

CB1/F/4/1(2002-3)
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By fax: 2537 1469

22 February 2002

Hon SIN Chung-kai
c/o Secretariat of Legislative Councillors
of the Democratic Party
Rooms 401-410
Central Government Offices
West Wing
11 Ice House Street
Central
Hong Kong

Dear Mr Sin,

Thank you for your letter dated 20 February 2002 seeking clarification of whether the new arrangements for the issue the Draft Estimates of Expenditure to Members on the day the Appropriation Bill is gazetted will be in breach of paragraph 49 of the Finance Committee (FC) Procedure.

Paragraph 49 of the FC Procedure describes the prevailing arrangements whereby advance copies of the Draft Estimates of Expenditure are provided to members of FC a few days before the Council meeting at which the Appropriation Bill is read the first time. This has been the practice since 1990-91 following a decision of the then Financial Secretary to streamline the legislative processing of the Appropriation Bill. When the FC Procedure was first adopted on 8 July 1994 after the servicing of the FC was taken over by the Legislative Council Secretariat, the procedural arrangements prevailing at that time, including the procedure of the special meetings to examine the Draft Estimates of Expenditure, were formalized as the FC Procedure. The same set of practice and procedure was adopted in 1998 by the Legislative Council under Rule 71 (13) of the Rules of Procedure. On both occasions, the FC Procedure, when still in draft form, was forwarded to the Administration for their comments before adoption. The Administration is therefore fully aware of the provision in paragraph 49 of the FC Procedure.

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The answer to your question of whether the new arrangements for the issue the Draft Estimates of Expenditure to Members on the day the Appropriation Bill is gazetted will be in breach of paragraph 49 of the FC Procedure would depend on whether the provision of advance copies of the draft Estimates of Expenditure is a procedure which must be undertaken by the Financial Secretary under paragraph 49. In the light of the history to the making of paragraphs 49 to 53 for the special Finance Committee meetings to examine the Estimates of Expenditure, paragraph 49 could be regarded as descriptive of how the Administration handles the draft Estimates of Expenditure. It does not impose on the Financial Secretary an obligation to do so from the procedural point of view.

I have consulted the Legal Adviser of the Legislative Council Secretariat, and he is also of the view that paragraph 49 of the FC procedure does not create a procedural obligation on the Financial Secretary. He concluded that the new arrangements would not amount to a breach of paragraph 49 by the Financial Secretary.

I hope this clarifies the position.

Yours sincerely,

(Ms Pauline NG)
Clerk to Finance Committee

c.c. Chairman, Finance Committee
Clerk to House Committee