

**立法會**  
***Legislative Council***

LC Paper No. CB(1) 913/06-07(03)

Ref: CB1/HS/1/06

**Paper for the Subcommittee to Study Issues Relating to the  
Air Pollution Control (Volatile Organic Compounds) Regulation**

**Meeting on 8 February 2007**

**Procedural arrangements for debates on the  
Air Pollution Control (Volatile Organic Compounds) Regulation**

**Purpose**

This paper sets out the procedural options available to Members for speaking or debating in the Council on an item of subsidiary legislation which is subject to negative vetting after its gazettal and tabling in the Council. These options apply to the Regulation which the Administration is going to make (the Proposed Regulation) following the repeal of the Air Pollution Control (Volatile Organic Compounds) Regulation (the Regulation) by the Council on 17 January 2007 and this Subcommittee's completion of work on issues relating to that Regulation.

**Background**

2. The Regulation was published in the Gazette on 24 November 2006 and tabled in the Legislative Council on 29 November 2006. It was repealed by the Council due to insufficient time for discussion before the expiry of the extended scrutiny period on 17 January 2007. To expedite the examination of the proposed Regulation, the House Committee (HC) set up a subcommittee to study the issues relating to the proposed Regulation (the Subcommittee) at its meeting on 12 January 2007.
3. The proposed Regulation seeks to prohibit the manufacture and importation of regulated products if the volatile organic compound (VOC) content of the product exceeds the maximum limit that is prescribed by the proposed Regulation for that product.

4. The Subcommittee has so far held three meetings to examine both the policy and technical aspects of the proposed Regulation. The Administration has taken on board all the amendments proposed by the Subcommittee and is prepared to incorporate the suggested amendments in the proposed Regulation. At its meeting on 30 January 2007, members considered that the bulk of its work had been completed and the Administration should be able to have the proposed Regulation made and tabled in the Council for its implementation on 1 April 2007. However, as the proposed Regulation is subsidiary legislation subject to negative vetting, members of the Subcommittee expressed concern that there would not be any opportunity for Members to debate the proposed Regulation if no motion to amend the proposed Regulation was moved. Given the far-reaching implications of the proposed control regime on VOCs which was completely new to Hong Kong, the Subcommittee considered it necessary that Members should be able to speak on the proposed Regulation in the Council after it had been tabled in the Council, and that the responsible public officers should respond to views of Members at the same Council meeting. The Secretariat was asked to provide further information to the Subcommittee on the procedural options for holding a debate on the proposed Regulation.

#### **Present arrangements for speaking on subsidiary legislation**

5. Under the present arrangements, Members may speak on subsidiary legislation subject to negative vetting in the following ways -

- (a) Speak on a motion moved to amend the subsidiary legislation within the scrutiny period (Rule 41(1) of the Rules of Procedure (RoP));
- (b) Address the Council within the scrutiny period of a piece of subsidiary legislation upon its tabling in Council, subject to no debate arising from the address (Rule 21(5) and (6) of RoP);
- (c) Speak at any motion or adjournment debates initiated by the subcommittee formed to study the subsidiary legislation (Rules 13(a) and 14A (h) of the House Rules (HR)); and
- (d) Speak at any motion or adjournment debates initiated by any individual Members of the Council.

For (c) and (d) above, any motion passed will have no legislative effect. The practical difference between the two is that the allocation of the debating slot, in the case of a motion debate, will not count toward the Member who moves the motion if moved under (c). Under Rule 14A(h) of HR, where HC has acceded to a request from a committee or subcommittee of the Council for priority allocation of debate slots, the debate slot shall not be counted as the mover's own slot. Under Rule 13(a) of HR, subject to the recommendation of HC, the President may allow more than two debates initiated by Members to be held at a regular Council meeting.

6. As the proposed Regulation would commence operation on 1 April 2007, the Subcommittee agreed that any proceedings for debate or address in the Council on the proposed Regulation should take place no later than 28 March 2007, the last Council Meeting before 1 April 2007. However, as the meeting on 28 March 2007 has been scheduled for the Resumption of the Second Reading debate on the Appropriation Bill 2007, the time-table for the tabling of proposed Regulation and possible debates/addresses on the proposed Regulation is as follows -

28 February 2007	Tabling of the proposed Regulation in the Council; Budget Speech
7 March 2007	Regular Council Meeting (possible date for debate)
14 March 2007	Regular Council Meeting (possible date for debate)
28 and 29 March 2007	Resumption of Second Reading debate on the Appropriation Bill 2007

Assuming that no subcommittee is formed after tabling of the proposed Regulation on 28 February 2007, the most suitable dates for addressing the Council or holding a debate (if not for amending the proposed Regulation) are 7 and 14 March 2007.

### **Options available to Members for speaking on the proposed Regulation**

#### Option I: Addressing the Council

7. Under Rule 21(5) of RoP, any Member of the Council may, with the consent of the President, address the Council on subsidiary legislation tabled in the Council during the scrutiny period or extended scrutiny period of such subsidiary legislation. Rule 21(6) of RoP provides that no debate may arise on any address presented by a Member. To enable the President to decide whether the address may provoke a debate, an advance copy of the intended address has to be forwarded to the President in accordance with Rule 2 of HR.

#### Option II: Motion or adjournment debate initiated by the subcommittee formed to study the subsidiary legislation

8. A subcommittee appointed by HC to study any item of subsidiary legislation tabled in the Council may recommend holding a third debate on motions with no legislative effect on the subsidiary legislation concerned at a Council meeting. Such recommendation should specify the nature of the debate (i.e. a motion or an adjournment debate), the wording of the motion concerned and the speaking time for

each Member. If HC agrees to the recommendation, it will recommend the holding of that debate to the President under Rule 13(a) of HR.

9. If members agree to this option, provided that discussion on the proposed Regulation can be concluded at the meeting on 8 February 2007, the Subcommittee may submit its report to HC on 23 February 2007 recommending a motion debate on the proposed Regulation. A notice of not less than 12 clear days is required under Rule 29(1) of the RoP.

Option III: Debate initiated by an individual Member of the Council

10. Any Member of the Council may propose a debate by either bidding for the allocation of a slot for a motion debate or an adjournment debate in accordance with normal rules and practices. The procedure under Rule 14 of HR for the allocation of slots for debates to individual Members will apply. The deadline for an application for a debate slot at the meeting on 7 March 2007 and 14 March 2007 will be 14 February 2007 and 24 February 2007 respectively.

**Advice sought**

11. Members are invited to note the options for debate as set out in paragraphs 7 to 10. If it is decided that a debate should be initiated by the Subcommittee, members may wish to consider the wording of the motion as follows -

“That this Council notes the Air Pollution Control (Volatile Organic Compounds) Regulation which was published in the Gazette as Legal Notice No. [ ] of 2007 and laid on the table of the Legislative Council on 28 February 2007.”

Prepared by  
Council Business Division 1  
Legislative Council Secretariat  
7 February 2007