

立法會

Legislative Council

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Committee on Rules of Procedure

Procedural Arrangements for implementing Article 79(6) of the Basic Law

Purpose

This paper summarizes the deliberations of the Committee on Rules of Procedure on the procedural arrangements for relieving a Member of his duties under Article 79(6) of the Basic Law. It also contains the Committee's proposed amendments to the Rules of Procedure in relation to the implementation of such arrangements.

Background

2. Under Article 79(6), when a Member of the Legislative Council "is convicted and sentenced to imprisonment for one month or more for a criminal offence committed within or outside the Region and is relieved of his or her duties by a motion passed by two-thirds of the Members of the Legislative Council present", the President of the Legislative Council shall declare that the Member is no longer qualified for the office. Although no specific rules have been laid down in the Rules of Procedure of the Legislative Council in this respect, the subject has been placed on the list of outstanding issues to be dealt with by the Committee on Rules of Procedure within the current session.

3. Following the conviction of Hon CHIM Pui-chung on one count of conspiracy to forge, contrary to common law and section 71 of the Crimes Ordinance (Cap. 200), and his being sentenced to three years' imprisonment on 3 August 1998, the House Committee decided at the meeting on 5 August 1998 that the Committee on Rules of Procedure should study the procedural arrangements

and any issues related to the implementation of Article 79(6) and recommend the course of action to be taken in respect of such arrangements prior to the House Committee meeting on 4 September 1998.

4. Since then, the Committee on Rules of Procedure (the Committee) has held five meetings, including one to which non-Committee members were invited to give their views on the issues involved. To facilitate deliberations, a consultation paper outlining the approaches and options considered by the Committee was issued for Members' reference.

5. Apart from seeking views from Members on the way forward, the Committee has also invited views on a number of issues relevant to the moving of a motion under Article 79(6) of the Basic Law. These include:

- (a) the form of the motion, including how it should be worded, who may move the motion, and whether it should be amendable;
- (b) the rules of speaking, including the restriction on time, and the opportunity for the Member concerned to address the Council or for his written statement to be read at a meeting;
- (c) the voting procedure; and
- (d) whether another motion could be moved to rescind the decision of the Council on the motion within the same session or the same term.

Views of the Committee

6. In considering the way forward, the Committee has taken into account the wish of Members in general for procedural rules to be drawn up as far as practicable for incorporation into the Rules of Procedure for implementing Article 79(6) of the Basic Law. The Committee has also considered the alternative of drawing up guidelines for reference by the President when dealing with the motion in accordance with Rule 92 (Procedure if Rules of Procedure do not Provide), but agreed that the incorporation of the procedural arrangements in the Rules of Procedure, which have a formal and permanent status, is more appropriate. **The Committee concludes that, should the need for amending the Rules of Procedure of the Council be agreed and subject to views expressed by members of the House Committee on 4 September 1998, a motion will be moved at the Council meeting on 9 September 1998 to put in place the relevant procedure before the Council proceeds with the motion on Mr CHIM's case.**

7. The Committee also considers that the procedural arrangements to be instituted should apply to all motions which may be moved under Article 79(6). The Committee is aware that other procedural arrangements would also be required for implementing other provisions in the Basic Law. **It is of the view that as far as possible, the general philosophy and principles underlying the way Council business is conducted should be maintained, and existing procedures governing motions, rules of speaking, etc. should remain unchanged. Only when general rules are considered not applicable should specific rules be drawn up for incorporation into the Rules of Procedure, or suitable amendments made to existing rules, to cater for such special circumstances.**

Form of Motion

8. Under the Rules of Procedure, a motion may be moved by any Member of the Council or any public officer designated by the Government of the Hong Kong Special Administrative Region. Except in certain areas as specified in Rule 10 (Participation of Public Officers in Proceedings), the Rules of Procedure also apply to public officers when they transact Council business at meetings of the Council. The Committee has noted that a motion under Article 79(6) could be moved by any Member. The Article does not preclude a public officer from doing so. Besides, Article 62(5) provides for the Government of the Hong Kong Special Administrative Region to, inter alia, introduce motions into the Council. The Committee therefore does not see any particular reason to bar public officers from moving a motion under Article 79(6) or speaking on the motion. As such, **the Committee concludes that existing rules on the moving of motions should apply and that motions under Article 79(6) of the Basic Law may be moved by either a Member or a designated public officer.**

9. Since the Rules of Procedure allow the moving of a motion subject to the requisite notice requirements, and the case will automatically be discussed by the House Committee if such a motion were to be moved in Council, **the Committee does not see any need to lay down any special procedure or time frame to trigger off the moving of the motion.** The need for the presentation of relevant papers to the Council would be a matter to be decided by the Member moving the motion.

10. A motion moved under Article 79(6) would be for the purpose of deciding whether a Member, after having been sentenced to imprisonment for one month or more, should be relieved of his duties as a Member of the Legislative Council. The objective and effect of such a motion should therefore be single-barrelled and unequivocal; this dictates the need for the wording of the motion to be short and precise. Having regard to the specific purpose of the motion and other examples in the Rules of Procedure where prescribed wordings of motions are

given, the Committee takes the view that the wording of the motion should be short and in prescribed form, along the following lines:

“That whereas (name of Member) was convicted on (date) in (court) in (place) of a criminal offence(s) and was sentenced on (date) by (court) to imprisonment for one month or more (as particularized in the Schedule), this Council relieves (name of Member) of his/her duties as a Member of the Legislative Council.”

11. As a general rule, amendments to motions may be moved subject to the notice requirements laid down in Rule 29 (Notice of Motions and Amendments) and the restrictions in Rule 31 (Restriction on Motions and Amendments). On the other hand, the Committee is also aware that some motions are either not subject to amendments such as that under Rule 66(7) in respect of a bill returned to the Council for reconsideration, or are subject to restricted amendments as in the case of Rule 13(3) in connection with a motion of thanks for the Chief Executive’s Policy Address. Views expressed on the amendability of a motion moved under Article 79(6) show a strong support for the motion to be non-amendable. The general view is that Article 79(6) requires a straight-forward decision on whether the Member concerned should be relieved of his duties in the light of the conviction and sentence. The introduction of amendments might complicate the resolution and the effect of the amendments might deviate from the purpose for which the motion is moved. Besides, if amendments were to be allowed, the scope of amendments would be very limited. Even if the sentence were a suspended one, or if an appeal had been lodged, these should not form the basis for amendments as the effect of the motion should not deviate from the primary objective of relieving a Member of his duties. Moreover, the President would be in a difficult position in deciding whether amendments containing conditional approval should be allowed. The Committee however notes the view of a Member who believes that some degree of flexibility should be retained, and allowing amendments to be moved to the motion is one way of providing flexibility.

12. After deliberations, the Committee has come to the view that no amendment to the motion should be allowed. This is in pursuance of the principle that given its clear objective, the motion should be simple and precise, and that the motion if amended might give rise to uncertainty over whether or not the requirements under Article 79(6) have been fulfilled. The Committee is however aware that pending amendments to the Rules of Procedure to this effect, current rules enabling Members to give notice to amend motions would still apply. Under the circumstances, if the motion to amend the Rules of Procedure to institute the arrangements for implementing Article 79(6) and a motion to relieve a Member of his duties were to be moved at the same meeting, the procedure disallowing amendments will take immediate effect upon approval of the amendments to the Rules of Procedure by the Council, and will

apply to a motion moved under Article 79(6). Even if notice has been given for moving amendment(s) to the motion under Article 79(6), the President will not call upon the mover(s) of the amendment(s) to move the amendment(s).

13. The Committee is aware that there may be situations where Members of the Council may not be in a position to decide, e.g., when an appeal is in the pipeline or owing to the lack of the full details of the conviction or sentence if the offence took place outside Hong Kong. Nevertheless, a Member may move to adjourn a debate without notice under Rule 40(1) (Adjournment of Debate or of Proceedings of a Committee of the Whole Council). The debate so adjourned may be resumed at a subsequent meeting of the Council provided that the Member who moves the motion gives notice of his intention to resume the debate no less than 5 days before the day on which the debate is to be resumed. The Committee considers that there is sufficient avenue in the current Rules of Procedure to allow a decision to be deferred until Members are in a position to make the decision. The Committee has taken note of a need for more in-depth study on the arrangement for resuming debate as currently provided under Rule 40(6), but does not consider that such a study should delay the current exercise in drawing up procedures for implementing Article 79(6).

Notice Requirement

14. Rule 29 (Notice of Motions and Amendments) provides for a notice period of 12 clear days for moving a motion, and 5 clear days for moving an amendment to the motion, but the President may give leave to dispense with such notice requirements. In view of the important nature of a motion moved under Article 79(6), **the Committee considers that existing rules governing notice requirements should apply to such a motion and that waiver of the notice requirements should only be given by the President under exceptional circumstances.**

Rules of Speaking

15. In the light of the nature of the motion, the Committee has given careful consideration to rules on contents of speeches, in particular, subrules (2), (5) and (7) of Rule 41 (Contents of Speeches). Rule 41(2) provides that “Reference shall not be made to a case pending in a court of law in such a way as, in the opinion of the President or Chairman, might prejudice that case.” While appreciating the difficulty of avoiding reference to matters which may be relevant to the appeal, the Committee is also aware that it will clearly not be in the interest of justice to suspend the subrule. Experience in the United Kingdom Parliament shows that Speakers are guided by the principle of whether there are real and substantial prejudices to the administration of justice. As such, the Legal Adviser has been asked to provide some guidelines for reference by Members when speaking on matters that may be sub judice.

16. As for Rule 41(5) which provides that “A Member shall not impute improper motives to another Member”, the Committee considers that Members should be speaking only on the established facts. This subrule will ensure that the Member concerned, like any other Members, will be equally protected from being unfairly spoken upon.

17. Rule 41(7) provides that “The conduct of the Chief Executive or Members of the Executive Council or Members of the Legislative Council otherwise than in the performance of their official duties shall not be raised”. The Committee is aware that application of the subrule will hinder the expression of opinions by Members as statements made on the conduct of the Member concerned are inevitable in a motion of this nature. Rather than suspending the subrule, an amendment to the subrule is called for in order to provide for an exception.

18. In summary, **the Committee is of the view that the provisions in Rule 41 (Contents of Speeches) should apply, except that subrule (7) should be amended to provide for an exception where the conduct of a Member is the subject of a particular motion.**

19. Under Rule 36(5) (Time and Manner of Speaking), a Member shall not make a speech lasting more than 15 minutes without the permission of the President which is given only in exceptional circumstances. Under Rule 38 (Occasions when a Member may Speak more than once), a Member may not speak more than once on a question except in situations listed in the Rule or with the leave of the President, such as the mover of a motion making a reply after all other Members present have had the opportunity of speaking. Rule 37 (Recommendations of House Committee as to Time of Speaking) provides for the House Committee to recommend the speaking time on motions with no legislative effect. **In consideration of the important nature of a motion moved under Article 79(6), the Committee is of the view that the speaking time of 15 minutes should be maintained, and that Rule 37 should not apply.**

20. As for the Member who is the subject of the motion, the Committee does not see any justification to depart from existing rules for the Member concerned to participate in the motion debate like any other Member of the Council. **However, having regard to the severity of the effect of the motion, the Committee is inclined to allowing ample opportunity for the Member concerned to speak. Since there are provisions in Rules 36(5) and 38 for the President to grant exceptions, the Committee does not consider any need to change existing rules.**

Written statement/speech from the Member concerned

21. The Committee has deliberated on the appropriate manner to deal with a written statement from the Member concerned, particularly if the Member could not present the statement in person at the meeting of the Council. The Member concerned may wish to explain himself in the form of a letter to Members of the Council or a written statement to be delivered at the motion debate. The Committee considers that statements of this nature could be dealt with under item (h) "Personal explanations" in Rule 18 (Order of Business at a Meeting). Although no detailed provision is made in the Rules of Procedure as to how personal explanations should be given at a meeting, it is noted from common parliamentary practices that the House should not permit such statements to be subject to intervention or debate, and that the personal explanations are delivered by the Members themselves. The precise contents of the proposed statements are submitted in advance to the Speaker to ensure they are appropriate. **The Committee considers that these principles should be upheld. In the event that the Member concerned cannot be physically present at the meeting at which the personal explanation is to be given, the President may direct that the personal explanation submitted to the President be taken as read and the text be recorded in the Official Record of Proceedings. In no circumstances would the personal explanation be allowed to be read out by another Member of the Council.**

22. As to whether a representative of the Member could speak on behalf of the Member concerned at a motion debate, the Committee notes that existing rules do not allow any person, other than a Member of the Council or a designated public officer, to speak in the Council. The Committee does not consider it appropriate to change this principle and is of the view that if a statement made under "Personal explanations" has already served the purpose of providing an opportunity for the Member concerned to explain himself, there is no need to make any exceptional rules to facilitate the reading of a Member's speech.

Voting Procedure

23. The Committee notes that the passage of the motion to relieve a Member of his duties under Article 79(6) requires a vote of "two-thirds of the Members of the Legislative Council present". It is however noted that Annex II of the Basic Law also provides a voting procedure which is reflected in Rule 46 (Decision on Motions) of the Rules of Procedure. In response to Members' request, the Committee has examined whether the voting method in respect of a bill or motion moved by a Member laid down in Annex II should also apply to the motion moved under Article 79(6) if it is moved by a Member. The question of whether the two voting methods are mutually exclusive has also been studied.

24. In considering this subject matter, the Committee has taken note of the advice given by the Legal Adviser as follows:

“The voting procedure provided by Annex II of the Basic Law is displaced by the provision in Article 79(6) in respect of a motion to relieve a Member of his duties. The expression “a motion passed by two-thirds of the Members of the Legislative Council present” falls within the category of provisions “otherwise provided for” as specified in Annex II. It has the effect of displacing the Annex II requirement of a simple majority vote of each of the two groups of Members present by providing a special majority of two-thirds of Members present.”

25. The Committee has studied the various Articles where a special majority of vote has been specified for the passage of the relevant motions. These include Articles 49, 52(2), 73(9), 79(6) and (7), and 159 of the Basic Law. Annex II has stated that the Legislative Council shall adopt the procedures in the Annex for voting on bills and motions unless otherwise provided in the Basic Law. Since the voting requirement for the passage of the motion under Article 79(6) is clearly spelt out in the Article, the Committee concurs with the Legal Adviser’s advice that the two-thirds majority refers to all Members present and not each of the two groups of Members present. As such, **the Committee concludes that the passage of a motion to relieve a Member of his duties under Article 79(6) shall require a vote of two-thirds of the Members present. The voting procedures in Annex II of the Basic Law which are reflected in Rule 46 shall not apply to a motion moved under Article 79(6), but will be applicable to procedural motions moved in the same debate, such as a motion to adjourn the debate.**

26. As to whether the Member concerned could vote, the Committee has studied this subject in conjunction with Rule 84 (Personal Pecuniary Interest to be Disclosed). It is noted that the remuneration received by Members of the Legislative Council may be regarded as a direct pecuniary interest. If so, Rule 84(1), which states that a Member shall not vote upon any question in which he has a direct pecuniary interest, shall apply. However, if the Member concerned thinks otherwise and chooses to vote, a procedure has been provided in Rule 84(4) to (7) to disallow a Member’s vote. **As Rule 84 has laid down the broad principles regarding personal pecuniary interest and at the same time has provided an effective mechanism for disallowing such a vote, the Committee does not see a need to resort to other arrangements in this respect.**

Decision on the Motion

27. The Committee considers it appropriate for the President to declare that a Member is no longer qualified for the office immediately after the motion to

relieve the Member of his duties is passed in the Council. Notification of the vacancy will then be published in the Gazette.

28. As to whether a decision on a motion under Article 79(6) could be rescinded, the Committee considers the subject of significant importance and has given it serious thoughts. The Committee has therefore examined the general application of Rule 32 (Motions on Previous Decisions of Council) which governs the rescission of decisions and the manner in which this Rule would apply to motions moved under Article 79(6).

29. Rule 32 states that “Where the Council has taken a decision on a specific question no further motion shall be moved in relation to that question during the current session except a motion to rescind the decision, moved with the permission of the President”. In examining this Rule, the Committee has also referred to the parliamentary practices spelt out in Erskine May, and considers it appropriate to apply this Rule in conjunction with the principle that the power of rescission can only be exercised in the case of a resolution resulting from a substantive motion. “It cannot be exercised merely to override a vote of the House, such as a negative vote. Proposing a negatived question a second time for the decision of the House would be contrary to the established practice of the Parliament. Sufficient variation would have to be made, not only from the form but also from the substance of the rejected question, to make the second question a new question.”(Erskine May)

30. The Committee accepts that for general application of Rule 32, decisions which can be rescinded by way of another motion refer to motions agreed to by the Council. A motion, once carried, becomes an order or a resolution of the Council. No further motion should be moved in relation to such order or resolution during the same session except a motion to rescind the order or resolution with the permission of the President. However, if the original motion has been negatived, not only that the negatived question cannot be considered again in the same session, but also that no motion could be moved to rescind the relevant decision. The Committee notes that the way Rule 32 is presently written cannot fully reflect these principles and may create ambiguity in the general application of the Rule, and has therefore decided to rewrite this Rule.

31. In applying Rule 32 to motions moved under Article 79(6), the Committee is aware that if the motion is carried, the President will immediately declare the Member disqualified for the office. It is therefore impracticable for any motion to be moved to rescind the decision which has been acted upon and hence become irreversible. The Committee sees no conflict with the general application of Rule 32 as any motion to rescind a resolution within the same session requires the permission of the President who would inevitably consider the aspect of reversibility of the resolution in question.

32. The Committee also notes that if a motion to relieve a Member of his duties is not carried, no motion can be moved in respect of that specific question within the same session. The Committee is aware that there might be a need for the Council to debate on the subject again due to changed circumstances, but considers that there are other means to achieve this result under Article 79. Besides, there is no restriction on the same motion being moved again in the next session. The Committee therefore does not find any justification to depart from the general application of Rule 32. It would also be unfair to the Member concerned if motions in respect of the specific question, once not carried, could be moved repeatedly within the same session.

33. On the basis of the above, the Committee has proposed amendments to the Rules of Procedure of the Council as contained in the **Appendix**. In the course of examination of the issues involved, the Committee is aware that consideration may also have to be given to the arrangements for implementing Article 79(7) in view of the similarity in circumstances when implementing Article 79(6). Article 79(7) provides for the censure of a Member for misbehaviour or breach of oath by a vote of two-thirds of the Members present and has the same effect of relieving a Member of his duties. While the arrangements for implementing Article 79(7) will be studied by the Committee in a separate context, the amendments to existing rules have been drawn up on the basis of general application as far as possible. The need for providing specific rules for implementing Articles 52(2), 73(9) and 159 of the Basic Law will also be examined in due course.

The Way Forward

34. Subject to any views which Members may have, the Chairman of the Committee on Rules of Procedure, Mrs Selina CHOW, will move a motion at the Council meeting on 9 September 1998 for the Rules of Procedure to be amended as proposed.

Legislative Council Secretariat
1 September 1998

Appendix

Proposed Amendments to Rules of Procedure

PART F

STATEMENTS AND PERSONAL EXPLANATIONS

28. Statements by Designated Public Officers

(1) A designated public officer who wishes to make a statement on any issue concerning public interest shall inform the President of his wish before the beginning of the meeting at which he wishes to make the statement.

(2) No debate may arise on such a statement but the President may in his discretion allow short questions to be put to the public officer making the statement for the purpose of elucidating it.

28A. Personal Explanations

(1) A Member who wishes to make an explanation of personal matters shall inform the President of his wish, and provide an advance copy of the intended explanation to the President for agreement to ensure that the explanation will not provoke a debate and that the contents are appropriate. If leave is given by the President for making the explanation, the Member shall not depart from the agreed contents.

(2) No debate may arise on such an explanation but the President may in his discretion allow short questions to be put to the Member making the explanation for the purpose of elucidation.

(3) Where the explanation is made in relation to a motion moved under Part JA (Procedures for Particular Motions) and the Member is unable to attend the meeting at which it is intended to be made, the President may direct that a copy of the explanation be sent to every Member and the text of the explanation be taken as read.

32. Motions on Previous Decisions of Council

(1) Where the Council has taken a decision on a specific question and the question has been decided in the affirmative, no further motion shall be moved in relation to that question during the current session except a motion to rescind the decision, moved with the permission of the President.

(2) Where the Council has taken a decision on a specific question and the question has been decided in the negative, no further motion shall be moved in relation to that question during the current session.

37. Recommendations of House Committee as to Time of Speaking

(1) In relation to any motion or amendment to a motion (other than a motion intended to have legislative effect or to which Part JA applies) to be moved at a meeting of the Council, whether or not the motion or amendment has at the time been placed on the Agenda of the Council, the House Committee may recommend –

- (a) that the mover of the motion should not speak for more than a specified number of minutes (such period to be inclusive of any speech in reply under Rule 38(4) (Occasions when a Member may Speak more than once));
- (b) that the mover of an amendment to the motion should not speak for more than a specified number of minutes; and
- (c) that other Members each should not speak for more than a specified number of minutes.

(2) Where the House Committee so recommends under subrule (1) the Chairman shall cause the President to be notified in writing of the Committee's recommendations.

(3) Any recommendations of the House Committee under subrule (1), if accepted by the President (in which event he shall so inform Members as soon as practicable prior to calling upon the Member to move the motion), shall be binding upon all Members, but not upon designated public officers, and the President shall direct any Member speaking in excess of the recommended specified time to discontinue his speech.

41. Contents of Speeches

(1) A Member shall restrict his observations to the subject under discussion and shall not introduce matter irrelevant to that subject.

(2) Reference shall not be made to a case pending in a court of law in such a way as, in the opinion of the President or Chairman, might prejudice that case.

(3) Except as otherwise provided in Rule 66 (Bills Returned for Reconsideration), it shall be out of order to attempt to reconsider a specific question on which the Council has taken a decision during the session, except in debate on a motion to rescind that decision moved with the permission of the President.

(4) It shall be out of order to use offensive and insulting language about Members of the Council.

(5) A Member shall not impute improper motives to another Member.

(6) The name of the Chief Executive shall not be used to influence the Council.

(7) Except where his conduct is the subject of a motion to which Part JA (Procedures for Particular Motions) applies, the conduct of the Chief Executive, a Member of the Executive Council or a Member of the Legislative Council otherwise than in the performance of his official duties shall not be raised.

(8) The conduct of Judges or other persons performing judicial functions shall not be raised.

46. Decision on Motions

(1) Except as otherwise provided in Rules 49B (Relieving a Member of His Duties) and 66 (Bills Returned for Reconsideration) and Articles 52(2), 73(9) (in respect of a motion of impeachment), 79(7) and 159 of the Basic Law, the passage of all motions before the Council or a committee of the whole Council shall, subject to subrule (2), require a majority vote of the Members present.

(2) The passage of a motion (other than a motion moved under any of the excepted Rules or Articles of the Basic Law referred to in subrule (1)) or bill introduced by a Member, or an amendment introduced by a Member to any motion or bill, shall require a majority vote of each of the following two groups of Members present -

- (a) Members returned by functional constituencies (Group I); and
- (b) Members returned by geographical constituencies through direct elections and by the Election Committee (Group II).

(3) Any motion not passed shall be deemed to be decided in the negative.

47. Decision of Council and Committee of the Whole Council

(1) Except where subrule (2) applies, when the President or Chairman puts a question to the Council or to the committee of the whole Council for its decision -

- (a) the President or Chairman 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;
- (b) the President or Chairman shall then, according to his judgment, state whether or not he thinks the required majority of the Members present are in favour of the question and, subject to any challenges to his statement being dealt with under paragraph (c) below, he shall declare the question to have been so decided;
- (c) if a Member challenges the statement of the President or Chairman by claiming a division, then the President or Chairman shall order the Council or the committee, as the case may be, to proceed to a division; and, subject to Rule 49 (4) to (7) (Divisions), the division shall be held forthwith immediately after a division bell has been rung for three minutes.

(2) Other than in relation to a motion moved under Rule 49B (Relieving a Member of His Duties) or 66 (Bills Returned for Reconsideration) or Article 52(2), 73(9) (in respect of a motion of impeachment), 79(7) or 159 of the Basic Law, when the President or Chairman puts a question to the Council or to a committee of the whole Council for its decision in relation to a motion or bill introduced by a Member, or an amendment introduced by a Member to any motion or bill -

- (a) the President or Chairman shall first call upon 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;
- (b) the President or Chairman shall then, according to his judgment, state whether or not he thinks that a majority of each of the two groups of Members present, referred to in Rule 46(2) (Decision on Motions), are in favour of the question; subject to any challenge to his statement being dealt with under paragraph (c), he shall declare the question to have been so decided;
- (c) if a Member challenges the statement of the President or Chairman by claiming a division, then the President or Chairman shall order Members to proceed to a division; and, subject to Rule 49(4) to (7) (Divisions), the division shall be held forthwith immediately after a division bell has been rung for three minutes.

PART JA

PROCEDURES FOR PARTICULAR MOTIONS

49A. Application of the Part

In any matter not provided for in this Part, the Rules in other Parts shall apply as appropriate.

49B. Relieving a Member of His Duties

(1) A motion to relieve a Member of his duties as a Member under Article 79(6) of the Basic Law shall be moved in the following form:

“That whereas (name of Member) was convicted on (date) in (court) in (place) of a criminal offence(s) and was sentenced on (date) by (court) to imprisonment for one month or more (as particularized in the Schedule), this Council relieves (name of Member) of his/her duties as a Member of the Legislative Council.”

(2) No amendment may be moved to a motion moved under subrule (1).

(3) The passage of a motion moved under subrule (1) shall require a two-thirds majority vote of the Members present.

(4) Where the Council has decided to relieve a Member of his duties, the President shall declare forthwith that the Member is no longer qualified for his office.