

Enclosure to EC(96-97)55

**ESTABLISHMENT
SUBCOMMITTEE
PROCEDURES**

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ESTABLISHMENT SUBCOMMITTEE PROCEDURES

Role of the Establishment Subcommittee

The Establishment Subcommittee (ESC) of Finance Committee (FC) is established under Standing Order (SO) 60(2B) of the Legislative Council for the purpose of assisting the FC in the performance of its functions. The subcommittee examines requests for variations in the establishment of the civil service and makes recommendations to the FC, but has no independent functions or powers. It is the FC that must make the decisions; and in doing so, the FC is not bound in any way by the recommendations of the ESC.

Terms of Reference

2. The terms of reference of the ESC are -
 - (a) To consider submissions from the Administration and, as appropriate, to recommend to FC :
 - (i) the creation, redeployment and deletion of permanent and supernumerary posts remunerated from the directorate pay scales;
 - (ii) the retention in the draft Estimates of supernumerary directorate posts;
 - (iii) the creation of supernumerary posts held against permanent posts in ranks with a lower notional annual mid-point salary value;
 - (iv) the creation of positions for directorate level consultancies for individuals lasting more than one year;
 - (v) changes to the departmental establishment ceilings shown in the Estimates;
 - (vi) changes to the arrangements for the creation, redeployment and deletion of directorate posts;
 - (vii) changes to the structure of civil service ranks and grades (including pay scales, new grades and new ranks) recommended by the Standing Commission on Civil Service Salaries and Conditions of Service,

or the Standing Committee on Directorate Salaries and Conditions of Service, or the Standing Committee on Judicial Salaries and Conditions of Service, or the Standing Committee on Disciplined Services Salaries and Conditions of Service, and the consequential creation and deletion of posts in affected ranks; and

(viii) changes to the organisational structure of the Government and consequential transfers of posts.

(b) To report to FC on changes in departmental establishments shown in the draft Estimates and on the size and cost of the civil service.

Membership

3. The ESC comprises those FC members who elect to join the ESC by informing the Clerk to the ESC (the Clerk) in writing not later than seven clear days¹ before the first ESC meeting in a new legislative session. The ESC members² elect from amongst themselves a Chairman and a Deputy Chairman. The Chairman may agree to accept late membership on grounds of indisposition or absence from Hong Kong. New Members who are elected to the Legislative Council in the middle of the legislative session will be invited by the Legislative Council Secretariat to signify his/her wish to join the ESC within one month from the date of his/her election.

4. FC members who have not elected to join the ESC may attend ESC meetings and take part in the discussion but have no right to vote.

1 The term "clear day" excludes the day of the giving of a notice, the day of the meeting and intervening Sundays and public holidays.

2 The term "members" or "member" as used in the text refers to members or a member of the Establishment Subcommittee unless specified otherwise.

Chairman and Deputy Chairman

5. The Chairman and Deputy Chairman shall be elected by and from amongst the members at an open meeting, and shall hold office until the first ESC meeting in the following session. In the event of the temporary absence of the Chairman and Deputy Chairman, the Committee may elect a Chairman to act during such absence. [SO 60(2)]³

6. The most senior member of the ESC or, if he declines, the next most senior member not declining, shall convene the first ESC meeting in a new legislative term for the election of a Chairman and a Deputy Chairman for the session. For the second or subsequent sessions in a term, the election may take place at a meeting held before the session commences. At the meeting held for the purpose of the election, the member convening the meeting shall call for nominations for the election for these two posts. All members may stand for election. All nominations are made and seconded orally by at least one member present. A member who nominates an absent member for an office shall state that the absent member's acceptance of the nomination has been secured. If there is only one nomination, the member presiding shall declare the nominee elected. If more than one nomination is received for an office, the election shall be decided by secret ballot by the members present, including the presiding member, on the basis of a simple majority of votes. In case of a tie, the presiding member shall seek the agreement of the members present to have a second voting, or to exercise his casting vote by the drawing of lots.

Clerk to the Establishment Subcommittee

7. The Clerk is responsible for providing support services to the ESC. He attends all meetings, keeps a record of proceedings, and distributes a copy thereof to members before the FC meeting at which the ESC recommendations are considered. He must ensure that members receive sufficient notice of each meeting. The record of proceedings is kept in the form of minutes, recording the gist of proceedings and decisions taken. The Clerk will not normally clear the record with the Administration except in respect of that part of the record which relates to the statements made by the Administration at the meeting.

Meetings

8. At the beginning of each session, the Clerk seeks the Chairman's agreement to a provisional schedule of dates of ESC meetings for the session and informs members and the Administration accordingly. The Chairman may decide to convene

³ The term [SO 60(2)] means Standing Order No. 60(2) of the Legislative Council contains a similar provision.

special meetings to consider urgent items.

9. The Clerk must give members at least five clear days' written notice of every meeting unless, on grounds of urgency, the Chairman directs otherwise. Meetings are held in public unless the Chairman otherwise orders in accordance with any decision of the ESC. Any items not dealt with at one meeting will be carried over to a special meeting to be arranged by the Clerk or, if the Chairman decides, to the next meeting.

10. The Chairman or, if he is not available, the Deputy Chairman, chairs an ESC meeting. If neither of them is present within 15 minutes of the time appointed for a meeting or if both of them have notified the Clerk that they will not be present at the meeting, the members present shall elect one from amongst themselves to chair the meeting. If the Chairman decides that he is unable to act for a particular item, or if so decided by the ESC, the Deputy Chairman shall chair the meeting for that particular item. If both of them decide that they are unable to act, or if so decided by the ESC, the members present shall elect one from amongst themselves to chair the meeting for that item.

Quorum

11. The Chairman and three members or the Chairman and one-seventh of the members, whichever is the greater, form a quorum. Members should confirm their attendance with the Clerk before an ESC meeting; otherwise, the Clerk will assume their absence for the purposes of determining whether there will be a quorum present at the meeting. The meeting will not be held unless a quorum is present within 15 minutes after the time appointed for the meeting.

Attendance of Public Officers

12. The Chairman or the ESC may invite any public officer, or, in the case of a head of Estimates relating to a non-government body or organisation, any member or employee of that body or organisation to give information or any explanation or to produce any records or documents which the ESC may require in the performance of its duties. The ESC may also invite any other person to assist the ESC in relation to any such information, explanation, records or documents. The Clerk will state in the agenda the office of the public officers and other persons invited for discussion of the particular items. [SO 60(10)]

13. When the Secretary for the Treasury or the Deputy Secretary for the Treasury attends ESC meetings in the absence of the Financial Secretary, he is

responsible for advising the Chairman on public finance procedures and coordinating the Administration's presentation at meetings including withdrawal and modification of a proposal.

Information Note

14. The Administration may issue information notes to members separately from the ESC's agenda under a serially-numbered cover. An information note may be issued in response to a request by members made at a previous meeting or on the Administration's own initiative.

Agenda Item

15. The Financial Secretary, the Secretary for the Treasury, or the Deputy Secretary for the Treasury, being public officers designated by the Governor, may give notice to the Clerk of the items of business to be included in the agenda of the ESC. [SO 4B(2)] The notice of agenda items should reach the Clerk at least six clear days before the meeting, but shorter notice may be given in case the Chairman so directs.

16. An ESC agenda item is normally a discussion paper proposing for ESC's recommendation to the FC the establishment proposals submitted by the Administration. The Clerk shall despatch papers for discussion to members at least five clear days before the meeting at which the papers are to be considered, unless the Chairman directs otherwise on grounds of urgency.

Confidential Item

17. Non-confidential ESC agenda items are discussed in public unless the Chairman otherwise orders in accordance with any decision of the ESC. [SO 60(3A)] If there is a confidential item and members have questions on it, the ESC will discuss the item in closed session normally after the discussion of all the non-confidential items, unless the Chairman otherwise orders in accordance with the decision of the ESC. If the Administration considers it necessary to classify an item as confidential, there must be a paragraph in the submission explaining the reason for confidentiality.

18. The Clerk delivers papers relating to a confidential item to members in a sealed envelope. Members should take care to ensure that such papers are kept in safe custody and should not disclose their contents, in part or in full, to any unauthorized persons.

Consideration by Circulation

19. The rules set out in SO 60(4A) shall apply to the proceedings of the ESC.

Withdrawal of Agenda Items

20. At an ESC meeting, the Financial Secretary or, in his absence, the Secretary for the Treasury, or the Deputy Secretary for the Treasury may withdraw an item -

- (a) at any time before it is put to the vote; or
- (b) by unanimous consent of the ESC after it has been put to the vote but the result is not yet declared by the Chairman.

Amendments to the Administration's Proposals

21. Under section 8 of the Public Finance Ordinance, proposals to change the approved Estimates of Expenditure must come from the Financial Secretary, and members cannot amend the Financial Secretary's proposals. The ESC must discuss and vote on any proposal as it stands. If the ESC does not approve the proposal, it

would then be for the Financial Secretary to consider whether to make a fresh proposal amended in such a way as may make it acceptable to the ESC.

Practices and Procedures of the Establishment Subcommittee

22. Subject to the Standing Orders of the Legislative Council and the FC's endorsement, the ESC determines its own practices and procedures. [SO 60(11)]

Order in the Establishment Subcommittee

23. The Chairman is responsible for the observance of the rules of order in the ESC and his decision on a point of order shall be final. [SO 33]

24. The Chairman, after having called the attention of the ESC to the conduct of a member who persists in irrelevance or tedious repetition of his own or other members' arguments in the discussion, may direct him to discontinue his speech. [SO 34(1)]

25. A member may not interrupt another member except -

- (a) on a point of order which the Chairman may decide on; and
- (b) to seek elucidation on some matters raised by that member in the course of discussion, if the member speaking is willing to give way and the Chairman agrees. [SO 29]

Language

26. A member may address the ESC orally in either Cantonese or English . Replies by the public officers and others persons attending may likewise be in either Cantonese or English . All ESC papers are in both Chinese and English.

Manner at Meetings

27. Members should remain seated at meetings and need not rise in order to speak. There is no need to stand when the Chairman enters or leaves.

28. Members should raise their hands and, if they so wish, press the 'call' button to signify that they wish to speak.

Adjournment of Proceedings

29. A member when speaking on a proposal in the Subcommittee may move without notice that discussion on an item or further proceedings of the ESC be adjourned. Thereupon the Chairman shall put the question on the motion to adjourn.

Pecuniary Interest to be Disclosed

30. The rules set out in SO 65 shall apply to the proceedings of the ESC.

31. There are situations in which the usual rules regarding pecuniary interests do not apply, such as when an item concerns an establishment proposal where members would benefit no more or no less than any other resident of Hong Kong. In these cases, there is no need for members to declare their individual interests. The Chairman shall declare that all members have the same pecuniary interest in the question and the Clerk records the statement. Members may then speak and vote.

Questions

32. The Chairman calls the meeting to order and normally deals first with the business left over from the previous meeting, if any. The Chairman gives a brief summary of each item (except confidential items) for the benefit of members of the public who do not have copies of the item, and introduces the officers at the meeting responsible for answering questions on the item. Members then discuss the item and ask questions.

33. Members' questions on a proposal must relate directly to the contents of the agenda item. Members should either address the full Council on wider questions of policy or raise them at an appropriate LegCo panel. In determining whether questions are in order, the Chairman shall have regard to the rules of SO 18 on contents of questions where appropriate.

34. Representatives from the relevant department and branch are in attendance to answer questions which members may have. If members have a question to which they require a comprehensive or very technical oral reply at the meeting, they should notify the Clerk beforehand so that the answer can be prepared. If the Administration cannot give a full or certain answer at the meeting, the representative concerned may supplement his answer in writing by subsequently providing an information note to the ESC or a letter to the member who asked the question with copies to other members as appropriate.

Voting

35. The ESC makes decisions on all matters by a majority of the members present and voting. Neither the Chairman nor any other member presiding shall vote, unless the votes of the other members are equally divided, in which case he shall have a casting vote. [SO 60(4)] A casting vote can be exercised in accordance with the convention that the effect of the casting vote will keep the matter open for discussion or in such a way as not to alter the status quo.

36. Before putting an item to the vote, the Chairman shall ask members if they have any further questions. When the Chairman puts a question to the ESC for its decision he first calls upon those members who are in favour of the question to say "Aye" and then upon those who are against the question to say "No". The Chairman may, according to his judgement of the number of voices on either side, then state that he thinks the Ayes have it or that he thinks the Noes have it, as the case may be. If no member challenges his statement, the Chairman will declare the result of voting. If a member challenges the statement of the Chairman by claiming a division, then the Chairman will order the ESC to proceed to a division. The ESC holds a division immediately after the Clerk has rung a division bell for one minute. Unless the Chairman otherwise directs, the members present and voting shall cast their votes in the division by using the electronic system in accordance with the operating requirements of the system, and the Chairman declares the result of the division accordingly. [SOs 36 and 36A]

37. No member may speak on a question after the Chairman has collected the voices of the Ayes and Noes. Before this, the Chairman may interrupt the voting procedure to enable a member to speak. [SO 36(2)]

38. If a member fails to declare that he has a direct pecuniary interest in an item in accordance with SO 65, and has voted on it, then his vote stands (and the ESC's decision is valid) unless his vote is disallowed under SO 65(2) following the procedures laid down in the House Rules.

Adverse Weather

39. Unless directed otherwise by the Chairman, all meetings shall be cancelled if Storm Signal No. 8 or Rainstorm Black Warning is hoisted and/or remains in force two hours before the appointed time of the meeting. If Storm Signal No. 8 is hoisted while a meeting is in progress, the Chairman should adjourn the meeting. In the case of a Rainstorm Black Warning, the Chairman should decide whether to adjourn or continue with the meeting.
