

立法會

Legislative Council

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Paper for the House Committee meeting on 6 October 2017

Filling of a vacancy in the membership of the Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the motion to censure Hon Holden CHOW Ho-ding

Purpose

This paper invites the House Committee ("HC") to consider the proposed arrangements for the election of a Member for appointment to fill a vacancy in the membership of the Investigation Committee established under Rule 49B(2A) of the Rules of Procedure ("RoP") in respect of the motion to censure Hon Holden CHOW Ho-ding ("the IC").

Background

2. In accordance with RoP 73A(1), the IC shall consist of a chairman, a deputy chairman and five members who shall be Members appointed by the President in accordance with an election procedure determined by HC.

3. Pursuant to the election procedure endorsed by HC on 23 June 2017, at the HC meeting on 7 July 2017, the following Members and Mr YIU Chung-yim were elected for appointment to the IC:

Hon Abraham SHEK Lai-him (Chairman)
Hon Martin LIAO Cheung-kong (Deputy Chairman)
Hon James TO Kun-sun
Hon WONG Ting-kwong
Hon Jimmy NG Wing-ka
Hon LUK Chung-hung

4. On 14 July 2017, the Court of First Instance of the High Court ("the Court") in its judgment¹ declared that Mr YIU Chung-yim had since 12 October 2016 been disqualified from assuming and entering on the office of a member of the Legislative Council ("LegCo"), or had vacated the same, and was not entitled to act or claim to act as such. A vacancy has therefore arisen in the membership of the IC following the above judgment of the Court.²

Proposed election procedure and timing for election

5. It is proposed that the following procedure, which is largely modelled on the election procedure for the IC endorsed by HC on 23 June 2017, be adopted for the election of a Member for appointment to the IC to fill the vacancy:

- (a) the election shall be held at a meeting of HC, the date of which ("election date") shall be appointed by HC;
- (b) the LegCo Secretariat shall issue a circular and a nomination form to the Members of LegCo at least seven clear days before the election date, inviting nominations to be made;
- (c) each nomination form shall be for the nomination of one Member and shall be signed by one Member as the proposer, one Member as the seconder, and by the nominee Member to signify his consent to the nomination;
- (d) duly completed nomination forms shall be delivered to the LegCo Secretariat at least three clear days before the election date;
- (e) in the case where no duly completed nomination form is received by the LegCo Secretariat by the deadline for nomination, further nominations may be proposed, at the HC meeting at which the election is conducted, by any Member and seconded by another, with the proposed nominee signifying his consent to the nomination;

¹ The legal proceedings in the Court of First Instance which relate to Mr YIU Chung-yim are HCAL 226 of 2016 and HCMP 3378 of 2016.

² Mr YIU Chung-yim did not file a notice of appeal against the Court's judgment by the deadline of 11 September 2017.

- (f) in the case where one nomination is received under paragraph 5(d) or 5(e) above, the Chairman of HC shall declare the nominee duly elected;
- (g) in cases where the number of nominations received under paragraph 5(d) or 5(e) is more than one, i.e. the number required for appointment to fill the vacancy, a poll shall be taken at the HC meeting at which the election is conducted and Members should cast their votes by using the electronic voting system, whereby a Member may vote for not more than one nominee. The nominee who gets the highest number of votes will be declared elected;
- (h) in cases where a nominee would have been elected but for there being one or more other nominees having been given the same number of votes, a separate poll shall be taken in respect of that nominee and such other nominee(s) in accordance with the manner of election provided in paragraph 5(g); and
- (i) if, after a separate poll is held under paragraph 5(h), there is still a nominee who would have been elected but for there being one or more other nominees having been given the same number of votes, lot shall be drawn by the Chairman of HC among such nominees to determine which of them will take up the vacancy.

6. Taking into account the nomination period set out in paragraph 5(b) above, it is proposed that the election be held at the HC meeting on 20 October 2017.

Advice sought

7. Members are invited to approve the proposals in paragraphs 5 and 6.

Council Business Division 1
Legislative Council Secretariat
4 October 2017