

立法會 *Legislative Council*

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Subcommittee on Census and Statistics (2021 Population Census) Order

Procedural arrangements for a debate on the Order at a Council meeting

Purpose

This note sets out the procedural arrangements for a debate on a motion to take note of a report of the House Committee on consideration of subsidiary Legislation and other instruments ("take note motion") in relation to the Census and Statistics (2021 Population Census) Order (L.N. 206) ("the Order") as provided under Part JB of the Rules of Procedure ("RoP").

The Order

2. The Order was tabled at the Council meeting of 21 October 2020. The Order directs the Commissioner for Census and Statistics to take a census of population of Hong Kong from 23 June 2021 to 4 August 2021 ("2021 Census"). The Order comes into operation on 14 December 2020. At its meeting on 23 October 2020, the House Committee agreed to form a subcommittee to study the Order.

Members' enquiries about the arrangements for a debate on the Order

3. At its first meeting on 6 November 2020, the Subcommittee on the Census and Statistics (2021 Population Census) Order noted that the scrutiny period of the Order would expire at the Council meeting of 18 November 2020 (or the Council meeting of 9 December 2020 if the scrutiny period would be extended by resolution). The Subcommittee agreed that the Chairman of the Subcommittee should move a motion to extend the scrutiny period ("extension motion") to 9 December 2020 at the Council meeting of 11 November 2020.

4. Some members indicated interest to express views on the 2021 Census at a Council meeting and enquired about the arrangements for a debate on the Order through a take note motion.

Procedural arrangements for a take note motion

5. The procedure on a take note motion is provided in Part JB of RoP (**Appendix**). Under RoP 49D, with the permission of the President, the Chairman of the House Committee may present a report on the subsidiary legislation and other instruments that the House Committee has considered ("House Committee report") to the Council at its meeting immediately before the expiry of the scrutiny period or extended scrutiny period of such subsidiary legislation and instruments.

6. Under RoP 49E, a Member may notify the House Committee that a debate should be held on any subsidiary legislation or instrument referred to in a House Committee report.¹ Such a notification should be conveyed to the Clerk to the House Committee before the deadline for proposing agenda items for the House Committee meeting preceding the Council meeting at which the House Committee report is tabled.²

7. Upon receipt of such notification and with the agreement of the Chairman of the House Committee, the notification would be included in the agenda of the relevant House Committee meeting. The Chairman of the House Committee will give notice of a motion to take note of the House Committee report in relation to the subsidiary legislation or instrument concerned. Members may then speak on the subsidiary legislation/instrument in the take note motion debate at the relevant Council meeting. The debate should be within the scope of that particular subsidiary legislation/instrument.

8. Under rule 20(f) of the House Rules, the deadline for proposing agenda items for a House Committee meeting is normally 5:00 pm on the Tuesday before the meeting. Regarding the arrangement for Members to give due notification under RoP 49E, when the Clerk to the House Committee issues notice of a House Committee meeting and tentative agenda on the Monday

¹ According to RoP 49E(6), if there is a motion to amend an item of subsidiary legislation, no motion to take note of the Report in relation to such subsidiary legislation should be moved.

² If there is no meeting of House Committee in the week preceding the Council meeting at which the House Committee report is presented, notification that a debate should be held shall be conveyed to the clerk to the House Committee not later than 6 clear days before that Council meeting, unless notification has been made at an earlier meeting of House Committee.

before the meeting, the notice attaches a draft House Committee report to be presented by the House Committee Chairman to the Council at its meeting next week. The draft House Committee report lists the items of subsidiary legislation that the House Committee has considered at previous meetings the period for amendment of which will expire at the Council meeting next week. A Member who wishes to speak on an item listed in the draft House Committee report should notify the Clerk to the House Committee of his/her intention before the deadline which is set at 5:00 pm on the Tuesday of the same week.

9. Where the President has given permission to move a proposed resolution at the Council meeting to extend the period for amending an item of subsidiary legislation or notice of an extension motion on an item of subsidiary legislation has been given, that item of subsidiary legislation will not be listed in the draft House Committee report for presentation at the Council meeting at which the original scrutiny period is due to expire and a footnote on the proposed extension motion is added to the draft report. If the extension motion is passed, that item of subsidiary legislation will be listed in the draft House Committee report for presentation at the Council meeting at which the extended scrutiny period is due to expire.

Take note motion in respect of the Order

10. In the case of the Order, since the President has given permission for Dr Hon Fernando CHEUNG, the Subcommittee Chairman, to move a proposed resolution at the Council meeting of 11 November 2020 to extend the period for amending the Order to the Council meeting of 9 December 2020, Members have not been invited to indicate interest in speaking on the Order at the Council meeting of 18 November 2020 when the draft House Committee report was issued on Monday, 9 November 2020 (see paragraph 9 above). The House Committee report to be presented at the Council meeting of 18 November 2020 will not therefore include the Order pending the extension of the period for amending the Order.

11. If the extension motion is passed (at the Council meeting of 11 November 2020 or 18 November 2020) and no notice has been given to amend the Order, the Order will be included in the list of subsidiary legislation in the draft House Committee report to be issued on 30 November 2020 and Members will be invited to indicate interest in speaking on the Order in a take note motion debate. Subject to the permission of the President, the take note motion will be included in the agenda for the Council meeting of 9 December 2020.

12. If the extension motion is not dealt with at the Council meeting of 11 November 2020 or 18 November 2020, or if it is negatived, the scrutiny period of the Order will expire at the Council meeting of 18 November 2020. No take note motion in relation to the Order would be included in the agenda for the Council meeting of 18 November 2020, as the House Committee report to be presented by the House Committee Chairman at the Council meeting of 18 November 2020 would not have included the Order and no Member would have given notification that a debate should be held on the Order at that Council meeting.

Council Business Division 1
Legislative Council Secretariat
10 November 2020

PART JB

**REPORTS OF HOUSE COMMITTEE
ON SUBSIDIARY LEGISLATION AND OTHER INSTRUMENTS
AND RELATED MOTIONS**

49C. Application of this Part

In any matter not provided for in this Part, the Rules in other Parts shall apply as appropriate.

49D. Presentation of Reports of House Committee on Consideration of Subsidiary Legislation and Other Instruments

With the permission of the President, a report of the House Committee on the consideration of subsidiary legislation and other instruments which have been laid on the Table of the Council and are subject to amendment by the Council may be presented to the Council by the chairman of the House Committee at the Council meeting immediately before the expiry of the period for amendment in accordance with section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) or the relevant provision in the Ordinance under which the subsidiary legislation or instrument referred to in Rule 29(2) (Notice of Motions and Amendments) is made or, if the period is extended, immediately before the expiry of the extended period.

49E. Motions on Reports of House Committee on Consideration of Subsidiary Legislation and Other Instruments

- (1) (a) A Member may, at a meeting of House Committee held in or not later than the week preceding the Council meeting at which a report is presented under Rule 49D (Presentation of Reports of House Committee on Consideration of Subsidiary Legislation and Other Instruments), notify the House Committee that a debate should be held on any subsidiary legislation or instrument referred to in that report, provided that the Member has conveyed his notification to the clerk to the House Committee as an agenda item for that meeting of House Committee.

- (b) If there is no meeting of House Committee in the week preceding the Council meeting at which a report referred to in paragraph (a) is presented, notification that a debate should be held shall be conveyed to the clerk to the House Committee not later than 6 clear days before that Council meeting, unless notification has been made at an earlier meeting of House Committee.

(2) Upon receipt of the notification that a debate should be held, the chairman of the House Committee shall, after notice has been given not less than 2 clear days before the Council meeting at which a report is presented under Rule 49D (Presentation of Reports of House Committee on Consideration of Subsidiary Legislation and Other Instruments), move a motion to take note of that report in relation to any specific item of subsidiary legislation or instrument:

Provided that the President may in his discretion dispense with such notice.

(3) If the chairman of the House Committee will not be present to move the motion referred to in subrule (2), the deputy chairman of the House Committee shall give notice and move that motion and in the event that both of them will not be present, the Member who will be present at the Council meeting referred to in subrule (2) and has the highest precedence in the order of precedence of Members as determined in accordance with Rule 1A (Precedence of Members) shall do so.

(4) A motion under subrule (2) shall be moved in the following form:

"That this Council takes note of Report No. (serial number) of the House Committee laid on the Table of the Council on (date of Council meeting at which the House Committee report is laid on the Table of the Council) in relation to the subsidiary legislation and instrument(s) as listed below:

<u>Item Number</u>	<u>Title of Subsidiary Legislation or Instrument</u>
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(item number)	(title of subsidiary legislation or instrument on which debate should be held under subrule (1) and the notice number or reference in the Gazette)."
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(5) No amendment may be moved to a motion moved under subrule (2).

(6) If notice has been given under Rule 29(2) (Notice of Motions and Amendments) to amend any subsidiary legislation or instrument, no motion shall be moved under subrule (2) in relation to that subsidiary legislation or instrument.

(7) If the motion relates to more than one item of subsidiary legislation or instruments, the debate on that motion may be divided into sessions each of which relates to one or more items of subsidiary legislation or instruments.

(8) Subject to Rule 38 (Occasions when a Member may Speak more than once), a Member may speak only once in a debate on a motion moved under subrule (2) and, if the debate is divided into sessions, he may speak once in each of the sessions.

(9) After Members and designated public officers have spoken on a motion moved under subrule (2), the debate comes to a close. The President shall not put any question and the Council shall proceed to the next item of business.

(L.N. 245 of 2009)