

L.N. 107 of 1999

BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA

RESOLUTION OF THE LEGISLATIVE COUNCIL

RULES OF PROCEDURE OF THE LEGISLATIVE COUNCIL OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

Resolution made and passed by the Legislative Council under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China on 28 April 1999.

Resolved that the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region be amended---

(1) in Part A, by adding---

'1A. Precedence of Members

(1) The order of precedence of a Member of the Council shall be determined according to the continuous period of time for which he has held office in the Council; a Member who has held office in the Council for a longer continuous period of time shall be given higher precedence.

(2) As between two or more Members who have held office for an equal continuous period of time, precedence shall be given to the one who first made or subscribed the oath or affirmation in accordance with Rule 1 (Oath or Affirmation).';

(2) in Rule 13, by adding before subrule (1)---

'(1A) The Chief Executive shall deliver a Policy Address to the Council, if he so wishes, at the first meeting of a session.';

(3) in Rule 30, by adding---

'(1A) Notice of a motion moved under Rule 49B(1A) (Disqualification of Member from Office) shall be signed by the Member wishing to move the motion and 3 other Members.';

(4) in Rule 31, by repealing '任何議案或修正案，如其目的或效力經立法會主席或全體委員會主席裁定為' and substituting '立法會主席或全體委員會主席如認為任何議案或修正案的目的或效力';

(5) in Rule 36---

(a) in subrule (3), by repealing 'rise or raise their hands at the same time to speak' and substituting 'indicate their intention to speak at the same time';

(b) in subrule (4), by repealing 'any other Members wishing to speak shall rise or raise their hands' and substituting 'the President or Chairman shall thereupon call such other Members who indicate or have indicated their intention to speak';

(6) in Rule 40---

(a) in subrule (6), by repealing 'A' and substituting 'Except as otherwise provided

in subrule (6A), a';

(b) by adding---

'(6A) A debate adjourned under the provisions of Rule 49B(2A) (Disqualification of Member from Office) shall be resumed at the earliest meeting of the Council at which normal business is transacted after the report of the investigation committee has been laid on the Table of the Council.';

(7) in Rule 46---

(a) in subrule (1)---

(i) by repealing 'Relieving a Member of His Duties' and substituting 'Disqualification of Member from Office';

(ii) by repealing ', 79(7)';

(b) by adding---

'(4) There is a majority vote when the Members voting in favour of a question exceed half of the number of Members present at the time of voting.';

(8) in Rule 47(2)---

(a) by repealing 'Relieving a Member of His Duties' and substituting 'Disqualification of Member from Office';

(b) by repealing ', 79(7)';

(9) in Rule 49---

(a) in subrule (1)---

(i) by repealing 'After the Clerk has recorded the votes in a seating plan, the President or Chairman shall read out the names and the number of Members abstaining' and substituting 'After the Clerk has recorded the abstentions in a seating plan, the President or Chairman shall read out the names and the number of Members abstaining';

(ii) by adding 'The Clerk shall record also in a seating plan the names of all other Members who are present, and the President or Chairman shall read out their names and number accordingly.' before 'If';

(b) in subrule (2)---

(i) by repealing 'and' before 'who abstain';

(ii) by adding ', and any other Members who are present' after 'voting';

(c) by adding---

'(8) If the division bell does not function, the President or Chairman shall order the Clerk to arrange for Members within the precincts of the Chamber to be notified of the division. The division shall be held six minutes after the order has been made.';

(10) in Rule 49B---

(a) in the heading, by repealing 'Relieving a Member of His Duties' and substituting

'Disqualification of Member from Office';

(b) by adding---

'(1A) A motion to censure a Member under Article 79(7) of the Basic Law shall be moved in the following form:

'That this Council, in accordance with Article 79(7) of the Basic Law, censures (name of Member) for misbehaviour/breach of oath under Article 104 of the Basic Law/misbehaviour and breach of oath under Article 104 of the Basic Law (details as particularized in the Schedule to this motion).'.';

(c) in subrule (2), by adding 'or (1A)' after 'subrule (1)';

(d) by adding---

'(2A) Upon the moving of a motion under subrule (1A), debate shall be adjourned and the matter stated in the motion shall be referred to an investigation committee unless the Council, on a motion which may be moved without notice by any Member, otherwise orders. If the latter motion is agreed to by the Council, no further action shall be taken on the motion moved under subrule (1A).';

(e) in subrule (3), by adding 'or (1A)' after 'subrule (1)';

(f) in subrule (4), by adding 'or to censure a Member' after 'duties';

(11) in Rule 51---

(a) in subrule (3), by repealing '由立法會議員個別或聯名提出的法案，如經立法會主席裁定為涉及公共開支或政治體制或政府運作者，' and substituting '立法會主席如認為任何由立法會議員個別或聯名提出的法案涉及公共開支或政治體制或政府運作，該法案即';

(b) in subrule (4), by repealing 'relating' and substituting 'which, in the opinion of the President, relates';

(12) in Rule 57(6), by repealing '任何修正案，如其目的或效力經立法會主席或全體委員會主席裁定為' and substituting '立法會主席或全體委員會主席如認為任何修正案的'目的或效力';

(13) by repealing Rule 71(3);

(14) by adding---

'73A. Investigation Committee

(1) An investigation committee required to be established under Rule 49B(2A) (Disqualification of Member from Office) shall consist of a chairman, a deputy chairman and 5 members who shall be Members appointed by the President in accordance with an election procedure determined by the House Committee. The mover of the motion under Rule 49B(1A), the Members jointly signing the motion, and the Member who is the subject of the motion shall not be appointed to the committee.

(2) The committee shall be responsible for establishing the facts stated in the motion moved under Rule 49B(1A) (Disqualification of Member from Office), and giving its views on whether or not the facts as established constitute grounds for the

censure.

(3) The quorum of the committee shall be 5 members including the chairman.

(4) Subject to subrule (5), all meetings of an investigation committee shall be held in camera.

(5) (a) Upon an election made by the Member who is the subject of the motion under Rule 49B(1A) (Disqualification of Member from Office), meetings at which a witness or witnesses appear shall be held in public, provided that such election is made before the first of such meetings.

(b) Notwithstanding an election made under paragraph (a), the committee may decide on sufficient reason, upon a request made by a member of the committee or an application made by a witness, to hold any such meetings or any part thereof in camera.

(6) In the event of the temporary absence of the chairman and deputy chairman the committee may elect a chairman to act during such absence.

(7) The clerk to the committee appointed under Rule 6(7) (Duties of the Clerk) shall attend meetings of the committee and shall keep the minutes of proceedings of the committee.

(8) Divisions in an investigation committee shall be taken by the clerk to the committee who shall ask each member of the committee separately how he wishes to vote and record the votes accordingly.

(9) 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.

(10) (a) A member of an investigation committee may bring a report for the committee's consideration. When all the reports have been brought up the chairman shall propose the reports in order until one is accepted as a basis for discussion, beginning with his own report and proceeding with the remainder in the order in which they were brought up.

The question to be proposed by the chairman on a report shall be that the chairman's (or Mr. ....'s) report be read a second time paragraph by paragraph. When this question has been agreed to, it shall not be proposed on further reports but portions thereof may be offered as amendments to the report under consideration if they are relevant to it.

(b) The committee shall then go through the report paragraph by paragraph and when concluded, the chairman shall put the question that this report be the report of the committee to the Council.

(11) The minutes of proceedings of the committee shall record all proceedings on consideration of a report with a note of divisions, if divisions were taken in the committee, showing the names of members voting in the division or declining to

vote.

(12) An investigation committee shall, as soon as it has completed investigation of the matter referred to it, report to the Council thereon and the committee shall be dissolved accordingly. The investigation committee may be revived to deal with any further matters arising therefrom by resolution of the Council.

(13) Subject to these Rules of Procedure, the practice and procedure of the investigation committee shall be determined by the committee.';

(15) by repealing Rule 75(3);

(16) in Rule 76, by adding---

'(1A) The members of a Bills Committee shall be those Members (other than the President) who signify membership in accordance with procedural rules (which shall provide only for the manner and timing of such signification) decided by the House Committee.';

(17) in Rule 78---

(a) in subrule (1), by repealing 'in each session';

(b) in subrule (4), by repealing 'the session' and substituting 'a term';

(c) in subrule (5), by repealing 'the session' and substituting 'a term';

(18) in Rule 80(b), by repealing 'or select committee(s)' and substituting ', select committee(s) or investigation committee(s)';

(19) in Rule 81(1), by repealing 'select committee' and substituting 'committee under Rule 80 (Attendance of Witness)';

(20) in Rule 83---

(a) in subrule (1), by repealing 'the date specified by resolution made and passed by the Legislative Council' and substituting 'the first meeting of each term';

(b) in subrule (5)(d)---

(i) by renumbering it as subrule (5)(d)(ii);

(ii) by adding---

'(i) all donations, as a candidate in the Legislative Council election in which the Member was elected as a Member of the Council, received by the Member or any person on his behalf for the purpose of meeting the Member's election expenses in the election; or';

(21) in Rule 84---

(a) in subrule (1), by adding 'except where his interest is in common with the rest of the population of Hong Kong or a sector thereof or his vote is given on a matter of Government policy. Where there is such a direct pecuniary interest on a question to be voted on in the Council or a committee of the whole Council, the Member concerned

shall withdraw therefrom when the vote is taken' after 'interest';

(b) in subrule (3)---

(i) by repealing 'In' and substituting 'A Member speaking in';

(ii) by repealing 'at which a Member is present he';

(c) by adding---

'(3A) A motion for the withdrawal of a Member on the ground of his direct pecuniary interest under subrule (1) may be moved without notice by any Member after the President or Chairman has put the question on the original motion but before the vote is taken.';

(d) in subrule (4)---

(i) by repealing 'of the numbers voting in the division';

(ii) by repealing ', but not otherwise' and substituting 'of his judgment on whether there is a required majority or, if a division has been ordered, upon his statement of the numbers of Members recorded in the division';

(e) in subrule (5)---

(i) by adding 'the' after 'chairman shall have';

(ii) by repealing 'such a motion' and substituting 'a motion under subrule (3A) or (4)';

(iii) by repealing 'was taken' and substituting 'is taken';

(iv) by adding 'presence or' before 'vote is challenged';

(v) by repealing 'inhabitants of Hong Kong and whether his vote was given on a matter of state policy' and substituting 'population of Hong Kong or a sector thereof and whether the vote is on a matter of Government policy';

(f) by adding---

'(5A) If the question for the withdrawal of a Member is proposed, the Member concerned may be heard in his place but he shall then withdraw from the Council or a committee of the whole Council for the duration of any vote on the question. If the motion is agreed to, the Member shall withdraw or continue to withdraw from the Council or the committee of the whole Council when the original question is put and voted upon.';

(g) by repealing subrules (6) and (7) and substituting---

'(6) If the question for the disallowance of a Member's vote is proposed, the Member concerned may be heard in his place but he shall then withdraw from the Council, a committee of the whole Council, a committee or subcommittee for the duration of any vote on the question. If the motion is agreed to, the President, Chairman of a committee of the whole Council or chairman shall state anew his judgment on whether there is a required majority in the original question or, in the case of a division, direct the Clerk to the Legislative Council or the clerk to alter the numbers voting

and, in the case of the Council or a committee of the whole Council, the effect of the presence of the Member in the original division accordingly.';

(22) in the Schedule---

(a) in the heading before paragraph 6, by repealing 'of Presiding Member';

(b) by repealing paragraph 6 and substituting---

'6. The Member present who has the longest continuous service in the Council as determined in accordance with Rule 1A shall preside at the election of the President.';

(c) by repealing paragraph 7 and substituting---

'7. If the Member who has the longest continuous service under paragraph 6 above is being nominated for the office of President, the Member who is next in the order of precedence of Members and who is not being nominated for the office shall be the presiding Member.';

(d) by repealing paragraphs 8, 9, 10, 11, 12, 13 and 14;

(e) by repealing the heading before paragraph 15;

(f) in paragraph 15---

(i) by renumbering it as paragraph 8;

(ii) by repealing 'The presiding Member shall then assume the chair and' and substituting 'Upon the presiding Member assuming the chair,';

(iii) by repealing 'commences' and substituting 'shall commence';

(g) by renumbering paragraph 16 as paragraph 9;

(h) in paragraph 17---

(i) by renumbering it as paragraph 10;

(ii) by repealing 'III' and substituting 'II';

(i) by renumbering paragraph 18 as paragraph 11;

(j) by renumbering paragraph 19 as paragraph 12;

(k) by renumbering paragraph 20 as paragraph 13;

(l) in paragraph 21---

(i) by renumbering it as paragraph 14;

(ii) by repealing 'paragraphs 17 to 20' and substituting 'paragraphs 10 to 13';

(m) by renumbering paragraph 22 as paragraph 15;

(n) by renumbering paragraph 23 as paragraph 16;

(o) by renumbering paragraph 24 as paragraph 17;

(p) by repealing Annex II;

(q) by renumbering Annex III as Annex II.

Ricky FUNG Choi-cheung

Clerk to the Legislative Council  
28 April 1999