



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



LEGISLATIVE COUNCIL IN BRIEF No.14

The Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region (“RoP”) are a set of written rules which governs how the Legislature conducts its day-to-day business and sets out the standards of conduct and behaviour expected of a Legislative Council Member. Drafted and endorsed by Members themselves under Article 75 of the Basic Law, this ever-evolving document is supplemented by other rules and practices adopted by the Legislative Council and its committees.

WHAT ARE RoP

While the Basic Law has set out the general powers of the Legislature, how RoP govern the exercise of such powers is left for the Legislative Council to decide¹. The RoP document, which contains more than 110 Rules, provides detailed directions on how business is transacted in the Legislative Council and committee meetings. It also serves as an authoritative manual to help the Legislative Council Members, the Legislative Council Secretariat staff and public officers to navigate the formal legislative process. In addition, RoP also set out the “dos” and “don’ts” for Members to abide by.

Broadly speaking, RoP contain 16 parts that can be divided into several distinct categories, such as:

- the general duties of Members and officers of the Legislative Council (Part A);
- scheduling of dates and agendas of meetings (Part B);
- the structure and terms of reference of committees (Part M);
- detailed procedures regarding presenting papers (Part D), asking questions (Part E), moving motions (Part G), and introducing bills (Part K);

- Rules regarding how decisions are made and votes are to be taken in the Legislative Council (Part J), Rules of speaking (Part H) and Rules of order (Part I); and
- procedures regarding the disqualification of Members from office (Part JA), and other miscellaneous matters (Part N) such as Rules regarding remote meetings of Council or committee, the conduct of Members and the power of sanctions.

RoP AND OTHER WRITTEN/UNWRITTEN RULES

The current RoP were made by the First Legislative Council through a resolution on 2 July 1998 after Hong Kong’s return to China. Published in the Gazette as a legislative instrument, RoP are supplemented by other written rules made by the Legislative Council and its committees. For instance, the House Rules provide more detailed instructions on the conduct of business, such as how motion debate slots are allocated and the way minutes of meetings is kept. Some committees, such as the Finance Committee, are empowered by RoP to determine their own practice and procedures.

Also supplementing RoP are the unwritten practices adopted by the Legislative Council in accordance with past rulings made by the President of the Legislative Council (“the President”).

¹ Article 75 of the Basic Law states that: “the rules of procedure of the Legislative Council shall be made by the Council on its own, provided that they do not contravene this Law.”



The Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region and the House Rules

In matters not provided for in RoP, Rule 92 of RoP states that the practice and procedure to be followed in the Council shall be such as may be decided by the President who may, if he or she thinks fit, be guided by the practice and procedure of other legislatures.

FACILITATING COUNCIL BUSINESS

Article 72 of the Basic Law empowers the President to preside over meetings and exercise other powers and functions as prescribed in RoP. These include deciding on the agenda, and giving rulings on whether bills, motions and questions introduced into the Legislative Council are in compliance with the relevant Rules.

MAINTAINING ORDER

Rule 44 of RoP states that the President, the Chairman in a committee of the whole Council, or the Chairman of any committee shall be responsible for maintaining order. His or her decision made on a point of order shall be final and cannot be appealed against. The most important power available for the maintenance of order during a meeting is provided under Rule 45(2) of RoP. Under this Rule,

a Member whose conduct is grossly disorderly shall be ordered to withdraw immediately from the Legislative Council or the committee for the remainder of that meeting. In addition, in accordance with Rule 45A of RoP, if the President is of the opinion that his or her powers under Rule 45(2) of RoP are inadequate in dealing with the grossly disorderly conduct of a Member at the meeting of the Legislative Council, a committee of the whole Council, the Finance Committee or the House Committee, the President may, at any time he or she considers appropriate, name such Member. A motion will then be moved by the President's Deputy for the Legislative Council to decide whether the Member should be suspended from the service of the Legislative Council for a specified period. The suspended Member shall, for the duration of suspension, be excluded from participation in the exercise of the Legislative Council's powers and functions under Article 73 of the Basic Law, and not be entitled to receive any remuneration or allowance. Rule 87 of RoP also provides for the removal from a meeting of any member of the press or the public who behaves, or who appears likely to behave, in a disorderly manner.

SANCTIONS

RoP also provide for sanctions that can be imposed on any Member who fails to comply with requirements in RoP regarding the registration and disclosure of interests; their claims for operating expenses; and their voting and withdrawal in case of direct pecuniary interests. The sanctions, which have to be imposed through the passing of a motion by the Legislative Council, range from admonishment or reprimand to suspension.

A CHANGING DOCUMENT

RoP change over time. Following the formulation of RoP by the First Legislative Council, amendments have been made to around 80 Rules of the document. Any amendment should be made by way of passing a resolution in the Legislative Council.

The Committee on Rules of Procedure meets regularly to review RoP and the committee system, and to propose to the Legislative Council such amendments or changes as are considered necessary. It consists of a chairman, a deputy chairman and 10 members appointed by the President in accordance with the recommendations of the House Committee.

Any Rule in RoP can be suspended by the passing of a motion in the Legislative Council, and the suspension of Rules had been used on previous occasions as temporary measures to overcome technical procedural problems and to ensure the smooth proceeding of Council business.

Further Reference:

Legislative Council in Brief No.3 - Let the Council Meeting Begin

Legislative Council in Brief No.18 - Quorum of the Legislative Council and its Committees

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