

**Ruling by the President of the Legislative Council
on the Labour Relations (Right to Representation, Consultation and
Collective Bargaining) Bill
proposed by the Hon. LEE Cheuk-yan**

I have been requested by the Hon. LEE Cheuk-yan to give a ruling in accordance with the Rules of Procedure on the Labour Relations (Right to Representation, Consultation and Collective Bargaining) Bill which he intended to present to the Council jointly with the Hon. LAU Chin-shek and the Hon. LEUNG Yiu-chung. In this connection, I have sought the views of the Administration on the bill from the point of view of Rule 51(3) and (4) and Mr. LEE's response to the Administration's views. Both the Administration and Mr. LEE have further commented on each other's responses, with the last comments on the issues being from Mr. LEE. The dates of their submissions are given in **Annex I**. I have given very careful consideration to the views from both the Administration and Mr LEE. This ruling will only refer to those views which I consider are of relevance.

Rule 51(3) and (4) of the Rules of Procedure

2. The Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region (HKSAR) were made pursuant to Article 75 of the Basic Law (BL 75). Rule 51(3) and (4) read as follows-

"51(3) Members may not either individually or jointly introduce a bill which, in the opinion of the President, relates to public expenditure or political structure or the operation of the Government."

"51(4) In the case of a bill which, in the opinion of the President, relates to Government policies, the notice shall be accompanied by the written consent of the Chief Executive in respect of the bill."

As the President of the Legislative Council, I am required by BL 72(6) to apply the Rules of Procedure as they stand and as I understand them, taking into account all relevant considerations including views expressed by all parties concerned who have been given reasonable opportunities for doing so, and advice from the Counsel to the Legislature.

Basis on which I form an opinion under Rule 51(3) and (4)

3. Rule 51(3) and (4) are made for implementing BL 74 which states:

"香港特別行政區立法會議員根據本法規定並依照法定程序提出法律草案，凡不涉及公共開支或政治體制或政府運作者，可由立法會議員個別或聯名提出。凡涉及政府政策者，在提出前必須得到行政長官的書面同意。"

(English translation: Members of the Legislative Council of the Hong Kong Special Administrative Region may introduce bills in accordance with the provisions of this Law and legal procedures. Bills which do not relate to public expenditure or political structure or the operation of the government may be introduced individually or jointly by members of the Council. The written consent of the Chief Executive shall be required before bills relating to government policies are introduced.)

4. In making my ruling, I have to give effect to the meaning of BL 74 when forming an opinion under the two subrules in Rule 51. In ascertaining the meaning of BL 74, I have to bear in mind the purpose of the BL and this article and the ordinary and natural meaning of its provision in its context when read in conjunction with other relevant articles in the BL. To facilitate reference to the various articles mentioned in this ruling, I provide in **Annex II** the text of such articles.

Purpose of Article 74 of the Basic Law

The Administration's views

5. The main theme of the Administration's submission is that BL 74 should be interpreted in the light that the intention of the BL is that the Hong Kong Special Administration Region (HKSAR) be led by the Chief Executive (CE) together with the executive authorities in order to maintain an "executive-led" government. The executive authorities of the HKSAR are vested with the functions of formulating and implementing policies and the introduction of bills and budgets (BL 62) and the CE is vested with the power to reject bills passed by the Legislative Council (BL 49). It is therefore clear that the power of the executive to introduce bills is an unqualified one. As for the Legislature, whilst the Legislative Council may question and debate government policies and other matters of public interest under BL 64 and 73(4), (5) and (6), this is not the same as formulating policies or introducing bills to implement policies. Besides, BL 73 does not mention that the Legislative

Council has the power and function of making policies.

6. The Administration nevertheless accepts that the HKSAR legislature is vested with its own legislative power, but such power is subject to the conditions or restrictions or procedures imposed by the BL. Whilst BL 74 is an empowering provision which empowers Members to introduce bills, this article at the same time imposes conditions and restrictions on this power.

Hon. LEE Cheuk-yan's views

7. In responding to the Administration's view on BL 74, Mr. LEE says that by employing dictionary meanings to interpret the terms of public expenditure, political structure, the operation of the government and government policies, the Administration has failed to consider the greater context of BL 74 which is to empower Members of the Legislative Council to introduce bills. The Legislative Council is separate from and independent of the executive authorities and its right to introduce bills should be generously construed and any limitations to such right should be narrowly construed. The Administration's interpretation of the BL amounts to a de facto nullification of the power of Members of the Legislative Council to introduce bills relating to public affairs. It is unjustifiable to suggest that the HKSAR legislature enjoys much less power than that under colonial rule. BL 74 is to preserve the procedure and practices that existed before the change of sovereignty in 1997.

8. Mr. LEE has put forward the "living tree" doctrine which, he suggests, dictates that Members of the Legislative Council should not be barred at the present time from introducing bills as this is against the development of executive/legislature relationship.

9. He considers that the Legislative Council is not inferior to the executive authorities which are required to be accountable to the legislature and therefore should enjoy the same power as the executive authorities in introducing bills to the Legislative Council.

My views

10. When trying to find out the meaning of BL 74, I note that BL 73 stipulates the powers and functions of the Legislative Council. Without BL 74, it may be concluded that Members of the Legislative Council may introduce bills without any constraints. However, BL 74 clearly says that "Bills which do not relate to public expenditure or political structure or the

operation of the government may be introduced individually or jointly by members of the Council. The written consent of the Chief Executive shall be required before bills relating to government policies are introduced". Therefore whilst Members of the Council may introduce bills into the Council, their ability to do so is subject to the restrictions stipulated in BL 74.

11. I have also referred to the speech made by Mr. JI Peng-fei, Chairman of the Basic Law Drafting Committee, when he introduced the Draft BL to the third session of the 7th National People's Congress of the People's Republic of China on 28 March 1990. In the speech, when he spoke on the relationship between the executive authorities and the legislature, he said that "行政機關和立法機關之間的關係應該是既互相制衡又互相配合" (English translation: The executive authorities and the legislature should regulate each other as well as co-ordinate their activities.). Chapter IV of the BL provides for the political structure of the HKSAR. One of the main purposes of this Chapter is to allocate the respective powers and functions of the organs of government in such a way as to provide checks and balances between the executive and the legislature and to provide a framework to allow and facilitate these organs to co-ordinate their activities. In respect of the introduction of bills, BL 62 provides that the executive authorities have the powers and functions to draft and introduce bills, motion and subordinate legislation without qualification. On the other hand, whilst BL 74 says that Members of the Legislative Council may introduce bills, it also says that they may do so in accordance with the provisions of the BL and subject to the restrictions that have been imposed in this article.

12. I have therefore formed the opinion that BL 74 is an enabling article which enables Members of the Legislative Council to introduce bills, but it at the same time imposes conditions and restrictions on such introduction.

Opinions on specific terms in Rule 51(3) and (4)

13. The Administration considers that the Labour Relations (Right to Representation, Consultation and Collective Bargaining) Bill "relates to" "public expenditure", "the operation of the government", and "government policies". Before I give my opinions in this respect, I would like to set out at this juncture the general approach I will adopt for forming my views on these terms in the context of Rule 51(3) and (4).

14. As regards the general approach, I am of the view that I would be underestimating the difficulty of the task if I were to attempt to give precise

definitions to these terms. I have taken note of the judgement of a 1985 case in the House of Lords in the United Kingdom. In that case, the court was examining whether a certain matter was related to a trial on indictment. In the judgement Lord Bridge said, "If the statutory language is, as here, imprecise, it may well be impossible to prescribe in the abstract a precise test to determine on which side of the line any case should fall, and therefore, necessary to proceed, on a case by case basis". The principle that follows from this approach is that my views on these terms should be taken as guidelines only. They are to be applied on a case by case basis and each case would be examined on its own merits.

"Relate to"

The Administration's views

15. When commenting on Mr. LEE's bill, the Administration says that a bill should be considered to be relating to a matter if it has a direct, indirect, consequential or incidental bearing on the matter.

Mr. LEE Cheuk-yan's views

16. Mr. LEE, however, considers that "relate to" should be interpreted "in the context of each restriction rather than given a broad meaning" and to mean "having a direct bearing on relevant aspects" only. For example, he considers that "only those bills having the direct and legal effect of changing the operation of executive authorities in terms of the organisational structure, the functions and duties as well as the division of labour between other government departments should be regarded as 'relating to the operation of the government'".

My views

17. In my view, in order for a bill not to be caught by Rule 51(3) and (4), the implementation of the bill must not have substantive effect on one or more than one of the areas prescribed in this Rule.

"Public expenditure"

The Administration's views

18. The Administration is of the view that under BL74, the "public

expenditure" test covers not only direct charges under the "charging effect" tests (tests which have been used in the Hong Kong legislature to assess whether a motion or an amendment to a bill may have the object or effect of disposing of or charging any part of the revenue or other public moneys of Hong Kong), but also incidental increases, unless the bill entails administrative work which is unlikely to impose more than a minimal continuing demand on public expenditure.

Mr. LEE Cheuk-yan's views

19. In response, Mr. LEE says that in assessing whether a bill relates to public expenditure, the practice of the legislature before 1997 should be preserved and only the "charging effect" tests should be conducted. And a bill would be regarded as relating to public expenditure if the expenditure involved is new and distinct; "public expenditure" in BL 74 should be construed as covering only direct charges and excluding incidental increases.

My views

20. One of my considerations is to decide whether the same "charging effect" tests should be used to determine whether a bill relates to public expenditure. I note that the concept of "charging effect" is enshrined in Rules 31 and 57(6) of the Rules of Procedure, the principle of which is based on similar provisions in the Standing Orders of the former Legislative Council. I also note in its Progress Report to the Council on 28 April 1999, the Committee on Rules of Procedure says, "As regards Rules 31, 57(6) and 69, the Committee maintains that these are self-imposed restrictions to govern motions and Committee Stage amendments with charging effect moved by Members. These rules are consistent with the financial procedure in other jurisdictions... Although no such requirements are stipulated in the Basic Law, they do not contravene the Basic Law. The Committee considers it reasonable to maintain such a procedure and therefore does not recommend any change to these Rules." Rules 31 and 57(6) therefore have no relation to BL74 and have no relevance to any ruling I make in respect of "public expenditure" under Rule 51(3).

21. In my opinion, the term "public expenditure" in Rule 51(3) is wider in scope than "the disposal of or charging any part of the revenue or other public moneys of Hong Kong". A bill will relate to public expenditure if the implementation of the bill has the effect of either increasing or reducing public expenditure and the amount so increased or reduced is substantial and is such

that I must not ignore.

Operation of the government

The Administration's views

22. The Administration is of the view that this term refers to the day-to-day administration and management of the government which includes all three branches of the government: the executive authorities, the legislature and the judiciary.

Mr. LEE Cheuk-yan's view

23. On the other hand, Mr. LEE considers that the term "government" in this context should refer only to the executive authorities headed by the CE and a bill can be considered to relate to the operation of the government if it entails major changes such as the restructuring of government departments. Therefore only bills whose main object or predominant effect is to alter the operation of the executive administration should be caught by BL 74.

My views

24. Under BL 59, the Government of the HKSAR shall be the executive authorities of the Region. It is therefore clear that "government" in this context and in the context of Rule 51(3) does not include the legislature and the judiciary and I do not accept the Administration's argument that the Government includes all three branches, i.e., the executive, the legislature and the judiciary. I am of the view that if I am satisfied that the implementation of a proposed bill would have obvious effect on the structure or procedure of the executive authorities, and that the effect would not be of a temporary nature, then I will form the opinion that the bill relates to the operation of the government.

Government policies

The Administration's views

25. The Administration has put forward the view that government policies refer not only to decisions or policies made by the CE under BL 48(4) and 56, but also policies being formulated and decisions of the government not to formulate any policy.

Mr. LEE Cheuk-yan's views

26. Mr. LEE, however, considers that policies should include only major and existing policies decided by the CE and those having great impact on the government and society; policies should not include minor policies and policies being formulated and the government's decision not to formulate policies. He considers that to determine whether a bill relates to public policies, the bill should be compared with existing law to see if the bill proposes policies which contravene or substantially deviate from the policies in existing law. Mr. LEE further suggests that as the Legislative Council is elected once every four years, "the restriction or the point of time 'relating to government policies' should only cover existing legislation that was enacted within the present term of LegCo".

27. Mr. LEE also considers that if a bill introduced by a Member seeks to implement policies made under the Basic Law, it should be allowed.

My views

28. I am of the opinion that government policies referred to in BL74 are those that have been decided by the CE or CE in Council under BL 48(4) and 56. Policies decided by former Governors or Governors in Council prior to the implementation of the BL which are still in force are also included.

29. Some of the government policies may need to be implemented through legislation. An Ordinance enacted for that purpose does not have the legal effect of forbidding the CE from deciding on a new government policy which is different from the one enshrined in legislation. What it would require the CE to do in order to implement that new policy is to introduce an amendment bill or a bill to repeal the relevant legislation. I think, therefore, policies reflected in legislation are government policies for the purpose of Rule 51(4).

30. Government policies for the purpose of Rule 51(4) should also include-

- (a) policies decided by public officers with delegated authority from the CE; and
- (b) policies promulgated in the Legislative Council or its committees by public officers designated by the CE.

31. For the purpose of Rule 51(4), I do not regard policies being formulated as government policies.

32. A Member is required to obtain a certificate from the Law Draftsman under Rule 51(2) before he may introduce a bill. I would regard a government policy as being in existence if it was decided on before the day on which the Member submits his bill to the Law Draftsman for the issue of the above-mentioned certificate.

Labour Relations (Right to Representation, Consultation and Collective Bargaining) Bill

33. Having set out my opinion on the terms that are of relevance to the bill, I now come to the bill itself.

34. The object of Mr. LEE's bill is to provide for the rights of employees to representation, consultation and collective bargaining and to provide remedies for breach of the rights to consultation and collective bargaining.

Does the bill relate to public expenditure?

The Administration's views

35. The Administration is of the view that Mr. LEE's bill relates to public expenditure because the Labour Department will require additional resources to provide pre-hearing conciliation service as required by the Labour Tribunal Ordinance (Cap. 25). To provide this service and to implement the other provisions in the bill, the Labour Department has to employ a total of 33 staff members at a cost of \$23.3 million per annum.

36. The Administration also estimates that two to three courts in the Labour Tribunal will have to be established to handle the new cases under this bill and the Employment (Amendment) (No. 2) Bill 1998 (which Mr LEE also intends to introduce into the Legislative Council) at an extra cost of \$12.9 million per annum. About half of this additional cost will be incurred for implementing this bill.

Mr. LEE Cheuk-yan's views

37. Mr. LEE refutes the Administration's claim that additional expenditure will be incurred to implement this bill. He is of the view that the authorisation under section 6(5) of the Labour Tribunal Ordinance (Cap. 25) is framed in sufficiently broad and open-ended terms to authorize the increase in expenditure claimed by the Administration. He also does not consider that the

bill will impose new and distinct functions on the Administration; the increase of the caseload of the Labour Tribunal is only incidental consequence on the administration of justice. The services that the Administration claims will be provided are not required to be provided by the bill.

My opinion

38. I note that according to the Administration's estimate, the additional staff cost required to implement Mr. LEE's bill is \$23.3 million. I consider that this amount alone is substantial and is such that I must not ignore.

39. Although the purpose of Mr. LEE's bill is not to incur public expenditure, I have no doubt that the implementation of the bill will have substantive effect on the area of "public expenditure". I am of the opinion that the bill relates to public expenditure.

Does the bill relate to the operation of the government?

The Administration's views

40. The Administration says that the bill will impact on the day to day administration and management of the government. As the term "relate to" should be construed as having both a direct and indirect bearing on "operation of the government", it does not agree that only bills having direct and legal effects should be regarded as being caught by the term "relate to the operation of the government". As Mr. LEE's bill has direct and legal effect of changing the operation of the executive authorities in terms of the organisational structures, the functions and duties as well as the division between government departments, the bill should be regarded as "relating to the operation of the government".

41. The Administration claims that the Labour Department will need a division to provide new conciliation and advisory service for the purpose of the bill and this division should be separate from the Labour Relations Service of the Labour Department. It further claims that the bill will extend and vary the functions of the Labour Tribunal, and such extension or variation of functions relates to the administration or management of justice, of which the Labour Tribunal is part.

Mr. LEE Cheuk-yan's views

42. Mr. LEE does not consider that his bill relates to the operation of the government on two grounds. Firstly, when a public officer performs the role of an authorised officer, he does so in the capacity of an officer of the judiciary rather than under the direction of the Labour Department. The performance of "pre-hearing conciliation" by authorised officers under the Labour Tribunal Ordinance should not be treated as operation of the "executive authorities" but of the "judiciary". Furthermore, neither the proposed bill nor the Labour Tribunal Ordinance contains a provision, explicitly or implicitly, requiring a new division in the Labour Department to be established.

My opinion

43. As I have formed the opinion that the Government of HKSAR, as defined under BL 59, is the executive authorities of the Region, the Labour Tribunal should not be regarded as part of the Government of the Region. Even if the implementation of Mr. LEE's bill will have obvious effect on the structure or procedure of the Labour Tribunal, I am of the opinion that the bill does not relate to the operation of the government.

44. As regards the advisory and conciliatory service that will be provided by the Labour Department following the enactment of the bill, I do not see adequate justifications for the need to have a separate division in the Labour Department independent of the Labour Relations Service to provide such service.

45. Since I do not consider that the implementation of the bill will have an obvious effect on the structure or procedure of the executive authorities, I am of the opinion that the bill does not relate to the operation of the government.

Does the bill relate to government policies?

The Administration's views

46. The Administration is of the view that the bill relates to government policies. It says that the Government made a policy decision which was endorsed by the CE in Council on 30 September 1997 to repeal the Employees' Right to Representation, Consultation and Collective Bargaining Ordinance. That ordinance was repealed through the enactment of the Employment and Labour Relations (Miscellaneous Amendments) Ordinance on 30 October 1997. The repealed ordinance, which was also introduced by Mr. LEE, contained provisions similar to those of Mr LEE's present bill.

Mr. LEE Cheuk-yan's views

47. Mr. LEE argues that the policy to which the Administration claims the bill relates is not formulated and implemented through existing law. He further contends that the Employment and Labour Relations (Miscellaneous Amendments) Ordinance which repealed the Employees' Right to Representation, Consultation and Collective Bargaining Ordinance did not carry any legal effect or implication of implementing a policy not to provide specific legislation giving employees the rights to representation, consultation and collective bargaining. He is also of the opinion that the bill does not deviate from the policy implication of the Employment and Labour Relations (Miscellaneous Amendments) Ordinance. He does not consider his bill as relating to government policies.

48. He also submits that, in his view, the bill is to implement Article 4 of the Right to Organise and Collective Bargaining Convention 1949. He argues that since such implementation is a matter explicitly provided for under BL 39, the bill should be treated as "relating to constitutional matters" and should not be caught under BL 74.

My opinion

49. I do not accept Mr. LEE's argument that the Employment and Labour Relations (Miscellaneous Amendments) Ordinance does not have any legal effect of implementing a policy. The repeal of the Employees' Right to Representation, Consultation and Collective Bargaining Ordinance as a result of the government's introduction of the Employment and Labour Relations (Miscellaneous Amendments) Bill 1997 clearly demonstrates the existence of a government policy on employees' right to representation, consultation, and collective bargaining. As the implementation of Mr. LEE's bill will have substantive effect on government policies, I am of the opinion that Mr. LEE's bill relates to government policies, which existed before 10 August 1998, the day on which Mr. LEE submitted his bill to the Law Draftsman for the issue of a certificate under Rule 51(2).

50. As for the merits of or reasons for government policies, these are not matters on which I am required to form an opinion.

Conclusion

51. To conclude, I am of the opinion that Mr. LEE's bill relates to public expenditure and government policies, but does not relate to the operation of the government. This bill may not be introduced.

(Mrs Rita FAN)
President
Legislative Council

19 July 1999

**Dates on which the Administration and
The Hon. LEE Cheuk-yan sent in their views on
Mr. LEE's Labour Relations (Rights to
Representation, Consultation and Collective Bargaining) Bill**

- | | |
|------------------|--|
| 6 November 1998 | Mr LEE submitted the captioned bill and sought a ruling from the President, Legislative Council under Rule 51(3) and (4). |
| 6 November 1998 | The Administration was requested to give its views on Mr LEE's bill as to whether it related to public expenditure or political structure or the operation of the government or government policies. |
| 16 January 1999 | The Administration sent in its views. |
| 19 January 1999 | The Administration was requested to provide further particulars on several aspects of its submission. |
| 15 February 1999 | The Administration sent in its comments on the specific points raised on 19.1.1999. |
| 26 April 1999 | Mr LEE sent in his comments on the Administration's views on his bill. |
| 26 April 1999 | Mr LEE's comments were forwarded to the Administration for further comments. |
| 19 May 1999 | The President met Mr. LEE Cheuk-yan to discuss the bill. |
| 14 June 1999 | The Administration sent in its further comments on Mr LEE's comments contained in his submission dated 26 April 1999. |
| 14 June 1999 | The Administration's comments were forwarded to Mr LEE for final comments. |
| 13 July 1999 | Mr LEE sent in his comments on the Administration's comments contained in its submission dated 14 June 1999. |

**Articles in the Basic Law and the Rules of Procedure
referred to in the
Ruling of the President, Legislative Council on
the Hon LEE Cheuk-yan's
Labour Relations (Right to Representation, Consultation and
Collective Bargaining) Bill**

Basic Law

Article 39 The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region.

 The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the preceding paragraph of this Article.

Article 43 The Chief Executive of the Hong Kong Special Administrative Region shall be the head of the Hong Kong Special Administrative Region and shall represent the Region.

 The Chief Executive of the Hong Kong Special Administrative Region shall be accountable to the Central People's Government and the Hong Kong Special Administrative Region in accordance with the provisions of this Law.

Article 48(4) To decide on government policies and to issue executive orders.

Article 56 The Executive Council of the Hong Kong Special Administrative Region shall be presided over by the Chief Executive.

Except for the appointment, removal and disciplining of officials and the adoption of measures in emergencies, the Chief Executive shall consult the Executive Council before making important policy decisions, introducing bills to the Legislative Council, making subordinate legislation, or dissolving the Legislative Council.

If the Chief Executive does not accept a majority opinion of the Executive Council, he or she shall put the specific reasons on record.

Article 62 The Government of the Hong Kong Special Administrative Region shall exercise the following powers and functions :

- (1) To formulate and implement policies;
- (2) To conduct administrative affairs;
- (3) To conduct external affairs as authorized by the Central People's Government under this Law;
- (4) To draw up and introduce budgets and final accounts;
- (5) To draft and introduce bills, motions and subordinate legislation; and
- (6) To designate officials to sit in on the meetings of the Legislative Council and to speak on behalf of the government.

Article 73 The Legislative Council of the Hong Kong Special Administrative Region shall exercise the following powers and functions :

- (1) To enact, amend or repeal laws in accordance with the provisions of this Law and legal procedures;
- (2) To examine and approve budgets introduced by the government;
- (3) To approve taxation and public expenditure;
- (4) To receive and debate the policy addresses of the Chief Executive;
- (5) To raise questions on the work of the government;
- (6) To debate any issue concerning public interests;
- (7) To endorse the appointment and removal of the judges of the Court of Final Appeal and the Chief Judge of the High Court;
- (8) To receive and handle complaints from Hong Kong residents;
- (9) If a motion initiated jointly by one-fourth of all the members of the Legislative Council charges the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign, the Council may, after passing a motion for investigation, give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee. The committee shall be responsible for carrying out the investigation and reporting its findings to the Council. If the committee considers the evidence sufficient to substantiate such charges, the Council may pass a motion of impeachment by a two-thirds majority of all its members and report it to the Central People's Government for decision; and

(10) To summon, as required when exercising the above-mentioned powers and functions, persons concerned to testify or give evidence.

Article 74

Members of the Legislative Council of the Hong Kong Special Administrative Region may introduce bills in accordance with the provisions of this Law and legal procedures. Bills which do not relate to public expenditure or political structure or the operation of the government may be introduced individually or jointly by members of the Council. The written consent of the Chief Executive shall be required before bills relating to government policies are introduced.

Rules of Procedure

31 A motion or amendment, the object or effect of which may, in the opinion of the President or Chairman, be to dispose of or charge any part of the revenue or other public moneys of Hong Kong shall be proposed only by -

- (a) the Chief Executive; or
- (b) a designated public officer; or
- (c) a Member, if the Chief Executive consents in writing to the proposal.

57(6) An amendment, the object or effect of which may, in the opinion of the President or Chairman, be to dispose of or charge any part of the revenue or other public moneys of Hong Kong shall be proposed only by -

- (a) the Chief Executive; or

- (b) a designated public officer; or
- (c) a Member, if the Chief Executive consents in writing to the proposal.

- 69
- (1) An amendment which, in the opinion of the Chairman, would increase the sum allotted to any head of expenditure whether in respect of any item or subhead or of the head itself shall only be moved by a designated public officer.
 - (2) An amendment to increase a head whether in respect of any item or subhead or of the head itself shall take precedence over an amendment to reduce the head in the same respect, and if it is carried no amendment to reduce the head in that respect shall be called.
 - (3) An amendment to any head of expenditure to reduce the sum allotted thereto in respect of any item therein may be moved by any Member, and shall take the form of a motion “That head be reduced by \$ in respect of (or by leaving out) subhead item”.
 - (4) An amendment to reduce a head in respect of any subhead or by leaving out a subhead shall only be in order if the subhead is not itemized.
 - (5) An amendment to reduce a head without reference to a subhead therein shall only be in order if the head is not divided into subheads.
 - (6) An amendment to leave out a head shall not be in order and shall not be placed on the Agenda of the Council.
 - (7) In the case of each head, amendments in respect of items or subheads in that head shall be placed on the Agenda of the Council and considered in the order in which the items or subheads to which

they refer stand in the head in the Estimates.

- (8) When notice has been given of two or more amendments to reduce the same item, subhead, or head, they shall be placed on the Agenda of the Council in the order of the magnitude of the reductions proposed, the amendments proposing the largest reduction being placed first in each case.
- (9) Debate on every amendment shall be confined to the item, subhead, or head to which the amendment refers, and after an amendment to an item or subhead has been disposed of no amendment or debate on a previous item or subhead shall be permitted.
- (10) When all amendments standing on the Agenda of the Council in respect of any particular head of expenditure have been disposed of, the Chairman shall again propose the question "That the sum for head stand part of the schedule" or shall propose the amended question "That the (increased or reduced) sum for head stand part of the schedule", as the case may require. The debate on any such question shall be subject to the same limitations as apply to a debate arising under Rule 68(3) (Procedure in Committee of the Whole Council on Appropriation Bill).

- 51(2) In the case of a bill to be presented by a Member, the Law Draftsman, if satisfied that the bill conforms to the requirements of Rule 50 (Form of Bills) and the general form of Hong Kong legislation, shall issue a certificate to that effect.