

立法會
Legislative Council

LC Paper No. CB(3) 170/17-18

Ref. : CB(3)/M/MR

Tel : 3919 3300

Date : 24 November 2017

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 6 December 2017

Motion under Rule 49B(1A) of the Rules of Procedure

Dr Hon KWOK Ka-ki has given notice to move the attached motion under Rule 49B(1A) of the Rules of Procedure (“RoP”) at the above meeting. The notice of the motion is jointly signed by Hon Claudia MO, Hon WU Chi-wai and Hon Kenneth LEUNG.

2. Since Dr Hon KWOK Ka-ki’s motion seeks to censure the President Hon Andrew LEUNG, to avoid any possible perceived conflict of interest, the President has, under Rule 3(3) of RoP, requested the President’s deputy Hon Starry LEE to make a ruling on whether to permit Dr KWOK to move the motion and preside at that part of the meeting if the motion is permitted.

3. The President’s deputy has given permission for Dr KWOK to move the motion, and directed that it be printed in the terms in which it was handed in.

(Dora WAI)
for Clerk to the Legislative Council

Encl.

**Motion to be moved by Dr Hon KWOK Ka-ki
under Rule 49B(1A) of the Rules of Procedure
to censure Hon Andrew LEUNG
at the Legislative Council meeting of 6 December 2017**

Wording of the Motion

That this Council, in accordance with Article 79(7) of the Basic Law, censures Hon Andrew LEUNG for misbehaviour and breach of oath under Article 104 of the Basic Law (details as particularized in the Schedule to this motion).

Schedule

Details of Hon Andrew LEUNG's misbehaviour and breach of oath under Article 104 of the Basic Law are particularized as follows:

Contempt of the functions and powers of the Legislative Council

As the President of the Legislative Council ("LegCo"), Hon Andrew LEUNG, during the debate on the non-legally binding government motion on "the co-location arrangement for the Express Rail Link" at the LegCo meeting of 15 November 2017, said that "it is not necessary for what Members or officials say to be based on facts". This amounts to contempt of the functions and powers of the LegCo as stipulated in Article 73 of the Basic Law for the following reasons:

- (i) making an improper statement, thus encouraging government officials or LegCo Members to make inaccurate statements, and in turn risks misleading LegCo and the public, severely damaging the function of LegCo to monitor the government;
- (ii) failing to discharge his duties as the President of LegCo, undermining the powers of LegCo to monitor the government, and relegating the status of the Legislature; and
- (iii) compromising the credibility of LegCo in the public perception.

Obstructing LegCo Members in the discharge of their powers and functions

As the President of LegCo, Hon Andrew LEUNG, on 13 November 2017, told the media that LegCo Members from both the democratic and pro-establishment camps are all amending the Rules of Procedure and those amendments could be dealt with in a joint debate. If such a decision is to be implemented, it will deprive LegCo Members of adequate time and opportunities to debate over 50 proposed amendments to various topics and provisions in the Rules of Procedure, severely obstructing LegCo Members in discharging their powers and functions.

In view of the above, Hon Andrew LEUNG has neglected the duties, professional ethics and integrity required of him as a LegCo Member. He has failed to uphold the legitimate expectations of the public regarding the constitutional role of the Legislative Council as stipulated in Article 73 of the Basic Law, and has breached the oath made under Article 104 of the Basic Law, which requires LegCo Members to “swear to uphold the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China”, severely damaging the reputation and integrity of LegCo.