

**立法會**  
***Legislative Council***

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**Paper for the House Committee meeting  
on 5 July 2002**

**Rule 13(1A) of the Rules of Procedure  
The Chief Executive's Policy Address**

**Purpose**

To assist Members in their consideration of the letter dated 25 June 2002 from the Chief Secretary for Administration to the Chairman of the House Committee on Timing for the Delivery of Policy Address, this paper sets out the background to Rule 13(1A) of the Rules of Procedure, which was made by a Resolution passed by the Legislative Council on 28 April 1999.

2. Rule 13(1A) provides:

"(1A) The Chief Executive shall deliver a Policy Address to the Council, if he so wishes, at the first meeting of a session."

**Policy Addresses delivered to the Council since the first term of the Legislative Council of the Hong Kong Special Administrative Region.**

3. The first meeting of the first session of the **first term** of the Legislative Council took place on 2 July 1998 when the Council passed a Resolution to make the Rules of Procedure of the Council. The then Rule 13, which concerned the Chief Executive's Policy Address, did not specify when the Policy Address was to be delivered and Rule 13(1) provided:

"(1) At a meeting not less than 14 days after the Chief Executive has presented a Policy Address to the Council, a motion may be moved without notice for an address of thanks to the Chief Executive for his address."

4. The Chief Executive delivered his Policy Address at the Council meeting held on 7 October 1998, i.e. about three months after the beginning of that session.

5. The first meeting of the second session of the first term of the Council took place on 6 October 1999 when the Chief Executive delivered his Policy Address at that meeting. The current Rule 13(1A) had come in force earlier, since the passage of the Resolution on 28 April 1999.

6. The first meeting of the first session of the **second term** of the Council took place on 4 October 2000 when the Members of the Council took the Legislative Council Oath and elected the President. The Chief Executive delivered his Policy Address at the Council's second meeting on 11 October 2000.

7. In the current session, the Chief Executive delivered his Policy Address at the first meeting of the Council on 10 October 2001.

### **The process in making Rule 13(1A)**

8. Shortly after the commencement of the first term of the Legislative Council, the Committee on Rules of Procedure (CROP) started its work on examining whether the Rules of Procedure required fine-tuning either to reflect existing practices or to make provisions which would give effect to provisions in the Basic Law relating to the Council. The subject of timing for commencement of Legislative Council sessions was discussed. Members of CROP were of the general view that where possible, each session should commence with the delivery of the Policy Address, preferably in October.

9. In reply to the subsequent enquiry by CROP on whether the Policy Addresses for 1999/2000 and subsequent years would continue to be delivered in October, the Director of Administration stated, in her letter to the Secretariat dated 19 August 1998, that:

"... we would also like to point out that the timing of Policy Addresses, as you have acknowledged, is affected by the budget cycle. At present, the preparatory process for the next Budget commences almost immediately after the passage of the current one. Normally in May/June, the Financial Secretary will consult Legislative Council Members on their expenditure priorities for the next Budget. Taking account of Members' views and policy development, bureaux will formulate new policy initiatives and seek funding in the annual resource allocation exercise running from July to August. Initiatives with funding allocated will then be included in the Policy Address in October. In October/November, the Financial Secretary will start another round of consultation with Members on the revenue aspects of the next Budget. The expenditure proposals and revenue proposals will then be reflected in the draft Estimates of Expenditure and Revenue, the compilation

of which will not be completed until January. The whole budgetary process is, as can be seen, subject to an extremely tight timetable and it would be extremely difficult to accommodate Policy Addresses to be delivered in July. **Given the above constraint, the Administration will continue to plan on the basis that Policy Addresses in subsequent years will be delivered in the month of October.**"

10. Following consultation with all Members of the Council in October 1998, CROP reported to the House Committee on 13 November 1998 that "most Members are in favour of a new session commencing in October to tie in with the delivery of the Policy Address". The House Committee noted that CROP would advise the Administration of the outcome of the consultation exercise so as to facilitate the Administration in determining the timing for the commencement of session, and that CROP would examine what amendments needed to be made to the Rules of Procedure in this regard.

11. On 19 January 1999, CROP decided that a new subrule, i.e. Rule 13(1A), should be made to make more explicit Members' expectation of the Chief Executive's tying in the first meeting of a session with the delivery of the Policy Address. The proposed amendment, together with various other proposals to the Rules, were reported to the House Committee on 16 April 1999 and were endorsed.

12. On 26 April 1999, two days before the Chairman, CROP was to move the Resolution to amend the Rules, the Director of Administration wrote to the Chairman, as follows:

"We note that the motion proposes to add a new Rule 13(1A) under the section of "The Chief Executive's Policy Address" to stipulate that "the Chief Executive shall deliver a Policy Address to the Council, if he so wishes, at the first meeting of a session." It purports to impose an obligation on the Chief Executive to do something 'if he so wishes'. That would seem to create a discretion (as in the case of the Chinese text), rather than an obligation, and it is unnecessary to amend the Rules in order to give the Chief Executive such a discretion. Indeed, the best approach is to leave sufficient flexibility rather than to suggest that the Chief Executive could only deliver a policy address at the first meeting of a session, and not at any other time. The proposed new rule seems to have no legal effect and is unnecessary."

13. Subsequent to the meeting of CROP the following day, the Chairman, CROP replied to the Director and stated:

"In our prior consultation, you have informed the Committee on 19 August 1998 that" the Administration will continue to plan on the basis that Policy Addresses in subsequent years will be delivered in the month of October". In order to reflect the Legislative Council's function of receiving and debating the policy address of the Chief Executive when he does so at the first meeting of a session and to assist members in anticipating the business of the first meeting of a session, the Committee considers it appropriate to add the proposed new Rule 13(1A) to provide for the delivery of the Policy Address by the Chief Executive at the first meeting of a session if he so wishes. It is not suggested in the proposed provision that the Chief Executive could only deliver a Policy Address at the first meeting of a session, and not at any other time. Neither was it intended to impose any obligation on the Chief Executive by virtue of the proposed new subrule. The Committee has acknowledged that whether the Chief Executive will deliver a Policy Address is a matter for him under the Basic Law. In fact, the Committee notes that a similar provision was provided in the Standing Orders of the former Legislative Council."

14. In the debate on the Resolution on 28 April 1999, both the Chairman, CROP and the Chief Secretary for Administration reiterated the respective positions of Members and the Administration. Relevant extracts of their speeches are in the attached **Appendix**.

Legislative Council Secretariat  
3 July 2002

## **Appendix**

**LEGISLATIVE COUNCIL — 28 April 1999**

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### **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Proposed resolution under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

### **PROPOSED RESOLUTION UNDER ARTICLE 75 OF THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA**

**MRS SELINA CHOW** (in Cantonese): Madam President, I move the resolution to amend the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region (SAR) under my name. The contents of the resolution have been set out in the Appendix to the Agenda. .....

Having given notice for this resolution on 13 April 1999, I received a letter from the Director of Administration on 26 April 1999 in which views on three proposed amendments in the resolution were given. The Committee on Rules of Procedure considered the views of the Administration carefully in the meeting held yesterday. After the meeting, I wrote to the Director of Administration. The Secretariat has sent the letter from the Director of Administration and my reply by fax to Honourable Members for their reference.

I would like to explain the Committee's views on this issue.

In the consultation exercise held by the Committee earlier, the Director of Administration informed the Committee on 19 August 1998 that "the Administration will continue to plan on the basis that policy addresses in subsequent years will be delivered in the month of October." That is to say, the future policy addresses will be delivered in October as planned by the Administration. The Committee thought that if the Chief Executive is to deliver his policy address at the first meeting of a Session, then in order to reflect the function of the Legislative Council in hearing and debating on the policy address of the Chief Executive, and to help Members anticipate the amount of work to be handled in the first meeting of a Session, it would be proper to add the new subrule (1A) to Rule 13 of the Rules of Procedure, to specify that the Chief Executive shall deliver a policy address to the Council, if he so wishes, at the first meeting of a Session. But this provision does not bind the Chief Executive that he can only deliver his policy address at the first meeting of a Session and not at any other time. The provision also does not intend to require the Chief Executive to fulfil any obligation. The Committee understands that under the Basic Law, it is up to the Chief Executive himself to decide whether or not he would deliver a policy address. Indeed, the Committee is also aware that a similar provision was made in the Standing Orders of the former Legislative Council.

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**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, with this resolution, the Honourable Mrs Selina CHOW seeks to amend certain rules of the Rules of Procedure. We consider some of the proposals to be in contravention of the Basic Law.

The Basic Law has established a new constitutional framework for the Special Administrative Region (SAR). We and the Legislative Council hold different views regarding the application of the provisions of the Basic Law to the operation of the Legislative Council. Therefore, I wish to take this opportunity to repeat our stand to Members.

We fully understand that in accordance with Article 75 of the Basic Law, the Rules of Procedure of the Legislative Council shall be made by the Council on its own. However, we must ensure that the Rules of Procedure are consistent with the Basic Law to guarantee the legality of the legislative procedures. .....

The resolution also proposes to add (1A) to Rule 13 stating that the Chief Executive shall deliver a policy address to the Council, if he so wishes, at the first meeting of a Session. This rule appears to be asking the Chief Executive to fulfil an obligation, while pointing out that he can do as he wishes. As Mrs Selina CHOW has explained to us, the proposed rule does not rigidly lay down that the Chief Executive can only deliver a policy address at the first meeting of a Session and not at any other time. Nor is the proposed new rule intended to impose any obligation on the Chief Executive. Notwithstanding this, we do not think it necessary for Members to amend the Rules of Procedure to endow the Chief Executive with this discretion. It would be best to retain the flexible mechanism in the existing Rules of Procedure. We consider that the proposed addition of Rule 13(1A) in the resolution is neither necessary, nor does it have any legal effect.

Madam President, for the above reasons, I have reservations about Rule 13(1A), ..... in the resolution proposed by Mrs Selina CHOW.

Thank you, Madam President.