

**President's ruling on Committee stage amendments  
proposed by 14 Members to the Appropriation Bill 2014**

Fourteen Members have respectively given notices to move a total of 1 917 Committee stage amendments (“CSAs”) to the Schedule to the Appropriation Bill 2014 (“the 2014 Bill”) at the Council meeting of 16 April 2014<sup>1</sup> as follows:

- (a) Hon SIN Chung-kai, Hon LEE Cheuk-yan and Hon CHEUNG Kwok-che each proposes one CSA to reduce the provisions for three Heads of Expenditure;
- (b) Hon James TO, Dr Hon Fernando CHEUNG and Hon Cyd HO each proposes two CSAs to reduce the provisions for four Heads of Expenditure;
- (c) Dr Hon Helena WONG and Hon WU Chi-wai each proposes three CSAs to reduce the provisions for five Heads of Expenditure;
- (d) Hon Claudia MO proposes four CSAs to reduce the provisions for three Heads of Expenditure;
- (e) Hon Gary FAN proposes 10 CSAs to reduce the provisions for eight Heads of Expenditure;
- (f) Hon WONG Yuk-man proposes 120 CSAs to reduce the provisions for 35 Heads of Expenditure;
- (g) Hon Albert CHAN proposes 129 CSAs to reduce the provisions for 27 Heads of Expenditure;
- (h) Hon CHAN Chi-chuen proposes 132 CSAs to reduce the provisions for 23 Heads of Expenditure; and
- (i) Hon LEUNG Kwok-hung proposes 1 507 CSAs to reduce the provisions for 58 Heads of Expenditure.

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<sup>1</sup> The President adjourned the Council meeting of 16 April 2014 after the motion on the Second Reading of the 2014 Bill was passed. The CSAs to the Bill are to be moved at the Council meeting of 30 April 2014.

2. In considering whether the CSAs proposed by the 14 Members to the 2014 Bill are in order under the Rules of Procedure, I invited the Administration to comment on the CSAs and the Members to respond to the Administration's comments on their CSAs. The Administration's written comments on the CSAs have been provided to the Members.

### **The Administration's comments**

3. The Administration's views on the proposed CSAs are in **Appendix I**. The Administration is of the view that:

- (a) most of the 1 507 CSAs proposed by one Member seeking to reduce by different permutations certain expenditure under a wide spectrum of Heads of Expenditure are frivolous;
- (b) at least 148 CSAs proposed by individual Members, if taken together, would produce mutually conflicting and unintelligible results;
- (c) at least 206 CSAs involving expenditure cuts would have the effect of rendering the relevant bureaux and departments totally inoperable. These CSAs, if ruled in and endorsed by the Legislative Council ("LegCo"), would put public services into total disarray;
- (d) at least 17 CSAs appear to refer to sums not included in the 2014 Bill or not included under the Heads/Subheads of Expenditure quoted; and
- (e) at least nine pairs of CSAs proposed by one Member are identical.

4. Taking into account the proceedings on the Appropriation Bill 2013 ("the 2013 Bill"), the avowed intent of some Members to filibuster by proposing CSAs and the substantial increase in the number of proposed CSAs to the 2014 Bill, the Administration considers that the admission of the CSAs would have the demonstrable effect of prolonging the legislative process to the extent of preventing LegCo from properly exercising and discharging its powers and functions under Article 73 of the Basic Law ("BL"). Given the importance of the timely passage of the 2014 Bill to ensure the availability of funds to support committed public services, the Administration invites me to exercise my powers under BL 72(1) and Rule

92 of the Rules of Procedure to rule out the CSAs which are frivolous or meaningless or intended or likely to unduly delay the legislative process, in order to ensure the proper exercise and discharge of the powers and functions of LegCo.

### **Members' responses**

5. Except Hon LEUNG Kwok-hung, the other 13 Members either have no comments on or have not responded to the Administration's views.

6. Hon LEUNG Kwok-hung contends that the purpose of his moving of the proposed CSAs is to discharge the powers and functions of Members of LegCo under BL 73(1), (2) and (6) to amend, examine, approve and debate appropriation bills and budgets introduced by the government, and that his proposed CSAs mainly target at public officers with poor performance, unnecessary operating expenditures of Government departments, unnecessary posts or new posts, and unnecessary projects or activities. Hon LEUNG Kwok-hung also contends that his proposed CSAs to the 2014 Bill are almost identical to those proposed by him to the 2013 Bill, which were ruled admissible, and are therefore not frivolous or meaningless. He argues that given its constitutional status under BL, LegCo should not be pressurized by the Administration to accept its views but should instead act independently as usual.

### **My opinion**

7. I have noted that among the 1 507 CSAs proposed by Hon LEUNG Kwok-hung, 909 CSAs are grouped into 116 sequences each of which comprises three or more CSAs seeking to reduce the appropriation to a Head of Expenditure for a specific purpose by sequentially varying amounts ("sequential CSAs") (**Appendix II**). This is not the first time that a sequence of amendments in such a manner is proposed by individual Members to a bill or a motion. In the past two years, I dealt with such amendments on three occasions.

8. In May 2012, a total of 1 232 CSAs were proposed by one Member to the Legislative Council (Amendment) Bill 2012 which sought to disqualify a person who had resigned as a Member of LegCo from standing for a by-election held within six months of his resignation. These CSAs fell into groups of amendments, each of which represented one class of exception to the disqualification rule provided in the Legislative Council (Amendment) Bill 2012. Among these CSAs, some 720 were drafted in such a way that

the disqualification would not apply if certain specified factors in a sequentially varying degree occurred, for example, if the resigning Member agreed to pay a sequentially varying percentage of the cost of the by-election. All these CSAs were ruled admissible by me under the Rules of Procedure.

9. Shortly thereafter, in June 2012, 167 amendments were proposed to be moved by a Member to a proposed Government resolution under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) to effect transfer of statutory functions pursuant to the Chief Executive-elect's proposals to re-organise the Government Secretariat. The same approach was adopted by the Member in 59 of his proposed amendments, each of which sought to change respectively the effective date of the proposed resolution to the first day of the 59 months that followed July 2012. These amendments, as claimed by the Member, were to allow Members to choose the most appropriate date for the proposed re-organisation to take effect. In ruling these amendments admissible, I expressed my view that when taken together, the 59 proposed amendments could be regarded as frivolous and might have the effect of prolonging Council proceedings more than was necessary for providing a fair choice for Members. However, I decided that these proposed amendments should be admitted for debate until the Rules of Procedure make it clear that there should be restrictions against a series of proposed amendments which are frivolous or meaningless.<sup>2</sup>

10. Last year, six Members proposed a total of 762 CSAs to the 2013 Bill. Again, some 220 CSAs were grouped into 22 sequences with each sequence containing three or more CSAs that sought to reduce the appropriation to a particular Head of Expenditure for a specific purpose by sequentially varying amounts. I considered each of those CSAs and examined their intended effect. I could not conclude that these CSAs were "frivolous" or "meaningless" within the meaning of Rule 57(4)(d) of the Rules of Procedure.<sup>3</sup> I also assessed whether the admission of those sequential CSAs would have the demonstrable effect of prolonging the legislative process to the extent of preventing LegCo from properly exercising and discharging its powers and functions under BL. My view then was that at that stage, I was yet to be satisfied that there would be such demonstrable effect. The sequential CSAs were therefore ruled admissible.<sup>4</sup>

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<sup>2</sup> Paragraph 9 of the President's ruling on 18 June 2012 on the amendments proposed by Hon Albert CHAN and Hon WONG Yuk-man to the proposed resolution under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1).

<sup>3</sup> Paragraph 15 of the President's ruling on 22 April 2013 on Committee stage amendments proposed by six Members to the Appropriation Bill 2013.

<sup>4</sup> Paragraph 17 of the President's ruling on 22 April 2013 on Committee stage amendments proposed by six Members to the Appropriation Bill 2013.

11. This year, 909 sequential CSAs are proposed to the 2014 Bill. Before forming my opinion on the admissibility of these 909 sequential CSAs, I reminded myself that in the first four debates on 134 proposed CSAs to a Head of Expenditure in the 2013 Bill, 105 were sequential CSAs. I noted that in those four debates lasting over 31 hours in total, the proposers of such sequential CSAs hardly explained the difference between the successive amendments in the sequential CSAs and there was no exchange of views among Members on such sequential CSAs. Other than the proposers, an overwhelming majority of Members voted against all sequential CSAs. This convinced me that instead of providing fair and genuine choices for Members, the moving of those sequential CSAs achieved no purpose other than taking up the Council's time in completing the necessary proceedings.

12. As President, the constitutional powers and functions that I should exercise and discharge are provided in BL 72, which include presiding over meetings, deciding on the agenda, and exercising other powers and functions as prescribed in the Rules of Procedure. Such powers and functions must include the power to exercise proper authority or control over meetings, including ensuring the orderly, fair and proper conduct of meetings and ruling on the admissibility of CSAs. Therefore, I consider it incumbent upon me to ensure that the admission of CSAs is in accordance with the Rules of Procedure and would not prevent LegCo from properly exercising and discharging its powers and functions under BL.

13. The experience of the Council in the disposal of sequential CSAs has convinced me that the Member who proposes to move such sequential CSAs is not inviting the committee of the whole Council to examine any fair and genuine choices of proposed reductions to the respective Heads of Expenditure as part of its functions to discuss the details of a bill under Rule 56 of the Rules of Procedure. The 909 sequential CSAs do not serve any purpose reasonably connected with the function of the committee of the whole Council. In my opinion, the sequential CSAs infringe Rule 57(4)(d) of the Rules of Procedure for being frivolous or meaningless when each of them is considered in the context of the other amendments also being proposed by the same Member in respect of the same head or sub-head of expenditure and the experience of last year's debates on sequential CSAs to the 2013 Bill.

14. Further, in the light of what transpired in the debates on sequential CSAs to the 2013 Bill as mentioned in paragraph 11 above, I am of the view that the admission of the 909 sequential CSAs to the 2014 Bill would have the demonstrable effect of prolonging the legislative process to the extent of preventing LegCo from properly exercising and discharging its powers and

functions under BL. Therefore, they should not be allowed to be moved for this reason as well.

15. I have also examined in detail the 26 pairs of CSAs to the 2014 Bill proposed by Hon LEUNG Kwok-hung, each of which seeks to reduce the appropriation to a Head of Expenditure for a specific purpose with the amounts representing respectively the expenditure for one and six months, or one and twelve months. Given the material difference in the proposed amounts to be reduced within each pair, such CSAs may plausibly be considered as providing fair and genuine choices for Members. I would therefore allow them to be moved.

16. In the light of my decision not to admit the 909 sequential CSAs, if Hon LEUNG Kwok-hung is minded to select not more than two out of each of the 116 sequences of his proposed CSAs to be moved, I would be prepared to give leave to waive notice and to consider the admissibility of his selected CSAs provided that they are submitted to me by 22 April 2014 noon.

17. In reaching the above decisions, my consideration is to strike a proper balance between respecting the right of individual Members to propose amendments and ensuring the efficient conduct of the Council as a law making institution.

18. While noting the Administration's concerns about the avowed intent of some Members to filibuster by way of proposing numerous CSAs and the possible impact of some CSAs, if passed, on the Government or Government operation, I maintain the view as stated in my previous ruling that the motive of Members proposing amendments and the merits of CSAs are not relevant to the consideration of admissibility of CSAs. However, as I have elaborated in paragraphs 11 to 14 above, I cannot ignore the new developments including the Council's experience in the disposal of the sequential CSAs to the 2013 Bill when considering the admissibility of the 909 sequential CSAs to the 2014 Bill. I am convinced that the admission of the 909 sequential CSAs to the 2014 Bill would give rise to a situation where LegCo would be prevented from its proper exercise and discharge of its constitutional powers and functions.

19. Twenty CSAs proposed by Hon LEUNG Kwok-hung refer to sums not included in the 2014 Bill or the Heads/Subheads of Expenditure or refer to purposes not specified in the Estimates for the year ending 31 March 2015 (**Appendix III**). As the accuracy of such information is fundamental to the integrity of the proposed CSAs, these CSAs cannot be moved.

Hon LEUNG Kwok-hung has submitted 28 duplicate CSAs which also cannot be moved (**Appendix IV**).

**My ruling**

20. I rule that:

- (a) the 957 CSAs proposed by Hon LEUNG Kwok-hung in **Appendices II to IV** (not attached) are inadmissible; and
- (b) the remaining 550 CSAs proposed by Hon LEUNG Kwok-hung and all the 410 CSAs proposed by the other 13 Members are admissible.



(Jasper TSANG Yok-sing)  
President  
Legislative Council

17 April 2014

財經事務及庫務局局長



香港金鐘添美道二號  
政府總部二十四樓

**SECRETARY FOR FINANCIAL  
SERVICES AND THE TREASURY**

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9 April 2014

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

Dear Secretary General,

### **Appropriation Bill 2014**

Thank you for your letters dated 31 March, 2, 4 and 7 April 2014, inviting the Administration's views on the proposed Committee Stage Amendments (CSAs) to the Appropriation Bill 2014 against the provisions in Rules 57(4), 57(6) and 69 of the Legislative Council (LegCo)'s Rules of Procedure (RoP).

I write to set out the Administration's views on the aggregate number of **1 917** CSAs proposed to the Bill, which collectively seek to reduce the provisions for 69 out of the total of 83 expenditure heads covered under the Bill.

### **The Power and Function of the President to Exercise Proper Authority or Control over the Legislative Process**

Without prejudice to the Administration's position on Article 74 of the Basic Law (BL 74), our views on the proposed CSAs to the Appropriation Bill are set out below.



The Court of Appeal has in *Leung Kwok Hung v The President of the Legislative Council of the Hong Kong Special Administrative Region* (CACV123/2012) confirmed that the LegCo President has the power and function to exercise proper authority or control over the legislative process. It is within the province of the President to ensure the orderly, fair and proper conduct of LegCo proceedings. It was also held that the Members' right to speak or participate in the legislative process must be read with, and subject to, the power of the President to preside over meetings under BL 72(1).

In his ruling of 22 April 2013 on the CSAs proposed by six Members to the Appropriation Bill 2013, the President held the view that if the admission of certain proposed amendments would have the demonstrable effect of prolonging the legislative process to the extent of preventing LegCo from properly exercising and discharging its powers and functions under the Basic Law, he will not hesitate to exercise his power to ensure the orderly, fair and proper conduct of meetings.

For the Appropriation Bill 2014, one Member has proposed some 1 500 CSAs, most of which are similar and interdependent CSAs to cut certain expenditure under a Head of Expenditure by different permutations. The Administration is of the view that most of these amendments, when considered together as a series of amendments to each individual Head or to a wide spectrum of Heads, are **frivolous** and if admitted would have the effect of **prolonging the legislative process** to the extent of preventing LegCo from properly exercising and discharging its powers and functions. That Member is among the few Members who have stated publicly the avowed intention to filibuster and delay the passage of the Appropriation Bill (as is clear from their public statement issued in the past week). The effect of prolonging legislative process was demonstrated in the past when similar CSAs were proposed by the same few Members in the proceedings on the Appropriation Bill 2013.

Many of the CSAs proposed by individual Members, if taken together, would produce **mutually conflicting and unintelligible** results. By way of example, a Member has proposed concurrently to reduce the salary of a Director of Bureau by one month, two months, three months, ... . Obviously, if the CSA on a one-month cut is accepted, it would be in conflict with the other CSAs this Member has proposed in this same series. Taken together, these CSAs from the individual Member are frivolous and/or have the intended/likely

effect of unduly delaying the legislative process. Other examples of CSAs involving mutually exclusive permutations are set out below –

- (a) 28 CSAs (number 10, 12 – 18, 20, 27, 30, 35, 41, 46, 47, 51, 53, 55, 57, 58, 60, 64, 68, 70, 73, 78, 80 and 83 in **Annex A**) from three Members, seeking to reduce the honoraria for non-official Members of the Executive Council in different permutations in terms of number of members involved and number of months of expenditure covered;
- (b) 12 CSAs (number 349, 352, 359, 363, 365, 368, 374, 377, 382, 393, 402 and 411 in **Annex A**) from a Member, seeking to reduce the salary expenses for Secretary for Home Affairs by one month to 12 months;
- (c) 12 CSAs (number 1204 – 1208, 1212, 1216, 1219, 1225, 1231, 1236 and 1242 in **Annex A**) from a Member, seeking to reduce the salary expenses for the Secretary for Constitutional and Mainland Affairs by one month to 12 months;
- (d) 12 CSAs (number 1210, 1211, 1213, 1217, 1218, 1222, 1226, 1229, 1233, 1237, 1240 and 1244 in **Annex A**) from a Member, seeking to reduce the salary expenses for the Under Secretary for Constitutional and Mainland Affairs by one month to 12 months;
- (e) 12 CSAs (number 637 – 640, 643, 647, 649, 652, 654, 659, 662 and 664 in **Annex A**) from a Member, seeking to reduce the salary expenses for the Secretary for Justice by one month to 12 months; and
- (f) 72 CSAs (number 1645, 1648, 1653, 1657, 1662, 1667, 1674, 1686, 1699, 1708, 1715, 1720, 1724, 1727, 1731, 1737, 1740, 1744, 1745, 1748, 1750, 1754 – 1756, 1764, 1767, 1779, 1780, 1782, 1783, 1785, 1790 – 1793, 1799, 1800, 1804 – 1806, 1808, 1820 – 1822, 1825, 1830, 1831, 1836, 1838 – 1841, 1846, 1850 – 1853, 1855 – 1857, 1861 – 1863, 1865, 1869 – 1874, 1876 and 1877 in **Annex A**) from a Member, seeking to reduce the salary expenses for various ranks of officers responsible for vehicle registration in the Transport Department by one month to 12 months.

A few Members have proposed multiple CSAs involving expenditure cuts to 69 numbers of the Heads of Expenditure, which would have the **effect of rendering the relevant bureaux and departments** (e.g. Chief Executive's Office, Hong Kong Police Force and Education Bureau) **totally inoperable**. These CSAs, if ruled in and endorsed by LegCo, would put public services into total disarray. As these provisions are essential to the continued operation of the relevant bureaux and departments, these CSAs relate to the "operation of the Government" and hence should not be introduced. Examples of these are set out below –

- (a) 100 CSAs (number 695 – 794 in **Annex A**) from two Members, seeking to reduce either entirely or to one-month operating expenditure a series of major expenditure provisions for the Leisure and Cultural Services Department;
- (b) 56 CSAs (number 102 – 119, 125 – 136, 137 – 146 and 228 – 243 in **Annex A**) from five Members, seeking to reduce either entirely or to \$1,000 a series of major expenditure provisions for the Architectural Services Department, Correctional Services Department, Customs and Excise Department and Environmental Protection Department;
- (c) 21 CSAs (number 795 – 815 in **Annex A**) from two Members, seeking to remove entirely the major expenditure provisions for the Economic and Trade Offices;
- (d) 19 CSAs (number 816 – 834 in **Annex A**) from two Members, seeking to reduce either entirely or to \$100 the major expenditure provisions for the Marine Department;
- (e) 9 CSAs (number 430 – 438 in **Annex A**) from a Member, seeking to reduce to \$10, \$100, \$1,000 or \$10,000 the major expenditure provisions for the Government Logistics Department; and
- (f) 1 CSA (number 1544 in **Annex A**) from a Member, seeking to remove the entire expenditure for the Government Secretariat: Development Bureau (Works Branch) to implement the transformation of Kowloon East into an attractive premier business district under the programme - Energizing Kowloon East.

We also note that some CSAs appear to refer to sums not included in the Appropriation Bill 2014 or not included under the subhead of Expenditure quoted. These include the CSAs to reduce the salary for Director of Housing, the provision for which is not included in the Appropriation Bill, and the CSA to cut the entire provisions for various programmes under Legislative Council Commission from its subhead 000, the provisions for which are included under various subheads in addition to subhead 000. More details are set out in **Annex B**. Furthermore, we note that 15 pairs of identical CSAs are proposed by the same Member. We consider these duplicate CSAs superfluous, frivolous and having the effect of prolonging Council proceedings. More details are set out in **Annex C**.

The President may well recall that during the course of proceedings on the Appropriation Bill 2013 (especially during the debates in relation to CSAs), the legislative process was unduly prolonged by filibustering to the extent that the President exercised his power under BL 72(1) to apply Rule 92 of the RoP to set a timetable for the rest of proceedings on the Bill to be completed. Paragraphs 11 and 13 of the President's ruling on allocation of time for the remaining proceedings on the Appropriation Bill 2013 dated 16 May 2013 reflect how the admission of 710 CSAs to the Appropriation Bill 2013 and the debates that followed had seriously disrupted the proper functioning of the LegCo, and the President considered it appropriate to exercise his power under BL 72(1) to ensure the orderly, fair and proper conduct of meetings so that LegCo would not be prevented from properly exercising and discharging its powers and functions under the Basic Law.

We note that the CSAs proposed to the Appropriation Bill 2014 are similar in nature to those proposed to the Appropriation Bill 2013 in terms of the proposing Members as well as their substance, nature and coverage of Expenditure Heads. Taking into account the process during the Committee Stage of the Appropriation Bill 2013, the intention expressed by the same few Members concerned and the substantial increase in the number of proposed CSAs on this occasion, it is reasonable to anticipate that the CSAs would give rise to a similarly, if not more, protracted debating process on the Appropriation Bill 2014 in the Council this year. We therefore consider that the admission of these CSAs would have the demonstrable effect of prolonging the legislative process to the extent of preventing LegCo from properly exercising and discharging its powers and functions under the Basic Law.

### **Importance of Timely Passage of Appropriation Bill 2014**

It is the responsibility of the Government to exercise the powers and functions conferred on it under Article 62 of the Basic Law. It is also the responsibility of the Government to assure the community that funds would be available in an orderly, predictable and timely manner to support committed public services. This duty to the community would be compromised if LegCo were to allow the passage of the Appropriation Bill to be unduly held back by avowed filibustering attempts from a few individual Members.

In view of the above, in order to ensure the proper exercise and discharge of the powers and functions of the LegCo provided under BL 73, in particular the orderly, fair and proper conduct of proceedings, we consider that it is within the constitutional power and function of the President (to preside over meetings) under BL 72(1) and his power under RoP 92 to rule out the CSAs which are in the opinion of the President (a) frivolous or meaningless or (b) intended or likely to unduly delay the legislative process (i.e. to filibuster).

I should be grateful if the President could take the above analysis into account in considering whether to allow the CSAs under the relevant provisions in the Basic Law and the RoP.

Yours sincerely,



( Professor K C Chan )  
Secretary for Financial Services and the Treasury



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9 April 2014

Clerk to the Legislative Council  
(Atth: Mr Thomas Wong)  
Legislative Council Complex  
1 Legislative Council Road  
Central  
Hong Kong

Dear Mr Wong,

### **Appropriation Bill 2014**

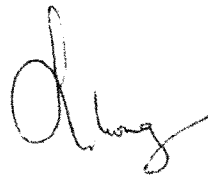
I refer to the letter dated 9 April 2014 from the Secretary for Financial Services and the Treasury to the Secretary General of the Legislative Council Secretariat on the above subject.

In the light of further study on the Committee Stage Amendments (CSAs), in particular the last batch of 1 445 CSAs sent to us in late afternoon on 7 April 2014, we have updated **Annexes A and C** to the aforesaid letter as follows –

- (a) **Annex A** – textual amendments to the column of “objectives as understood” for eight CSAs (number 93, 700, 717, 726, 789, 794, 820 and 1491); and
- (b) **Annex C** – the number of duplicate CSAs is changed from 15 pairs to 9 pairs, in the light of the job descriptions and titles of the posts concerned.

Please supersede **Annexes A and C** to the aforesaid letter accordingly.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Charlix Wong', written in a cursive style.

( Charlix Wong )

for Secretary for Financial Services and the Treasury