

附屬法例／其他文書  
小組委員會主席手冊

**HANDBOOK FOR  
CHAIRMEN OF  
SUBCOMMITTEES ON  
SUBSIDIARY LEGISLATION/  
OTHER INSTRUMENTS**



## 主席手冊的目的

本手冊以便覽方式，載述相關的規則和慣例，並提供一般指引，協助附屬法例／其他文書小組委員會主席了解本身的職責、權力和權限，以及籌備會議、主持會議及處理會議的跟進工作。本手冊載述的慣例只供參考。

就本手冊的目的而言，附屬法例／其他文書小組委員會指由內務委員會委任，負責審議下述事項的小組委員會：

- a. 任何附屬法例，不論該等附屬法例是否受《釋義及通則條例》(第1章)第34及35條的條文所規限；
- b. 根據任何條例訂立的任何其他文書；或
- c. 上文(a)或(b)項提述的附屬法例或文書的任何擬稿。

本手冊亦在適當之處援引《議事規則》及《內務守則》的有關條文，方便參考。

## PURPOSE OF THE CHAIRMAN HANDBOOK

This Handbook provides quick reference to the relevant rules and practices as well as general guidelines to assist Chairmen of subcommittees on subsidiary legislation/other instruments in understanding their responsibilities, powers and authority; and making preparations for a meeting, chairing a meeting and undertaking the follow-up work of a meeting. The practices set out in this Handbook are for reference only.

For the purpose of this Handbook, a subcommittee on subsidiary legislation/other instruments refers to a subcommittee appointed by the House Committee to scrutinize –

- a. any subsidiary legislation, whether or not such subsidiary legislation is subject to the provisions of sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1);
- b. any other instrument made under any Ordinance; or
- c. any draft of subsidiary legislation or instrument referred to in (a) or (b) above.

For easy reference, the relevant rules in the Rules of Procedure (“RoP”) and House Rules (“HR”) are cited where appropriate.

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## CHAPTER 1 DEFINITIONS

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### **Definition of subsidiary legislation**

1.1 Subsidiary legislation means any proclamation, rule, regulation, order, resolution, notice, rule of court, bylaw or other instrument made under or by virtue of any Ordinance and having legislative effect.

1.2 An item of subsidiary legislation is subject to the Legislative Council (“LegCo”)’s scrutiny under the positive vetting procedure or the negative vetting procedure, unless it is provided in the relevant Ordinance that the subsidiary legislation is not required to be tabled in LegCo.

### **Positive vetting**

1.3 Section 35 of the Interpretation and General Clauses Ordinance (Cap. 1) stipulates that where any Ordinance provides that an item of subsidiary legislation is to be subject to LegCo’s approval, the item must be submitted to LegCo for approval.

1.4 Although under the Rules of Procedure, a notice to move a motion in relation to such an item of subsidiary legislation should be given by the public officer concerned to the Clerk to LegCo no less than 12 clear days<sup>1</sup> before the day on which the motion is to be considered by the Council, the agreement with the Administration is that at least 20 days’ notice should be given. This is to enable the motion to be considered at the House Committee meeting normally held 12 days preceding the relevant Council meeting. [RoP 29(1)]

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<sup>1</sup> According to Rule 93(b) (Interpretation) of the Rules of Procedure, the expression “clear days” as a period of time excludes the day of the giving of a notice, the day of the relevant meeting and intervening public holidays, and ends at 5:00 pm on the last day of that period.

1.5 Where a subcommittee is formed to scrutinize the motion on the subsidiary legislation, the House Committee normally requests the public officer to withdraw his/her notice of the motion, pending the deliberation of the subcommittee.

1.6 Upon completion of its scrutiny work, the subcommittee reports its deliberations in writing to the House Committee. The public officer may then give fresh notice to the Clerk to LegCo in accordance with the Rules of Procedure. *[RoP 29(1)]*

## **Negative vetting**

### Scrutiny period

1.7 Under section 34 of Cap. 1, an item of subsidiary legislation which is published in the Gazette is to be tabled in LegCo at the meeting immediately following its publication.

1.8 An item of subsidiary legislation subject to negative vetting may take effect upon gazettal. However, it is the understanding between LegCo and the Administration that for items of subsidiary legislation which are controversial and/or of sufficient importance to merit close scrutiny by LegCo –

- (a) they should not take effect until after the scrutiny period has expired; and
- (b) where it is necessary for such an item of subsidiary legislation to take effect immediately or before the expiry of the scrutiny period, the relevant bureau should explain to Members the reason for such urgent treatment.

1.9 The scrutiny period refers to the 28 days immediately following the day on which the subsidiary legislation is tabled.

1.10 During the scrutiny period, a motion may be moved to amend (including to repeal) the subsidiary legislation or to have the period extended. It should be noted that some Ordinances may provide that subsidiary legislation made under them is only subject to LegCo's power to repeal, but not to change its content.

#### Extension of scrutiny period

1.11 The scrutiny period may be extended by resolution of the Council by 21 days, or to the Council meeting immediately following the 21 days, if there is no Council meeting on the 21st day.

1.12 Notice for a motion to extend the scrutiny period of an item of subsidiary legislation must be given no less than 3 clear days before the relevant Council meeting, unless the President dispenses with such notice. Upon the moving of the motion at a Council meeting, the question on the motion shall be put without debate. *[RoP 29(3) and (3A)]*

1.13 The notice period required for any amendment to a motion referred to in paragraph 1.12 above shall be decided by the President according to his/her discretion. *[RoP 29(4)]*

1.14 If the subcommittee decides to extend the scrutiny period of the subsidiary legislation, the motion is normally moved by the Chairman of the subcommittee. The legal adviser to the subcommittee is responsible for drafting the motion.

1.15 Where it is anticipated that the subcommittee may not be able to hold its first meeting before the deadline for giving notice of a motion for extension of scrutiny period, the motion is normally moved by the Chairman of the House Committee.

## **Subsidiary legislation not subject to the Legislative Council's scrutiny**

1.16 Where an Ordinance provides that sections 34 and 35 of Cap. 1 do not apply to the subsidiary legislation made under the Ordinance, the subsidiary legislation is not required to be tabled in LegCo, and LegCo has no power to repeal or propose any amendment to the subsidiary legislation. Nevertheless, the House Committee may form a subcommittee to examine issues relating to such category of subsidiary legislation.

## **Definition of other instruments**

1.17 Some instruments made under an Ordinance such as codes of practice and technical memoranda which, although not subsidiary legislation, are subject to the scrutiny of LegCo in accordance with a mechanism substantially the same as that provided for in section 34 of Cap. 1. This happens when there is a specific provision to that effect in the relevant Ordinance.

1.18 Notice for a motion to extend the period provided for the making of any amendment to such an instrument must be given no less than 3 clear days before the relevant Council meeting, unless the President dispenses with such notice. Upon the moving of the motion at a Council meeting, the question on the motion shall be put without debate. *[RoP 29(3) and (3A)]*

1.19 The notice period required for any amendment to a motion referred to in paragraph 1.18 above shall be decided by the President according to his/her discretion. *[RoP 29(4)]*

1.20 If the subcommittee decides to extend the period provided for the making of amendment, the motion is normally moved by the Chairman of the subcommittee. The legal adviser to the subcommittee is responsible for drafting the motion.

1.21 Where it is anticipated that the subcommittee may not be able to hold its first meeting before the deadline for giving notice of such a motion, the motion is normally moved by the Chairman of the House Committee.

## CHAPTER 2 GENERAL

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### **Work of a subcommittee on subsidiary legislation/other instrument**

2.1 A subcommittee may be formed by the House Committee to scrutinize –

- (a) any subsidiary legislation, whether or not such subsidiary legislation is subject to the provisions of sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1);
- (b) any other instrument made under any Ordinance; or
- (c) any draft of subsidiary legislation or instrument referred to in (a) or (b) above.

*[RoP 75(10)(a) to (c) and (12)(a), HR 20(j)(i)]*

2.2 A subcommittee is a deliberative forum for studying the policy aspect of the subsidiary legislation/instrument under scrutiny, its detailed provisions and any proposed amendments to it.

2.3 A subcommittee does not have the power to summon witnesses to give evidence, unless it has been authorised by the Council to do so.

*[RoP 80(b)]*

## **Procedures and practices**

2.4 Subject to the Rules of Procedure, the procedures and practices of a subcommittee on subsidiary legislation/other instrument shall be determined by the House Committee. *[RoP 75(18)]*

2.5 In addition, in accordance with rule 26(f) of the House Rules, the procedures and practices relating to the operation of the House Committee, Panels and Bills Committees, application for late membership, conduct of meetings, extension of meetings and minutes of meetings shall apply, where appropriate. *[HR 26(f)]*

## **Election of Chairman and Deputy Chairman**

2.6 If there are two or more valid nominations for the office of Chairman of a subcommittee, the election shall be conducted at a meeting of the subcommittee. If there is only one valid nomination for the office of Chairman, the nominee shall be deemed to be elected as Chairman. If there is no valid nomination for the office of Chairman, the member who has the highest precedence in the subcommittee shall be deemed to be elected as Chairman. The subcommittee may, after the Chairman is elected or deemed elected, decide whether there is a need to elect a Deputy Chairman. The procedure for election of the Chairman and Deputy Chairman is in Appendix IV to the House Rules. *[RoP 75(3A), HR 20(ka) and Appendix IV to HR]*

2.7 Normally, nominations for the offices of Chairman and Deputy Chairman of a subcommittee shall be submitted to the Secretariat via electronic means at least one clear day before the meeting at which the election is scheduled to be conducted (“the scheduled meeting”). However, the deadline for submission of nomination may be set at 5:00 pm on the day before the scheduled meeting if circumstances so require. The election is normally conducted at the first meeting of the subcommittee. Upon the close of the nomination period, the Clerk shall distribute a list of valid nominations for the offices of Chairman and Deputy Chairman (if any) and inform members of the arrangements for the scheduled meeting.<sup>2</sup> *[Appendix IV to HR]*

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<sup>2</sup> The cases where the election of the Chairman and/or Deputy Chairman of a subcommittee will not be required to be conducted at a scheduled meeting are set out in Appendix IV to the House Rules.

2.8 If there are two or more valid nominations for the office of Chairman of a subcommittee, an election by secret ballot will be held. The member presiding has both an original vote and a casting vote. Where two or more nominees receive the same highest number of valid votes in the election, lots will be drawn in respect of these nominees, and the member presiding shall exercise his/her casting vote in accordance with the lot drawn by him/her. To ensure the secrecy of the ballot papers, the Clerk will supervise the shredding of the ballot papers immediately after the meeting at which the election(s) is held. *[RoP 75(12E) and 79A(2), Appendix IV to HR]*

2.9 During the election of Chairman, the presiding member shall proceed straight to balloting and shall not hear points of order or entertain any motion. Nominees shall not present election platforms or answer questions from members. *[Appendix IV to HR]*

2.10 After the Chairman is elected or deemed elected, if any valid nomination is received for the office of Deputy Chairman by the deadline specified in paragraph 2.7 above, the subcommittee may decide at a meeting whether there is a need to elect a Deputy Chairman. If the subcommittee so decides, the election of the Deputy Chairman shall be held in accordance with the relevant procedures in Appendix IV to the House Rules. Where there is only one valid nomination for the office of Deputy Chairman, the nominee shall be declared elected as Deputy Chairman. Where there is no valid nomination for the office of Deputy Chairman, the subcommittee shall be deemed to have decided that there is no need to elect a Deputy Chairman. In any case, the nomination shall not be reopened. *[Appendix IV to HR]*

2.11 The Chairman and Deputy Chairman (if any) hold office until the dissolution of the subcommittee.

2.12 A Member whose application for late membership of a subcommittee is accepted may not seek a re-election of the Chairman or Deputy Chairman of the subcommittee by reason only of his/her admission to the subcommittee (see paragraphs 2.21, 2.22 and 2.23 below). *[HR 23(c)]*

## **Chairman**

### Responsibilities

2.13 The responsibilities of the Chairman of a subcommittee are not explicitly stipulated in the Rules of Procedure or House Rules. However, it is generally accepted by Members that the Chairman has the following responsibilities –

- (a) steering the work of the subcommittee in consultation with its members;
- (b) chairing meetings and ensuring that the business on the agenda is transacted in a proper and efficient manner;
- (c) maintaining order at meetings;
- (d) presenting the report of the subcommittee to the House Committee;
- (e) tabling and speaking on the report of the subcommittee in Council, if necessary;
- (f) speaking on the work of the subcommittee in Council, if necessary; and
- (g) moving proposed amendments agreed to by the subcommittee on its behalf.

2.14 The responsibilities of the Chairman are discussed in greater detail in the following chapters.

### Powers and authority

2.15 The Chairman of a subcommittee has certain powers and authority. Some of these are provided or reflected in the Rules of Procedure and House Rules. Others are exercised by the Chairman based on practices generally accepted by Members.



2.16 The powers and authority of a Chairman are summarized below –

(a) Preparations for a meeting

*Rules*

- (i) determining the agenda for a meeting [RoP 79C]
- (ii) directing that written notice shorter than three days for a meeting may be given [HR 24(c)]
- (iii) deciding on the time allotted for discussion on each item on the agenda for a meeting [HR 24(m)]
- (iv) determining whether a meeting should be cancelled if a Tropical Cyclone Warning Signal No. 8 or above or a Black Rainstorm Warning Signal or a territory-wide extreme conditions announcement is issued or in force within two hours before the appointed time of the meeting [HR 28(b)]

*Practices*

- (v) determining the date, time and place of a meeting
- (vi) deciding on the deadline for submissions, the order of speaking of deputations and their speaking time
- (vii) deciding whether translation into Chinese should be arranged for submissions made in English
- (viii) deciding whether certain documents should be circulated to members

- (ix) deciding how documents containing defamatory remarks/expressions should be dealt with
  - (x) giving direction to the Clerk on logistical arrangements for meetings of the subcommittee
  - (xi) consenting to the issuance of background briefs and other papers of the subcommittee prepared by the Clerk to members
  - (xii) consenting to the issuance of information notes and fact sheets to members
- (b) Conducting a meeting

*Rules*

- (i) directing a Member, who is interrupting another Member by rising to a point of order, to discontinue speaking if the Chairman is of the opinion that the interruption is an abuse of procedure pursuant to Rule 39(2) (Interruptions) of the Rules of Procedure, unless the Chairman orders under Rule 43 (Application of Rules to Committees) of the Rules of Procedure that Rule 39(2) does not apply to the proceedings of the subcommittee [*RoP 39(2) and 43*]
- (ii) determining whether the sign, graphics, message or any other information on an object displayed by a Member under Rule 42(e) (Behaviour of Members during Meeting) of the Rules of Procedure for illustrating a point in his/her speech while he/she is speaking conforms to Rule 41 (Contents of Speeches) of the Rules of Procedure and rule 19B of the House Rules, unless the Chairman orders under Rule 43 (Application of Rules to Committees) of the Rules of Procedure that Rule 42(e) does not apply to the proceedings of the subcommittee [*RoP 42(e) and 43, HR 19B*]

- (iii) determining whether the provisions under Part H (Rules of Speaking) of the Rules of Procedure which govern the rules of speaking and behaviour of Members at Council meetings should apply to meetings of the subcommittee *[RoP 36 to 43]*
- (iv) deciding on a point of order and such decision shall be final. Where the Chairman is of the opinion that the raising of a point of order is an abuse of procedure, he/she may decide when and how he/she would deal with the point of order so raised. Such power may also be exercised by the Deputy Chairman of a subcommittee but not by any other member presiding at that subcommittee *[RoP 44]*
- (v) directing a Member, who persists in irrelevance or tedious repetition of his/her own or other Members' arguments in the debate, to discontinue his/her speech, after calling the attention of the subcommittee to the conduct of that Member *[RoP 45(1)]*
- (vi) ordering a Member whose conduct is grossly disorderly to withdraw from a meeting *[RoP 45(2)]*
- (vii) having an original vote, and having a casting vote in addition to his/her original vote in an election of the Chairman and Deputy Chairman of the subcommittee *[RoP 75(12C) and (12E), Appendix IV to HR]*
- (viii) before the appointed ending time of a meeting, deciding whether to extend the meeting, or allowing the meeting to continue for not more than 15 minutes beyond the appointed ending time of the meeting, subject to the availability of the meeting venue *[HR 24A(a)]*
- (ix) closing a meeting when a quorum is not present *[HR 24(g) and (h)]*
- (x) closing a meeting if a Tropical Cyclone Warning Signal No. 8 is issued when the meeting is in progress *[HR 28(c)]*

- (xi) deciding whether to close or continue with a meeting if a Black Rainstorm Warning Signal is issued when the meeting is in progress [*HR 28(d)*]
- (xii) ordering the removal of a member of the press or the public who behaves, or who appears likely to behave, in a disorderly manner from a meeting [*RoP 87, HR 24(s)*]
- (xiii) deciding whether to give consent to a member who has risen without notice to move a motion that members of the press and of the public do withdraw for the remainder of the day's meeting or during the consideration of certain business as specified by the member [*RoP 88(1)*]

*Practices*

- (xiv) ruling on procedural matters either on his/her own motion or in response to a point of order raised at a meeting
- (c) Visits of a subcommittee

*Rules*

- (i) deciding, in consultation with other Members or the host organization, whether a scheduled visit in Hong Kong should be cancelled or postponed if less than three Members have signed up for the visit [*HR 29(d)*]

*Practices*

- (ii) giving direction to the Clerk on logistical arrangements for visits of the subcommittee

(d) Follow-up work of a meeting

*Rules*

- (i) deciding whether the comments of the Administration and other attendees on the minutes of a meeting or any part of the minutes should be sought [HR 25(d) and (e)]

*Practices*

- (ii) clearing reports and minutes of meetings of the subcommittee prepared by the Clerk

2.17 The powers and authority of a Chairman are discussed in greater detail in the following chapters.

Guiding principles

2.18 As the Chairman chairs meetings and has the responsibility to ensure that the business on the agenda is transacted in a proper and efficient manner, he/she should be familiar with the relevant rules in the Rules of Procedure and House Rules and practices of subcommittees. The Chairman should consult the subcommittee on the course of action to be taken regarding a certain matter, if there are no relevant rules or practices.

2.19 The Chairman should conduct himself/herself with impartiality in discharging his/her responsibilities. He/she should ensure that members have adequate opportunities to take part in the deliberations of the subcommittee. Where there are differences of opinion, the Chairman should give each side an equal chance to express its views.

## **Membership**

2.20 Members of a subcommittee are those Members (other than the President) who have signified membership and are allocated committee seats in accordance with the mechanism decided by the House Committee as set out in Appendix IIIB to the House Rules. A subcommittee shall consist of not less than 3 members and (unless otherwise decided by the House Committee) not more than 15 members including the Chairman. [RoP 75(3A) and (12)(b) and (c), HR 20(j)(i), (ja) and (ka), and Appendix IIIB to HR]

2.21 An application for late membership of a subcommittee shall be considered in accordance with rule 23 of the House Rules after the election of the Chairman and Deputy Chairman (if any) of the subcommittee, provided that the number of subcommittee members does not exceed 15 or any maximum number decided by the House Committee. The raising of questions which relate to the signification of membership of the subcommittee, after the time when a Member should signify his/her membership, shall be deemed to be an application for late membership. *[HR 23(a)]*

2.22 It is for a subcommittee to decide whether an application for late membership should be accepted and such application shall only be accepted if there exist sufficient grounds for doing so. *[HR 23(b)]*

2.23 Any Member who has failed to be admitted as a member of a subcommittee may put his/her case to the House Committee for decision. *[HR 23(d)]*

2.24 A Member who joins the Council after the start of a session may join a subcommittee by submission of a return to the Secretariat within one month of the date on which he/she is declared elected as Member of the Council, provided that the number of members of the subcommittee does not exceed 15 or any maximum number decided by the House Committee. His/her membership of the subcommittee shall take effect upon confirmation by the Secretariat. In the event that the number of Members' returns for joining a subcommittee exceeds the number of committee seat(s) of that subcommittee available for allocation, lots will be drawn for determining the allocation of the committee seat(s) in that subcommittee in accordance with the mechanism set out in Appendix IIIB to the House Rules. *[Appendix IIIB to HR]*

2.25 In the event that a vacancy in a subcommittee arises before its completion of work, such vacancy will not be filled. *[Appendix IIIB to HR]*

## **Non-subcommittee Members' attendance**

2.26 A Member may attend any meeting of any subcommittee, regardless of whether he/she is a member of that subcommittee. A non-subcommittee Member, however, does not have any voting right in respect of the business of the subcommittee. *[HR 24(d)]*

## **Meeting schedule**

2.27 At the first meeting of a subcommittee, the Chairman should invite the subcommittee to consider whether it is necessary to anticipate the number of subsequent meetings and set tentative dates for these meetings. In normal circumstances, the subcommittee should not book more than three time slots at a time. *[HR 24(l)]*

2.28 If a subcommittee, however, decides to meet very frequently or it has difficulties in finding meeting slots, it may be necessary to book more than three time slots in advance.

## **Public's attendance**

2.29 Meetings of a subcommittee are held in public unless the Chairman otherwise orders in accordance with any decision of the subcommittee.

2.30 Where a decision is to be made on whether a meeting or any part of it should be held in private, the decision should be made at an open meeting.

2.31 The public should be admitted to all open meetings of a subcommittee as long as there are seats in the public galleries of the meeting venue. *[HR 24(q)]*

## **Support service**

### Clerk

2.32 A Clerk is assigned to each subcommittee. The Clerk together with his/her team provide secretariat services for the subcommittee. The Clerk is the procedural adviser to the Chairman and the subcommittee, as well as the resource person on the subjects discussed by the subcommittee. The Clerk follows up decisions of the subcommittee and prepares background briefs, minutes of meetings, and reports, etc. The Clerk also oversees logistical arrangements for meetings and visits of the subcommittee.

### Legal adviser

2.33 A legal adviser is assigned to each subcommittee to provide legal advice and support to the subcommittee.

2.34 Amendments to the subsidiary legislation/instrument proposed to be moved by the Chairman, Deputy Chairman (if any) or any other member on behalf of the subcommittee are drafted by the legal adviser. Amendments proposed to be moved by the Administration are scrutinized by the legal adviser to ascertain that the drafting reflects what has been discussed at meetings of the subcommittee. Individual members are responsible for drafting the amendments proposed to be moved by him/her. The legal adviser may provide assistance to the member(s) if necessary.

### Research support provided by the Research Office

2.35 The Research Office provides research support for subcommittees. On the instruction of a subcommittee, the Research Office undertakes an in-depth study and analysis of a subject and produces a research paper for the subcommittee, usually in the format of information note or fact sheet. References to policy practices and experiences in Hong Kong and other places are normally made in such a study.

2.36 The subcommittee should have regard to the fact that such types of studies normally take about four to six weeks to complete, before deciding whether a study should be undertaken.



## CHAPTER 3 SCRUTINIZING SUBSIDIARY LEGISLATION/OTHER INSTRUMENTS

	<i>Paragraphs</i>
<b>Stages</b>	3.1 – 3.2
<b>Inviting public views</b>	3.3 – 3.5
<b>Work progress</b>	3.6 – 3.9
<b>Policy aspect</b>	3.10 – 3.12
<b>Examination of provisions</b>	3.13 – 3.15
<b>Amendments</b>	3.16 – 3.23
<b>Notice periods for amendments</b>	3.24 – 3.27
<b>Dissolution of a subcommittee</b>	3.28

### Stages

3.1 The scrutiny work of an item of subsidiary legislation/instrument normally comprises the following stages –

- (a) first, to consider the policy aspect of the subsidiary legislation/instrument;
- (b) second, to consider the drafting and legal aspects of the detailed provisions of the subsidiary legislation/instrument;
- (c) third, to consider proposed amendments, if any, to the subsidiary legislation/instrument; and
- (d) fourth, to consider any relevant procedural matters.

Individual subcommittees may make adjustment, if necessary, to the sequence of the above stages to suit its circumstances.

3.2 The stages of scrutiny are discussed in greater detail in paragraphs 3.10 to 3.27 below.

## **Inviting public views**

3.3 It is for the subcommittee to decide whether public views on the subsidiary legislation/instrument should be invited. It should be noted that on occasions, the Administration may have consulted selected organizations/bodies in the course of formulating details of the subsidiary legislation/instrument. However, these organizations/bodies may not have the opportunity to express their views on the draft or final text of the subsidiary legislation/instrument.

3.4 There is no standard practice as to whether views should be obtained first before the subcommittee proceeds to scrutinize the subsidiary legislation/instrument, or whether obtaining views and scrutinizing the subsidiary legislation/instrument should proceed in parallel. It is also for individual subcommittees to decide.

3.5 Arrangements in respect of inviting deputations are discussed in paragraphs 4.23 to 4.34 of Chapter 4.

## **Work progress**

3.6 The Chairman should regularly review the progress of the scrutiny of the subsidiary legislation/instrument with the Clerk and the legal adviser to the subcommittee, and consult the subcommittee on the way forward. For instance, whether the subcommittee needs more time to scrutinize the subsidiary legislation/instrument, or whether the scrutiny of the subsidiary legislation/instrument needs to be expedited.

3.7 Arrangements for extending the scrutiny period of an item of subsidiary legislation subject to the negative vetting procedure are discussed in paragraphs 1.11 to 1.15 of Chapter 1.

3.8 Arrangements for extending the period provided for the making of an amendment to an instrument are discussed in paragraphs 1.18 to 1.21 of Chapter 1.

3.9 As a last resort, an item of subsidiary legislation subject to the negative vetting procedure or an instrument may have to be repealed, if it is considered by the subcommittee that time does not allow proper scrutiny of it.

### **Policy aspect**

3.10 As discussed in paragraph 3.1 above, in scrutinizing a subsidiary legislation/instrument, it is the normal practice to first consider its policy aspect.

3.11 If the subsidiary legislation/instrument is complex, the subcommittee should draw up a work plan to guide its work. The work plan should set out the subject areas or policy issues to be studied as well as the order of and timeframe for studying these areas or issues.

3.12 Normally, the Chairman, with the assistance of the Clerk and the legal adviser, prepares a draft work plan for the consideration of the subcommittee.

### **Examination of provisions**

3.13 In examining the detailed provisions of the subsidiary legislation/instrument, the Chairman should invite the subcommittee to first examine either the English text or Chinese text of the subsidiary legislation/instrument. Where applicable, a marked-up copy of the relevant legislative item to be amended by the subsidiary legislation/instrument will be prepared by the Legal Service Division to assist the subcommittee in its scrutiny.

3.14 In examining each provision, the Chairman should invite the Administration to explain the provision and, if necessary, the related provisions. The Chairman should also invite the legal adviser to give his/her views, if any, on the legal and drafting aspects of the provisions and the related provisions.

3.15 After the examination of the text of the subsidiary legislation/instrument in one language has been completed, the subcommittee should move on to consider the text in the other language. Alternatively, the subcommittee may request the legal adviser to examine the text in the other language, and to alert the subcommittee if issues are identified at this stage of work which require the subcommittee to consider.

## **Amendments**

3.16 It is the normal practice for a subcommittee to consider any amendments proposed by the Administration, the subcommittee and individual members to the subsidiary legislation/instrument, and to attach to its written report to the House Committee the text of the proposed amendments (see paragraph 8.14 of Chapter 8).

3.17 To facilitate the subcommittee to consider the proposed amendments, the Administration is normally invited to provide the following papers –

- (a) explanation on the amendments proposed by the Administration;  
and
- (b) the Administration's written response to the amendments proposed by the subcommittee and/or individual members.

3.18 The Administration or the legal adviser is normally invited to provide a marked-up copy of the subsidiary legislation/instrument showing the proposed amendments.

3.19 It may be necessary for the subcommittee to invite deputations, such as the relevant professional bodies or trade associations, to give views on important or controversial proposed amendments to the subsidiary legislation/instrument.

3.20 In the situation where the Administration does not agree to move certain proposed amendments to the subsidiary legislation/instrument and there is agreement among the majority of the members on such proposed amendments, the subcommittee should consider whether the Chairman should move the amendments on behalf of the subcommittee.

3.21 If the Chairman is not in favour of the proposed amendments, he/she should invite the subcommittee to consider whether the Deputy Chairman (if any) or any other member who is in favour of the proposed amendments should move the amendments on behalf of the subcommittee.

3.22 Amendments proposed to be moved by the Chairman, Deputy Chairman (if any) or any other member on behalf of the subcommittee are drafted by the legal adviser to the subcommittee. Individual members are responsible for drafting the amendment proposed to be moved by him/her. The legal adviser may provide assistance to the member(s) if necessary.

3.23 Rule 31(1) (Restriction on Motions and Amendments) of the Rules of Procedure provides that a Member cannot propose an amendment, the object or effect of which may, in the opinion of the President or Chairman of a committee of the whole Council, be to dispose of or charge any part of the revenue or other public moneys of Hong Kong, except where the Chief Executive consents in writing to the proposal. *[RoP 31(1)]*

## **Notice periods for amendments**

### Subsidiary legislation subject to the positive vetting procedure

3.24 As discussed in paragraph 1.6 of Chapter 1, upon completion of its scrutiny work, the subcommittee formed to study an item of subsidiary legislation subject to the positive vetting procedure will report to the House Committee. The public officer may then give fresh notice to the Clerk to LegCo to move a motion on the subsidiary legislation. The notice period is not less than 12 clear days before the day on which the motion is to be considered by the Council, unless the President dispenses with such notice. *[RoP 29(1)]*

3.25 Notice of a motion to amend the item of subsidiary legislation is to be given not less than 5 clear days before the relevant Council meeting, unless the President dispenses with such notice. *[RoP 29(6)]*

Subsidiary legislation subject to the negative vetting procedure and other instruments

3.26 Notice of a motion to amend an item of subsidiary legislation subject to negative vetting procedure or an instrument is to be given not less than 5 clear days before the relevant Council meeting, unless the President dispenses with such notice. *[RoP 29(2)]*

3.27 The notice period required for any amendment to a motion referred to in paragraph 3.26 above shall be decided by the President according to his/her discretion. *[RoP 29(4)]*

**Dissolution of a subcommittee**

3.28 The Rules of Procedure and House Rules do not explicitly state when a subcommittee on subsidiary legislation/other instrument is dissolved. Generally speaking, a subcommittee is regarded to be dissolved –

- (a) when the motion on the subsidiary legislation is disposed of in Council, in relation to an item of subsidiary legislation which is subject to the positive vetting procedure;
- (b) when the scrutiny period expires, in relation to an item of subsidiary legislation which is subject to the negative vetting procedure;
- (c) when the period provided for the making of any amendment expires, in relation to other instruments; or
- (d) when the House Committee so decides.

## CHAPTER 4 PREPARATIONS FOR A MEETING

	<i>Paragraphs</i>
<b>First meeting</b>	4.1 – 4.2
<b>Subsequent meetings</b>	4.3 – 4.9
<b>Notice of meeting</b>	4.10 – 4.11
<b>Agenda</b>	4.12 – 4.19
<b>Inviting attendees</b>	4.20 – 4.22
<b>Deputations</b>	4.23 – 4.34
<b>Background briefs</b>	4.35 – 4.36
<b>Papers from the Administration</b>	4.37 – 4.39
<b>Research papers</b>	4.40 – 4.41
<b>Personal data</b>	4.42
<b>Defamatory expressions</b>	4.43
<b>Other papers</b>	4.44
<b>Chairman’s Brief</b>	4.45 – 4.46
<b>Meeting with the Clerk</b>	4.47

### **First meeting**

4.1 The member who has the highest precedence on the preliminary membership list sets the date and time of the first meeting of a subcommittee. The preliminary membership list comprises Members who have indicated their intention to join the subcommittee by a show of hands at a meeting of the House Committee at which the subcommittee is appointed to scrutinize an item of subsidiary legislation/instrument. Members may also inform the Chairman of the House Committee of such intention before the close of that House Committee meeting. *[HR 21(c) and (ca), and 26(f)]*

4.2 The election of the Chairman and Deputy Chairman (where applicable) of a subcommittee normally takes place at the first meeting of the subcommittee. The procedure for election of the Chairman and Deputy Chairman is provided in Appendix IV to the House Rules. After the election, if any, the subcommittee will –

- (a) meet with the Administration to commence discussion on the subsidiary legislation/instrument;
- (b) consider whether it is necessary to invite deputations to give views on the subsidiary legislation/instrument;
- (c) determine the frequency of meetings; and
- (d) set the dates and time of subsequent meetings.

## **Subsequent meetings**

### Meeting schedule

4.3 It is the normal practice for the Chairman to set the date and time of a meeting. Whenever feasible, the subcommittee should meet frequently.

4.4 If the subcommittee has agreed on a meeting schedule, the Chairman should set the date and time of a meeting according to the schedule, unless there is reason to reschedule the meeting. Members should be informed of the reason for rescheduling.

4.5 If a member of a subcommittee makes a request for holding a meeting to discuss a specific issue of urgent importance and the Chairman cannot be contacted for considering the request within 48 hours, the Deputy Chairman (if any) will then decide whether to convene the meeting and, if convened, the date, time and place of it. *[RoP 79B]*

4.6 To enable the Clerk to convey a request for holding an urgent meeting of a subcommittee, the Chairman and Deputy Chairman (if any) should provide the Clerk with adequate information on how they can be contacted.



### Clash of meetings

4.7 Efforts should be made, as far as practicable, to avoid scheduling two meetings within the same time slot. *[HR 24(b)]*

4.8 If a clash of two meetings cannot be avoided, there should be no or minimum overlapping of membership between the two committees, or no member of the subcommittee is expected to attend the other meeting.

### Lunch time meetings

4.9 Where necessary, a meeting during lunch time, normally from 1:00 pm to 2:15 pm, may be scheduled.

### **Notice of meeting**

4.10 Notice of the date, time and place of a meeting should be given by the Clerk at least three days before the day of the meeting unless the Chairman directs that shorter notice be given. *[HR 24(c)]*

4.11 The agenda for a meeting should be issued together with the notice of that meeting.

### **Agenda**

#### Deciding on agenda items

4.12 The agenda for a meeting of a subcommittee shall be determined by its Chairman, except where its Deputy Chairman (if any) has made a determination in accordance with Rule 79B (Determining the Time and the Place of a Meeting of a Committee by the Deputy Chairman of the Committee) of the Rules of Procedure. *[RoP 79C]* It is the normal practice for the Chairman to decide on the agenda and consult the subcommittee, if necessary.

4.13 The agenda items of a subcommittee meeting are normally couched in general terms, such as “Meeting with the Administration”, “Continue discussion with the Administration” or “Meeting with deputations”. If the subcommittee has drawn up a work plan setting out the subject areas and policy issues to be studied and the order of studying these areas or issues, the Chairman should consider whether the specific areas or issues to be discussed at a particular meeting should be stated in the agenda to facilitate members to prepare for the meeting and to bring along the relevant papers to the meeting.

4.14 The agenda, as determined by the Chairman, should be issued to members together with the notice of meeting.

4.15 Upon the request of the Administration or individual members, it is for the Chairman to decide whether a special/urgent item or subject area/policy issue should be added to the agenda for a meeting. In considering whether to accede to the request, the Chairman should have regard to –

- (a) whether sufficient time can be allotted to the item/subject area/policy issue;
- (b) whether sufficient notice can be given to members, the Administration and other parties concerned; and
- (c) whether relevant information about the item/subject area/policy issue can be provided to members at a reasonable time before the meeting to facilitate discussion on it.

4.16 Where there is a request to defer discussion on an item/subject area/policy issue, it is for the Chairman to decide whether the request should be acceded to, having regard to relevant factors such as whether there is urgency in discussing the item/subject area/policy issue or whether the item/subject area/policy issue is controversial (also see paragraph 4.39 below regarding late submission of papers and proposed amendments). The Chairman may consult, if he/she considers it appropriate, members of the subcommittee before making his/her decision.

4.17 Where there is a request to alter the order of items/subject areas/policy issues on an agenda, the Chairman should consider whether there is good reason for the request, whether the change will cause inconvenience for other attendees, and whether reasonable notice can be given to members about the change, before making a decision on the request.

#### Revised agenda

4.18 Where subsequent changes are made to the agenda for a meeting, a revised agenda should be issued as soon as possible by the Clerk, to ensure that members are given notice of what will be discussed at the meeting.

#### Time allowed for each item

4.19 It is for the Chairman to decide beforehand the time allowed for discussion on each item/subject area/policy issue, and instruct the Clerk to have the time indicated on the agenda. *[HR 24(m)]*

### **Inviting attendees**

#### The Administration

4.20 It is the normal practice for the policy bureau concerned to coordinate the attendance of public officers for discussion on a certain item/subject area/policy issue.

4.21 The Chairman or the subcommittee may request that a certain public officer be invited. *[RoP 9(4)]*

#### Other organizations

4.22 Representatives, other than those from the Administration, such as representatives of public bodies, may be invited by a subcommittee to attend its meeting for discussion on a certain item/subject area/policy issue on the agenda.

## **Deputations<sup>3</sup>**

### Invitation

4.23 A subcommittee may invite deputations to make written submissions and oral representations to the subcommittee on the subsidiary legislation/instrument under scrutiny. The Chairman normally invites members to give views on which organizations or individuals should be approached.

4.24 If the subsidiary legislation/instrument in question is of wide public concern, it is the normal practice for the subcommittee to invite views from the public by issuing press releases and/or posting a notice on the LegCo website. The 18 District Councils will be notified of the invitation.

### Submission of views

4.25 In the case of Panels or Bills Committees, about two to three weeks are normally allowed for deputations to send in their written submissions to the Secretariat, and the deadline for submissions is normally one to two weeks prior to the relevant meeting. In determining the time allowed for deputations to send in their written submissions, the subcommittee should have regard to the scrutiny period, in the case of subsidiary legislation subject to negative vetting, or the period for making amendments, in the case of other instruments.

4.26 The Chairman has the discretion to obliterate names of groups/organizations with connotation that might compromise the dignity or solemnity of the proceedings of the subcommittee.

4.27 The Chairman decides whether requests for making oral representations, which are received after the deadline, should be acceded to.

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<sup>3</sup> In this Handbook, deputations include groups/organizations as well as individual members of the public who are interested in submitting their views to a subcommittee on a certain subject.

4.28 Deputations who have put in written submissions prior to the meeting may make further submissions after the meeting on points not covered in their earlier submissions. *[HR 25(c)]*

4.29 The Chairman decides whether translation into Chinese should be arranged for written submissions made in English. Summary translation into Chinese may be considered for very lengthy submissions made in English. Submissions are circulated to members and made available to the public, unless the deputations concerned raise objection.

4.30 Written submissions are also forwarded to the Administration for its response to the issues and concerns raised in the submissions.

4.31 Where necessary, the Clerk prepares summaries of issues and concerns raised in the submissions received from deputations and the Administration's response to these issues and concerns.

4.32 To ensure fairness to participating deputations, each deputation should not be allowed to make oral representation more than once at meetings of the subcommittee held for the purpose of receiving public views on a subject. However, the Chairman has the discretion to accede to special requests from deputations to make oral representation to the subcommittee more than once (not necessarily in different capacities) on a subject if the situation so warrants and the Chairman considers that such requests are justified.

#### Speaking order

4.33 The Chairman determines the speaking order of deputations by applying the following criteria –

- (a) in the order of receipt of the replies; or
- (b) by groups having regard to the background or nature of the deputations; or
- (c) preference of the deputations, if any.

## Speaking time

4.34 The Chairman determines the speaking time limit for deputations. In principle, equal speaking time should be allotted to deputations attending the same meeting.

## **Background briefs**

4.35 The Clerk prepares a background brief on the relevant subsidiary legislation/instrument to facilitate the subcommittee's discussion at the first meeting of the subcommittee.

4.36 Where practicable and considered necessary by the Chairman, the Clerk prepares background briefs on specific subjects, particularly those involving important, complex, and/or controversial issues, to facilitate the subcommittee's discussion. The Chairman's consent is sought by the Clerk before issuance of the brief to members.

## **Papers from the Administration**

4.37 It is the normal practice to request the Administration to respond in writing to the issues and concerns raised by members, and to provide other relevant discussion papers for a subcommittee meeting.

4.38 Unlike the provision of discussion papers for Panels, there are no agreed deadlines with the Administration for the provision of papers for subcommittee meetings, because the frequency of subcommittee meetings varies from case to case.

4.39 Since a subcommittee invariably consults the Administration's representatives in fixing the date of its next meeting, the Administration should have assessed its ability to provide discussion papers or proposed amendments at a reasonable time before the meeting. In line with the practice of Panels, the Chairman should invite the subcommittee to consider whether discussion on papers or proposed amendments that arrive too late before a meeting should be deferred, if the situation warrants.

## **Research papers**

4.40 The consent of the Chairman is sought for the issuance of an information note or fact sheet produced by the Research Office.

4.41 If necessary, the Chairman can comment on the draft research paper (and may also invite interested members of the subcommittee to provide comments) before it is finalized for circulation to all members of the subcommittee. Internal deliberation may be held to consider whether the draft paper has covered all the aspects expected to be covered in the study.

## **Personal data**

4.42 Personal data contained in a document is normally obliterated before issuance.

## **Defamatory expressions**

4.43 If a document, e.g. submission from a deputation, contains defamatory remarks/expressions made against or which may be embarrassing to any person or body, etc, the Chairman should instruct the Clerk on how such a document should be dealt with. It may be necessary to restrict the circulation of such a document to members only, or to obliterate the remarks/expressions before circulation.

## **Other papers**

4.44 The Chairman decides whether certain documents sent to the subcommittee, which are not related to any agenda item, subject area or policy issue to be discussed, should be circulated to members.

## **Chairman's Brief**

4.45 A Brief for the Chairman is prepared by the Clerk for every meeting (other than the first meeting), and is normally sent to the Chairman not less than one working day before a meeting. The Brief usually contains the following information –

- (a) the number of members required to form a quorum of the meeting;
- (b) a list of the members of the subcommittee, representatives of the Administration and other organizations and Secretariat staff attending the meeting;
- (c) date of the meeting the minutes of which are to be confirmed;
- (d) outstanding issues and concerns raised at previous meetings to be followed up and new issues to be discussed by the subcommittee;
- (e) titles of papers for the meeting;
- (f) matters requiring the subcommittee's attention/decision;
- (g) a reminder of the date of the next meeting; and
- (h) any procedural or other matters to which the Chairman's attention should be drawn.

4.46 The following information is also included in the Brief when it is anticipated that the subcommittee is about to conclude its deliberations –

- (a) in the case of an item of subsidiary legislation subject to positive vetting, the deadline for giving notice of the motion on the subsidiary legislation;
- (b) the deadline for giving notice of amendments; and
- (c) the respective dates of the relevant House Committee meeting and Council meeting (if applicable).



## **Meeting with the Clerk**

4.47 Where necessary, the Chairman and Deputy Chairman (if any) may meet with the Clerk before a meeting to receive an update on the items to be discussed and to consider any procedural points which may be brought up at the meeting.

## CHAPTER 5 CONDUCTING A MEETING

	<i>Paragraphs</i>
<b>Chairing meetings</b>	5.1 – 5.4
<b>Quorum</b>	5.5 – 5.8
<b>Venue not available</b>	5.9
<b>Keeping time</b>	5.10 – 5.11
<b>Order of agenda items</b>	5.12
<b>Privileges and immunities</b>	5.13 – 5.14
<b>Order of speaking</b>	5.15 – 5.16
<b>Pecuniary interest</b>	5.17 – 5.19
<b>Voting</b>	5.20 – 5.26
<b>Decisions</b>	5.27 – 5.28
<b>Voting right of Chairman</b>	5.29 – 5.30
<b>Conduct</b>	5.31 – 5.37
<b>Extension of meetings</b>	5.38 – 5.41
<b>Language</b>	5.42 – 5.43

### **Chairing meetings**

5.1 The Chairman of a subcommittee chairs the meetings of the subcommittee. In his/her absence, the Deputy Chairman (if any) takes the chair at the meeting.

5.2 In the temporary absence of the Chairman and Deputy Chairman (if any), the subcommittee may elect a Chairman to act during their absence.

5.3 Although the Chairman has the same rights, in principle, as any other member to give his/her views, the Chairman should intervene as little as possible in a discussion and should not usually express personal opinions, in order to avoid giving the impression or being accused of taking sides.

5.4 Where the Chairman of a subcommittee considers that there may be concern about conflict of interest or conflict of roles in his/her chairing a meeting for discussion on a certain item, he/she should make a declaration of the matter which is the cause for the concern and invite the subcommittee to consider whether he/she should preside over the discussion on the item. The subcommittee may decide whether the Deputy Chairman (if any) or another member should preside.

## **Quorum**

5.5 The quorum of a subcommittee is three members including the Chairman or one-third of its members including the Chairman (a fraction of the whole number being disregarded), whichever is the greater.

5.6 If a quorum is not present within 15 minutes of the appointed time, the Chairman should cancel the meeting. *[HR 24(g)]*

5.7 In the case where a meeting has just been cancelled, and then all members of the subcommittee are present and the public officers are still available, the Chairman may, with the agreement of all members, call another meeting to be held immediately. *[HR 24(c)]*

5.8 If the attention of the Chairman is drawn by a member of the subcommittee to the fact that a quorum is not present during a meeting, he/she should ask that members be summoned. Unless a quorum is present within 15 minutes, the Chairman shall close the meeting without question put. *[HR 24(h)]*

## **Venue not available**

5.9 In the situation where a quorum is present but the venue for a meeting is not available at the appointed meeting time, because the meeting held in the same venue in an earlier time slot has overrun, the following arrangement may be adopted: the Chairman of the meeting in progress should suspend the meeting to enable the other Chairman to declare the meeting open and then immediately suspend the meeting. The earlier meeting can then resume and the other meeting can be held after the earlier meeting has ended.

## **Keeping time**

5.10 The Chairman should have regard to the time allotted to each item and should keep tight time control to ensure that business on the agenda is dealt with before the appointed ending time of a meeting. The Chairman may, before the appointed ending time of the meeting, decide to extend the meeting or allow the meeting to continue for not more than 15 minutes beyond the appointed ending time of the meeting, provided that the meeting venue is available. *[HR 24A(a)]*

5.11 Further extension of the meeting is subject to the conditions detailed in paragraphs 5.39, 5.40 and 5.41 below.

## **Order of agenda items**

5.12 Items should be taken in the order in which they appear on the agenda. If there is a request for the order of an item to be varied, it is for the Chairman to decide whether the request should be acceded to. The Chairman may consult, if he/she considers it appropriate, members of the subcommittee as well as representatives of the Administration and/or other parties concerned, such as deputations, before making his/her decision.

## **Privileges and immunities**

5.13 At meetings of the Council or its committees, the privileges and immunities provided by the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) are available to all Members, the Chief Executive and any public officer designated by the Chief Executive for the purpose of attending such meetings. A list of the public officers so designated is in *Appendix I*.

5.14 Where discussion on an item is attended by persons who are not covered by the privileges and immunities provided under Cap. 382, e.g. deputations, the Chairman should remind them, at the beginning of the discussion, that when addressing the subcommittee they do not have such protection and their written submissions are also not protected.

## **Order of speaking**

5.15 Members should register their intention to speak at a meeting by raising their hands or through the “Request To Speak” System. The Chairman should call upon Members to speak in turn, having regard to the order in which they have raised their hands or pressed the button requesting to speak.

5.16 Where there are differences of opinion, the Chairman should, as far as possible, give each side an equal chance to express its views.

## **Pecuniary interest**

5.17 It is a Member’s responsibility to disclose the nature of his/her pecuniary interest in a matter being considered by a subcommittee to other people to judge, whether direct or indirect, if his/her views on the matter have been influenced by his/her interest. A Member should disclose the nature of his/her pecuniary interest at the beginning of his/her speech on that matter. He/she should not move any motion or amendment relating to a matter in which he/she has a pecuniary interest, whether direct or indirect, or speak on any such matter, except where he/she discloses the nature of that interest. *[RoP 83A]*

5.18 A Member should not vote on any question in which he/she has a direct pecuniary interest, except where his/her interest is in common with the rest or a sector of the population of Hong Kong, or his/her vote is given on a matter of Government policy. *[RoP 84(1)]*

5.19 “Direct pecuniary interest” should be immediate and not merely of a remote or general character. As regards “indirect pecuniary interest”, it is an interest not immediate and personal to a Member, but does have a certain relationship with the Member which would make a reasonable person to consider that such interest might have certain influence on the action or speech of the Member.

## Voting

5.20 Matters for the decision of a subcommittee are decided by a majority of the members voting. Non-subcommittee Members do not have voting right in respect of the business of the subcommittee. [RoP 75(12AA), HR 24(d)]

5.21 Before a matter is voted upon at a meeting of a subcommittee, a voting bell will be rung if the Chairman orders, on his/her own motion or upon the request of a member of the subcommittee, that the members of the subcommittee be notified of the voting.<sup>4</sup> The subcommittee will proceed to vote immediately after the bell has been rung for five minutes. However, if a Council meeting is being held at the same time, the bell will not be rung. [HR 24(i)]

5.22 Where no voting bell is provided for the venue where a subcommittee meets or if the bell does not function or may not be rung, the Chairman should order the Clerk to arrange for members of the subcommittee within the precincts of the Chamber to be notified of the voting. The voting will be held 10 minutes after the order has been made. [HR 24(j)]

5.23 Voting by members at a meeting of a subcommittee is by a show of hands. When a division is claimed, members may, with the consent of the Chairman, cast their votes in the division through an Electronic Voting System if it is provided.

5.24 A question put to vote will be regarded as agreed to if more members voted in favour of it than those who voted against it. It is the normal practice to record the number of members who abstained from voting, but the number of abstentions is not counted for the purpose of determining the result of the vote. The key rules/guidelines for voting at committee meetings are set out in *Appendix II*.

5.25 If a member wishes to claim a division of the votes, the member must make the request before the Chairman declares the result of the vote.

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<sup>4</sup> The voting bell may be rung irrespective of whether the subcommittee concerned is proceeding to a division; and a subcommittee may proceed to a division without ringing a voting bell.

5.26 When the Chairman orders a division, the Clerk will record the names of members who are in favour of the question put, those who are not in favour of the question put, and those who abstain from voting. The Chairman should then instruct the Clerk to read out the names of the members who are in favour of the question put, those who are not in favour of the question put, and those who abstain from voting. The Chairman should then declare the result of the vote. The number of abstentions is not counted for the purpose of determining the result of the vote, as detailed in paragraph 5.24 above.

## **Decisions**

5.27 The Chairman may instruct that a matter for the decision of a subcommittee be considered by circulation of papers to its members. The matter will be deemed to be approved by the subcommittee, if a majority of the members of the subcommittee have signified approval, and no member has signified disapproval or has requested that the matter should be discussed at a meeting.

5.28 The decisions of a subcommittee should not be reopened for discussion, unless with the permission of the subcommittee. *[HR 24(n)]*

## **Voting right of Chairman**

5.29 Except in an election of the Chairman and Deputy Chairman (if any) of a subcommittee, the Chairman or any presiding member has an original vote but not a casting vote. *[RoP 75(12C) and (12E)]*

5.30 If the Chairman or the member presiding wishes to exercise his/her original vote on a matter before the subcommittee, the vote must be exercised at the same time as other members of the subcommittee exercise their votes; otherwise, the Chairman or the member presiding will be regarded as having given up his/her right to vote on the relevant matter. The voting rights of the Chairmen of subcommittees are summarized in part (c) of *Appendix II*. *[RoP 79A(3)]*

## Conduct

### Members

5.31 The Chairman is responsible for maintaining order at meetings to ensure the business on the agenda is conducted properly and efficiently. His/her decision on a point of order shall be final. *[RoP 44]*

5.32 Except for the attire requirement laid down in Rule 42(a) (Behaviour of Members during Meeting) of the Rules of Procedure, the provisions under Part H (Rules of Speaking) of the Rules of Procedure which govern the behaviour of Members at Council meetings apply to subcommittee meetings, unless the Chairman of the subcommittee orders otherwise. *[RoP 43]* These provisions are –

- (a) a Member should not interrupt another Member who is speaking except to raise a point of order or to seek elucidation. The Member raising a point of order may be directed by the Chairman to discontinue speaking if the Chairman is of the opinion that the interruption is an abuse of procedure *[RoP 39]*
- (b) a Member should restrict his/her observations to the subject under discussion and should not introduce matters irrelevant to that subject *[RoP 41(1)]*
- (c) a Member should not make reference to a case pending in a court of law in such a way as, in the opinion of the Chairman, might prejudice that case *[RoP 41(2)]*
- (d) a Member should not use offensive or insulting language about other Members *[RoP 41(4)]*
- (e) a Member should not impute improper motives to another Member *[RoP 41(5)]*
- (f) the name of the Chief Executive should not be used to influence the Council *[RoP 41(6)]*



- (g) the conduct of the Chief Executive, a Member of the Executive Council or a Member of LegCo otherwise than in the performance of his/her official duties shall not be raised [RoP 41(7)]
- (h) the conduct of judges and other persons performing judicial functions should not be raised [RoP 41(8)]
- (i) all Members should behave with decorum; no Member should cross the floor of the meeting venue unnecessarily; Members should not read newspapers, books, letters or other documents except if the contents of such documents are directly related to the business of the Council; and while a Member is speaking all Members should be silent and should not make unseemly interruptions [RoP 42(a) to (d)]
- (j) subject to the following requirements or restrictions as recommended by the House Committee, a Member may display an object for illustrating a point in his/her speech only while he/she is speaking provided that any sign, graphics, message or any other information displayed on the object conforms to Rule 41 (Contents of Speeches) of the Rules of Procedure –
  - (i) the display of the object is related to the item(s) of business set out in the relevant Agenda of the Council;
  - (ii) the display of the object does not and will not disturb the proceedings of the meeting or cause obstruction to other Members or designated public officers in their participation in the proceedings, or block the President's view of those present in the Chamber;
  - (iii) the display of the object does not and will not pose danger or nuisance to any person present in the Chamber;
  - (iv) the display of the object is confined to the seating area of the Member displaying the object; and

- (v) the display of the object does not and will not have a negative impact on the public's perception of the Council, tarnish the dignity of the Council, or bring discredit upon the Council. *[RoP 42(e), HR 19B]*

5.33 The Chairman of a subcommittee, after having called the attention of the subcommittee to the conduct of a Member who persists in irrelevance or tedious repetition of his/her own or other Members' arguments in the debate, may direct him/her to discontinue his/her speech. *[RoP 45(1)]*

5.34 The Chairman of a subcommittee has the power to order a Member whose conduct is grossly disorderly to withdraw from a meeting. *[RoP 45(2)]*

5.35 The Chairman of a subcommittee may also adopt the following approaches in dealing with controversies concerning Members' conduct or points of order at meetings –

- (a) remind the Member that his/her conduct is inappropriate;
- (b) persuade the Member not to continue to behave in the manner which is the subject of the controversy;
- (c) suspend the meeting to let the controversy die down, if necessary; and/or
- (d) seek the view of the subcommittee on how the controversy should be dealt with.

### *Use of offensive or insulting language by a Member*

5.36 In relation to paragraph 5.32(d) above, a list of expressions which have been ruled by the President and the Chairmen of the House Committee and the Finance Committee to be offensive and insulting about Members or public officers attending the relevant meeting or unparliamentary in the context in which the expressions were used are set out in *Appendix III*. The list is not exhaustive and will be updated as and when new rulings are made. Expressions on the list may be deleted having regard to cultural changes and developments in society. Please refer to [https://www.legco.gov.hk/general/english/procedur/list\\_of\\_offensive-e.pdf](https://www.legco.gov.hk/general/english/procedur/list_of_offensive-e.pdf) for the latest version of the list. Subcommittee Chairmen are invited to note that –

- (a) whether an expression is offensive and insulting or unparliamentary depends on the context in which it is used;
- (b) the Chairman of a subcommittee may order the Member using such expression to withdraw the expression or stop using the expression; and
- (c) the mere utterance of the expression at a meeting does not constitute grossly disorderly conduct. However, if the Member refuses to withdraw the expression or stop using the expression after he/she has been so ordered, such conduct may be regarded by the Chairman to be grossly disorderly. In such circumstances, the subcommittee Chairman may exercise the power conferred under Rule 45(2) (Order in Council and Committee) of the Rules of Procedure to order withdrawal of the Member, or adopt the approaches set out in paragraph 5.35 above.

### Public

5.37 If a member of the press or the public is behaving or is likely to behave in a disorderly manner, the Chairman may order the removal of the person from the meeting. [*RoP 87, HR 24(s)*]

## **Extension of meetings**

5.38 As detailed in paragraph 5.10 above, the Chairman of a subcommittee may, before the appointed ending time of a meeting of the subcommittee, decide to extend the meeting or allow the meeting to continue for not more than 15 minutes beyond the appointed ending time of the meeting, provided that the meeting venue is available. *[HR 24A(a)]*

5.39 The meeting may be extended for more than 15 minutes beyond the appointed ending time or the period of extension/continuation of meeting referred to in paragraph 5.38 above, provided that –

- (a) such a proposal is put forward before the original appointed meeting ending time or during the period of extension/continuation of meeting referred to in paragraph 5.38 above;
- (b) no member of the subcommittee present at the meeting raises objection to the proposal; and
- (c) the meeting venue is available.

*[HR 24A(b)]*

5.40 Subject to the availability of the meeting venue, the period of extension referred to in paragraph 5.39 above may be extended for a further specified period, provided that such a proposal is put forward during that period of extension and no member of the subcommittee present at the meeting raises objection to the proposal. *[HR 24A(c)]*

5.41 The Chairman shall ascertain whether any member of the subcommittee present at the meeting raises objection to a proposal put forward under paragraph 5.39 or 5.40 above without debate or discussion.

*[HR 24A(d)]*

## **Language**

5.42 Members and other attendees of a meeting may speak in either Cantonese, Putonghua or English.

5.43 The Chairman, whenever necessary, should remind Members, representatives of the Administration and deputations to refrain from using “cocktail” language at meetings so as to facilitate the work of the simultaneous interpreters. *[HR 24(o)]*

## CHAPTER 6 VISITS

	<i>Paragraphs</i>
<b>Purpose</b>	6.1
<b>Visits outside Hong Kong</b>	6.2 – 6.11
<b>Visits outside Hong Kong in response to invitations</b>	6.12 – 6.21
<b>Visits in Hong Kong</b>	6.22 – 6.24

### **Purpose**

6.1 Visits may be conducted by subcommittees to enable Members to gain first-hand information on issues or organizations of interest to them in connection with Council business. *[HR 29(a) and 29A(a)]*

### **Visits outside Hong Kong**

#### Permission of the House Committee

6.2 Should a subcommittee consider it necessary to undertake any activities outside Hong Kong under the name of the subcommittee and/or funding for the visit is to be charged to individual Members' Overseas Duty Visit accounts, the prior permission of the House Committee is required. *[HR 29A(a)]*

6.3 In considering whether to undertake a visit outside Hong Kong, the subcommittee should have regard to, among other things, the time required to make logistical arrangements and other preparatory work for the visit.

6.4 The Chairman of the subcommittee presents a paper on the proposed visit to the House Committee. The paper is drafted by the Clerk to the subcommittee.

### Forming the delegation

6.5 The broad guidelines for determining the size and membership of a delegation are –

- (a) members of the subcommittee should have priority in participating in the visit; and
- (b) the delegation should be of a manageable size in order not to create difficulties in logistical arrangements.

6.6 Non-subcommittee Members may join a duty visit outside Hong Kong with the consent of the subcommittee.

6.7 Members joining the visit should participate in the entire programme. *[HR 29A(b)]*

6.8 The Chairman of the subcommittee is normally the leader of the delegation. If the Chairman does not participate in the visit, the Deputy Chairman (if any) is normally the leader and if he/she also does not participate in the visit, the delegation may choose a leader and inform the subcommittee of its choice.

### Funding

6.9 Visits outside Hong Kong are funded in accordance with the prevailing arrangements approved by The Legislative Council Commission.

### Preparatory work

6.10 Prior to the visit, the delegation should discuss the matters to be studied during the visit, the programme and the parties to be visited. Background briefs for the visit are prepared by the Clerk jointly with the Research Office. Questions are also drawn up by the Clerk in consultation with the delegation, to facilitate discussion with the parties to be visited.

## Role of the Clerk

6.11 There will be Secretariat staff, normally the Clerk, accompanying the delegation. The Clerk (or the staff concerned) is responsible for making the logistical arrangements and will draft the report of the visit in consultation with the delegation. The report, after clearance with the delegation, is presented to the subcommittee and then, with suitable adaptation, to the House Committee.

## **Visits outside Hong Kong in response to invitations**

6.12 Any proposed visit outside Hong Kong extended to all Members of the Council in response to an invitation should first be discussed by the relevant committee(s) to determine if the visit is related to the business of the Council. The relevant committee(s) should convene a meeting to discuss the invitation and all other non-committee Members should be invited to attend the meeting. There should be transparency in the deliberation on logistical arrangements, including the Members to take part in the visit, the itinerary, matters to be studied and places to be visited.

*[HR 29A(c)]*

6.13 If the committee(s) concerned proposes to accept the invitation, all Members should be invited to indicate their interest in joining the proposed visit. The committee(s) should submit a paper on its proposal to the House Committee. If the House Committee agrees to accept the invitation, and a quota is prescribed on the number of participating Members by the relevant organization, the House Committee should consider the composition of the delegation which should normally be broadly representative of the membership of the Council. *[HR 29A(c) and (d), and Appendix VI to HR]*



6.14 If the invitation is extended to one committee only, the Chairman of the committee concerned should convene a meeting to discuss whether to accept the invitation and the details of the proposed visit. If the invitation is extended to members of more than one committee, the Chairmen of the committees concerned should discuss and agree as to whether a joint meeting should be convened or whether the committee having a prominent interest in the subject matter should convene a meeting and invite members of the other committee(s) to attend. The notice of meeting should be copied to all other non-committee Members who are welcome to attend the meeting and participate in the discussion, but they do not have any voting right in respect of the issues under discussion. At the meeting, members should discuss whether to accept the invitation and the details of the proposed visit. *[HR 29A(c) and Appendix VI to HR]*

6.15 Any views or requests made by Members at the meeting should be relayed to the relevant organization for consideration, and Members should be informed of any feedback received. *[Appendix VI to HR]*

6.16 If the invitation is not accepted, the relevant organization should be so informed. *[Appendix VI to HR]*

6.17 If the invited committee(s) considers that the proposed visit is related to Council business and agrees to accept the invitation, it should issue a circular to invite members to indicate whether they will join the visit. The committee(s) should submit a paper on the detailed arrangements of the visit to the House Committee. *[HR 29A(d) and Appendix VI to HR]*

6.18 Where the funding of a visit in response to an invitation is to be charged to individual Members' Overseas Duty Visit accounts, the House Committee's endorsement is required. *[HR 29A(d) and Appendix VI to HR]*

6.19 If the endorsement of the House Committee on the financial arrangement is not obtained, members may join the visit on a self-financing basis or claim reimbursement of the expenses incurred for the visit under the Operating Expenses Reimbursement system. *[Appendix VI to HR]*

6.20 Papers submitted in the name of the Council to an inviting organization should be circulated to all Members for comments.

6.21 A report on a visit that has been approved by the House Committee should be submitted to the House Committee after the visit. *[HR 29A(f) and Appendix VI to HR]*

### **Visits in Hong Kong**

6.22 The timing and programme of a visit are decided by the Chairman in consultation with members of the subcommittee and the host organizations. The duration of a visit should be kept to within three hours as far as possible. *[HR 29(b)]*

6.23 The Chairman, in consultation with other Members or the host organization, determines whether a scheduled visit should be cancelled or postponed if the visiting party consists of less than three Members. *[HR 29(d)]*

6.24 The Chairman and the host organization are consulted as to whether the visit should be open to the media.

## CHAPTER 7 POWERS TO SUMMON WITNESSES

	<i>Paragraphs</i>
<b>Powers to summon witnesses</b>	7.1 – 7.5
<b>Proposal to appoint a select committee</b>	7.6 – 7.8

### **Powers to summon witnesses**

7.1 A subcommittee may exercise the powers conferred by section 9(1) of Cap. 382 to order any person to testify or give evidence or to produce any paper, book, record or document in his/her possession, if authorized by the Council to do so.

7.2 If a subcommittee member proposes that the subcommittee should exercise the powers conferred by section 9(1) of Cap. 382 in connection with its work, a motion on the proposal should be put to the subcommittee for consideration and decision. If the subcommittee supports the motion, the House Committee should be informed of the subcommittee's decision.

7.3 The relevant motion in Council is normally moved by the Chairman of the subcommittee.

7.4 If a subcommittee is authorized to exercise powers conferred by section 9(1) of Cap. 382, the subcommittee should, similar to Panels, make a report to the Council after it has completed its consideration, although there is no such a requirement under the Rules of Procedure and House Rules.

7.5 There is no precedent of a subcommittee being authorized by the Council to exercise powers conferred by section 9(1) of Cap. 382 in connection with its work.

## **Proposal to appoint a select committee**

7.6 If a subcommittee decides to recommend the appointment of a select committee to conduct an inquiry and for the select committee to exercise the powers conferred by section 9(1) of Cap. 382 for the purpose of the inquiry, a paper should be presented to the House Committee. The Clerk prepares the paper and clears it with the Chairman before issuance.

7.7 If the House Committee supports the proposal of the appointment of a select committee, the relevant motion in Council is normally moved by the Chairman of the House Committee or the Chairman of the subcommittee, if one is formed to undertake preparatory work for the appointment of the select committee.

7.8 There is no precedent of a subcommittee recommending the appointment of a select committee to conduct an inquiry.

## CHAPTER 8 FOLLOW-UP WORK OF A MEETING

	<i>Paragraphs</i>
<b>Decisions</b>	8.1 – 8.3
<b>Minutes</b>	8.4 – 8.8
<b>Verbatim records</b>	8.9 – 8.10
<b>Reports for the House Committee</b>	8.11 – 8.16
<b>Reporting the subcommittee’s deliberations in Council</b>	8.17 – 8.27
<b>Debates on subsidiary legislation and other instruments to which no amendments have been proposed</b>	8.28 – 8.34
<b>Tabling a report in Council and speaking on the report</b>	8.35 – 8.39
<b>Addressing the Council on an item of subsidiary legislation or instrument</b>	8.40 – 8.42
<b>Adjournment debate</b>	8.43 – 8.45

### Decisions

8.1 Decisions made by a subcommittee are followed up by the Clerk in consultation with the Chairman.

8.2 The Clerk writes to the relevant bureau if there are follow-up actions required of the Administration.

8.3 The Clerk undertakes other necessary follow-up work according to the decisions of a subcommittee including –

- (a) seeking the House Committee’s permission to undertake a visit outside Hong Kong (paragraphs 6.2, 6.3, 6.4 and 6.13 to 6.18 of Chapter 6 refer);

- (b) informing the House Committee of the subcommittee's decision to seek the Council's authorization to exercise the powers conferred by section 9(1) of Cap. 382 (paragraph 7.2 of Chapter 7 refers); and
- (c) recommending to the House Committee that a select committee be appointed (paragraph 7.6 of Chapter 7 refers).

## **Minutes**

8.4 The Clerk to a subcommittee prepares the minutes of the meetings of the subcommittee. *[HR 25(a)]*

8.5 The minutes of a subcommittee meeting are presented in condensed form. *[HR 25(a)]* The minutes should record the decisions of the subcommittee, outstanding matters to be followed up at future meetings, undertakings made by the Administration, declarations of interest by members, and decisions of members to move proposed amendments, etc. The format of the minutes should follow that agreed to by the House Committee meeting on 5 October 2001.

8.6 The broadcasting records of the proceedings are indexed, and the index is annexed to the minutes to facilitate easy retrieval of such records. The format of the index should follow that agreed to by the House Committee meeting on 14 June 2002.

8.7 The minutes of a meeting with the Administration and other outside parties need not normally be cleared with them. The Chairman has the discretion to decide whether the draft minutes or any part of the draft minutes should be shown to those who have attended the meeting if, in the Chairman's view, it will facilitate the work of the subcommittee. *[HR 25(d) and (e)]*

8.8 The draft minutes are cleared with the Chairman before issuance to members for confirmation at a meeting or by circulation. *[HR 25(f)]*

## **Verbatim records**

8.9 Verbatim records are not normally prepared for a meeting of a subcommittee, except where a subcommittee is conducting an inquiry and has been authorized to summon witnesses to give evidence. *[HR 25(b)]*

8.10 The Chairman of a subcommittee may, with the agreement of the subcommittee, determine that a verbatim record of a meeting be made. The request should be justified on the grounds of need. Such a request should be submitted to The Legislative Council Commission with justifications for record.

## **Reports for the House Committee**

### Report to seek an extension of scrutiny period

8.11 Where the Chairman of a subcommittee is to move a motion to extend the scrutiny period of an item of subsidiary legislation subject to negative vetting, or the period for making amendments in the case of other instruments, this should be so stated in the relevant “Position Report on Bills Committees and subcommittees” for the House Committee.

### Report upon completion of scrutiny work

8.12 A subcommittee should, as soon as it has completed its work, advise the House Committee in writing of the subcommittee’s deliberations and recommendations. It is the normal practice to submit the report before the expiry of the deadline for giving notice of amendments. The Clerk is responsible for drafting the report to the House Committee.

8.13 Under exceptional circumstances where a written report cannot be provided to the House Committee before the deadline for giving notice of amendments, the Chairman of the subcommittee may make a verbal report, and provide a written report at the earliest opportunity, e.g. at the following House Committee meeting.

8.14 The report of a subcommittee normally contains the following information –

- (a) a brief description of the subsidiary legislation/instrument;
- (b) the membership of the subcommittee;
- (c) the number of meetings held and visit(s) conducted, if any, as well as submissions received and deputations met, if any, by the subcommittee;
- (d) the deliberations of the subcommittee, including issues and concerns raised in relation to the objects of the subsidiary legislation/instrument, the majority and minority views of members, and the Administration's response to issues raised at meetings;
- (e) the Administration's undertakings, if any;
- (f) the respective amendments proposed to be moved by the Administration, the subcommittee and/or individual members, if any;
- (g) other recommendations of the subcommittee, if any;
- (h) follow-up actions to be taken by the Administration or other committees of the Council, if any; and
- (i) any other matters or points to which the House Committee's attention should be drawn.

#### Comments by the Administration and Chairman

8.15 The draft report of a subcommittee is normally sent to the Administration for comments. It will then be cleared with the Chairman of the subcommittee for issuance to the House Committee. The draft report will be circulated to members of the subcommittee before issuance to the House Committee, if so requested by members.



## Speaking note

8.16 Where the Chairman of a subcommittee is to make a verbal report to the House Committee (paragraph 8.13 above refers), the Clerk prepares a speaking note for the Chairman. If necessary and subject to the agreement of the Chairman of the subcommittee and that of the Chairman of the House Committee, the speaking note may be tabled at the House Committee meeting.

## **Reporting the subcommittee's deliberations in Council**

### Subsidiary legislation subject to positive vetting

8.17 For a subcommittee scrutinizing an item of subsidiary legislation under the positive vetting procedure, it is the normal practice for the Chairman to make a speech to report on the deliberations of the subcommittee, after the public officer concerned has moved his/her motion. The speech is drafted by the Clerk. The Chairman may add his/her personal view after reporting the work of the subcommittee. The total speaking time is five minutes. *[RoP 37, HR 17(b) and Appendix IIIA to HR]*

8.18 If the Chairman is to move an amendment to the motion on behalf of the subcommittee, he/she will need to move and speak on the amendment, in addition to reporting on the deliberations of the subcommittee and speaking on his/her personal view, within the speaking time limit of *five* minutes as mentioned in paragraph 8.17 above. *[RoP 37, HR 17(b) and Appendix IIIA to HR]*

8.19 There is no requirement in the Rules of Procedure and House Rules for the subcommittee to table a report on its deliberations in Council, as in the case of a Bills Committee. However, a subcommittee may do so under Rule 21(1) and (2) (Presentation of Papers) of the Rules of Procedure, if it considers necessary. Where the subcommittee tables its report in Council, the Chairman of the subcommittee may, with the permission of the President, address the Council on the report subject to Rules 21(4) and (4A) (Presentation of Papers) and 49D (Presentation of Reports of House Committee on Consideration of Subsidiary Legislation and Other Instruments) of the Rules of Procedure. *[RoP 21(1), (2) and (3)]*

8.20 The arrangement for a subcommittee to table its report in Council is discussed in paragraphs 8.35 to 8.39 below.

Subsidiary legislation subject to negative vetting or other instruments

*Where amendments have been proposed*

8.21 For a subcommittee scrutinizing an item of subsidiary legislation under the negative vetting procedure or an instrument on which amendments are proposed by the Administration or Member(s), it is the normal practice for the Chairman of the subcommittee to make a speech to report on the deliberations of the subcommittee in relation to the amendments, after the public officer or the Member(s) concerned has moved his/her motion to amend the subsidiary legislation or instrument. The speech made by the Chairman is drafted by the Clerk. The Chairman may add his/her personal view after reporting the work of the subcommittee. The total speaking time is five minutes. *[RoP 37, HR 17(b) and Appendix IIIA to HR]*

8.22 If the Chairman of a subcommittee is to move a motion to amend an item of subsidiary legislation or instrument on behalf of the subcommittee, he/she will have five minutes to move the motion and speak on the report on the deliberations of the subcommittee in relation to the amendments, plus another five minutes in reply. The Chairman will have another five minutes to speak on amendment(s) to the motion, if any. *[RoP 37, HR 17(b) and Appendix IIIA to HR]*

8.23 As discussed in paragraph 8.19 above and paragraphs 8.35 to 8.39 below, the Chairman of a subcommittee may, with the permission of the President, table a report on the deliberations of the subcommittee in Council and speak on the report under Rule 21(1), (2) and (3) (Presentation of Papers) of the Rules of Procedure.

8.24 The Chairman of a subcommittee or a Member who wishes to address the Council on an item of subsidiary legislation or instrument at a meeting under Rule 21(5) and (6) (Presentation of Papers) of the Rules of Procedure shall give written notice to the President of his/her wish before the beginning of that meeting, and may only address the Council if the President has given his/her consent, provided that the scrutiny period of the subsidiary legislation or the period for making amendments to the instrument has not expired. Further details are given in paragraphs 8.40, 8.41 and 8.42 below. *[RoP 21(5) and (6)]*

*Where no amendments have been proposed*

8.25 For a subcommittee scrutinizing an item of subsidiary legislation under the negative vetting procedure or an instrument to which no amendments have been proposed, the Chairman of the subcommittee or any other Member may notify the House Committee that he/she wishes to speak on the subsidiary legislation or instrument at a debate on a motion to take note of the relevant report of the House Committee on consideration of subsidiary legislation and other instruments. The Chairman should report on the deliberations of the subcommittee during the debate. Further details are given in paragraphs 8.28 to 8.34 below. *[RoP 49E]*

8.26 If there is no debate on a motion to take note of a House Committee report in relation to the subsidiary legislation or instrument, the Chairman may seek the permission of the President to address the Council on that subsidiary legislation or instrument under Rule 21(5) and (6) (Presentation of Papers) of the Rules of Procedure provided that the scrutiny period of the subsidiary legislation or the period for making amendments to the instrument has not expired as discussed in paragraph 8.24 above. *[RoP 21(5), (6) and (7)]*

8.27 Alternatively, the Chairman of a subcommittee may, with the permission of the President, table a report on the deliberations of the subcommittee in Council and speak on the report under Rule 21(1), (2) and (3) (Presentation of Papers) of the Rules of Procedure (see paragraphs 8.35 to 8.39 below).

## **Debates on subsidiary legislation and other instruments to which no amendments have been proposed**

8.28 Rule 49D (Presentation of Reports of House Committee on Consideration of Subsidiary Legislation and Other Instruments) of the Rules of Procedure provides that the Chairman of the House Committee may present a report on the subsidiary legislation and other instruments that the House Committee has considered (“House Committee report”) to the Council at its meeting immediately before the expiry of the scrutiny period or extended scrutiny period of such subsidiary legislation and instruments, irrespective of whether or not subcommittees have been appointed to study them. *[RoP 49D and 75(10A)]*

8.29 Under Rule 49E(1) (Motions on Reports of House Committee on Consideration of Subsidiary Legislation and Other Instruments) of the Rules of Procedure, a Member who wishes to speak on any item of subsidiary legislation or instrument included in a House Committee report should notify the Clerk to the House Committee of his/her intention to do so at a debate on the House Committee report. Such a notification should be conveyed to the Clerk to the House Committee before the deadline for proposing agenda items for the House Committee meeting preceding the Council meeting at which the House Committee report is tabled. The deadline for proposing agenda items for a House Committee meeting is normally 5:00 pm on the Tuesday before that meeting. *[RoP 49E(1)(a), HR 20(f)(i)]*

8.30 If there is no House Committee meeting in the week preceding the Council meeting at which the House Committee report is tabled, the notification should be conveyed to the Clerk to the House Committee not later than 6 clear days before that Council meeting. *[RoP 49E(1)(b)]*

8.31 The Chairman of the House Committee will give notice of a motion to take note of the House Committee report in relation to the item(s) of subsidiary legislation or instrument(s). The notice period is 2 clear days before the relevant Council meeting. No amendment to the motion may be moved. *[RoP 49E(2) and (5), HR 17(a)(i)]*

8.32 If a motion to take note of a House Committee report covers more than one item of subsidiary legislation or instruments, the debate on the motion may be divided into separate sessions, with each session focusing on one or more items of subsidiary legislation or instruments which are related, as decided by the House Committee. *[RoP 49E(7)]*

8.33 If there is a motion to amend an item of subsidiary legislation or instrument, no motion to take note of the House Committee report on such subsidiary legislation or instrument should be moved. This is to avoid having the same item of subsidiary legislation or instrument being debated twice in Council. *[RoP 49E(6)]*

8.34 If a subcommittee has been formed to scrutinize the item of subsidiary legislation or instrument covered in the debate, the Chairman of the subcommittee, if he/she so wishes, may speak on the subsidiary legislation or instrument immediately after the mover has moved and spoken on the motion, or at the start of the respective session if the debate is divided into sessions. The Clerk is responsible for drafting the speech. The Chairman may add his/her personal view after reporting on the work of the subcommittee. The total speaking time for the Chairman is five minutes. *[RoP 37, HR 17(b), 20(l) and Appendix IIIA to HR]*

### **Tabling a report in Council and speaking on the report**

8.35 As discussed in paragraph 8.19 above, unlike Bills Committees, there is no requirement in the Rules of Procedure and House Rules for a subcommittee to table its report in Council. However, a subcommittee may do so, if it considers necessary. Under Rule 21(1) (Presentation of Papers) of the Rules of Procedure, a Member may, with the permission of the President, present a paper to the Council by giving a notice of not less than 2 clear days before the Council meeting at which the paper is to be presented, provided that the President may in his discretion dispense with such notice. *[RoP 21(1)]*

8.36 Irrespective of the number of reports a subcommittee made to the House Committee, the subcommittee should present only one report to the Council for Members' easy reference. The report of the subcommittee to the Council should be based on the report of the subcommittee to the House Committee, as detailed in paragraph 8.14 above. However, there is no need to attach to the report of the subcommittee any proposed amendments relevant to the subsidiary legislation or instrument under scrutiny by the subcommittee. The report should also contain the following information –

- (a) the date on which the subcommittee's report was presented to the House Committee; and
- (b) any recommendations of the House Committee or relevant points raised at the discussion of the House Committee on the report.

8.37 Under Rule 21(3) (Presentation of Papers) of the Rules of Procedure, the Chairman of the subcommittee may, with the permission of the President, address the Council on the report. *[RoP 21(3) and (6), HR 2]*

8.38 The Clerk is responsible for drafting the address.

8.39 After clearance with the Chairman, the Clerk provides an advance copy of the intended address to the President to enable the President to decide whether the address may provoke a debate. *[RoP 21(3) and (6), HR 2]*

## **Addressing the Council on an item of subsidiary legislation or instrument**

8.40 Under Rule 21(5) (Presentation of Papers) of the Rules of Procedure, a Member may address the Council on an item of subsidiary legislation or instrument, provided that the scrutiny period of the subsidiary legislation or the period for making amendments to the instrument has not expired and no motion is moved to take note of the House Committee report in relation to the subsidiary legislation or instrument. The Member who wishes to address the Council at a meeting shall give written notice to the President of his/her wish before the beginning of that meeting, and may only address the Council if the President has given his/her consent. *[RoP 21(5),(6) and (7), HR 2]*

8.41 If the address is to be made by the Chairman of a subcommittee, the Clerk is responsible for drafting the address.

8.42 After clearance with the Chairman, the Clerk provides an advance copy of the intended address to the President to enable the President to decide whether the address may provoke a debate. *[RoP 21(5) and (6), HR 2]*

## **Adjournment debate**

8.43 A Member may move a motion to adjourn the Council under Rule 16(4) (Motions for the Adjournment of the Council) of the Rules of Procedure at a Council meeting for the purpose of enabling Members to debate certain issues relating to an item of subsidiary legislation. *[RoP 16(4)]*

8.44 The duration of an adjournment debate held pursuant to Rule 16(4) (Motions for the Adjournment of the Council) of the Rules of Procedure will be kept within one and a half hours (i.e. 75 minutes for speeches by Members and 15 minutes for replies by designated public officers) unless extended by the President. Each Member, including the proposer, may speak for up to five minutes in the debate. *[RoP 16(4), (6) and (7), and 37, HR 17(b), 18(b) and Appendix IIIA to HR]*

8.45 The subject matter and scope of an adjournment debate must be specified at the time of application. The Member concerned must not subsequently seek to change the subject matter of the debate. *[HR 18(a)]*

行政長官委派出席立法會或  
立法會轄下委員會會議的官員名單  
**List of public officers designated by  
the Chief Executive for the purpose of attending meetings of  
the Legislative Council or its committees**



香港特別行政區政府  
政務司司長辦公室轄下行政署



The Government of  
The Hong Kong Special Administrative Region  
Administration Wing,  
Chief Secretary for Administration's Office

香港添馬添美道 2 號

2 Tim Mei Avenue, Tamar, Hong Kong

本函檔號 Our Ref.: AW-325-010-005-001

Tel No. : 2810 3838

來函檔號 Your Ref.:

Fax No.: 2804 6870

4 July 2022

Mr Kenneth Chen, SBS  
Secretary General  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road, Central  
Hong Kong

Dear *Kenneth*,

### **Designations of officials for attendance at meetings of Legislative Council, its Committees and Subcommittees**

Article 62(6) of the Basic Law provides that the Government of the Hong Kong Special Administrative Region (“HKSAR”) shall exercise the powers and functions to designate officials to sit in on the meetings of the Legislative Council (“LegCo”) and to speak on behalf of the Government. By virtue of the power vested therein and as the Head of the Government of the HKSAR, the Chief Executive has updated the designations and authorisations for attendance at meetings of LegCo, its committees and subcommittees.

In gist, the Chief Executive has -

- (a) included the three Deputy Secretaries of Departments, namely Deputy Chief Secretary for Administration (“DCS”), Deputy Financial Secretary (“DFS”) and Deputy Secretary for Justice (“DSJ”), in the list of “Officials Designated by the Chief Executive to Attend Meetings of LegCo, its Committees and Subcommittees”;

- (b) included DCS, DFS and DSJ in the list of “Officials Authorised by the Chief Executive to Direct Officials to Attend Meetings of Committees and Subcommittees of LegCo”; and
- (c) included officials at the rank of Political Assistant to Secretary of Department or Political Assistant to Deputy Secretary of Department in the list of “Officials Designated by the Chief Executive to Attend Meetings of Committees and Subcommittees of LegCo”.

The updated designations and authorisations, which supersede all previous designations and authorisations for attendance at meetings of LegCo, its committees and subcommittees, are at **Annex**. The designations and authorisations are applicable to officials who from time to time either substantially occupy or act in the posts specified.

Yours sincerely,



( Brian Lo )  
Director of Administration

Encl.

**Officials designated by the Chief Executive to attend meetings of  
Legislative Council, its Committees and Subcommittees**

The Chief Secretary for Administration  
The Financial Secretary  
The Secretary for Justice  
Deputy Chief Secretary for Administration  
Deputy Financial Secretary  
Deputy Secretary for Justice  
All Directors of Bureaux  
Permanent Secretary for the Civil Service  
All Under Secretaries  
All Law Officers in the Department of Justice

**Officials designated by the Chief Executive to attend meetings of  
Committees and Subcommittees of the Legislative Council**

1. All directorate officers.
2. And without prejudice to the generality of item 1 above, the following specific categories of officials –
  - (a) Officials at the ranks of Assistant Secretary, Principal Assistant Secretary, Deputy Secretary and Permanent Secretary in the Government Secretariat;
  - (b) Under Secretaries and officials at the rank of Political Assistant to Director of Bureau;
  - (c) Officials at the rank of Political Assistant to Secretary of Department or Political Assistant to Deputy Secretary of Department; and
  - (d) Officials at the ranks of Government Counsel, Senior Government Counsel, Assistant Principal Government Counsel, Deputy Principal Government Counsel, Principal Government Counsel and Law Officer in the Department of Justice.
3. The Director of the Chief Executive's Office.
4. The Commissioner, Independent Commission Against Corruption and all directorate officers in the Office of the Independent Commission Against Corruption.
5. The Director of Audit and all directorate officers in the Audit Commission.
6. The Chief Executive and all Heads of Division or above of the Hong Kong Monetary Authority.



**Officials authorised by the Chief Executive  
to direct designated officials to attend meetings  
of Committees and Subcommittees of the Legislative Council**

The Chief Secretary for Administration  
The Financial Secretary  
The Secretary for Justice  
Deputy Chief Secretary for Administration  
Deputy Financial Secretary  
Deputy Secretary for Justice  
All Directors of Bureaux  
The Director of the Chief Executive's Office  
All Permanent Secretaries  
All Under Secretaries  
All Heads of Departments or Agencies  
All Law Officers in the Department of Justice  
The Commissioner, Independent Commission Against Corruption  
The Director of Audit  
The Chief Executive of the Hong Kong Monetary Authority

有關在委員會會議(包括內務委員會、事務委員會、  
法案委員會及上述委員會轄下小組委員會的會議)上  
進行表決的主要規則／指引

**Key rules/guidelines for voting at committee meetings  
(including meetings of the House Committee, Panels,  
Bills Committees and their subcommittees)**

**Key rules/guidelines for voting at committee meetings  
(including meetings of the House Committee (“HC”), Panels,  
Bills Committees (“BCs”) and their subcommittees)**

- (a) As a general rule:
- all matters for the decision of a committee shall be decided by **a majority of the members voting** (RoP 75(12AA), RoP 76(8) & RoP 77(13); HP 3.21; HBC 4.20; HSc 5.20);
  - a question put to vote will be regarded as agreed to if more members voted in favour of it than those who voted against it (HP 3.25; HBC 4.24; HSc 5.24);
  - it is the normal practice to record the number of members who abstained from voting, but **the number of abstentions is not counted** for the purpose of determining the result of the vote (HP 3.25; HBC 4.24; HSc 5.24).
- (b) Specifically, on amendments to bills or subsidiary legislation proposed by member(s) of the committee concerned:
- where the Administration does not agree to move the proposed amendments and there is agreement among the majority of the members on the amendments (i.e. more members voted in favour of the amendments than those who voted against them, disregarding those who abstained), the Bills Committee/Subcommittee on Subsidiary Legislation should consider whether the Chairman should move the amendments on behalf of the committee (HBC 2.21; HSc 3.20);
  - if the Chairman is not in favour of the proposed amendments, the Bills Committee/Subcommittee on Subsidiary Legislation should be invited to consider whether the Deputy Chairman (if any) or any other member who is in favour of the amendments should move them on behalf of the committee (HBC 2.22; HSc 3.21).
- (c) Voting rights of Chairmen of committees:

Committee	Matters requiring a decision of the committee (except election of Chairman or Deputy Chairman)		Election of Chairman or Deputy Chairman	
	Original vote <sup>1</sup>	Casting vote <sup>2</sup>	Original vote <sup>1</sup>	Casting vote
BCs and their subcommittees	Yes RoP 76(8)	No RoP 76(8)	Yes RoP 76(8B)	Yes RoP 76(8B)
Panels and their subcommittees and joint subcommittees	Yes RoP 77(13)	No RoP 77(13)	Yes RoP 77(13B)	Yes RoP 77(13B)
Joint meetings of Panels	Yes RoP 77(13)	No RoP 77(13)	Yes RoP 77(13B)	Yes RoP 77(13B)
HC	No RoP 75(12B)	Yes RoP 75(12B)	Yes RoP 75(12E)	Yes RoP 75(12E)
Subcommittees on subsidiary legislation under HC	Yes RoP 75(12C)	No RoP 75(12C)	Yes RoP 75(12E)	Yes RoP 75(12E)
Other subcommittees under HC	No RoP 75(12B)	Yes RoP 75(12B)	Yes RoP 75(12E)	Yes RoP 75(12E)

1. In exercising his/her original vote on a matter before the committee, the chairman or member presiding shall exercise his/her vote at the same time as other members of the committee exercise their votes; otherwise, he/she shall be regarded as having given up his/her right to vote on the matter (RoP 79A(3); HP 3.32; HBC 4.30; HSc 5.30).
2. In exercising the casting vote on a matter before the committee (other than exercising the vote in the election of the chairman or deputy chairman), the chairman or member presiding shall not exercise the vote in such a way as to produce a majority vote in favour of the question put (RoP 79A(1)).

“RoP” : Rules of Procedure

“HP” : Handbook for Chairmen of Panels

“HBC” : Handbook for Chairmen of Bills Committees

“HSc” : Handbook for Chairmen of Subcommittees on Subsidiary Legislation/Other Instruments

在立法會、內務委員會及財務委員會的會議上  
被裁定為在其使用的語境下

對議員或出席有關會議的官員具冒犯性

及侮辱性的言詞或不適宜在議會使用的言詞

**Expressions which have been ruled at meetings of the Council,  
House Committee and Finance Committee to be offensive  
and insulting language about Members or public officers  
attending the relevant meeting or unparliamentary in the context in  
which the expressions were used**



**Expressions which have been ruled at meetings of the Council,  
House Committee and Finance Committee  
to be offensive and insulting language about Members or  
public officers attending the relevant meeting<sup>1</sup> or  
unparliamentary in the context in which the expressions were used**

*(as at 26 May 2020)*

(a) Expressions which have been ruled to be offensive and insulting language about Members or public officers attending the relevant meeting<sup>1</sup>

“as the saying goes, ‘foul grass grows out of a foul ditch’. The Chinese Government had hand-picked the members of the Preparatory Committee, who then selected the 400 members of the Selection Committee. This same group of people will then nominate candidates for the Chief Executive.”	13 November 1996 <sup>2</sup>
“You are all stupid. Who are you trying to fool?”	27 September 1997 <sup>2</sup>
“they have a sufficient number of rubber stamps here”	16 July 1999 <sup>2</sup>
Member A <sup>3</sup> “has acted impudently and shamelessly”	13 October 2004 <sup>2</sup>
Member B <sup>3</sup> “delivered his speech, he was so shameless as to insist that there were justifications”	16 March 2005 <sup>2</sup>
people like Member C <sup>3</sup> “among the ‘dog class’ are helping the tyrant in his evildoing.....”	8 November 2006 <sup>2</sup>
“that is the two so-called proverbs I said yesterday— ‘stumbling to death on the street’ and.....”	27 March 2009 <sup>4</sup>
“some Members of this Council sought to realize their personal desires under the banner of justice ..... especially the Members representing the legal profession”	9 December 2009 <sup>2</sup>
“It is those ‘castrati’, like ‘Eunuch LAM’, Stephen LAM, who are obstructing constitutional development .....”	9 June 2010 <sup>2</sup>
“Lackey”	26 January 2011 <sup>2</sup>
Member D <sup>3</sup> has “kissed the wrong ass”	9 January 2013 <sup>2</sup>
Member E <sup>3</sup> was “like a dog running around, snapping at people”	7 May 2014 <sup>2</sup>

<sup>1</sup> By virtue of Rule 10(2) of the Rules of Procedure (“RoP”), the scope of prohibition against the use of offensive and insulting language about Members under Rule 41(4) of RoP is expanded to cover the use of such language about public officers attending the meeting concerned for the relevant item of business.

<sup>2</sup> Date of the relevant Council meeting.

<sup>3</sup> ‘A’, ‘B’, ‘C’, ‘D’, ‘E’, ‘F’, ‘G’, ‘H’, ‘I’ and ‘J’ represent the names of the Members concerned.

<sup>4</sup> Date of the relevant Finance Committee meeting.

“Members of the pro-establishment camp were chickens”	25 November 2016 <sup>5</sup>
“Do you know how many people have viewed, on the Internet, the clip of your style of deliberating politics like ‘a shrew hurling abuse on the street’ ?”	20 January 2017 <sup>4</sup>
“You are ‘dickhead(s)’, bullying us ‘egghead(s)’.”	2 May 2017 <sup>4</sup>
“Member F <sup>3</sup> as part of a ‘flunkey’ ”	14 December 2017 <sup>2</sup>
“Member G <sup>3</sup> was ‘low-down’ ”	3 May 2019 <sup>5</sup>
“Member G <sup>3</sup> was ‘despicable and low-down’ ”	3 May 2019 <sup>5</sup>
“Member H <sup>3</sup> was ‘a lackey and a slave’ ”	26 June 2019 <sup>2</sup>
“habitually eat foreign sausage”	15 October 2019 <sup>6</sup>
“PK”	12 December 2019 <sup>2</sup>
“Member I <sup>3</sup> was ‘a scumbag’ ”	12 December 2019 <sup>2</sup>
“the phoney Chair”	20 May 2020 <sup>2</sup>
“You, the self-proclaimed Chair”	20 May 2020 <sup>2</sup>
“Member J <sup>3</sup> was ‘ignoble’ ”	21 May 2020 <sup>2</sup>

(b) Expressions which have been ruled to be unparliamentary

“these two words ‘仆街’ (stumbling to death on the street) are certainly not foul language, it is just that you twisted ( <i>The buzzer sounded</i> ) .....”	1 April 2009 <sup>2</sup>
“especially a so-called teacher of ‘dog shit’ law .....” <sup>7</sup>	13 January 2010 <sup>2</sup>
“The Chief Executive ‘is lying’ ”	9 May 2019 <sup>2</sup>
“President, ‘you had better chop off that Member’s head’ ”	27 June 2019 <sup>2</sup>
“Dog official”	19 December 2019 <sup>2</sup>

<sup>5</sup> Date of the relevant House Committee meeting.

<sup>6</sup> Date of the relevant special House Committee meeting.

<sup>7</sup> The President stated at the Council meeting that such remarks were offensive and insulting and were inappropriate. However, as these remarks were not specifically about Members of this Council, he therefore could not rule that the remarks were in breach of Rule 41(4) of RoP.