the amended clause is put to vote, and if passed again, will become part of the bill.¹²²
- (e) The Council then resumes and the bill moves to the third-reading stage. The public officer in charge of the bill moves a motion "That the Bill be read the third time." A debate then takes place and the motion is put to vote. Once passed, the bill is read the third time and is passed.¹²³

¹¹⁸ [Rule 54\(3\) of the Rules of Procedure.](#)

¹¹⁹ [The normal procedure under Rule 54\(4\) of the Rules of Procedure of referring a bill to the House Committee is subject to an expedited process for urgent bills.](#)

¹²⁰ [Rule 54\(4\) of the Rules of Procedure.](#)

¹²¹ [Rule 55\(1\) of the Rules of Procedure.](#)

¹²² [Rule 58 of the Rules of Procedure.](#)

¹²³ [Rule 63 of the Rules of Procedure.](#)

7. Conduct of business in the Council

7.79 There was at one time a practice of the Council to deal with all the bills which had reached the same stage one by one and then move to the next stage.¹²⁴ As a result, public officers responsible for those bills which were resumed for second reading had to wait for their turn at every stage until their respective bills were finally read the third time at the same meeting. The present arrangement, though not stated in the Rules of Procedure, is that the Council deals with all remaining stages of a bill in turn before moving to the next bill on the Agenda. This arrangement is regarded as a more effective way to deal with bills. Details of the actual operation at Committee stage, including the way amendments to clauses and schedules are handled, are provided in Chapter 11.

7.80 Where there is an urgent need for the passage of legislation, the Government may introduce bills that may have their 3-reading process completed in one Council meeting. In this case, after the public officer in charge of the bill has spoken at the second reading debate, any Member may move without notice for the bill not to be referred to the House Committee under Rule 54(4) of the Rules of Procedure. If this motion is passed, the Council will immediately proceed to debating the motion on the second reading of the bill and if passed, will then proceed direct to committee stage and then third reading at the same meeting. Examples are the Immigration (Amendment) Bill 1982¹²⁵ and the Overseas Trust Bank (Acquisition) Bill 1985¹²⁶.

Motions on subsidiary legislation and other instruments

7.81 The legal requirements and procedures for dealing with subsidiary legislation are provided in sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) and in Rule 21 and the entire Part G (Motions) of the Rules of Procedure. As explained in Chapter 6, the supporting technical details of a piece of legislation are often set out in subsidiary legislation which may bear the title of proclamation, rule, regulations, order, resolution, notice,

¹²⁴ [The last Council sitting at which all bills which reached the same stage were dealt with before moving to the next stage was the Council sitting was held on 8 July 1992.](#)

¹²⁵ [The Immigration \(Amendment\) Bill 1982 aimed to give effect to the policy of the Government to set up closed camps and detain Vietnamese refugees arriving in Hong Kong on, or after, 2 July 1982. The Bill was first read at the Council sitting of 30 June 1982 and passed through the 3-reading process at the same sitting. *Hansard*, pp. 1016-1030.](#)

¹²⁶ [The Overseas Trust Bank \(Acquisition\) Bill 1985 was passed with 3 readings done at the same sitting on 7 June 1985. The Bill provided for the acquisition by the Government of the Overseas Trust Bank, the compensation payable in respect of such acquisition and the carrying on of the business of that Bank and for connected purposes. *Hansard*, pp. 1181-1193.](#)

rule of court, or other instruments. Unless otherwise provided in the ordinance, subsidiary legislation is subject to the scrutiny and intervention by the Legislative Council through the procedures set out in section 34 (for those subject to the negative vetting procedure) and section 35 (for those subject to the positive vetting procedure) of Cap. 1. Motions may be moved by both public officers and Members to amend¹²⁷ a piece of subsidiary legislation tabled or proposed in the Council.

7.82 Under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), all subsidiary legislation must be laid on the Table of the Legislative Council at its sitting next following the publication of the subsidiary legislation in the Gazette.¹²⁸ Amendments to the subsidiary legislation may be made by resolution in the Council not later than 28 days after the laying on the Council's table of the subsidiary legislation.¹²⁹ This 28-day scrutiny period may be extended by resolution of the Council before the expiry of the scrutiny period to the first sitting of the Council held not earlier than the 21st day after the 28-day period.¹³⁰ Where the scrutiny period ends on a date after the last meeting of the session but before the second meeting of the next session, separate extension arrangements are provided in the Ordinance.¹³¹ The notice periods for moving these resolutions vary and they are set out in Rule 29 of the Rules of Procedure. This is further explained in Chapter 11.

7.83 Under section 35 of the Interpretation and General Clauses Ordinance (Cap. 1), where any subsidiary legislation is subject to the approval of the Legislative Council, the subsidiary legislation must be submitted to the Legislative Council for its approval. The Council may by resolution amend the whole or any part of the subsidiary legislation so submitted. The wording used to describe this requirement may be in different formats but the effect is the same. For example, it could read as "The Legislative Council may ... by resolution authorize ..." ¹³², or "Subject to the approval of the Legislative Council, the Board may .." ¹³³, or "... as may be determined by the Legislative Council by resolution" ¹³⁴, etc. Where the provision in the Ordinance has the effect of requiring the approval of the Legislative Council, a proposed

¹²⁷ [Under section 3 of the Interpretation and General Clauses Ordinance \(Cap.1\), "amend" includes repeal, add to or vary and the doing of all or any of such things simultaneously or by the same Ordinance or instrument.](#)

¹²⁸ [Section 34\(1\) of the Interpretation and General Clauses Ordinance \(Cap. 1\).](#)

¹²⁹ [Section 34\(2\) of the Interpretation and General Clauses Ordinance \(Cap. 1\).](#)

¹³⁰ [Section 34\(4\)\(a\) of the Interpretation and General Clauses Ordinance \(Cap. 1\).](#)

¹³¹ [Section 34\(4\)\(b\) of the Interpretation and General Clauses Ordinance \(Cap. 1\).](#)

¹³² [Section 7\(1\) of the Public Finance Ordinance \(Cap. 2\).](#)

¹³³ [Section 29\(1\) of the Pharmacy and Poisons Ordinance \(Cap. 138\).](#)

¹³⁴ [Section 23 of the Hong Kong Export Credit Insurance Corporation Ordinance \(Cap. 1115\).](#)

7. *Conduct of business in the Council*

resolution should be submitted to the Council. For dealing with proposed resolutions, the rules in Part G (Motions) of the Rules of Procedure will apply.

7.84 Proposed resolutions on subsidiary legislation are subject to amendments. Any Member who wishes to amend a proposed resolution should give due notice unless with leave of the President the notice requirement is dispensed with. The amendment motions are placed under the same item for the motion on the Agenda.

7.85 The procedure to take note of a report of the House Committee on the consideration of subsidiary legislation and other instruments as explained in paragraph 7.63 above, is to enable Members to speak on the subsidiary legislation which is tabled in the Council but to which no amendment is made.¹³⁵ The procedure is set out primarily in Rules 49D and 49E and also in Rules 21(7), 33(2A), 33(3AA), 33(3C) and 38(1)(fa) of the Rules of Procedure and is explained in Chapter 10.

7.86 The sequence of motions on subsidiary legislation on the Agenda is arranged in the following order:

- (a) Government motions moved under the Basic Law or any statute including those in relation to subsidiary legislation moved under section 35 of Cap. 1 or those tabled in the Council under section 34;
- (b) Members' motions to amend the motions in (a) above, placed under the relevant motions to which the proposed amendments relate¹³⁶;
- (c) Members' motions to extend the scrutiny period of subsidiary legislation tabled in the Council under section 34 of Cap. 1;
- (d) Members' motions to amend subsidiary legislation if there is no Government motion in relation to that subsidiary legislation; and

¹³⁵ [Under Rule 21\(6\) of the Rules of Procedure, no debate may arise on any address presented by a Member or a designated public officer under subrules \(3\), \(4A\) and \(5\).](#)

¹³⁶ [The sequence of the motions to amend subsidiary legislation laid on the Table of the Council in accordance with section 34 of Cap. 1, is based on the order in which the amendments relate to the texts of the subsidiary legislation, i.e. the location in the text, and, if that being equal, the time of submission.](#)

- (e) Members' motion to take note of the report of the House Committee on the consideration of subsidiary legislation and other instruments under Rule 49E(2) of the Rules of Procedure.

7.87 For the Government motions in (a) above, they may include a motion under the Basic Law or a statute, such as a motion to endorse the appointment of judges. The sequence of these Government motions is determined according to the seniority of the public officers moving the motions¹³⁷ unless advised otherwise by the Government and with the consent of the President. If the motion is one not intended to have legislative effect, the motion is placed after all those motions (including amendments) with legislative effect have been dealt with.

Members' bills

7.88 Under Article 74 of the Basic Law, Members may introduce bills in accordance with the provisions of the Basic Law and legal procedures. Members, individually or jointly, may introduce bills which do not relate to public expenditure or political structure or the operation of the government. Bills relating to government policies require the written consent of the Chief Executive. According to Rule 54(2) of the Rules of Procedure, the signification of the Chief Executive's written consent must be recorded in the minutes of proceedings.

7.89 The procedure for dealing with Members' bills at meetings of the Council and in committee of the whole Council is substantially the same as that for Government bills. The main difference is that all motions¹³⁸ arising from a Members' bill in the Council or in a committee of the whole Council are regarded as Members' motions and their passage requires a majority vote of each of the two groups of Members from functional constituencies and geographical constituencies present in the Council or committee, except that in the case of an amendment proposed by the Government where a majority vote of the Members present is required.

¹³⁷ For example, a motion to be moved by the Chief Secretary for Administration is placed before a motion to be moved by a Bureau Secretary. The seniority of public officers on the same rank is determined according to their seniority on the Government Precedence List.

¹³⁸ [See "subsidiary motions" in relation to the processing of a bill in Chapter 10.](#)

7. *Conduct of business in the Council*

Members' motions

Motions intended to have legislative effect

7.90 Other than proposing amendments to subsidiary legislation tabled or moved in the Council, any Member of the Council may also move a motion to pass a resolution which the Legislative Council may make under the law to make or amend regulations, schedules, codes or other subsidiary legislation in an ordinance as referred to in paragraph 7.83 above. The mover of the motion should comply with the notice requirements under Rule 29 and the manner of giving notice of such a motion or any amendment to the motion under Rule 30 of the Rules of Procedure. Such motion or amendment, if moved by a Member, is also subject to the restriction in Rule 31(1) of the Rules of Procedure that the Chief Executive's written consent must be obtained if the President is of the opinion that the motion or amendment may have a charging effect on the revenue or other public moneys of Hong Kong.¹³⁹

7.91 There are also motions which may be moved by Members in accordance with specific provisions of the Basic Law. Examples are motions to amend the Rules of Procedure of the Legislative Council (Article 75)¹⁴⁰, to give mandate to the Chief Justice to form and chair a committee to investigate a charge against the Chief Executive for serious breaches of the law and/or dereliction of duty (Article 73(9))¹⁴¹, to relieve from duty a Member convicted and sentenced to imprisonment for one month or more for a criminal offence (Article 79(6))¹⁴², to censure a Member for misbehaviour or breach of oath (Article 79(7))¹⁴³ and motions in connection with procedures concerning amendments to the Basic Law (Article 159)¹⁴⁴.

7.92 Motions intended to have legislative effect are placed on the Agenda of the Council before those not intended to have legislative effect on the Agenda of the Council. Those moved in accordance with the Basic Law are placed before all other motions under item (l) in respect of Members' motions other than those specified in paragraph (jb)¹⁴⁵ in Rule 18(1) of the Rules of

¹³⁹ [Details of the discussion between the Government and Members of the First Legislative Council on the applicability of Article 74 of the Basic Law are provided in Chapter 10.](#)

¹⁴⁰ [Council meeting of 28 April 1999.](#)

¹⁴¹ [Such a motion requires to be initiated by at least one quarter of the membership. See Chapter 5, para. 5.66.](#)

¹⁴² [See Council meeting of 9 September 1998, *Hansard*, pp. 1384-1402; and also Council meeting of 18 April 2012, *Hansard*, pp. 8210-8277 and 8302-8354.](#)

¹⁴³ [See Council meeting of 18 April 2012, *Hansard*, pp. 8164-8209.](#)

¹⁴⁴ [See Council meeting of 19 January 2000, *Hansard*, pp. 3397-3484.](#)

¹⁴⁵ [Rule 18\(1\)\(jb\) of the Rules of Procedure refers to Members' motions on subsidiary legislation and other instruments made under an Ordinance.](#)

Procedure. The order of motions in the same category on the Agenda is determined according to the time at which the relevant notices were received by the Clerk.

Members' motions not intended to have legislative effect

7.93 One of the powers and functions of the legislature of the HKSAR is "to debate any issue concerning public interests". This power and function, which is set out in Article 73(6) of the Basic Law, in fact reflects a long-standing practice of the Hong Kong Legislature to facilitate Members to initiate motion debates to call the government to account on matters of public interests. In October 1992, to enable individual Members to have a fair chance to move motion or adjournment debates in the Council while maintaining better control of the duration and speaking time of debates, the House Committee decided that no more than two debates should be held at each regular Council sitting. The House Committee also decided that there should be an allocation system for Members to be provided with a debate slot on an issue concerning public interests at the Council sitting of their preference, as far as practicable. These practices, which were set out in the House Rules, were adopted by the First Legislative Council of HKSAR and have been maintained up to this date. Generally speaking, each Member may be allocated 3 debate slots in each 4-year term. More details are provided in Rules 13-18 of the House Rules and further explained in Chapter 10.

7.94 Prior to November 2012, in bidding for debate slots, Members had the choice of initiating either a motion debate or an adjournment debate pursuant to Rule 16(4) of the Rules of Procedure. The choice was to enable those Members who did not wish to formulate a motion in express terms for the purpose of debating an issue to move that "This Council do now adjourn" for the purpose of raising the issue with a view to eliciting a reply from a designated public officer. However, in practice, since the establishment of the First Legislative Council, there was only one occasion on which a regular debate slot was used for holding an adjournment debate.¹⁴⁶ On the contrary, there had been an increase in the number of requests put to the House Committee for supporting the holding of adjournment debates outside the allocation system. For example, in the 2008-2012 term alone, the House Committee supported the holding of adjournment debates on 16 issues concerning public interests under Rule 16(4) of the Rules of Procedure. These

¹⁴⁶ [Council meeting of 6 February 2002.](#)

7. *Conduct of business in the Council*

debates were held in addition to the two regular motion debates.¹⁴⁷ On 23 November 2012, upon the recommendation of the Committee on Rules of Procedure, the House Committee amended Rule 13(a) of the House Rules to the effect that the debates under the allocation system should all be motion debates. Any Member who wishes to move an adjournment debate for raising an issue for debate should act in accordance with Rule 16 of the Rules of Procedure.

7.95 Motions not intended to have legislative effect also include motions initiated by committees to take note of their reports or by Panels to facilitate Members to speak on Government consultation documents before the expiry of the consultation period. The mechanism adopted by the House Committee for allocating debate slots to committees for such purposes is explained in Chapter 10. Debates on motions initiated by committees will take place before the regular motion debate(s) initiated by individual Member(s) on the Agenda of the Council.¹⁴⁸

7.96 There is a standing arrangement for the Director of Bureau responsible for the policy of a motion debate passed in the Council to report on the actions taken by the Government in relation to the subject matter within 2 months after the passage of the motion. The report is circulated to the relevant Panel and it is for the Panel to decide whether and how the subject matter should be followed up.

Adjournment debates under Rule 16 of the Rules of Procedure

7.97 Under Rule 16 of the Rules of Procedure, Members may move a motion that the Council do now adjourn for the purpose of debating an issue or issues. This is to enable those Members who do not wish to formulate a motion in express terms to raise an issue or issues for debate in the Council. Members may seek to move adjournment debates under Rule 16(2) or Rule 16(4) which are subject to different requirements, as explained in Chapter 10.

¹⁴⁷ [Of the 16 requests supported by the House Committees, 2 adjournment debates scheduled to be held at the last Council meeting of 11 July 2012 could not be held before the conclusion of the meeting at midnight 18 July 2012.](#)

¹⁴⁸ [Rule 15\(c\) of the House Rules.](#) In recent years, it is normal practice for committees requesting priority allocation of debate slots to recommend to the House Committee that only one other motion debate without legislative effect should be held at the same Council meeting, and the House Committee would normally support such a recommendation, which is in line with the practice of holding not more than two motion debates at each regular Council meeting.

Rule of anticipation

7.98 In determining the Agenda of the Council, the President should also have regard to the "rule of anticipation" which is adopted with modifications in Rule 25(3) and Rule 31(2) of the Rules of Procedure. The general principle underlying the rule of anticipation is that a matter appointed for consideration by the legislature must not be anticipated by another matter of substantially the same content but contained in a less effective form of proceeding. The intention is to ensure that matters before the Council are dealt with in the most effective form of proceeding and that the Council's time is used effectively. Generally speaking, a bill or a motion intended to have legislative effect is regarded as more effective than a motion not intended to have legislative effect, while a motion is more effective than a question.¹⁴⁹ The proceedings of a standing committee or a select committee or committee authorized by the Council to conduct an inquiry must not be anticipated by a question or a motion not intended to have legislative effect.¹⁵⁰

Question vs. question

7.99 Under Rule 25(3)(a), if the subject matter of a question or any part of it is substantially the same as that of any matter of another question notice of which has been given earlier for the same Council meeting, the President may direct the Clerk to inform the Member that the question or that part of the question is out of order. Where time allows, i.e. if the notice of the question concerned is given ahead of the deadline for submitting the question, the Member who is so informed may submit another question or a question with the part which overlaps another question removed or changed before the deadline. As a general rule, the President would not allow a question to preempt a question for which earlier notice has been given. There is no distinction between oral and written questions when considering the rule of anticipation.

7.100 As regards urgent questions, if a question raised under Rule 24(4) of the Rules of Procedure satisfies the tests of urgency and public importance, the rule of anticipation would not apply to such a question. In other words, the urgent question is allowed to be asked even though the question or any

¹⁴⁹ See Erskine May's *Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 22nd Edition, pp.334-335.

¹⁵⁰ [Progress Report of the Committee on Rules of Procedure for the period May 1999 to June 2000, para. 3.2-3.16.](#)

7. *Conduct of business in the Council*

part of it may be substantially the same as one already permitted by the President to be asked by another Member at the same Council meeting.¹⁵¹

Question vs. motion

7.101 A question cannot pre-empt a motion for which notice has been given for a specific Council meeting. The Council meeting at which the motion is to be moved may not necessarily be a meeting before the meeting at which the question is intended to be asked. As the notice period for a motion (12 clear days) is longer than that for a question (7 clear days), it is possible that the question intended to be asked takes place before the motion debate. However, Rule 25(3)(b) prevents the question from pre-empting the holding of the debate on a motion for which notice has already been given for a specific Council meeting. Where notice has already been given for the moving of the motion, the question with substantially the same subject content is not allowed to be asked.¹⁵²

Question vs. bill

7.102 As regards bills, since a Member or designated public officer may at any time give notice of his intention to present a bill¹⁵³, the notice of the presentation of a bill may be given after a question with substantially the same subject matter has been approved by the President for inclusion on the Agenda for the same meeting. There is no anticipation in this case as the date of the presentation of the bill would not be known at the time the President considered the admissibility of the question.

7.103 The situation is different in case of the resumption of the second reading debate on a bill. The minimum notice period depends on the circumstances¹⁵⁴ and the President may in his discretion dispense with the notice. Notice of resumption of debate should usually be given by the Member or public officer in charge of the bill not less than 12 clear days before the day on which the debate is to be resumed. However, where resumption of debate is to take place 9 clear days or less after the meeting of the House Committee at which the bill was considered in preparation for resumption, then notice of resumption of debate shall be given no later than 2 clear days after that meeting. Thus, under normal circumstances, the notice

¹⁵¹ [Progress Report of the Committee on Rules of Procedure for the period May 1999 to June 2000, para. 3.7.](#)

¹⁵² [Progress Report of the Committee on Rules of Procedure for the period May 1999 to June 2000, para. 3.8.](#)

¹⁵³ [Rule 51\(1\) of the Rules of Procedure.](#)

¹⁵⁴ [Please refer to Rule 54\(5\) of the Rules of Procedure for details.](#)

for the resumption of the second reading debate on a bill is given before the President considers the admissibility of questions for the same Council meeting. Any question which will pre-empt the debate on a bill will not be allowed under Rule 25(3)(b) of the Rules of Procedure.

Motion vs. motion

7.104 A motion intended to have legislative effect notice of which has been given for a specific Council meeting must not be anticipated by a motion which is not intended to have legislative effect. Where two motions of the same category are substantially the same, both are allowed to be placed on the Agenda of the Council for that particular meeting. The order of the two motions on the Agenda is determined according to the time at which the notices are received unless one of the motions is moved by a designated public officer, which will then have priority over a Member's motion.¹⁵⁵ When the Council has decided on the first motion, the second motion will not be proceeded with in accordance with Rule 32 of the Rules of Procedure.¹⁵⁶

Bill vs bill

7.105 Although not explicitly stated in the Rules of Procedure, it is procedurally in order to have two bills with substantially the same provisions before the Council at the same time. Rule 51(7)(a) of the Rules of Procedure provides that once the Council has decided on a bill at the second reading debate of the bill, the other bill with substantially the same provisions will not be proceeded with in the same session and will be withdrawn.

Decisions of the Council

7.106 Decisions of the Council are made through the passage of motions. As mentioned in paragraph 7.39, not every item of business on the Agenda of the Council is seeking a decision of the Council. For those items which require a decision, a motion is to be moved for that purpose. The motion is proposed and debated. After all Members and designated public officers who

¹⁵⁵ [A Government motion is placed before a Member's motion on the Agenda of the Council under Rule 18 of the Rules of Procedure.](#)

¹⁵⁶ [Rule 32 of the Rules of Procedure provides that where the Council has taken a decision on a specific question and the question is decided in the affirmative, the same question may not be moved during the current session except upon a motion to rescind the decision with the permission of the President. If the question is decided in the negative, no further motion in respect of that question may be moved during the current session.](#)

7. *Conduct of business in the Council*

wish to speak on the motion have spoken, the question on that motion is put to vote.

Previous decisions (Rule 32 of the Rules of Procedure)

7.107 Once the Council has decided on a question and the decision is in the affirmative, Rule 32(1) of the Rules of Procedure provides that no further motion in relation to that question may be moved within the same session except a motion to rescind that earlier decision if permitted by the President.¹⁵⁷ If the decision on a specific question is in the negative, Rule 32(2) provides that no further motion may be moved in relation to that question within the same session. The fundamental principle behind Rule 32 is that the same question cannot be debated and voted on twice within the same session. It is a measure to ensure that the Council's time is put to effective use.

7.108 Rule 32(1) of the Rules of Procedure does not apply to the motions moved under Rule 49B for disqualifying a Member from office under Articles 79(6) and 79(7) of the Basic Law. As the President will immediately declare that the Member is no longer qualified for the office after a motion moved under Rule 49B is passed, there is no opportunity for a motion to be moved to rescind the decision of the Council.¹⁵⁸

Valedictory speeches

7.109 There was a long convention of Members of the pre-1997 Legislature making valedictory speeches upon the retirement of Members at sittings prior to their retirement. This was originally done at the start of the sitting if it was only the President who made such a speech. On occasions, valedictory speeches were made at the end of the sitting if more Members had indicated intention to speak and the President agreed to include the speeches as an item of business in the Order Paper in accordance with Standing Order No. 11(2).

7.110 On 30 May 1997, the House Committee decided that there should be a motion debate to enable Members to make valedictory remarks. A valedictory motion was moved on 23 June 1997 by the Chairman of the House Committee to bid farewell to the British Government and wish the Hong Kong Special Administrative Region continued stability and prosperity.

¹⁵⁷ [Rule 32\(1\) of the Rules of Procedure.](#)

¹⁵⁸ [See Chapter 3, para. 3.109.](#)

7.111 On 7 April 1998, prior to the prorogation of the Provisional Legislative Council, a valedictory motion was moved by the Chairman of the House Committee to wish for the smooth formation of the First Legislative Council to continue to serve the people of the HKSAR. The speaking time on this occasion was 13 minutes for the mover and 5 minutes for all other Members.

7.112 From the First Legislative Council onwards, a valedictory motion moved at the last Council meeting of each term has become a standing arrangement. The motion is moved by the Chairman of the House Committee. The speaking time is 15 minutes for all Members. For the Fourth Legislative Council, due to the bunching of business at the end of the session, the valedictory motion, though placed on the Agenda of the Council, could not be moved before the Council was prorogued at midnight on 17 July 2012.

Voting

Voting method prescribed in Annex II to the Basic Law

7.113 Article 68 of the Basic Law provides that the procedure for voting on bills and motions in the Council is prescribed in Annex II to the Basic Law. Annex II sets out the method for the formation of the Legislative Council and the voting procedures. It also provides that if there is a need to amend the method for forming the Legislative Council and its voting procedure subsequent to the year 2007, such amendments must be made with the endorsement of two-thirds of all the members of the Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the NPC for the record. As mentioned in paragraphs 2.38 and 2.53, the Standing Committee of the tenth NPC adopted a procedure for amending Annex II. Based on this procedure, on 23 June 2010, the Legislative Council passed a motion containing an amendment to Annex II to provide for the composition of the Fifth Legislative Council. No amendment was proposed to the voting procedure as it was decided by the Standing Committee of the NPC on 29 December 2007 that the procedure for voting on bills and motions in the Legislative Council was to remain the same.¹⁵⁹

7.114 The voting procedures set out in Annex II to the Basic Law are reflected in Rule 46 of the Rules of Procedure. Unless otherwise provided in

¹⁵⁹ [See Chapter 2, para. 2.51.](#)

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the Basic Law, the passage of all motions before the Council or a committee of the whole Council, except those proposed by a Member, shall require a majority vote of the Members present. The passage of motions proposed by a Member, including a motion or a bill and an amendment to any motion or bill, requires a majority vote of each of the two groups of Members present: Members returned by functional constituencies and Members returned by geographical constituencies. As various articles of the Basic Law have separately stipulated the voting requirement for motions moved under those articles, Rule 46(1) also provides for these exceptions.

Voting requirements under other articles in the Basic Law

Articles 79(6) and 79(7) of the Basic Law

7.115 Under Article 79 of the Basic Law, the President of the Legislative Council shall declare that a Member of the Council is no longer qualified for the office under a number of circumstances. These include the conviction and sentencing of a Member to imprisonment for one month or more for a criminal offence committed within or outside the HKSAR and who is relieved of his or her duties by a motion passed by two-thirds of the Members of the Legislative Council present (Article 79(6)); and the censure of a Member for misbehaviour or breach of oath by two-thirds of the Members of the Council present (Article 79(7)). Under both circumstances, the passage of a motion by two-thirds of the Members present is required. This requirement is reflected in Rule 49B of the Rules of Procedure.

Articles 49 and 52(3) of the Basic Law

7.116 Article 49 of the Basic Law provides that if the Chief Executive considers a bill passed by the Legislative Council not compatible with the overall interests of HKSAR, he may return it to the Legislative Council within three months for reconsideration. If the returned bill is passed by the Council by not less than a two-thirds majority of all the Members, the Chief Executive must sign and promulgate the bill within one month or dissolve the Council if no consensus can be reached. Under Article 52(2), if after the Legislative Council is dissolved, the new Council passed the original bill again by a two-thirds majority of all the Members but the Chief Executive still refuses to sign it, the Chief Executive must resign. The requirements for the passage of the bill under Article 49 are set out in Rule 66 of the Rules of Procedure. No procedure is separately provided for the voting requirement in Article 52(2) but an exception has been made in this respect in Rule 46(1) of the Rules of Procedure.

Article 73(9) of the Basic Law

7.117 Article 73(9) of the Basic Law provides that the Council may pass a motion to give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee to investigate a charge against the Chief Executive for serious breach of law or dereliction of duty lodged by one-fourth of all the Members of the Legislative Council. If the investigation committee considers the evidence sufficient to substantiate the charge, the Council may pass a motion of impeachment by a two-thirds majority of all its members and report it to the Central People's Government for decision. An exception has been made in Rule 46(1) of the Rules of Procedure to provide for the special voting requirement under Article 73(9) to take effect.

Article 159 of the Basic Law

7.118 Article 159 of the Basic Law provides that the power to propose bills for amendments to the Basic Law is vested in the Standing Committee of the NPC. Proposals to amend the Basic Law should have the consent of two-thirds of the deputies of the HKSAR to NPC, two-thirds of all the Members of the Legislative Council and the Chief Executive before they can be submitted by the HKSAR to the NPC. An exception has been made in Rule 46(1) of the Rules of Procedure to provide for motions moved under Article 159.

Amendment to Annex I and Annex II to the Basic Law

7.119 Paragraph 7 of Annex I to the Basic Law provides that if there is a need to amend the method for selecting the Chief executive for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the NPC for approval. The same provision is also provided in part III of Annex II to the Basic Law in respect of the formation of the Legislative Council and its voting procedures subsequent to the year 2007. An exception has been made in Rule 46(1) of the Rules of Procedure to provide for motions to amend Annex I and Annex II to the Basic Law in accordance with the special voting requirements.

Other voting procedures

7.120 Other than the voting methods and requirements stipulated in the Basic Law, the Legislative Council is empowered by Article 75 of the Basic Law to make its own rules of procedure which cover other aspects of the voting procedures.

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Meaning of "majority vote"

7.121 In the pre-1997 Legislature, all questions were decided by a majority of the votes of the Members present and voting. When the President put a question to the Council, he first called upon those Members who were in favour of the question to say "Aye" and then upon those who were against to say "No". He then, according to his judgment of the number of voices on either side, stated what he thought had the majority and if no Member challenged his statement he would declare the question to have been decided. If challenged, the President was required to order the Council to proceed to a division at which the votes on "Aye", "No" and "abstention from voting" would be counted. Only the votes on "Aye" and "No" were counted when deciding if there was a majority vote as it was explicitly stated in the Standing Orders that the majority vote was based on those Members "present and voting".¹⁶⁰

7.122 The voting requirement in Annex II to the Basic Law is different. Passage of government bills requires at least a simple majority of Members present, while passage of Members' motions, bills or amendments to government bills requires a simple majority vote of each of the two groups of members present, i.e. those returned from functional constituencies and those from geographical constituencies. The counting of votes is therefore based on the Members "present" rather than the Members "present and voting". This has given rise to the question of whether those who abstain from voting should be counted when calculating if there is a majority vote. Coupled with the fact that the Government had its own views on the interpretation of the use of different expressions to describe "vote" in the Chinese text of the Basic Law when referring to the two scenarios, the Committee on Rules of Procedure of the First Legislative Council decided to study the matter in detail.

7.123 The Committee on Rules of Procedure noted that the use of different expressions to describe "vote" in the Chinese text of Annex II but considered that it was only a matter of style in writing. It endorsed the views of the Legal Adviser of the Legislative Council Secretariat and an outside Counsel that the description of the voting procedures in Annex II when read as a whole was reasonably clear. According to the legal advice, it was evident that decisions of the Council should be governed by the principle of "the majority rules" which applied consistently throughout the Basic Law notwithstanding the different requirements for different circumstances. Hence the word "vote"

¹⁶⁰ Standing Order No. 35(1) of the pre-1997 Standing Orders.

should refer to "affirmative vote". Since "abstention from voting" was not a vote, "a majority vote" should refer to the majority of the actual votes cast in favour of the question. To remove any doubt over this point, the Committee recommended that the meaning of "a majority vote" should be stated clearly in the Rules of Procedure.¹⁶¹ Rule 46(4) was added to the Rules of Procedure on 28 April 1999¹⁶². The Rule provides that there is a majority vote when the Members voting in favour of a question exceed half of the number of the Members present at the time of voting.

7.124 Current voting procedures, as set out in Rule 47 of the Rules of Procedure, are similar to that in the pre-1997 Legislature except that Members are asked to raise their hands to indicate if they are in favour of the question or against the question. The President will state according to his judgment whether or not he thinks the majority of the Members present are in favour of the question and if this is not challenged he will declare the question to have been so decided. If challenged, the President will order the Council to proceed to a division.¹⁶³ In a division which is carried out through the use of an electronic voting system installed in the Chamber, all Members are required to indicate their presence and cast their votes (or abstention) by pressing the appropriate buttons on the voting panels. Any Member who fails to register his presence at the time of voting will be reminded to do so by the President. If the electronic voting system for any reason cannot be used, the votes will be recorded by the Clerk in accordance with Rule 49 of the Rules of Procedure. Based on the total number of Members present and those who have cast their votes in favour of the question, the President declares the result of the division.

The President's vote

7.125 The counting of the presence of the President at the time of voting is dictated by the Basic Law which requires all Members present to be counted.¹⁶⁴ There is no specific rule in the Rules of Procedure to stipulate how the President should cast his vote, nor is there any provision in law or in the Rules of Procedure to deprive the President of his right to vote. Nevertheless, there is a long-standing convention that the President would abstain from voting in order to maintain his neutrality. In the pre-1997

¹⁶¹ [Progress Report of the Committee on Rules of Procedure for the period July 1998 to April 1999, para. 2.8-2.15.](#)

¹⁶² [Council meeting of 28 April 1999, Hansard.](#)

¹⁶³ [See requirement to use electronic voting system under Rule 48 of the Rules of Procedure.](#)

¹⁶⁴ [See Progress Report of the Committee on Rules of Procedure for the period July 1998 to April 1999, para. 2.16-2.18.](#)

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Legislature, although the President did not cast his original vote, he was still required to exercise his casting vote in the event that there was a tied vote. This situation does not arise in the HKSAR Legislature as any motion which does not have the support of over half of the Members present is regarded as not passed. This is reflected in Rule 46(1) and (4) of the Rules of Procedure.

Consent by no dissenting voice

7.126 There is also a procedure to enable the Council to give consent to a course of action provided there is no dissenting voice. This kind of unanimous consent is provided in the Rules of Procedure mostly for giving leave to a course of action which is a decision on a specific question before the Council. For example, Rule 35(2) of the Rules of Procedure provides that at the request of the mover, a motion or an amendment may be withdrawn by leave of the Council before the question is put thereon, if there is no dissenting voice. Where one or more Members express disagreement, no leave is given and the Council will proceed with the motion or amendment. Similar arrangements are provided for the withdrawal of an amendment, a proposed new clause or new schedule at committee stage in the consideration of a bill under Rule 58(11)¹⁶⁵ and the withdrawal of questions not yet asked under Rule 26(8)(b). Under Rule 89 and Rule 90, the Council is deemed to have ordered the grant of leave for a Member to attend as witness in civil proceedings and to give evidence of Council proceedings respectively unless on a motion moved without notice by any Member it refuses to grant such leave.

Voting in a committee of the whole Council

7.127 The same voting procedures for the Council have been adopted for the committee of the whole Council. As the President is also the Chairman of the committee of the whole Council, he also refrains from voting on any question to maintain his neutrality.

Voting in committees

7.128 The voting procedures in Annex II to the Basic Law only apply to motions, bills and amendments to bills in the Council. It is for the Council to decide the voting procedures for its committees. In the pre-1997 Legislature,

¹⁶⁵ [Rule 58\(11\) of the Rules of Procedure. As under Rule 58\(1\) on the number of any clause being called, the question that that clause stands part of the bill shall be deemed to have been proposed, any withdrawal proposed in the course of debate after the number of the clause has been read will be subject to Rule 58\(11\) of the Rules of Procedure.](#)

decisions made in committees were determined by the number of Members voting, with the Members abstaining from voting or not voting disregarded. The same voting procedures were adopted by the committees of the First Legislative Council and this practice has been in use up to this date.

7.129 The only new provision made in the Rules of Procedure relating to voting in committees is Rule 79A on the voting rights of chairmen of committees. Under Rule 79A, where the Rules of Procedure provide that the chairman of a committee shall have a casting vote in the event of a tie vote, he cannot exercise the vote in such a way as to produce a majority vote in favour of the question put. The Rule also provides that if the chairman of a committee has an original vote and he wishes to cast his vote, the vote should be cast at the same time as other members of the committee exercise their votes.

Records of Council meetings

7.130 Under Rule 6 of the Rules of Procedure, the Clerk has the responsibility to keep the minutes of proceedings of the Council and of committees of the whole Council. He is also responsible for the production of the Official Record of all proceedings in the Council and in committee of the whole Council. The two records of proceedings, though referring to the same proceedings, aim to serve different purposes. The minutes of proceedings record the attendance, decisions taken, details of every division held, and also other records as required by the Rules of Procedure.¹⁶⁶ The Official Record of proceedings, generally known as "*Hansard*", is a verbatim record of the speeches made at a meeting.

7.131 The requirement that minutes should be kept for each Council meeting dates back to the first sitting of the pre-1997 Legislature. In the early days, the minutes of a sitting were read, corrected if so requested and voted on as soon as a quorum had been formed at the start of the next sitting. From 1912 onwards¹⁶⁷, the minutes were approved without being read in the Council but speeches began to be recorded in verbatim form in the minutes. On 9 October 1968, a new set of Standing Orders was approved by the Council to replace the 1929 Standing Orders. In the new Standing Order No. 4, the responsibilities of the Clerk were expanded to include not only the keeping of

¹⁶⁶ [See Rule 53\(3\) and Rule 54\(2\) of the Rules of Procedure.](#)

¹⁶⁷ [The practice to record speeches in the minutes started from the Council sitting on 7 March 1912. The Standing Orders were also revised at the same sitting.](#)

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the minutes of proceedings but also the production of the Official Record of proceedings which recorded all speeches in the debates. Under the new Standing Order No. 4(2), the Clerk was required to submit the minutes of proceedings of each sitting to the President for his signature and to distribute copies to Members before the commencement of the next sitting. Although the procedure to endorse the minutes is not prescribed in the Rules of Procedure today, the same practice is maintained up to this date.

7.132 The Hansard is a verbatim record which gives an accurate and truthful report of the speeches made by speakers primarily in the debates but it has been the practice that all speeches made during the proceedings of a Council meeting are recorded. As most speeches made at meetings are delivered in Cantonese, it is necessary for Hansard production staff to convert the speeches from colloquial Cantonese to written Chinese for the purpose of recording when preparing the Hansard. The process involves conversion of the sentences and phrases from colloquial Cantonese to their equivalents in written Chinese. Prudence and care are exercised by the editors and transcribers to ensure accuracy and integrity of the Hansard.

7.133 In producing the Hansard, reference is often made to the principle described in Erskine May: "[The Official Report], though not strictly verbatim, is substantially the verbatim report, with repetitions and redundancies omitted and with obvious mistakes corrected but which, on the other hand, leaves out nothing that adds to the meaning of the speech or illustrates the argument."¹⁶⁸ When the draft version of the Hansard is circulated to all Members and designated public officers for comment, only proposed amendments which are not material in nature may be accepted. The confirmed version will then be translated into the other official language so that a complete Chinese and English version of the proceedings is available for public access. More details about the preparation of the Hansard are provided in Chapter 4.¹⁶⁹

7.134 The Official Record of the proceedings in the Council and in committees of the whole Council is published in both Chinese and English and is available for public access both in the Legislative Council Library and on the Legislative Council website.

¹⁶⁸ See Erskine May (24th Edition), p. 130.

¹⁶⁹ [See Chapter 4, para. 4.17-4.18.](#)