

立法會
Legislative Council

LC Paper No. CB(3) 25/16-17

Ref : CB(3)/A/12
CB(3)/P/17

Tel : 3919 3003

Date : 13 October 2016

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Election of the President

In response to Members' concerns over the election of the President ("the Election") conducted at the first Council meeting of the Sixth Legislative Council ("LegCo") on 12 October 2016, the Secretariat would like to draw Members' attention to the following:

Basic principles

2. The Rules of Procedure ("RoP") are made by the Council on its own pursuant to Article 75 of the Basic Law on how Council business should be conducted. The provisions in RoP applicable to Members are to be complied with by Members.

3. The Council, like Westminster-modelled legislatures, operates under an honour system under which it is the responsibility of Members to comply with RoP. For example, to comply with Rule 83 of RoP, Members need to furnish to the Clerk to LegCo ("the Clerk") particulars of their registrable interests. While the Clerk is required to cause those particulars to be entered in a Register of Members' Interests and to make the Register available for inspection by members of the public, the Clerk to LegCo is not empowered under RoP to verify the accuracy of those particulars; nor to take action to find out whether individual Members have provided all the particulars without any omission.

Qualification requirements for the President

4. Given the above principles, the qualification requirements for the President under Rule 4(2) of RoP are to be complied with by any Member who stands for the Election. RoP do not empower the Clerk to LegCo to verify the qualifications of any candidate nominated for the office of the President or to

inquire into the adequacy or authenticity of any evidence of qualifications provided by a candidate. As the President shall be elected by and among Members under Rule 4(1) of RoP, it is for Members to decide whether they are satisfied with such evidence.

5. If Members consider that prior vetting and inquiries need to be made to the qualifications of candidates for the office of President, given that this subject relates to the implementation of Rule 4(2) of RoP, subject to Members' view, this matter may be referred to the Committee on Rules of Procedure for consideration.

Role and power of the presiding Member at the Election

6. Under Rule 12 of RoP, after the taking of oath by Members, the Election shall be conducted in accordance with the procedure as provided for under Rule 4 of RoP. The procedure for the Election is stipulated in Schedule 1 to RoP ("Schedule 1") (attached).

7. Under Schedule 1, the Election shall be conducted at a Council meeting. The Member present who has the longest continuous service in the Council and is not being nominated for the office of President shall be the presiding Member. Upon the presiding Member assuming the chair, the Election shall commence. The presiding Member shall announce all the valid nominations that the Clerk's office has received. Paragraphs 3 and 4 in Schedule 1 provide for the validity of a nomination. In making nominations, Members shall use the nomination form in Annex I to Schedule 1, which does not require the provision of the candidates' personal particulars including nationality. There is no provision in RoP empowering the presiding Member to decide on the validity of any nomination.

8. Schedule 1 provides that the presiding Member shall preside at the Election. Hence, the role and power of the presiding Member should be confined to the conduct of the Election as provided for in Schedule 1. The duties of the presiding Member include ordering a vote by secret ballot if there were two or more valid nominations; checking the voting result for confirmation; and declaring elected as the President the candidate who receives the highest number of votes.

9. When presiding at the Election, the presiding Member should have such powers as may be reasonably necessary for him to perform his role and function of presiding at the Election. Such powers include maintaining the order of the proceedings on the Election and taking necessary action to ensure that the Election be conducted in an orderly manner. In exercising the power, the presiding Member may, where the situation warrants, order the removal of any Member whose conduct is grossly disorderly, or suspend the meeting for the purpose of restoring order. Such reasonably necessary powers should not include the power to adjourn the Election as the whole purpose of the Election is to elect the President. It is also clear from paragraph 17 of Schedule 1 that once the presiding Member has declared the result of the election, he shall then step down to make way for the President, and it is the President who shall adjourn the Council.

10. Before the Council proceeded to the Election at the above Council meeting, the Secretariat had explained to Hon LEUNG Yiu-chung and Hon Abraham SHEK the procedure for the Election as well as the role and power of the presiding Member as set out in paragraphs 6 to 9 above.

(Kenneth CHEN)
Clerk to the Legislative Council

Encl.

**Procedure for the
Election of the President of the Legislative Council**

The election of the President of the Council shall be conducted at a meeting of the Council.

Nominations

2. Not less than 7 clear days before the day of the election, the Clerk to the Council shall invite Members to make nominations for the office of President and distribute the nomination forms as provided in **Annex I**.

3. A nomination form for the office of President shall be signed by a Member making the nomination and by at least three other Members seconding the nomination. The Member being nominated shall sign on the form to indicate acceptance of the nomination. The completed nomination form shall reach the Clerk's office at least 4 clear days before the day of the election.

4. The name of a Member shall not appear on more than one nomination form, whether in the capacity as a Member being nominated, or as a Member making the nomination, or as a Member seconding the nomination. In the event that a Member's name appears on more than one nomination form (whether in the capacity as a Member being nominated or as a Member making the nomination, or as a Member seconding the nomination), only the first such nomination form received by the Clerk's office shall be valid and the Clerk shall immediately return any invalid form to the Member who made the nomination.

5. Upon the close of the nomination period, the Clerk shall prepare a list of all the nominations in the order of receipt by his office and shall distribute the list to all the Members of the Council at least 2 clear days before the day of the election.

Election

6. The Member present who has the longest continuous service in the Council as determined in accordance with Rule 1A shall preside at the election of the President.

7. If the Member who has the longest continuous service under paragraph 6 above is being nominated for the office of President, the Member who is next in the order of precedence of Members and who is not being nominated for the office shall be the presiding Member.

8. Upon the presiding Member assuming the chair, the election of the President shall commence. The presiding Member shall announce all the valid nominations that the Clerk's office has received.

9. If there is only one valid nomination for the office of President, the presiding Member shall announce this and declare the candidate elected.

10. If there are two or more valid nominations, the presiding Member shall order a vote by secret ballot and shall direct the Clerk to distribute to each of the Members present a ballot paper which shall be in accordance with the form in **Annex II**. The names of all the candidates shall be listed in the ballot paper according to the order of receipt of their nominations by the Clerk's office.

11. A Member present who wishes to vote shall mark a "√" only in the box opposite the name of the candidate of his choice on the ballot paper, and place the ballot paper into the ballot box. Any ballot paper not marked, not properly marked or marked with more than a "√" shall be discarded.

12. After all the Members present who wish to vote have cast their votes, the Clerk shall count the ballot papers in front of all the Members present and report the result to the presiding Member who shall check the result for confirmation.

13. The presiding Member shall declare elected as the President the candidate who receives the highest number of votes among all the candidates.

14. If two or more candidates receive the same highest number of votes, the presiding Member shall order a second round of voting at the same meeting in respect of these candidates, to be conducted in the same manner as provided in paragraphs 10 to 13 above.

15. If no one candidate obtains more votes than any other candidate in the second round of voting, the presiding Member shall announce that lots will be drawn by him to decide which of the candidates should be the President.

16. The presiding Member shall then draw lots and, in accordance with the result of the drawing of the lots, forthwith declare that candidate elected as the President.

17. The presiding Member shall then step down to make way for the President, who may address the Council and shall then proceed with the business of the meeting or adjourn the Council or suspend the meeting, as the case may be.

(L.N. 107 of 1999; L.N. 42 of 2014)

To : Clerk to the Legislative Council

Election of the President of the Legislative Council

Nomination Form

1. In accordance with the election procedure prescribed under Schedule 1 to the Rules of Procedure, I nominate the Honourable _____ for the office of President of the Legislative Council commencing _____(date).

	<u>Name</u>	<u>Signature</u>
Member making the nomination	_____	_____
Members seconding the nomination (at least three)	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____

Date : _____

2. I accept the nomination.

	<u>Name</u>	<u>Signature</u>
Member being nominated	_____	_____

Date : _____

Election of the President of the Legislative Council

Ballot Paper

Date of election: _____

VOTE FOR ONE CANDIDATE ONLY

MARK “✓” IN BOX OPPOSITE
NAME OF CANDIDATE OF YOUR CHOICE

Name of candidate



1		
2		
3		
4		
5		

Note: If there are more or less than 5 candidates the final form of the Ballot Paper will be amended accordingly.