

FINANCE COMMITTEE PROCEDURE

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FINANCE COMMITTEE PROCEDURE

Role

The Finance Committee (the Committee) is a standing committee of the Legislative Council (the Council) established under Rule 71(1) of the Rules of Procedure of the Council. The functions of the Committee are those conferred upon the Committee by the Public Finance Ordinance (Chapter 2), any other law and the Rules of Procedure of the Council, and such as may from time to time be referred to the Committee by the Council [Rule 71(4)]¹. Its functions include -

- (a) examination of the Estimates of Expenditure presented in accordance with Rule 67 of the Rules of Procedure and referred by the President of the Council (the President) in accordance with Rule 71(11) of the Rules of Procedure; and
- (b) approving proposals to change the approved Estimates of Expenditure presented by the Financial Secretary in accordance with section 8(1) of the Public Finance Ordinance.

Membership

2. The Committee comprises all the Members of the Council other than the President [Rule 71(1)].

Subcommittees

3. The Committee may appoint subcommittees for the purpose of assisting the Committee in the performance of such functions of the Committee as the Committee may determine [Rule 71(5)]. Items endorsed by a subcommittee are not normally discussed again in the Committee, though the Committee is free to accept or overturn any recommendation. The subcommittees appointed under Rule 71(5) of the Rules of Procedure are the Establishment Subcommittee and the Public Works Subcommittee.

¹ The term [Rule 71(4)] means reference is made to Rule 71(4) of the Rules of Procedure of the Legislative Council.

Chairman and Deputy Chairman

4. The Chairman and Deputy Chairman of the Committee shall be elected by and from among its members² at an open meeting and shall hold office until the election of the Chairman and Deputy Chairman of the Committee in the session next following that for which they are elected. In the event of the temporary absence of the Chairman and Deputy Chairman, the Committee may elect a chairman to act during such absence. Notwithstanding the provision in paragraph 45, the Chairman or the member presiding, as the case may be, shall have his original vote in addition to his casting vote in such elections [Rule 71(2)].

5. The election of the Chairman and Deputy Chairman of the Committee for the first session in a term shall be conducted at the first meeting of the Committee in the session. The member who has the highest precedence in the Council [Rule 1A] shall be responsible for calling the first meeting of a term of the Committee, and shall preside at the election of the Chairman of the Committee. If the member who has the highest precedence is being nominated for the office of Chairman, 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. For the second or subsequent sessions in a term, the election may be conducted at a meeting held before the session commences.

6. At the meeting held for the purpose of the election, the member presiding at the meeting shall call for nominations for these two offices. All members of the Committee may stand for election. Each nomination shall be made orally by a member, seconded by at least one other member present, and accepted by the member being nominated. 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 the votes. In case of a tie, the presiding member shall draw lots to give the casting vote to one of the nominees in accordance with the lot drawn, and shall forthwith declare that nominee elected to an office.

Clerk to the Finance Committee

7. The Clerk shall attend the meetings of the Committee, keep a record of the proceedings of the Committee, and distribute a copy thereof to each member. The record is kept in the form of minutes, recording the members attending, the gist of proceedings and the decisions taken. The Clerk will not normally clear the minutes with the Administration and outside parties except in respect of those parts of the minutes which relate to the statements made by these parties at the meeting.

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

8. The Clerk is responsible for the publication of the reports of the Committee and its subcommittees.

Counsel to the Finance Committee

9. The Legal Adviser of the Legislative Council Secretariat is the Counsel to the Committee and its subcommittees. He advises the Chairman and the Clerk on all legal matters in relation to the business and administration of the Committee.

Meetings

10. The Committee meets at the time (including any time during the period when the Council is in recess between the end of one session and the beginning of the next session) and the place determined by the Chairman [Rule 71(6)]. At the beginning of each session, the Clerk shall seek the Chairman's agreement to a provisional schedule of dates of Committee meetings for the session and inform members and the Administration accordingly. The Chairman may decide to convene special meetings to consider urgent items.

11. The Clerk shall give members written notice of every meeting at least five clear days³ before the day of the meeting but shorter notice may be given in any case where the Chairman so directs [Rule 71(6)]. Meetings shall be held in public unless the Chairman otherwise orders in accordance with any decision of the Committee [Rule 71(7)]. Any items on the agenda scheduled for discussion but not dealt with at the meeting will be carried over to the next meeting or, if the Chairman decides, to a special meeting.

12. In between the First Reading and resumption of the Second Reading of the Appropriation Bill, the Committee holds special meetings to examine the Estimates of Expenditure, tabled with the Appropriation Bill, for the following financial year.

13. The Chairman or, if he is not available, the Deputy Chairman, shall chair committee meetings. 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 among 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 Committee, 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 Committee, the members present shall elect one from among themselves to chair the meeting for that item.

³ The term "clear days" excludes the day of the giving of a notice, the day of the meeting and intervening Sundays and public holidays.

Quorum

14. The Chairman and eight members shall form a quorum [Rule 71(8)]. The meeting will not be held unless a quorum is present within 15 minutes after the time appointed for the meeting.

15. If the attention of the Chairman during a meeting is drawn to the fact that a quorum is not present, he shall direct the members to be summoned. If after 15 minutes have expired and a quorum is still not present, he shall adjourn the meeting without questions put.

16. The Chairman shall ensure that a quorum is present before he orders the Committee to proceed to making a decision.

Attendance of Public Officers and Other Persons

17. The Chairman or the Committee may invite any public officer, or, in the case of a head of the Estimates relating to a non-government body or organization, any member or employee of that body or organization to give information or any explanation or to produce any records or documents which the Committee may require in the performance of its duties; and the Committee may also invite any other person to assist the Committee in relation to any such information, explanation, records or documents [Rule 71(12)]. The Clerk will state in the agenda the office of the public officers and other persons invited for discussion of the particular items.

18. When the Secretary for the Treasury or a Deputy Secretary for the Treasury attends Committee 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 such meetings including withdrawal or modification of a proposal.

19. In accordance with Rule 80(a) of the Rules of Procedure, the Committee may summon, as required when exercising its powers and functions, persons concerned to testify or give evidence, but the Chief Executive may decide, in the light of security and vital public interests, whether Government officials or other personnel in charge of Government affairs should testify or give evidence before the Committee.

Information Note

20. The Administration may provide information notes to members in response to a request by members made at a previous meeting or on the Administration's own initiative. Information notes are issued by the Clerk under a serially-numbered cover.

Agenda Item

21. The Financial Secretary, the Secretary for the Treasury, or a Deputy Secretary for the Treasury, being public officers designated by the Government of the Hong Kong Special Administrative Region under Article 62(6) of the Basic Law, or any member may give notice to the Clerk of the items of business to be included in the agenda of the Finance Committee [Rule 9(2)]. The notice of agenda items should reach the Clerk at least six clear days before the meeting concerned, but shorter notice may be given if the Chairman so directs.

22. A Finance Committee agenda item is a discussion paper seeking approval for changes to the approved Estimates of Expenditure, financial implications of new proposals where no immediate change to the approved Estimates of Expenditure is necessary, delegation of powers to the Financial Secretary, or other proposals from the Administration, as well as a motion from any member of the Finance Committee. The Clerk shall despatch agenda items to members at least five clear days before the meeting at which the items are to be discussed unless, on grounds of urgency, the Chairman directs otherwise.

Open and Confidential Items

23. Non-confidential agenda items are discussed in public unless the Chairman otherwise orders in accordance with any decision of the Committee [Rule 71(7)]. If there is a confidential item and members have questions on it, the Committee 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 a decision of the Committee. If the Administration considers it necessary to classify an agenda item as confidential, there must be a paragraph in the submission explaining the reason for confidentiality.

24. 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 content, in part or in full, to any unauthorized person.

Consideration by Circulation

25. Where the Chairman so orders, any matter for the decision of the Committee may be considered by circulation of papers to the members of the Committee and each member may signify his approval in writing submitted to the Chairman. If a majority of the members so signify before the expiry of the period specified by the Chairman for the purpose, and if upon expiry of that period no member has (in writing submitted to the Chairman) signified disapproval of the matter or requested that the matter be referred for decision at a meeting of the Committee, it shall be deemed to be approved by the Committee.

Withdrawal of Agenda Items

26. At a committee meeting, the Financial Secretary or, in his absence, the Secretary for the Treasury or a 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 Committee after it has been put to the vote but the result is not yet declared by the Chairman.

Amendments to the Administration's Proposals

27. 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 Committee must discuss and vote on any proposal as it stands. If the Committee 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 Committee.

28. Although Rule 69 of the Rules of Procedure provides for Members to propose amendments to the Estimates, that only applies when a committee of the whole Council is considering the Appropriation Bill itself, i.e. when the Estimates of Expenditure are not yet approved.

29. Where the Administration is seeking approval of the Committee under paragraph 5 of the Resolution of the Legislative Council passed on 14 March 1990 on Capital Investment Fund, the Committee may specify terms and conditions in relation to such approval.

Practice and Procedure of the Committee

30. Subject to the Rules of Procedure of the Legislative Council, the Committee shall determine its own practice and procedure [Rule 71(13)].

Order in Committee

31. The Chairman is responsible for the observance of the rules of order in the Committee. His decision on a point of order shall be final [Rule 44].

32. The Chairman, after having called the attention of the Committee 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 [Rule 45(1)].

33. A member may not interrupt another member except -

- (a) on a point of order which he wishes to bring to notice for the Chairman's decision; or
- (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 [Rule 39].

Language

34. A member may address the Committee orally in either Putonghua, Cantonese or English. Replies by the public officers and other persons attending may likewise be in either Putonghua, Cantonese or English. All Committee papers are in both Chinese and English.

Manner at Meetings

35. 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.

36. Members should raise their hands to signify that they wish to speak.

Motions

37. Subject to the decisions of the Committee made from time to time, Rules 29 to 35 of the Rules of Procedure shall apply, with necessary modifications, to the proceedings of the Committee.

Rules of Speaking

38. The rules of speaking set out in Rules 36 to 42 of the Rules of Procedure shall apply to the proceedings of the Committee unless the Chairman orders otherwise [Rule 43].

39. A member when speaking on a proposal in the Committee may move without notice that discussion on an item or further proceedings of the Committee be adjourned. Thereupon the Chairman shall put the question on the motion to adjourn [Rule 40].

Pecuniary Interest to be Disclosed

40. Rule 84 of the Rules of Procedure shall apply to the proceedings of the Committee.

41. There are situations in which the usual rules regarding pecuniary interests do not apply, such as when an item proposes changes to Members' salaries and allowances as Members of the Council. 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

42. After the Chairman calls a meeting to order, he normally deals first with the business left over from a previous meeting, if any. The Chairman then 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 papers on the agenda item, and introduces the persons at the meeting responsible for answering questions on the item. Members then discuss the item or put questions to the persons responsible for answering them.

43. Members' questions on a proposal must relate directly to the contents of the agenda item. On wider questions of policy, members should raise them either in the full Council or at an appropriate Legislative Council Panel. In determining whether questions are in order, the Chairman shall have regard to Rule 25 of the Rules of Procedure on contents of questions where appropriate.

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

Voting

45. The Committee 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 [Rule 71(8)], but the casting vote shall not be exercised in such a way as to produce a majority vote in favour of the question put.

46. 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 Committee for its decision he shall first call upon those members who are in favour of the question to raise their hands and shall then call upon those who are against the question to raise their hands. The Chairman shall then, according to his judgement, state whether or not he thinks the majority of the members present and voting are in favour of the question. If no member challenges the statement, the Chairman shall declare the question to have been so decided. If a member challenges the statement of the Chairman by claiming a division, then the Chairman shall order the Committee to proceed to a division and the division shall be held forthwith immediately after a division bell has been rung for one minute [Rule 47(1)].

47. When a division has been ordered, Rules 48 and 49 of the Rules of Procedure shall apply to the proceedings of the Committee.

48. If a member fails to declare that he has a direct pecuniary interest in an item in accordance with Rule 84 of the Rules of Procedure, and has voted on it, then his vote stands (and the decision of the Committee is valid) unless his vote is disallowed under Rule 84(4) of the Rules of Procedure.

Procedure of Special Meetings to Examine the Estimates of Expenditure

49. The Financial Secretary formally presents the annual Estimates of Expenditure to the Council at the meeting at which the Appropriation Bill is read the first time and provides advance copies of the Estimates of Expenditure to members a few days before that meeting. The President may then refer the Estimates of Expenditure to the Committee for its examination at special meetings before consideration of the Appropriation Bill in a committee of the whole Council [Rule 67 and 71(11)]. The purpose of the examination is to ensure that the provision sought is no more than is necessary for the execution of approved policies.

50. Prior to the special meetings, members may raise questions on the Estimates of Expenditure for written replies from Controlling Officers, through their respective Policy Secretaries as appropriate. Policy Secretaries and Controlling Officers will deal with any supplementary questions arising from these written replies either orally at the special meetings or in writing afterwards.

51. The Committee normally holds the special meetings in public over three full days after the First Reading of the Appropriation Bill. Policy Secretaries and Controlling Officers without a Policy Secretary appear in different sessions of these meetings. Policy Secretaries will attend with their key Controlling Officers. Policy Secretaries and Controlling Officers without a Policy Secretary may make a short introduction to highlight their policy areas, the priorities for the year ahead and the requested resources.

52. Members then ask questions on points made during the introduction, the written replies to members' initial questions and the Estimates of Expenditure. The Policy Secretaries and Controlling Officers in attendance answer members' questions and provide supplementary information in writing after the meetings, if necessary.

53. After the special meetings, the Chairman shall present a report on the proceedings of the meetings to the Council.

Adverse Weather

54. 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.
