

**President's ruling on
Motions relating to the scrutiny of the
National Security (Legislative Provisions) Bill proposed by
Hon Albert HO Chun-yan for the
Legislative Council meeting on 21 May 2003**

On 3 May 2003, Hon Albert HO Chun-yan gave notice to move a motion for debate by the Council at its meeting to be held on 21 May 2003. The wording of the proposed motion was:

"That this Council should shelve the examination of the National Security (Legislative Provisions) Bill."

2. After the Clerk to the Legislative Council had verbally advised Mr HO of my ruling that the motion was out of order this morning, he submitted this afternoon another motion, the wording of which is:

"That, as Hong Kong is hard hit by atypical pneumonia, people are distressed and the economic situation is being dealt a severe blow, this is not a suitable time to examine the extremely controversial National Security (Legislative Provisions) Bill; but the Government is forcefully asking the Legislative Council to hurriedly complete the legislative procedure within the current Legislative Council session, this Council deeply regrets this."

3. This ruling relates to the two proposed motions.

Provision in the Rules of Procedure relating to the processing of bills

4. Rule 54(4) provides that when the Member or public officer in charge of a bill has introduced the bill by moving the motion that it be read the second time, the debate shall be adjourned and the bill shall be referred to the House Committee unless the Council, on a motion which may be moved without notice by any Member, otherwise orders.

5. Rule 75(4) provides that at any time after a bill has been referred to the House Committee under Rule 54(4), the committee may allocate it to a Bills Committee for consideration, or may cause it to be considered in such manner as the committee thinks fit. Rule 75(6) provides that the House Committee may, after consulting the relevant Bills Committee, decide the date for completion of consideration of the bill by the Bills Committee. Any such decision may be varied at any time, after consultation with the Bills Committee. Rule 75(8) provides that the House Committee may provide guidelines relating

to the procedure of Bills Committees. Rule 76(11) stipulates that subject to RoP, the practice and procedure of a Bills Committee shall be determined by that Bills Committee which has to take into account guidelines made by the House Committee. These guidelines are contained in Rule 21 of the House Rules. Under Rule 76(9) of RoP, a Bills Committee shall, as soon as it has completed consideration of the bill allocated to it, notify the House Committee and shall advise the House Committee in writing of its deliberation, and then report further to the Council.

The National Security (Legislative Provisions) Bill

6. The National Security (Legislative Provisions) Bill (the Bill) was introduced into the Council on 26 February 2003 and was referred to the House Committee on the same day. On 28 February 2003, the House Committee allocated the Bill to a Bills Committee for consideration. The Bills Committee is now examining the Bill, discharging its duties in accordance with RoP.

7. The above clearly indicates that the Council is exercising its power and function in respect of the Bill, in accordance with the Basic Law and the legislative procedure stipulated in RoP.

The first proposed motion

8. The proposed motion seeks to ask the Council to debate whether or not to shelve the examination of the National Security (Legislative Provisions) Bill (the Bill). If allowed, irrespective of whether the motion is passed or negatived following the debate, it will not have any binding or legislative effect on the Council; nor will it produce any practical effect on the on-going legislative process. The motion, if passed, would not minimize the force of the provisions of RoP which impose specified duties on Bills Committees. The Bills Committee examining the Bill would have to continue performing its functions in accordance with RoP made by the body which at the same time would have expressed the conflicting view that it shelve the work on the same Bill. The confusing state of affair that could be created by the passage of the proposed motion is not acceptable.

9. If a Member considers that the examination of the Bill should be shelved, he/she should, in accordance with the legislative procedure, first secure the agreement of the Bills Committee which may then notify the House Committee of that.

10. The proposed motion, in my opinion, is out of order.

The second proposed motion

11. Whilst the proposed motion essentially seeks to ask the Council to express the view that it deeply regrets its proposition that the Government is forcefully asking the Council to hurriedly complete the legislative procedure relating to the Bill within the current LegCo session, it does not detract from the fact that the proposition relates to the processing of the Bill by this Council, the work on which has been allocated to a Bills Committee. The focus of the proposed motion is, in my opinion, on the manner the bill is being processed, which includes the way the Government is playing its part in the proceedings of the Bills Committee.

12. As in the case of the first proposed motion, the Bills Committee should be the forum to decide the appropriate manner the Bill should be processed at this stage of the legislative procedure on this Bill. To debate a motion with such focus would amount to depriving the Bills Committee of its proper functions and could cause confusion to the legislative procedure stipulated in RoP.

13. The proposed motion is also, in my opinion, out of order.

Ruling

14. Under Rule 30(3)(c) of the RoP, I rule that the two motions proposed by Mr HO out of order and direct that the notices of the motions be returned.

(Mrs Rita FAN)
President
Legislative Council

5 May 2003