

**Ruling of the President of the Provisional Legislative Council
on the Amendments to the Legislative Council Bill
Proposed by the Hon. K. K. FUNG**

The Legislative Council Bill was presented to the Provisional Legislative Council on 20 August 1997. The second reading debate on the bill will be resumed on 27 September 1997.

2. Mr K. K. FUNG has given notice to move amendments to the above-mentioned bill. Mr. FUNG's proposed amendments to clauses 3, 16(1), 17(2), 36, 39(2), 47, and 80(2) seek to prescribe 20 geographical constituencies, using the single-seat, single-vote system for the elections to the first Legislative Council.

3. I have ruled the above amendments out of order on the ground that they are not within the scope of the bill. The purpose of the bill, according to the long title, is to provide for the constitution, convening and dissolution of the Legislative Council of the Hong Kong Special Administrative Region (HKSAR); to provide for the election of Members of that Council; and to provide for related matters. Clause 2 of the bill also says that the "purpose of the Ordinance is to give effect to the provisions of the Basic Law relating to the Legislative Council".

4. The term "Legislative Council" should include the first Legislative Council of the HKSAR. The "provisions of the Basic Law relating to the Legislative Council" include Article 68 which incorporates the "specific method for forming the Legislative Council and its procedures for voting on bills and motions" as prescribed in Annex II of the Basic Law. Annex II of the Basic Law stipulates that "in the first term, the Legislative Council shall be formed in accordance with the "Decision of the National People's Congress on the Method for the Formation of the First Government and the First Legislative Council of the HKSAR"" adopted by the National People's Congress on 4 April 1990. In accordance with this decision, the Preparatory Committee for the HKSAR (Preparatory Committee) was set up in January 1996 to be responsible for preparing the establishment of the Region and to prescribe the specific method for forming the first Government and the first Legislative Council. The Preparatory Committee decided by resolution on

23 May 1997 the specific method for forming the first Legislative Council of the HKSAR. It is clear that the Preparatory Committee made its decision with authority derived from Article 68 of the Basic Law, and its decision should be considered as part of the provisions of the Basic Law relating to the Legislative Council.

5. I am therefore of the opinion that the scope of the Legislative Council Bill is to give effect to the provisions of the Basic Law relating to the Legislative Council, which include Annex II of the Basic Law, the “Decision of the National People’s Congress on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region”, and the decision of the Preparatory Committee on the specific method for the formation of the first Legislative Council made on 23 May 1997.

6. In accordance with the Rules of Procedure of the Provisional Legislative Council, Committee stage amendments to a bill that are not within the scope of the bill, i.e. not relevant to the subject matter of the bill, are out of order and cannot be moved.

7. Article 4 of the Preparatory Committee’s decision stipulates that for the election to the first Legislative Council, EITHER the multi-seat, single-vote system OR the proportional representation system should be used. As the single-seat, single-vote system proposed in Mr. FUNG’s amendments is not one of the systems laid down by the Preparatory Committee, the amendments are incapable of giving effect to the decision of the Preparatory Committee. Therefore, they are outside the scope of the bill and cannot be moved.

8. I have ordered that Mr. FUNG’s amendments mentioned in paragraph 2 be returned to him.

Rita FAN
President, Provisional Legislative Council

25 September 1997