

立法會 *Legislative Council*

立法會 CROP 65/17-18 號文件

檔 號：CB(4)/CROP/3/90

2017 年 11 月 17 日內務委員會會議文件

議事規則委員會 就議員建議對《議事規則》作出修訂 提交的報告

目的

本文件載述議事規則委員會就 48 名議員對《議事規則》提出的修訂所作商議的結果，並徵詢內務委員會對其中一類獲議事規則委員會支持的《議事規則》修訂建議(屬文本修訂性質)及對《內務守則》作相應文本修訂的意見。

議員就修改《議事規則》提出的建議

2. 兩名議事規則委員會委員(即張宇人議員及陳克勤議員)在 2017 年 10 月 11 日及 30 日將 38 名議員¹就修改《議事規則》聯名提出的兩批建議("38 名議員的建議")(第一批建議載於**附錄 I**，第二批建議載於**附錄 II**)提交議事規則委員會研究。廖長江議員在 2017 年 10 月 31 日作出預告，擬在 2017 年 11 月 15 日的立法會會議上就該等修訂²動議兩項擬議決議案(**附錄**

¹ 該 38 名議員為石禮謙議員、張宇人議員、林健鋒議員、黃定光議員、李慧琼議員、陳克勤議員、陳健波議員、梁美芬議員、黃國健議員、葉劉淑儀議員、田北辰議員、何俊賢議員、易志明議員、姚思榮議員、馬逢國議員、陳恒鑽議員、梁志祥議員、麥美娟議員、郭偉強議員、張華峰議員、葛珮帆議員、廖長江議員、潘兆平議員、蔣麗芸議員、盧偉國議員、鍾國斌議員、吳永嘉議員、何君堯議員、何啟明議員、周浩鼎議員、邵家輝議員、柯創盛議員、容海恩議員、陳振英議員、張國鈞議員、陸頌雄議員、劉國勳議員及劉業強議員。

² 廖長江議員提交的第一份擬議決議案所載就《議事規則》提出的修訂建議，與 38 名議員在 2017 年 10 月 11 日向議事規則委員會聯署提交的建議的內容非常相近，只是就若干文本錯誤作出更正。

III)。在 2017 年 10 月 27 日，4 名議事規則委員會委員(即梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員)聯署向議事規則委員會提交一份建議(**附錄 IV**)，以修訂該 38 名議員提交的第一批建議。

3. 此外，3 名議事規則委員會委員(即梁繼昌議員、郭榮鏗議員及楊岳橋議員)在 2017 年 10 月 18 日向議事規則委員會轉交 9 名議員³就修改《議事規則》所提出的建議，該 9 名議員已於 2017 年 10 月 18 日作出預告(**附錄 V**)，擬在 2017 年 11 月 15 日的立法會會議上就該等修訂動議擬議決議案。陳志全議員及郭家麒議員亦分別於 2017 年 10 月 19 日作出預告(**附錄 VI**)，以在同一次立法會會議上就修改《議事規則》動議擬議決議案。

4. 上述由 48 名議員提交的建議旨在修訂《議事規則》45 項條文及附表 1。各項修訂建議的標明修訂事項文本載於**附錄 VII**。根據《議事規則》第 74(1)條，議事規則委員會可研究任何由立法會或其轄下委員會，或立法會主席交付，或由委員會本身成員提出的有關立法會行事方式及議事程序事宜。經考慮立法會行之已久的做法(即就《議事規則》提出的所有修訂均須先經議事規則委員會研究及獲內務委員會同意)，立法會主席於 2017 年 10 月 24 日及 2017 年 11 月 3 日，根據《議事規則》第 74(1)條將議員就修改《議事規則》提出的所有建議交付議事規則委員會研究。

議事規則委員會就研究該等修訂建議所採用的方法

5. 按照現行做法，議事規則委員會通常會詳細研究任何修訂建議的具體內容，並會考慮立法會秘書處就相關程序及法律事宜作出的初步分析，以及就海外立法機關採用的相關規則和行事方式進行的背景資料研究。議事規則委員會若認為恰當，便會制訂若干方案諮詢全體議員，然後決定未來工作路向。若委員可就某項修訂建議達致共識，議事規則委員會便會徵求內務委員會同意，由議事規則委員會主席在立法會會議上動議擬議決議案，尋求立法會批准有關修訂建議。

³ 該 9 名議員包括楊岳橋議員、陳淑莊議員、胡志偉議員、莫乃光議員、陳志全議員、梁繼昌議員、張超雄議員、譚文豪議員及郭榮鏗議員。胡志偉議員及莫乃光議員在 2017 年 10 月 31 日提交兩份經修訂的預告，主要是為更正在先前提交的預告中的文本錯誤。立法會主席已相應指示將該等經修訂的預告交付議事規則委員會研究。

6. 鑒於有大量修訂須予研究，而過往並無先例是個別議員藉作出預告在立法會會議上動議擬議決議案以修改《議事規則》，甚至在議事規則委員會處理該等修訂建議之前或之際作出有關預告，在這些特殊情況下，議事規則委員會決定採用特別方法處理該 48 名議員提出的建議。就此，議事規則委員會主席作出指示，在議事規則委員會於 2017 年 11 月 6 日會議上進行研究前，應先就《議事規則》所有修訂建議進行諮詢。議事規則委員會在 2017 年 11 月 1 日發出立法會 CROP 38/17-18 號文件，就修改《議事規則》的各項建議諮詢全體議員。截至 2017 年 11 月 6 日中午限期屆滿時，秘書處接獲一份由 38 名議員提交的聯署意見書，表示反對上文第 2 段所述就該 38 名議員的第一批建議提出的修訂建議。一名議員建議，議事規則委員會應將該 38 名議員的建議連同就該等建議提出的各項修訂一併考慮。此外，有 19 名議員要求延長諮詢期及就該等修訂建議為全體議員舉行簡介會。

7. 在 2017 年 11 月 6 日舉行的議事規則委員會會議上，大部分委員不支持延長諮詢期及舉行簡介會。議事規則委員會亦在 2017 年 11 月 6 日的會議上決定採用下述特別方法以審視：

- (a) 某項修訂建議是否看似沒有任何憲制或法律後果；及
- (b) 出席會議的議事規則委員會委員對應否作出相關修訂建議是否有共識。

若議事規則委員會初步確信某項修訂建議不涉及憲制或法律問題，議事規則委員會委員亦對該修訂建議有共識，而又視乎內務委員會有何意見，議事規則委員會主席便會在立法會會議上動議擬議決議案，尋求批准落實對《議事規則》提出的修訂建議。若該等修訂建議中有任何一項涉及憲制或法律問題，或是議事規則委員會委員未能就某項修訂建議取得共識，議事規則委員會將不會繼續處理該項修訂建議，而提交建議的原倡議人可自行考慮是否以個人身分就其修訂建議作出預告，並視乎立法會主席根據《議事規則》第 30(3)條決定是否將其預告列入立法會議程，以尋求立法會批准其修訂建議。

議事規則委員會的商議工作

8. 議事規則委員會在 2017 年 11 月 6 日進行商議期間，委員察悉由秘書處提供的背景資料，以及秘書處就與各項建議相關的程序及法律事宜觀察所得的意見。秘書處提供的相關資料及其觀察所得綜述於**附錄 VIII**。

9. 就 38 名議員的建議進行討論期間，有議事規則委員會委員關注到，若干修訂建議旨在擴闊立法會主席的權力(例如《議事規則》第 19(1A)、30(3)(d)(ii)、30(3A)條)及委員會主席的權力(例如《議事規則》擬議的第 45(1)、45(2)、79C、79D 條)，但卻缺乏有關該等經擴闊權力可如何行使的相應規定。議事規則委員會又察悉，部分修訂建議(例如建議新訂的《議事規則》第 79C 及 79D 條)可能會抵觸《議事規則》的其他現有條文或規定。至於規定須有立法會全體議員的二分之一(而非《議事規則》第 20(6)條所規定的 20 名議員)支持才可將呈請書交付內務委員會(而非《議事規則》第 20(6)條所規定的專責委員會)處理的修訂建議，部分委員認為該項建議實際上會削減了屬於少數的議員使用《議事規則》現有呈請機制的機會。

10. 議事規則委員會察悉，該 38 名議員提交的一項修訂建議是在《議事規則》加入新訂的第 17(1A)條，訂明全體委員會的會議法定人數為包括主席在內的 20 名議員。議事規則委員會亦察悉最近由外間大律師就支持該 38 名議員提交的建議所提供的具體法律意見(**附錄 IX**)。部分委員關注到，上述法律意見與立法會主席過往兩次向外間大律師取得的法律意見(**附錄 X 及 XI**)並不一致。他們認為此項修訂建議或會有深遠的憲制或法律後果，並可能會受到司法覆核，因此須予審慎處理。

11. 至於由另外 10 名議員提交的修訂建議(見上文第 3 段)，議事規則委員會察悉，根據秘書處的初步觀察所得，當中多項修訂可能會抵觸《基本法》的若干條文或現行法例的某些規定(例如就《議事規則》第 1、4、13(1A)、14(3)及 15(2)條提出的修訂建議及擬議新訂的《議事規則》第 45A 條)，而部分其他修訂建議則可能會有人手及資源影響，因而屬立法會行政管理委員會的職權範圍，應該按照《立法會行政管理委員會條例》(第 443 章)第 9 條所規定，由立法會行政管理委員會或查閱立法機關文件及紀錄事宜委員會予以討論(例如就《議事規則》第 6(5A)(a)、6(7)、6(9)、7(2)及 7(3)條提出的修訂建議及擬議新訂的《議事規則》第 17A 及 86A 條)。

12. 除了由莫乃光議員就將《議事規則》第 1、4、12、13、14 及 15 條內的"舉"字以"舉"取代所提出的各項屬文本修訂性質的修訂建議外，議事規則委員會委員未有就其他任何修訂建議達致共識。

13. 至於就 38 名議員的第一批建議提出的修訂建議(附錄 IV)，議事規則委員會察悉該 38 名議員反對該等修訂建議，而議事規則委員會得出的結論是，委員未能就該等修訂建議達致共識。

建議

14. 經處理所有由立法會主席交付議事規則委員會研究的《議事規則》修訂建議及就 38 名議員的第一批建議提出的修訂建議後，議事規則委員會得出的結論是，除關乎將《議事規則》第 1、4、12、13、14 及 15 條內的"舉"字以"舉"取代的修訂建議外，委員未能就其他任何修訂建議達致共識。

15. 《議事規則》內共有 35 項條文(包括附表 1)載有合共 145 個對"舉"字的提述。《內務守則》有 17 項條文(包括多個附錄)內亦出現總共 129 個對"舉"字的提述。現謹**建議**藉此機會將《議事規則》及《內務守則》內出現的所有"舉"字改作"舉"。

16. 視乎內務委員會對上文第 15 段所述就《議事規則》提出的文本修訂有何意見，議事規則委員會主席將會作出預告，以在立法會會議上動議一項擬議決議案，尋求立法會批准修改《議事規則》的相關條文。

徵詢意見

17. 謹請議員：

- (a) 通過在上文第 15 段所述建議，由議事規則委員會主席在立法會會議上動議一項擬議決議案，將《議事規則》內出現的所有"舉"字改作"舉"；
- (b) 批准對《內務守則》作出類似上文(a)項所述的文本修訂；及

- (c) 察悉議事規則委員會就議員對修改《議事規則》所提出的其他建議進行的商議工作。

立法會秘書處
議會事務部 4
2017年11月15日

致 香港特別行政區立法會

議事規則委員會主席

主席閣下，

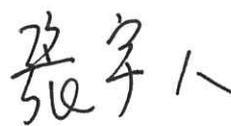
要求盡快處理建制派議員提交的《議事規則》修訂建議

張宇人議員及陳克勤議員謹代表 38 名建制派議員向議事規則委員會提交修改《議事規則》建議，並附上修訂案的中英文版本。

我們希望 主席閣下能盡快召開會議，處理提交的修訂建議。如有任何查詢，歡迎與我們聯絡。

順頌

政安!



立法會議員 張宇人



立法會議員 陳克勤

二零一七年十月十一日

修訂香港特別行政區立法會若干議事規則的建議

1. 本建議由 38 名立法會議員 (見附錄 A) 聯合提交。我們認為有需要修訂立法會的若干議事規則 (見附錄 B)，以保障立法會及其轄下各委員會能夠暢順處理事務，以及維護立法會的尊嚴和誠信。

提出建議的原因

2. 近年，部分議員不斷採用拉布的手法，藉以拖長立法會及財務委員會的會議程序，這趨勢已嚴重妨礙立法會的工作，情況導致審議擬議法例及撥款申請所用的時間不必要地過長，令立法工作和為改善經濟及香港市民民生而提供的撥款屢受拖延。我們現時面對的情況是有待提交到立法會大會或財務委員會進行審議及表決的立法建議或財務建議，均已出現嚴重積壓。除非若干現行的議事程序可作修改，否則實在無法改善這種情況。
3. 本建議旨在改善立法會的運作制度，以及處理濫用程序的問題。為了在議員的發言權和立法會有效履行其憲制職能之間取得合理及適當平衡，我們曾參考外國為解決類似問題而曾經採取的一些做法。

建議

4. 我們現在所提出的修訂建議希望能達致下列目的：
 - (a) 確實地指出立法會主席職權的憲制來源，即由《香港特別行政區基本法》(下稱《基本法》)、香港法律及《立法會議事規則》(下稱《議事規則》)所訂明的職權；
 - (b) 釐清立法會主席容許動議修訂案的酌情權；
 - (c) 釐清關乎會議法定人數，以及關乎會議因不足法定人數而休會待續時如何處理未完事項的事宜；
 - (d) 釐清處理呈請書的程序；

- (e) 理順防止濫用程序的各項程序；
- (f) 阻遏在立法會大會及各委員會上的不檢行為；
- (g) 明確訂明委員會主席在主持會議時的職責；及
- (h) 制訂更全面的程序，以供進行立法會主席選舉。

我們已另行以書面向財務委員會主席提交建議，該等建議關乎應就財務委員會及其轄下兩個小組委員會程序規則及行事方式作出的各項改變。

立法會主席的職權

5. 立法會主席的職權在《基本法》第七十二條已有規定，這些職權包括主持會議、決定議程、在休會期間召開特別會議、應行政長官的要求召開緊急會議，以及行使立法會議事規則所規定的其他職權。立法會主席根據《基本法》主持立法會會議的權力，在《議事規則》亦有補充，給予主席其他權力，讓他除行使《基本法》就主持會議所賦予的權力外，亦可行使此等其他權力。
6. 就此，我們建議在《議事規則》加入新訂第 1B 條¹及相應修訂規則第 3 條。

主席選擇及合併修正案的酌情權

7. 《議事規則》第 29 條及第 57 條分別訂明，就議案或法案提出的修正案可否獲准提出，由立法會主席或全體委員會主席決定。近年議員就《撥款條例草案》提出數以千計的修正案，對立法會主席造成頗大困難，在 2013 年至 2017 年，立法會主席裁定當中大量修正案違反《議事規則》第 57(4)(d)條，屬瑣屑無聊或無意義的修正案。在考慮過程中，立法會主席仍需將建議的修正案作整體審視，考慮該等修正案可否被視為瑣屑無聊或無意義及而這些修正案不必要地延長足以讓議員有公平選擇的議事過程。《議事規則》第 57(4)(d)條當前的行文，並無清楚說明該項條文是否適用於兩個或以上的系列修正案，雖然在實行上，立法會主席曾經根據《議事規則》第

¹下文提及的“規則條文”是指《議事規則》的相關條文。

57(4)(d)條裁定該等系列修正案不合乎規程。

8. 儘管第 57(4)(d)條或可應用於處理為拖延立法會或全體委員會會議過程而就條例草案提出的大量修正案，但仍有一些修正案不能合理地被認為屬瑣屑無聊或無意義。再者，立法會最好能夠採用一致的測試來決定是否容許對法案和議案分別提出的修正案。有鑑於此，《議事規則》應根據主席有憲制責任確保立法會作為立法機關須有秩序、有效率及公平地處理其事務的重要原則，就此訂立條文，賦予立法會主席選擇擬議修正案的權力。海外立法機關議長一般都獲賦予以上選擇權力。我們建議在《議事規則》第 19 條(立法會議程)加入新訂第(1A)款和在《議事規則》第 30 條(議案及修正案的預告方式)加入新訂第(3)(d)(i)款和第(4)款，讓主席能夠在多項旨在達到相同目的的擬議用作修正的議案或修正案中選擇一項更有效的修正案，並將其他未獲選擇的議案或修正案發還。此舉旨在避免重複及重疊，以及倘議員就處理相同或類似課題提出多項修正案，可選擇較有效及草擬較好的版本。同樣的原則亦適用於法案的新條文及新附表。由於《議事規則》第 30(3)條憑藉《議事規則》第 57(3)條²已同樣適用於對法案的修正案，因此無須對《議事規則》第 57 條(法案的修正案)作相應修訂。
9. 我們亦認為，由同一議員提出的兩項或以上用作修正的議案或修正案如屬類同，立法會主席或全體委員會主席應獲賦權指示將該等議案或修正案合併。我們建議在《議事規則》第 30 條修訂第(3)(b)款和加入新訂第(3)(d)(ii)款和第(4)款。然而，作為良好的行事方式及參照海外立法機關的慣常做法，立法會主席可要求提出修訂的議員解釋其議案或修正案的目的，使立法會主席能就此作出判斷。就議案或修正案的合併安排，若提出該等議案或修正案的議員超過一名，立法會主席可指定由誰負責提出動議。
10. 此外，我們亦建議修訂《議事規則》第 57(4)(d)條，對法案的一項修正案或包含兩項或以上的一系列修正案如被立法會主席認為屬瑣屑無聊或無意義，不可予以動議。此項修訂反映過往立法會主席裁決所採用的做法。

會議法定人數

² 規則第 57(3)條：本議事規則第 30 條(議案及修正案的預告方式)適用於法案修正案的預告，但該條第(3)款中“立法會主席”一詞須以“全體委員會主席”代替。

11. 若因法定人數不足而導致立法會會議休會待續，如有需要應可召開會議處理未完事項。關於處理因會議不足法定人數而休會待續所出現的未完事項的安排，《議事規則》第 14(4)條(會議日期及時間)的規定是否亦適用於因此而召開的會議，現時並不清楚。《議事規則》第 14(4)條屬一般條文，讓立法會議程的未完事項可以在立法會主席命令的另擇日期繼續進行。我們建議修訂《議事規則》第 14(4) 條及 17(2)條，訂立一項推定條文，使立法會主席可以在下次定期會議前，在任何時間或任何一天召開會議，以完成因會議法定人數不足而休會待續的未完事項。現時已有常設行政安排，以避免因為在立法年度內加開立法會會議，而導致可用作審議附屬法例或法律文書的時間在計算時被擾亂的情況。
12. 我們亦建議修訂《議事規則》第 17(3)條，恢復以往安排：如在全體委員會會議期間不足法定人數，會點算立法會會議的法定人數。

呈請書的處理

13. 現行處理呈請書的程序，以西敏寺方式的古老傳統為藍本，可追溯至 1858 年。雖然其他地區處理呈請書的方法全部都已經改變，以加快政府相關部門跟進事情的進度，香港立法會的有關程序至今仍保持不變。我們並不打算提議大幅度更改此程序，但認為有需要作出更新。
14. 現時的《議事規則》第 20 條(呈請書的提交)規定，當有不少於 20 名議員起立，支持將呈請書交付專責委員會處理，呈請書即告交付專責委員會處理。此規則自 1983 年以來未經更新。此項條文須予更新的原因有二。第一，須起立以啟動呈請書交付專責委員會處理的人數要求，與當時的立法局會議法定人數相同。這兩個數目要求直至 1997 年仍然相同。然而，當立法會會議法定人數更改為不少於全體議員的二分之一(第一屆立法會的會議法定人數為 30 人)時，卻沒有相應地修訂《議事規則》第 20 條。第二，在 1983 年，專責委員會是呈請書可予以交付的唯一的一種委員會，但立法會委員會制度自此已不斷全面發展，至今呈請書已可交付其他委員會處理。
15. 在今天，立法會會議法定人數實際上為不少於立法會議席數目的二分之一，而且鑒於除了專責委員會外，亦有其他多個委員會獲賦予

處理政策事宜的責任，並且是由內務委員會負責決定如何處理具爭議的問題及法案。我們建議修訂《議事規則》第 20(6)條，規定如當時有不少於全體議員的二分之一起立，該呈請書須交付內務委員會處理。我們亦建議相應修訂《議事規則》第 75 條(內務委員會)第 (10)款及第(10A)款，以反映內務委員會在決定審議呈請書的方式及決定完成審議後向立法會報告的方式所承擔的職責。此項改變與既定的行事方式一致，倘若內務委員會決定應委任專責委員會處理呈請書內的事宜，將會在立法會動議議案，以作決定。

濫用程序

16. 部分議案屬拖延議案，旨在令議員可以延遲決定某事宜，例如將立法會休會待續或將辯論中止待續。現行規則 40(3)條確保當一個將辯論中止待續的議案被否決後，不可在同一個辯論中再次提出另一個相同的議案。但就立法會全體委員會的程序而言，規則 40(4)並沒有跟隨此安排。我們注意到，全體委員會主席曾作出裁決，不容許一名議員在一項將委員會過程中止待續的議案遭否決後，再次提出同一項議案。然而，《議事規則》並無清楚說明，立法會主席與部分外地議會的議長一樣，是擁有不容許提出同一項議案的權力。在這些外地議會，如議長認為拖延的議案是濫用程序，可提出將過程中止待續的議題即時付諸表決。我們建議修訂《議事規則》第 40(4)條，使立法會主席如認為某些拖延議案屬濫用程序，可藉不就該等議案提出待議議題或無經辯論立即提出待決議題付諸表決，有效處理該等拖延議案。
17. 根據《議事規則》第 49 條(點名表決)第(4)款及第(6)款而提出縮短點名表決鐘聲鳴響時間的議案，亦可能遭濫用。此類議案屬程序議案，一般不會進行辯論。我們建議修訂《議事規則》第 49(4)條及第 49(6)條，使議案當被動議時可立即提出待決議題並進行表決。
18. 另一可能遭濫用的範疇是《議事規則》第 38 (3)條 (議員可發言多於一次的情況)。該項條文容許聲稱其先前發言的某部分被誤解的議員，可發言多於一次。我們建議修訂《議事規則》第 38(3)條，明確規定該議員只應就其發言中被誤解的部分發言。

立法會及委員會會議中的秩序

19. 現時只適用於常設委員會及專責委員會的《議事規則》第 45(1) 條，實有迫切需要擴至所有委員會。舉例而言，內務委員會並非常設委員會或專責委員會，但它是所有議員(立法會主席除外)就廣闊範圍的各種問題交換意見的場合，如有議員堅持在辯論中不斷提出無關的事宜，或冗贅煩厭地重提論點，而主席沒有權指示該議員不得繼續發言的話，這會令主席難以主持會議，而唯一可做的是命令該議員立即退席，但此舉在某些情況未屬必需。向所有委員會主席賦予《議事規則》第 45(1)條的權力，便可讓他們能確保會議有秩序和有效進行，而無需迫不得已地行使其僅有權力，命令行為極不檢點的議員退席。我們建議修訂《議事規則》第 45(1)條，將該規則的適用範圍擴大至所有委員會。
20. 我們亦認為有需要訂明在全體委員會被主席命令退席會議所指的會議是包括立法會會議。我們建議在《議事規則》第 45 條修訂第(2)款，以訂明此程序。

委員會主席的職責

21. 現時，《議事規則》內訂明委員會主席有權決定會議的時間和地點的規則，亦同時規定須在若干時限內將書面預告發給各委員。這權力並沒有訂明包括決定議程的權力。我們相信，決定議程的權力是屬於主席獲賦予的一般權力所附帶，為免生疑問，應在《議事規則》清楚訂明。我們注意到，在某些個案中，委員會委員或會建議哪些議項應包括在日後的會議(例如內務委員會或事務委員會)的議程。我們建議加入新訂《議事規則》第 79C 條，重申各委員會主席有權決定哪些事項應納入議程及該等事項在議程內列出的次序。
22. 《議事規則》第 43 條規定，H 部(發言規則)的規則適用於委員會的會議程序，但委員會主席另有命令者除外。由於 H 部的各項規則是適用於立法會大會及全體委員會的程序，要將這些規則適用於委員會，須作出所需變通。現時並無指引訂明主席應如何行使此條規則所賦予的權力，或行使關乎《議事規則》其他各部規管委員會運作的規則所賦予的權力。我們建議加入新訂《議事規則》第 79D 條，訂明任何關乎在委員會的行事方式及程序中並無規定的事宜，所有委員會的主席如認為《議事規則》所訂的規則與該事宜相關，均可在作出所需變通後使用《議事規則》。

選舉立法會主席的程序

23. 《議事規則》第 4(1)條訂明，立法會主席由立法會議員按照《議事規則》附表 1 的規定互選產生。此項重要的程序會不時更新，以解決在實際使用此程序時曾出現的任何問題。由於此項選舉是在立法會的正式會議上進行，並在立法會選出其主席之前舉行，我們認為就此制訂一項更全面的程序十分重要，這可確保選舉立法會主席的會議只是為議員可投票予他們選擇的候選人而舉行。而其他事務，例如議案或辯論，則一概不可進行；以及在選舉立法會主席的所有程序全部完成前，會議不得中止待續。建議作出修訂的《議事規則》附表 1 載於附錄 C。

議事規則委員會

24. 按照以往做法，對《議事規則》的任何擬議修改，應先由議事規則委員會進行討論。我們現在根據《議事規則》第 74(1)條，透過議事規則委員會委員向議事規則委員會提交此建議。我們衷心希望各位立法會議員同事不分政治背景，合力制訂各項能讓立法機關有成效地和有效率地進行其工作的程序規則變更，以滿足廣大市民的需要。

**List of Legislative Council Members in support of
the proposed amendments to certain provisions of
the Rules of Procedure of the Legislative Council
(In alphabetical order)**

1. Hon CHAN Chun Ying	陳振英議員
2. Hon CHAN Hak Kan	陳克勤議員
3. Hon CHAN Han Pan	陳恆鑛議員
4. Hon CHAN Kin Por	陳健波議員
5. Hon Christopher CHEUNG	張華峰議員
6. Hon CHEUNG Kwok Kwan	張國鈞議員
7. Hon Tommy CHEUNG	張宇人議員
8. Hon Ann CHIANG	蔣麗芸議員
9. Hon Holden CHOW	周浩鼎議員
10. Hon Felix CHUNG	鍾國斌議員
11. Hon Junius HO	何君堯議員
12. Hon HO Kai Ming	何啟明議員
13. Hon Stephen HO	何俊賢議員
14. Hon Regina IP	葉劉淑儀議員
15. Hon KWOK Wai Keung	郭偉強議員
16. Hon Jeffrey LAM	林健峰議員
17. Hon Edward LAU	劉國勳議員
18. Hon Kenneth LAU	劉業強議員
19. Hon Starry LEE	李慧琼議員
20. Hon LEUNG Chi Cheung	梁志祥議員
21. Hon Priscilla LEUNG	梁美芬議員
22. Hon Martin LIAO	廖長江議員
23. Hon LO Wai Kwok	盧偉國議員
24. Hon LUK Chung Hung	陸頌雄議員
25. Hon MA Fung Kwok	馬逢國議員
26. Hon Alice MAK	麥美娟議員
27. Hon NG Wing Ka	吳永嘉議員
28. Hon OR Chong Shing	柯創盛議員
29. Hon POON Siu Ping	潘兆平議員
30. Hon Elizabeth QUAT	葛珮帆議員
31. Hon Abraham SHEK	石禮謙議員
32. Hon SHIU Ka Fai	邵家輝議員
33. Hon Michael TIEN	田北辰議員
34. Hon WONG Kwok Kin	黃國健議員

- | | |
|-------------------------|-------|
| 35. Hon WONG Ting Kwong | 黃定光議員 |
| 36. Hon Frankie YICK | 易志明議員 |
| 37. Hon YIU Si Wing | 姚思榮議員 |
| 38. Hon YUNG Hoi Yan | 容海恩議員 |

《議事規則》修訂建議列表

I. 立法會主席的職權

A 部 (立法會議員及立法會人員)

1B. 立法會主席

立法會設有立法會主席一職，其職權載於《基本法》第七十二條、香港法律及本《議事規則》。

3. 主持立法會及全體委員會會議

- (1) 立法會主席如出席立法會或全體委員會會議，並認為能執行主席職務，須主持立法會會議或擔任全體委員會主席。

II. 主席選擇修正案的酌情權

19. 立法會議程

- (1) 立法會議程由立法會主席決定，並須有中、英文本。在沒有抵觸第 1A 款的情況下，每次會議所有經事先作出預告的事項，須依照本議事規則第 18 條(各類事項的次序)規定的次序，列於該次會議的議程內。
- (1A) 就任何將列於立法會會議的議程中的議案或任何法案，立法會主席或立法會全體委員會主席有權選擇就該等議案或法案提出的修正案、新條文及新附表，並有權指示他認為類同的兩項或以上的議案或修正案予以合併。

30. 議案及修正案的預告方式

- (3) 就議案或修正案所作預告，須呈交立法會主席，由其指示按以下方式處理 —
- (a) 按所交來的原有措辭印載；或
- (b) 按其指示修改，然後予以印載，該等修改包括因議案或修正案合併而需作出的修改；或

(c) 因其認為不合乎規程，將該預告退回簽署該預告的議員；或

(d) 退回簽署該預告的議員：

(i) 因該預告不獲立法會主席選擇；或

(ii) 因該預告已和另一議案或修正案合併。

(4) 立法會主席如認為恰當，可在根據第(3)(d)款發出指示前，要求任何曾就議案或修正案作出預告的議員解釋其議案或修正案的主題，使立法會主席可就此事宜作出判斷及考慮有關解釋。如將合併的議案或修正案是由超過 1 名議員提出，立法會主席可指定由哪名議員提出有關的合併議案或修正案。

57. 法案的修正案

(4) 以下規定適用於與法案有關的修正案：

(d) 不可動議全體委員會主席認為瑣屑無聊或無意義的修正案或由兩項或以上修正案組成的系列修正案。

III. 會議法定人數

14. 會議日期及時間

(4) 立法會主席如認為為了在立法會會議上適當地處理完議程上的各項事務，有必要繼續處理未完事項，則可命令於任何時間或任何一天繼續為此目的舉行會議。凡立法會主席在立法會會議上作此命令，會議須暫停舉行，並須於該另一時間或該天復會繼續處理有關事項。

17. 會議法定人數

(2) 如出席會議的議員不足法定人數，而有人向立法會主席提出此事，立法會主席即須指示傳召議員到場。15 分鐘後，如仍不足法定人數，立法會主席即無須付諸表決而宣布休會待續。立法會主席可召開會議，以完成在任何一天因會議不足法定人數而休會待續在議程上出現的未完事項，如立法會主席認為必須召開這會議，根據此款規定而休會待續的立法會會議，須當作是被命令暫停的會議，可按規則第 14(4)條的規定，於立法會主席命令的時間或日期復會繼續處理有關事項。

(3) 如未有足夠法定人數出席會議，而有人向全體委員會主席提出此事，全體

委員會主席即須指示傳召議員到場。15 分鐘後，如仍不足法定人數，委員會即須回復為立法會，立法會主席須點算立法會會議人數。如當時已足會議法定人數，立法會須再次轉變為全體委員會，但如果不足會議法定人數，立法會主席即無須付諸表決而宣布休會待續。

IV. 呈請書的處理

20. 呈請書的提交

- (6) 呈請書提交後，如有議員即時起立，要求將呈請書交付內務委員會處理，立法會主席即須請支持此項要求的議員起立；如有不少於全體議員的二分之一起立，呈請書即告交付內務委員會處理。

75. 內務委員會

- (10) 委員會須決定下列事宜的研究方式 —

- (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；
- (c) (a)或(b)段提述的附屬法例或文書的任何擬稿；或
- (d) 根據規則第 20(6)條向其交付的呈請。

- (10A) 在研究第(10)款所提述的附屬法例、其他文書及呈請書後，委員會可向立法會提交報告。

V. 濫用程序

40. 辯論中止待續或全體委員會休會待續

- (4) 在立法會全體委員會會議上，議員可無經預告而動議一項委員會現即休會待續的議案，全體委員會主席須即提出該議案的待議議題。議案如獲通過，委員會即須回復為立法會；議案如被否決，則委員會的程序即須繼續進行。如全體委員會主席認為動議委員會現即休會待續的議案是濫用程序，可決定不提出待決議題或無經辯論而把議題付諸表決。

49. 點名表決

- (4) 在緊接立法會主席宣布議案修正案的點名表決結果或全體委員會主席宣布法案的任何條文或任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就該議案或該議案的任何修正案，或就法案的任何條文或任何修正案進行點名表決時，立法會或全體委員會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時立法會主席或全體委員會主席須無經辯論而就該議案提出的待決議題付諸表決。
- (6) 如有多於一項有關立法會議程所列附屬法例或本議事規則第 29(2)(b)條(議案及修正案的預告)所提述的文書的議案(本議事規則第 29(3)條提述的議案除外)，則在立法會主席宣布該議案或該議案的任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就附屬法例或文書提出的議案或該議案的任何修正案進行點名表決時，立法會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時立法會主席須無經辯論而就該議案提出的待決議題付諸表決。

38. 議員可發言多於一次的情況

- (3) 已就某議題發言的議員，可再次發言以解釋其先前發言中被誤解的部分，但發言時不得提出新事宜及只可就被誤解的部分發言。

VI. 立法會及委員會會議中的秩序

45. 立法會及委員會會議中的秩序

- (1) 立法會主席、全體委員會主席或任何委員會主席如發覺有議員在辯論中不斷提出無關的事宜，或冗贅煩厭地重提本身或其他議員的論點，於向立法會或委員會指出該議員的行為後，可指示該議員不得繼續發言。
- (2) 如議員行為極不檢點，立法會主席、全體委員會主席或任何委員會主席即須命令其立即退席，不得繼續參與立法會或委員會的該次會議。根據本款規定被全體委員會會議主席被命令退席的議員須繼續退席立法會，不得參與立法會的該次會議。立法會秘書或任何委員會的秘書須按照主席的命令採取行動，以確保該命令得以遵從。

VII. 委員會主席的職責

79C. 委員會主席決定委員會會議議程

任何委員會的會議議程須由其主席決定。

79D. 委員會主席應用《議事規則》及其他行事方式

就任何在委員會的行事方式及程序中，或在適用於該委員會的行事方式及程序中，均沒有規定的任何事宜，須按該委員會主席認為《議事規則》所訂與此相關的行事方式及程序處理，並須在作出所需變通後適用於該委員會。

選舉立法會主席的程序
(議事規則—附件 1)

總則

1. 立法會主席的選舉須在立法會會議上進行。
- 1A. 選舉須在議員已按照《議事規則》第 1 條的規定及香港法律作宗教式或非宗教式宣誓後的新一屆第一次會議上舉行。如有需要在屆中選舉立法會主席，該次選舉須在立法會一次完全只為選舉立法會主席的目的而進行的會議上舉行；議程不得載有任何其他事務；會議舉行的日期和開始的時間，由立法會代理主席(猶如他是規則第 14 條所指的立法會主席)作出決定。

提名

2. 立法會秘書須於選舉日至少 7 整天前邀請議員提名立法會主席一職的人選，並將附件 I 的提名表格分發給各議員。
3. 立法會主席的提名表格須由一名作為提名人的議員，以及另外至少 3 名作為附議人的議員簽署。獲提名的議員須在表格上簽署以示接受提名，並聲明其具有資格可根據《基本法》第七十一條及《議事規則》第 4(2)條成為立法會主席。表格填妥後，須在選舉日至少 4 整天前送達立法會秘書辦事處。
4. 任何議員無論屬於被提名人、提名人或附議人的身份，其姓名均不得出現在多於一張提名表格之上。如某議員的姓名出現在多於一張提名表格之上(不論是被提名人、提名人或附議人的身份)，則只有立法會秘書辦事處接獲的首張提名表格方為有效，立法會秘書須隨即把失效的表格送回提名人。
5. 截止提名後，立法會秘書須擬備一份名單，按其辦事處接獲提名表格的先後次序列出所有候選人的姓名，並於選舉日至少兩整天前將名單分發給所有立法會議員。

選舉

6. 出席會議的議員中根據本議事規則第 1A 條而定為連續擔任議員時間最長者，須作為主持立法會主席選舉的議員(“主持選舉的議員”)，其職權僅限於按照《議事規則》第 4(1) 條及本附表的規定主持選舉立法會主席的會議。
7. 如根據上文第 6 段連續擔任議員時間最長的該名議員獲提名候選立法會主席一職或不能執行主席職務，則未獲提名為候選人的議員中排名最先者，須主持選舉。
- 7A. 主持選舉的議員只可在其宣布已當選立法會主席的議員姓名後將會議休會待續。如主持選舉的議員有必要暫停會議，會議須於暫停後 1 小時內復會。在所有選舉立法會主席的程序完成前，不得命令會議再次暫停。
- 7B. 主持選舉的議員在整個選舉過程中不得准許議員發言，但規程問題除外。規程問題不容辯論。如主持選舉的議員認為有議員濫用程序，主持選舉的議員可拒絕准許任何議員提出任何規程問題。
8. 主持選舉的議員就位後，隨即進行立法會主席的選舉。主持選舉的議員須宣布立法會秘書辦事處接獲的全部有效提名。
9. 如立法會主席一職只有一項有效提名，則主持選舉的議員須如是宣布，並宣布該名候選人當選。
10. 如有兩項或更多的有效提名，則主持選舉的議員須命令以不記名的方式進行投票，並指示立法會秘書發給每名出席會議的議員一張選票，選票的格式如附件 II 所示。所有候選人的姓名須按立法會秘書辦事處接獲提名的先後次序，列於選票上。
11. 出席會議並有意投票的議員只須在選票上其屬意的候選人姓名旁邊的空格內劃上“ ”號，並將選票放進投票箱。任何未劃上“ ”號、未妥為劃上“ ”號或劃有多於一個“ ”號的選票，將會作廢。
12. 所有出席會議並有意投票的議員投票後，立法會秘書須在全體出席會議的議員面前點算選票，並向主持選舉的議員報告點票結果；該名主持選舉議員須核對點票結果，予以確認。
13. 主持選舉的議員須宣布各候選人之中獲最高票數的一名候選人當選為立法會主席。
14. 如兩名或以上候選人獲相同最高票數，則主持選舉的議員須命令在同一次會議上，按上文第 10 至 13 段所規定的方法，對該等獲相同最高票數的候選人進行第二輪投票。

15. 如在第二輪投票中未有一名候選人獲得的票數較其他任何候選人為高，則主持選舉的議員須宣布其將以抽籤方式決定其中一名候選人當選為立法會主席。
16. 主持選舉的議員將隨即進行抽籤，並按結果隨即宣布該名候選人當選為立法會主席。
17. 隨後，主持選舉的議員須讓位於立法會主席。立法會主席可向立法會陳詞，然後宣布休會待續。

**A proposal to amend certain provisions in the Rules of Procedure
of the Legislative Council of the
Hong Kong Special Administrative Region**

1. This proposal is jointly presented by 38 Members of the Legislative Council (**Annex A**). We consider that it is necessary to amend some procedural rules of the Legislative Council (“Council”) (**Annex B**) so as to safeguard the smooth conduct of business of the Council and its committees and to uphold the dignity and integrity of the Council.
2. The growing trend of using filibustering tactics in recent years by some Members to prolong the proceedings of the Council and the Finance Committee has seriously hampered the work of the Council. This has resulted in unnecessarily long period of time taken up in the scrutiny of proposed laws and funding proposals that resulted in delays in the enactment of laws and the provision of public funds for bringing about improvements to the economy and the livelihood of the people of Hong Kong. We are faced with a situation where there is a serious backlog of legislative and financial proposals waiting to be submitted, scrutinized and voted on by the Council and the Finance Committee respectively, but little can be done to improve the situation unless some of the current procedural rules can be changed.

The Proposal

3. This Proposal aims to improve the work system of the Council and to address abuse of procedure. In order to strike a reasonable and fair balance between Members’ right to speak and Council’s effectiveness in performing its constitutional functions, we have made reference to overseas practices that have been adopted for addressing similar problems.
4. We are putting forward these proposed amendments with a view to achieving the following objectives:
 - (a) To put beyond doubt the constitutional source of the powers and functions of the President of the Legislative Council (“President”) as stipulated in the Basic Law of the Hong Kong Special Administrative Region (“Basic Law”), the laws of Hong Kong and the Rules of Procedure of the Legislative Council (“Rules of Procedure-”);
 - (b) To rationalize the discretion of the President in allowing amendments to be moved;
 - (c) To rationalize matters relating to quorum and handling of unfinished

business following the adjournment of meetings due to a lack of quorum;

- (d) To rationalize the procedure on the handling of petitions;
- (e) To streamline procedures for preventing abuse of procedure;
- (f) To rationalize dealing with disorderly conduct in the Council and committees;
- (g) To provide explicitly the role of committee chair in chairing meetings; and
- (h) To provide a more comprehensive procedure for the election of the President.

We have separately written to the Chairman of the Finance Committee to put forward our proposal regarding changes that should be made to the procedural rules and practices of the Finance Committee and its two Subcommittees.

Powers and functions of the President of the Legislative Council

- 5. The powers and functions of the President are provided in Article 72 of the Basic Law. These include the powers and functions to preside over meetings, decide on the agenda, call special sessions during recess, call emergency sessions at the request of the Chief Executive, and exercise the other powers and functions prescribed in the Rules of Procedure. The President's power to preside over meetings of the Council under the Basic Law is supplemented by the other powers and functions prescribed in the Rules of Procedure, giving him such other powers that he may exercise in presiding over meetings in accordance with the Basic Law.
- 6. To this effect, **we propose to add a new Rule 1B¹** to the Rules of Procedure and to amend Rule 3 consequentially.

President's discretion in selecting and combining amendments

- 7. Under Rules 29 and 57, the President or the Chairman of a committee of the whole Council decides on the admissibility of a proposed amendment to a motion or a bill respectively. The thousands of amendments proposed to Appropriation Bills in recent years had presented enormous

¹ Reference to a "Rule" followed by a numeral is a reference to a rule of the RoP.

problems to the President who, through rulings made in 2013 to 2017, had ruled a substantial number of them out of order for infringement of Rule 57(4)(d) as being frivolous or meaningless. The President still needs to consider whether the proposed amendments, when taken together, could be regarded as frivolous or meaningless and such amendments have the effect of prolonging Council proceedings more than is necessary for providing a fair choice for Members. The present construction of Rule 57(4)(d) is also not clear about its applicability to a series of two or more amendments, though in practice the President had ruled such series of amendments out of order under Rule 57(4)(d).

8. Notwithstanding that Rule 57(4)(d) may be applied to deal with voluminous proposed amendments to bills that are prolonging proceedings in the Council or a committee of the whole Council, there still remains such amendments that could not be reasonably considered as coming within the meaning of being frivolous or meaningless. Moreover, it would be desirable for the Council to have consistency in the admissibility tests that apply to proposed amendments to bills and to motions respectively. In the light of this, there should be a provision in the Rules of Procedure to provide the President with the power to select proposed amendments based on the cardinal principle that he has the constitutional duty to ensure the orderly, efficient and fair disposition of Council's business as a legislature. Such power of selection is commonly given to Speakers in overseas legislatures. **We propose to add a new subrule (1A) to Rule 19** (The Agenda of the Council) **and add subrules (3)(d)(i) and (4) to Rule 30** (Manner of Giving Notice of Motions and Amendments) to enable the President to select a motion (for the purpose of making an amendment) or an amendment which is more effective among a number of proposed motions or amendments aiming to achieve substantially the same objective and return those which he has not selected. This is to prevent repetition and overlapping, and, where several such motions or amendments are proposed to deal with the same or similar issue, to select the more effective and better drafted version. The same principle also applies to new clauses and new schedules to a bill. No corresponding amendment to Rule 57 (Amendment to Bills) is necessary as Rule 30(3) equally applies to amendments to bill by virtue of Rule 57(3)².
9. We also consider that the President or Chairman of a committee of the whole Council should be given the power to direct motions (for the purpose of making an amendment) or amendments to be combined if two or more of them are cognate. **We propose to amend subrule (3)(b) and add new subrules (3)(d)(ii) and (4) to Rule 30.** As a matter of good

² Rule 57(3): "The provisions of Rule 30 (Manner of Giving Notices of Motions and Amendments) shall apply to notice of amendments to bills with the substitution of the word "Chairman" for "President" in subrule (3) of that Rule."

practice and with reference to the practice of some other overseas legislative assemblies, the President may request any mover of motion(s) or amendment(s) to explain to him the subject matter of the motion(s) or amendment(s) to enable the President to form his judgment on the matter. Regarding the combination of motions or amendment, in the event that there are more than one Member proposing the motions or amendments, the President may designate which Member shall propose it.

10. In addition, **we also propose to amend Rule 57(4)(d)** so that an amendment or a series of two or more amendments to a bill which is in the opinion of the President frivolous or meaningless may not be moved. This reflects the practice adopted in previous President's rulings.

Quorum

11. If a meeting of the Council is adjourned as a result of a lack of quorum, a meeting may be convened if necessary to deal with the unfinished business of the Council. Regarding the arrangement for dealing with the unfinished business arising from a meeting adjourned due to a lack of quorum, it is not clear whether the provision in Rule 14(4) (Days and Hours of Meetings) also applies to a meeting convened for the purpose. Rule 14(4) is a general provision that enables the unfinished business on the Agenda of the Council to continue on another day as ordered by the President. **We propose to amend Rule 14(4) and Rule 17(2)** to provide a deeming provision to enable the President to convene a meeting to complete the unfinished business of a meeting adjourned for a lack of quorum at any hour or on any day before the next scheduled meeting. There is a standing administrative arrangement to avoid upsetting the computation of time for the purpose of scrutinizing subsidiary legislation or legislative instruments as a result of the additional Council meetings during the legislative session.
12. **We also propose to amend Rule 17(3)** to reinstate the arrangement for the counting of the quorum of the Council if there is a lack of quorum in the committee of the whole Council.

Handling of petitions

13. The current procedure for handling petitions was modeled on an old tradition in the Westminster system, which dates back to 1858. While the method to handle petitions in other places has all been changed to expedite following-up by the relevant ministries of the government, the Council procedure in Hong Kong has remained unchanged to this day. We do not intend to propose drastic changes to the procedure but we consider

that updating the procedure is necessary.

14. The present Rule 20 (Petitions), which provides for the referral of a petition to a select committee when no less than 20 Members have risen in support of such referral, has not been updated since 1983. This provision requires updating for two reasons. First, the number of Members required to rise in order to trigger a referral to the select committee was the same as that for forming a quorum for a Council meeting. The two required numbers had all along been the same until 1997, when the quorum for Council meeting was changed to not less than half of the Members (effectively 30 for the First Council) but corresponding amendment to Rule 20 was not made. Secondly, whilst select committee was the only kind of committee to which a referral of a petition could be made in 1983, the committee system in the Council had since then been developed with such sophistication that there are other committees that are capable of taking up such a referral.
15. Today, the quorum of the Council is effectively no less than one half of the membership of the Council. And, given that there are other committees apart from a select committee that are given the responsibilities to handle policy matters, and that the House Committee is the committee that decides how controversial issues and bills are to be handled, **we propose that Rule 20(6) be amended** to provide that if no less than one half of the Members of the Council then rise the petition shall stand referred to the House Committee. **We also propose that subrules (10) and (10A) of Rule 75 (House Committee) should be correspondingly amended** to reflect the House Committee's role in deciding the manner of considering petitions and in reporting to the Council after such consideration is completed. This change would be in line with the established practice that should the House Committee decide that a select committee should be appointed to deal with the matter in the petition, a motion to that effect will be moved in the Council for a decision.

Abuse of procedure

16. Some motions are dilatory motions that are moved for enabling Members to defer decision on a matter. Examples are motions for the adjournment of the Council or of debate. The current provision in Rule 40(3) ensures that no further motion to adjourn a debate can be moved if a motion to that effect has been negatived. This arrangement is not followed in Rule 40(4) in relation to proceedings of a committee of the whole Council. We are aware that there was a ruling made by the Chairman which disallowed a Member's moving of a further motion to adjourn proceedings in a committee of the whole Council subsequent to one that had been

negatived. However it is not explicit in the Rules of Procedure that the President also has such power as that possessed by Speakers in some legislatures overseas. A procedure is usually put in place in these other overseas legislatures where the Speaker may forthwith put the question to adjourn proceedings to vote when he is of the opinion that the dilatory motion is an abuse of procedure. **We propose to amend Rule 40(4)** to enable the President to handle such dilatory motions effectively if it is his opinion that there is an abuse of procedure by not proposing the question thereon or putting it forthwith without debate.

17. The motions to shorten the duration of the ringing of division bell under subrules (4) and (6) of Rule 49 (Divisions) may also be subject to abuse. Motions of this type are procedural motions which are not normally debated. **We propose that Rule 49(4) and (6) be amended** to enable the question on the motion be put and voted on upon its being moved.
18. Another rule which may also be subject to abuse is Rule 38(3) (Occasions when a Member may speak more than once) which allows a Member to speak more than once when the Member claims that a certain part of his speech has been misunderstood. **We propose to amend Rule 38(3)** to make it explicit that the Member should only speak on that part of his speech which has been misunderstood.

Order in the Council and committees

19. The need to extend the application of Rule 45(1) to all committees, apart from just standing or select committees, is becoming imminent. House Committee, for example, is not a standing or select committee, but it is the forum for all Members (except the President) to exchange views on a wide range of issues. Without the power to direct a Member to discontinue his speech if he persists in irrelevant or tedious repetition of arguments, the chairman will have great difficulty in chairing the meeting. The only resort is to order the Member to withdraw immediately from the committee which may not be necessary in some cases. Providing chairmen of all committees with the power in Rule 45(1) would enable them to ensure the orderliness and effectiveness of the meeting without having to resort to exercising the power to order withdrawal of a Member who has behaved in a grossly disorderly manner. **We propose to amend Rule 45(1)** to extend the application of the rule to all committees.
20. We also find it necessary to put beyond doubt that the withdrawal from a meeting of a committee of the whole Council also relates to the Council meeting itself. **We propose to amend subrule (2)** to provide for this.

Role of chairmen of committees

21. At present rules in the Rules of Procedure that empower a committee chairman to determine the time and place of a meeting will at the same time require the giving of a written notice for the meeting to members within a certain timeframe. It is not explicit that this power also includes the power to determine the agenda. We believe that the power to determine the agenda is a power incidental to the general power given to the chairman. For the avoidance of doubt, this power should be provided explicitly in the Rules of Procedure. We are aware that in some cases members of a committee may suggest what items should be included on the agenda of a future committee meeting, such as House Committee and Panels. **We propose to add a new Rule 79C** to reaffirm the power of the chairman of a committee in deciding which items of business should be placed on the agenda and the order in which such items should appear on the agenda.
22. Rule 43 provides that Part H (Rules of Speaking) shall apply to the proceedings in a committee unless the chairman of the committee orders otherwise. As the rules in Part H are to be applied to the proceedings in the Council and a committee of the whole Council, application of these rules to a committee will require necessary modifications. There is no guideline provided on how the chairman should exercise his power under this Rule or in relation to rules in other parts of the Rules of Procedure that govern the operation of a committee. **We propose to add a new Rule 79D** to provide that in relation to any matter not provided for in the practice and procedure of committees all chairmen of committees may apply the Rules of Procedure with necessary modification where he considers that such rules in the Rules of Procedure are relevant.

Procedure for the election of the President

23. Rule 4(1) provides that the President of the Legislative Council is elected by and from among the Members of the Council in accordance with a procedure set out in Schedule 1 to the Rules of Procedure. This is an important procedure and is updated from time to time to address any issue arising from the actual use of the procedure. As the election takes place at a formal meeting of the Council and before there is a President in the Council, we consider it important to provide a more comprehensive procedure which ensures that the election meeting is solely for Members to cast their votes on candidates put before them. No other business such as motions and debates should be allowed, and the meeting cannot be adjourned before all procedures to elect the President are completed. **A revised Schedule 1 to the Rules of Procedure is proposed at Annex C.**

Consultation with Members

24. We are submitting this Proposal to the Committee on Rules of Procedure (“the Committee”) through members of the Committee in accordance with Rule 74(1), following the practice that any proposed changes to the Rules of Procedure ought to be discussed by the Committee. It is our sincere wish that our fellow Members of the Council, irrespective of their political affiliations, would work together to put in place changes to the procedural rules which could enable our Legislature to work effectively and efficiently to meet the needs of our community.

**List of Legislative Council Members in support of
the proposed amendments to certain provisions of
the Rules of Procedure of the Legislative Council
(In alphabetical order)**

1. Hon CHAN Chun Ying	陳振英議員
2. Hon CHAN Hak Kan	陳克勤議員
3. Hon CHAN Han Pan	陳恆鑛議員
4. Hon CHAN Kin Por	陳健波議員
5. Hon Christopher CHEUNG	張華峰議員
6. Hon CHEUNG Kwok Kwan	張國鈞議員
7. Hon Tommy CHEUNG	張宇人議員
8. Hon Ann CHIANG	蔣麗芸議員
9. Hon Holden CHOW	周浩鼎議員
10. Hon Felix CHUNG	鍾國斌議員
11. Hon Junius HO	何君堯議員
12. Hon HO Kai Ming	何啟明議員
13. Hon Stephen HO	何俊賢議員
14. Hon Regina IP	葉劉淑儀議員
15. Hon KWOK Wai Keung	郭偉強議員
16. Hon Jeffrey LAM	林健峰議員
17. Hon Edward LAU	劉國勳議員
18. Hon Kenneth LAU	劉業強議員
19. Hon Starry LEE	李慧琼議員
20. Hon LEUNG Chi Cheung	梁志祥議員
21. Hon Priscilla LEUNG	梁美芬議員
22. Hon Martin LIAO	廖長江議員
23. Hon LO Wai Kwok	盧偉國議員
24. Hon LUK Chung Hung	陸頌雄議員
25. Hon MA Fung Kwok	馬逢國議員
26. Hon Alice MAK	麥美娟議員
27. Hon NG Wing Ka	吳永嘉議員
28. Hon OR Chong Shing	柯創盛議員
29. Hon POON Siu Ping	潘兆平議員
30. Hon Elizabeth QUAT	葛珮帆議員
31. Hon Abraham SHEK	石禮謙議員
32. Hon SHIU Ka Fai	邵家輝議員
33. Hon Michael TIEN	田北辰議員
34. Hon WONG Kwok Kin	黃國健議員

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|-------------------------|-------|
| 35. Hon WONG Ting Kwong | 黃定光議員 |
| 36. Hon Frankie YICK | 易志明議員 |
| 37. Hon YIU Si Wing | 姚思榮議員 |
| 38. Hon YUNG Hoi Yan | 容海恩議員 |

**List of proposed amendments to the Rules of Procedure
(as at 1 October 2017)**

I. Powers and Functions of the President of the Legislative Council

Part A (Members and Officers of the Council)

1B. The President of the Legislative Council

There shall be a President of the Council whose powers and functions are set out in Article 72 of the Basic Law, the laws of Hong Kong and these Rules of Procedure.

3. Presiding in Council and in Committee of the whole Council

- (1) The President of the Council, when present at a meeting of the Council or a committee of the whole Council and able, in his opinion, to act, shall preside or be Chairman.

II. President's discretion in selecting and combining amendments

19. The Agenda of the Council

- (1) The Agenda of the Council shall be decided by the President, and shall be in Chinese and English. Subject to subrule (1A), all items of business for a meeting of which notice has been given shall be placed on the Agenda for that meeting in the order required by Rule 18 (Order of Business at a Meeting).

- (1A) In respect of any motion or any bill to be placed on the Agenda for a meeting of the Council, the President or the Chairman of a committee of the whole Council shall have the power to select the amendments, new clauses or new schedules to be proposed to such motion or bill, and also the power to direct two or more motions or amendments considered by him to be cognate to be combined.

30. Manner of Giving Notice of Motions and Amendments

- (3) A notice of a motion or an amendment shall be submitted to the President, who shall direct –
- (a) that it be printed in the terms in which it was handed in; or
 - (b) that it be printed with such alternations, which includes those necessitated by the combination of motions or amendments, as he may direct; or
 - (c) that it be returned to the Member who signed it, as being in his opinion out of order; or
 - (d) that it be returned to the Member who signed it:
 - (i) as it has not been selected by the President; or
 - (ii) as it has been combined with another motion or amendment.
- (4) Before a direction is given under subrule (3)(d), the President may, if he thinks fit, request any Member who has given notice of a motion or an amendment to give such explanation of the subject matter of the motion or amendment as may enable him to form his judgment on the matter, and may take into account the explanation so given. In the event that there are more than one Member proposing the motions or amendments to be combined, the President may designate which Member shall propose it.

57. Amendments to Bills

- (4) The following provisions shall apply to amendments relating to bills:
- (d) An amendment or a series of two or more amendments which is in the opinion of the Chairman frivolous or meaningless may not be moved.

III. Quorum

14. Days and Hours of Meetings

- (4) When in the opinion of the President it is necessary for the proper completion of the business on the Agenda of the Council at a meeting of the Council to continue any unfinished business, the President may order that the meeting shall continue at any hour or on any day for that purpose. Where the President so orders at a meeting of the Council,

the meeting shall stand suspended and shall resume for the continuation of business at such hour or on such day.

17. Quorum

- (2) If the attention of the President is drawn to the fact that a quorum is not present, he shall direct the Members to be summoned. If after 15 minutes have expired a quorum is not present, he shall adjourn the Council without question put. The President may call a meeting to complete the unfinished business on the Agenda after the Council has been so adjourned, and should the President consider that such a meeting has to be called the adjournment of the Council under this subrule shall be deemed to be a meeting ordered to be suspended and may be resumed for the continuation of business at such hour or on such day pursuant to Rule 14(4).
- (3) If the attention of the Chairman in committee of the whole Council is drawn to the fact that a quorum is not present, he shall direct the Members to be summoned. If after 15 minutes have expired, a quorum is not then present the Council shall be resumed and the President shall count the Council. If a quorum is then present the Council shall again resolve itself into committee but if a quorum is not present the President shall adjourn the Council without question put.

IV. Handling of petitions

20. Presentation of Petitions

- (6) If, immediately after a petition has been presented, a Member rises in his place and requests that the petition be referred to the House Committee, the President shall call upon those Members who support the request to rise in their places. If no less than one half of all Members of the Council then rise the petition shall stand referred to the House Committee.

75. House Committee

- (10) The Committee shall decide the manner of consideration of the following matters -
- (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;
 - (c) any draft of subsidiary legislation or instrument referred to in paragraph (a) or (b); or
 - (d) a petition referred to it under Rule 20 (6).
- (10A) After the consideration of the subsidiary legislation, other instruments and petition referred to in subrule (10), the committee may present a report to the Council.

V. Abuse of procedure

40. Adjournment of Debate or of Proceedings of a Committee of the Whole Council

- (4) When the Council is in committee a Member may move without notice that further proceedings of the committee be now adjourned. Thereupon the Chairman shall propose the question on that motion. If a motion is agreed to, the Council shall resume; but if the motion is negatived, the committee shall continue its proceedings. Where the Chairman is of the opinion that the moving of the adjournment of proceedings is an abuse of procedure, he may decide not to propose the question or to put the question forthwith without debate.

49. Divisions

- (4) Immediately after the President has declared the result of a division on an amendment to a motion, or the Chairman has declared the result of a division on any provision of or any amendment to a bill, a Member may

move without notice that in the event of further divisions being claimed in respect of the motion or any amendments thereto, or in respect of any provisions of or any amendments to the bill, the Council or the committee of the Whole Council do proceed to each of such divisions immediately after the division bell has been rung for one minute. Thereupon the President or the Chairman shall put the question on that motion without debate.

- (6) Where there is more than one motion in respect of subsidiary legislation or the instrument referred to in Rule 29 (2)(b) (Notice of Motions and Amendments) on the Agenda of the Council (excluding motions referred to in Rule 29(3)) then, immediately after the President has declared the result of a division on any such motion or any amendment thereto, a Member may move without notice that in the event of further divisions being claimed at that meeting in respect of motions on subsidiary legislation or the instrument, or amendments thereto, the Council do proceed to each of such divisions immediately after the division bell has been rung for one minute. Thereupon the President shall put the question on that motion without debate.

38. Occasions when a Member may Speak more than once

- (3) A Member who has spoken on a question may again be heard to explain some part of his speech which has been misunderstood, but when speaking he shall not introduce new matter and shall only speak on the part which has been misunderstood.

VI. Order in the Council and committees

45. Order in Council and Committee

- (1) The President, the Chairman of a committee of the whole Council or the chairman of any committee, after having called the attention of the Council or the committee to the conduct of a Member who persists in irrelevance or tedious repetition of his own or other Members' arguments in the debate, may direct him to discontinue his speech.

- (2) The President, the Chairman of a committee of the whole Council or the chairman of any committee shall order a Member whose conduct is grossly disorderly to withdraw immediately from the Council or the committee for the remainder of that meeting. The Member who has been so ordered to withdraw by a chairman of a committee of the whole Council under this subrule shall continue to withdraw from the Council for the remainder of that meeting. The Clerk or clerk of any committee shall act on orders received by him from the Chair to ensure compliance with this order.

VII. Role of chairmen of committees

79C. Determining the agenda of a meeting of a committee by Chairmen of Committees

The agenda of a meeting of any committee shall be determined by its chairman.

79D. Application of the Rules of Procedure and other practices by Chairmen of Committees

In any matter not provided for in the practice and procedure of, or that apply to, a committee, the practice and procedure to be followed by that committee shall be such as provided in the Rules of Procedure that are considered by the chairman of that committee as relevant and should be applied with necessary modification.

Procedure for the Election of the President of the Legislative Council

(Schedule 1, Rules of Procedure)

General

1. The election of the President of the Council shall be conducted at a meeting of the Council.
- 1A. The election shall be held at the first meeting of a new term after Members of the Council have made or subscribed an oath or affirmation in accordance with Rule 1 of the Rules of Procedure and the laws of Hong Kong. If there is a need to elect the President in the middle of a term, the election shall take place at a meeting of the Council conducted for the sole purpose of conducting such election, at which no other business shall be placed on the agenda, with the day it is to be held and the hour it is to begin determined by the President's Deputy as if he were the President for the purpose of Rule 14.

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 and to declare that he or she is qualified to become the President under Article 71 of the Basic Law and Rule 4(2) of the Rules of Procedure. 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 be the Member presiding over the election of the President (“Presiding Member”), whose powers and functions are limited to chairing the meeting to elect the President in accordance with Rule 4(1) of the Rules of Procedure and this Schedule.
7. If the Member who has the longest continuous service under paragraph 6 above is being nominated for the office of President or is unable to act, 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.
- 7A. The Presiding Member may only adjourn the Council after he has declared the name of the candidate who has been elected as the President. Where it is necessary for the Presiding Member to suspend the meeting, the meeting shall resume not later than one hour after the meeting was suspended. No further suspension may be ordered before all procedures to elect the President are completed.
- 7B. No speech or debate shall be allowed throughout the entire election process. Where a Member has raised a point of order, the point of order shall forthwith be ruled upon by the Presiding Member without debate. Where the Presiding Member considers that there is an abuse of the procedure, he may refuse to allow any Member to raise any point of order.
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 adjourn the Council.

致 香港特別行政區立法會
議事規則委員會謝偉俊主席

謝主席，

要求討論和表決建制派議員提交的第二批《議事規則》修訂建議

繼 2017 年 10 月 11 日建制派 38 名議員向議事規則委員會提交修改《議事規則》建議後，張宇人議員及陳克勤議員謹代表 38 名建制派議員再向委員會提交第二批修改《議事規則》建議，並附上修訂案的中英文版本。

我們希望 主席閣下能安排與另一批議員(非建制議員)提交的建議，在同一次會議討論和表決。如有任何查詢，歡迎與我們聯絡。

順頌

政安!



立法會議員 張宇人



立法會議員 陳克勤

二零一七年十月三十日

A Proposal to amend the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

1. This proposal is jointly presented by 38 Members of the Legislative Council (**Annex A**). Apart from the proposed amendments contained in our previous proposal submitted to the Committee on Rules of Procedure on 11 October 2017, we consider that it is necessary to amend certain other procedural rules of the Legislative Council (“Council”) (**Annex B**) not covered in our previous proposal so as to further safeguard the smooth conduct of business of the Council and its committees and to uphold the dignity and integrity of the Council.

Reasons for the Proposal

2. As we have mentioned in our previous proposal, the growing trend of using filibustering tactics in recent years by some Members to prolong the proceedings of the Council has seriously hampered the work of the Council in the performance of its constitutional and legal powers and functions. This has resulted in exceedingly long period of time in carrying out the work of the Council and caused unnecessary delays in the enactment of laws and the conduct of Council business as a whole. We are faced with a situation where there is a serious backlog of legislative proposals waiting to be submitted, scrutinized and voted on by the Council as well as other works, and the initiatives on economic development and improvement of people’s livelihood are seriously delayed. But little can be done to improve the situation unless some of the current procedural rules are changed.

The Proposal

3. This Proposal aims to improve the work mechanism of the Council and to address abuse of procedure through the following means:
 - (a) to rationalize matters relating to quorum; and
 - (b) to rationalize procedures for preventing abuse of procedure.

Quorum

4. At present, the quorum of a committee of the whole Council is subject to the same quorum requirement that applies to the Council in Rule 17(1). The quorum requirement in Article 75 of the Basic Law (“BL 75”) applies to meetings of the Council itself. As regards quorum requirement for committees of the Council, that comes within matters of internal operation that the Council could decide on its own pursuant to BL 75. The function of a committee of the whole Council is to discuss the details of a bill committed to it by the Council after its second reading. When all proceedings on the bill in the committee of the whole Council have been completed, the bill is reported to the Council for third reading at which stage a decision on the bill will be made. It is therefore not a Basic Law requirement that a committee of the whole Council must have the same quorum as that of the Council.
5. As pointed out in *A Companion to the history, rules and practices of the Legislative Council of the HKSAR* laid on the Table of the Legislative Council (2015, Para. 7.16, Footnote 27), the quorum of a committee of the whole Council in the pre-1997 Legislature was not stipulated until 1968. Even so, it was not entirely identical to the quorum of the Council. The quorum for a whole of the whole Council had been 10 members excluding the Chairman throughout the 17 years from 1968 to 1985 while the quorum of the Council had changed from 5 Members including the President to 10 Members including the President in 1969, and to 20 Members including the President in 1983. Besides, it had been stipulated in the then Standing Orders and the post-1997 Rules of Procedure that if a quorum of a committee of the whole Council was not present after counting, the Council should be resumed and the President should count the Council. It was only when a quorum was also not present in the Council that the President should adjourn the Council. This is further proof that the Council and a committee of the whole Council are separate entities. It is for the Council to determine the quorum of its committees, including a committee of the whole Council.
6. **We propose to amend Rule 17(1) and add a new subrule (1A) to Rule 17** to provide that the quorum of a committee of the whole Council shall be 20, including the Chairman. This proposed quorum requirement is the same in numerical terms as that for the House Committee, which comprises all Members except the President. We have included in our previous proposal an amendment to Rule 17(3) to reinstate the arrangement for the counting of the Council if there is a lack of quorum in the committee of the whole Council, as was previously the case.

Abuse of procedure

6. In the Rules of Procedure, there are a number of rules which provide Members with the opportunity to move without notice a motion for pursuing a different course of action or for carrying out an action. Examples are the motion not to refer a bill or returned bill to the House Committee under Rule 54(4) and Rule 66(4) respectively, the motion to refer a bill after second reading to a select committee under Rule 55(1)(a), and the motion under Rule 88(1) to order the withdrawal of members of the press and of the public. The need for using these rules is rare. They are for dealing with very exceptional circumstances. However, there had been instances where Members moved some of these motions for prolonging the proceedings of the Council. To avoid abuse of procedure, **we propose that Rules 54(4), 55(1)(a), 66(4) and 88(1) be amended** to require the consent of the President as a precondition for moving such motions.

Consultation with Members

7. We are submitting this Proposal to the Committee on Rules of Procedure (“the Committee”) through members of the Committee in accordance with Rule 74(1), following the practice that any proposed changes to the Rules of Procedure should first be discussed by the Committee. It is our wish that our fellow Members of the Council, irrespective of their political affiliations, would work together to put in place the procedural rules which could enable our Legislature to work effectively and efficiently to meet the needs and expectations of our community.

修訂香港特別行政區立法會議事規則的建議

1. 本建議得到 38 名立法會議員 (見附錄 A) 聯合支持而提交。我們認為除了先前在 2017 年 10 月 11 日向議事規則委員會提交的一系列修訂立法會議事規則的建議外，亦有必要就一些其他的程序規則建議修訂(見附錄 B)，以保障立法會及其轄下各委員會能夠暢順處理事務，以及維護立法會的尊嚴和誠信。

提出建議的原因

2. 正如我們在先前提交的建議書所指，部分議員近年不斷採用拉布的手法，藉以拖長立法會及財務委員會的會議程序，這趨勢已嚴重妨礙立法會履行其憲制及法律權責。後果是這大大地拖長了立法會的工作時間，以致不必要地延誤了法律的制定和立法會的整體運作。我們現時所面對的情況是有待提交到立法會大會進行審議及表決的立法建議及其他工作，出現了嚴重積壓，經濟發展及改善民生的工作受到大幅度的拖延。除非若干現行的程序規則可作修改，否則實在無法改善這種情況。

建議

3. 本建議的目的是透過以下方式，改善立法會的運作模式和處理濫用程序的情況：
 - (a) 釐清關乎會議法定人數的事宜；及
 - (b) 理順防止濫用程序的程序。

會議法定人數

4. 目前，立法會全體委員會的會議法定人數，受《議事規則》第 17(1) 條列明立法會會議法定人數的相同規定所規限。《基本法》第七十五條的會議法定人數要求，只適用於立法會會議。至於立法會轄下委員會的法定人數規定，應屬於立法會根據《基本法》第七十五條可以自行決定的內部運作事宜。立法會全體委員會會議的功能是就已通過二讀而由立法會大會委付予它的法案，詳細討論其細節。當全體委員會完成法案的全部程序後，會將法案向立法會大會報告，

以進行三讀並作出決定。因此，全體委員會會議法定人數與立法會會議法定人數相同，並非《基本法》的規定。

5. 正如經立法會省覽的《香港特別行政區立法機關歷史、規則及行事方式參考手冊》(2015, 7.16 段, 註 27) 所指出, 直至 1968 年之前, 全體委員會的會議法定人數從沒有規定。即使後來有所規定, 其法定人數與立法會會議的法定人數當時並非完全相同。從 1968 年至 1985 年 17 年間, 全體委員會的法定人數一直是 10 位委員(不包括主席在內), 而立法會會議的法定人數則於 1969 年從 5 位議員(包括主席) 更改至 10 位議員(包括主席), 及在 1983 年更改至 20 位議員(包括主席)。此外, 無論在先前的《會議常規》或 1997 後的《議事規則》, 都有指明如全體委員會不足法定人數, 委員會即須回復為立法會會議, 並由立法會主席點算人數; 如法定人數亦是不足, 才可宣布休會待續。這一再證明立法會大會和全體委員會是屬於不同個體, 而委員會(包括全體委員會)的會議法定人數是由立法會決定。
6. 我們建議修訂規則第 17(1)條, 並在該條加入新訂第(1A)款, 規定立法會全體委員會會議法定人數包括主席在內為 20 人。此項擬議會議法定人數的規定與內務委員會的法定人數規定相同, 而內務委員會是由立法會主席除外的所有議員組成。我們亦已於先前的建議中, 修訂規則第 17(3)條, 以恢復以往安排, 如在全體委員會會議期間不足法定人數, 仍必須點算立法會會議法定人數的安排。

濫用程序

7. 在議事規則中, 有些規則是讓議員有機會無須預告, 而可以提出議案, 以改變某種工作方向或即時作出一些行動, 例子包括可動議不須將一個法案或發回重議的法案交付內務委員會(規則第 54(4) 條和規則第 66(4) 條)、或在法案通過二讀後, 可動議將該法案交付專責委員會(規則第 55(1)(a) 條), 或動議新聞界及公眾人士離場(規則第 88(1) 條)。需要引用這些規則的情況十分罕有, 而亦是在非常特殊的情況下才會使用。但有一些議員藉這些議案來拖延會議流程。為遏止濫用程序, 我們建議修訂規則第 54(1), 55(1)(a), 66(4) 及 88(1) 條, 規定作為先決條件, 必須獲立法會主席同意後才可提出該等議案。

諮詢議員

8. 按照慣例，對《議事規則》的任何擬議修改，會先由議事規則委員會進行討論。我們現在根據規則第 74(1)條，透過議事規則委員會委員向議事規則委員會提交此建議。我們希望各位立法會議員同事不分政治聯繫，合力制訂各項能讓立法機關有成效和有效率地進行立法工作的程序規則，以滿足廣大市民的需要及合乎廣大公眾的期望。

**List of Legislative Council Members in support of
the proposed amendments to certain provisions of
the Rules of Procedure of the Legislative Council
(Submitted to the Committee on Rules of Procedure
on 30th October 2017)
(In alphabetical order)**

- | | |
|---------------------------|--------|
| 1. Hon CHAN Chun Ying | 陳振英議員 |
| 2. Hon CHAN Hak Kan | 陳克勤議員 |
| 3. Hon CHAN Han Pan | 陳恆鑛議員 |
| 4. Hon CHAN Kin Por | 陳健波議員 |
| 5. Hon Christopher CHEUNG | 張華峰議員 |
| 6. Hon CHEUNG Kwok Kwan | 張國鈞議員 |
| 7. Hon Tommy CHEUNG | 張宇人議員 |
| 8. Hon Ann CHIANG | 蔣麗芸議員 |
| 9. Hon Holden CHOW | 周浩鼎議員 |
| 10. Hon Felix CHUNG | 鍾國斌議員 |
| 11. Hon Junius HO | 何君堯議員 |
| 12. Hon HO Kai Ming | 何啟明議員 |
| 13. Hon Stephen HO | 何俊賢議員 |
| 14. Hon Regina IP | 葉劉淑儀議員 |
| 15. Hon KWOK Wai Keung | 郭偉強議員 |
| 16. Hon Jeffrey LAM | 林健峰議員 |
| 17. Hon Edward LAU | 劉國勳議員 |
| 18. Hon Kenneth LAU | 劉業強議員 |
| 19. Hon Starry LEE | 李慧琼議員 |
| 20. Hon LEUNG Chi Cheung | 梁志祥議員 |
| 21. Hon Priscilla LEUNG | 梁美芬議員 |
| 22. Hon Martin LIAO | 廖長江議員 |
| 23. Hon LO Wai Kwok | 盧偉國議員 |
| 24. Hon LUK Chung Hung | 陸頌雄議員 |
| 25. Hon MA Fung Kwok | 馬逢國議員 |
| 26. Hon Alice MAK | 麥美娟議員 |
| 27. Hon NG Wing Ka | 吳永嘉議員 |
| 28. Hon OR Chong Shing | 柯創盛議員 |
| 29. Hon POON Siu Ping | 潘兆平議員 |
| 30. Hon Elizabeth QUAT | 葛珮帆議員 |
| 31. Hon Abraham SHEK | 石禮謙議員 |
| 32. Hon SHIU Ka Fai | 邵家輝議員 |

- | | |
|-------------------------|-------|
| 33. Hon Michael TIEN | 田北辰議員 |
| 34. Hon WONG Kwok Kin | 黃國健議員 |
| 35. Hon WONG Ting Kwong | 黃定光議員 |
| 36. Hon Frankie YICK | 易志明議員 |
| 37. Hon YIU Si Wing | 姚思榮議員 |
| 38. Hon YUNG Hoi Yan | 容海恩議員 |

List of proposed amendments to the Rules of Procedure

I. Quorum

17. Quorum

(1) The quorum of the Council ~~and of a committee of the whole Council~~ shall be not less than one half of all its Members including the President ~~or Chairman~~.

(1A) The quorum of a committee of the whole Council shall be 20 members including the Chairman.

II. Abuse of Procedure

54. Second Reading

(4) Except in relation to Appropriation Bills, when the Member in charge of a bill has spoken on a motion that the bill be now read the second time, the debate shall be adjourned and the bill shall be referred to the House Committee unless the Council, on a motion which, **with the consent of the President**, may be moved without notice by any Member, otherwise orders.

55. Committal of Bills

(1) When a motion for the second reading of a bill has been agreed to, the bill shall stand committed to a committee of the whole Council, unless -
(a) the Council, on a motion which, **with the consent of the President**, may be moved without notice by any Member immediately after the bill has been read the second time, commit the bill to a select committee; or

66. Bills Returned for Reconsideration

- (4) After the short title of the bill has been read by the Clerk, a designated public officer may speak on the return of the bill, whereupon the bill shall be referred to the House Committee unless the Council, on a motion which, **with the consent of the President**, may be moved without notice by any Member, otherwise orders.

88. Withdrawal of Members of the Press and of the Public

- (1) At a meeting of the Council, a committee of the whole Council, a committee or a subcommittee a Member may without notice at any time rise and, **with the consent of the President, Chairman or chairman**, move that members of the press and of the public do withdraw, specifying whether the withdrawal is to be for the remainder of that day's meeting or during the consideration of certain business. The President, Chairman or chairman shall forthwith propose the question thereon and the Council, committee of the whole Council, committee or subcommittee shall dispose of it before proceeding further with the business which was before it when the motion was moved.

《議事規則》修訂建議列表

I. 會議法定人數

17. (會議法定人數)

(1) 立法會 ~~及全體委員會的~~會議法定人數為不少於全體議員的二分之一，包括立法會主席 ~~或全體委員會主席~~在內。

(1A) 立法會全體委員會會議法定人數包括主席在內為 20 人。

II. 濫用程序

54. (二讀)

(4) 除與撥款法案有關者外，在負責法案的議員就現即二讀該法案的議案發言後，辯論須中止待續，而該法案須交付內務委員會處理，除非立法會就任何議員 ~~在獲得立法會主席的同意後~~提出的一項可無經預告而動議的議案另有命令。

55. (法案的付委)

- (1) 二讀法案的議案如獲通過，該法案即告付委予全體委員會，除非 —
- (a) 立法會通過議案，將法案付委予一專責委員會；該項議案可 ~~在獲得立法會主席同意的情況下~~無經預告，但須在該法案二讀後即時由任何議員動議；或
 - (b) 立法會主席認為該法案會特別惠及或反之特別影響某人、某社團或某法團，在此情況下，立法會主席可指示將該法案付委予一專責委員會。

66. (發回重議的法案)

(4) 在立法會秘書讀出法案簡稱後，一名獲委派官員可以就該法案發回發言，該法案隨即交付內務委員會，除非立法會就任何議員 ~~在獲得立法會主席的同意後~~提出的一項可無經預告而動議的議案另有命令。

88. (新聞界及公眾人士離場)

(1) 在立法會、全體委員會、委員會或小組委員會會議上，議員可隨時無經預告而起立，並在獲得立法會主席、全體委員會主席、委員會主席或小組委員會主席的同意後，動議新聞界及公眾人士離場，並指明新聞界及公眾人士離場適用於當天會議的餘下程序，抑或只於審議某些事項的一段時間。議案一經動議，立法會主席、全體委員會主席、委員會主席或小組委員會主席隨即須提出該待議議題，而立法會、全體委員會、委員會或小組委員會須先行處理該議題，然後繼續處理該議案動議時立法會、全體委員會、委員會或小組委員會當前的事項。

Tel No : 3919 3300
Fax No : 2810 1691

附錄 III
Appendix III

M E M O

To : Clerk to Committee on Rules of Procedure
From : CCS(3)1
via ASG3 
Our ref : CB(3)/A/53/1
Date : 3 November 2017

Proposals to amend the Rules of Procedure

In accordance with Rule 74(1) of the Rules of Procedure (“RoP”), the President has directed that the attached two notices given by Hon Martin LIAO to move proposed resolutions to amend RoP at the Council meeting of 15 November 2017 be referred to CROP for examination.


(Thomas WONG)
CCS(3)1

Encl.

立法會
Legislative Council

立法會CROP 42/17-18號文件
LC Paper No. CROP 42/17-18

致：立法會秘書 (傳真號碼 Fax No : 2810 1691)
To : Clerk to the Legislative Council

議員作出議案預告
Notice of Motion by Member

謹按照《議事規則》第29(1)條作出預告，本人擬在 2017 年 11 月 15 日舉行的立法會會議上，動議附錄所列的議案。

In accordance with Rule 29(1) of the Rules of Procedure, I hereby give notice of my intention to move the motion in the Appendix at the Legislative Council meeting of 15 November 2017.



簽署
Signature:

姓名
Name:

Martin LIAO Cheung-kong

聯絡人姓名
Name of contact person:

Candice LI

聯絡人的聯絡資料
Contact details of contact person:

25767121 /
(辦公室電話號碼)
(office tel. no.)

(手提電話號碼)
(mobile tel. no.)

27988802 /
(傳真號碼)
(fax no.)

(電郵地址)
(e-mail address)

日期
Date:

31 October 2017

《中華人民共和國香港特別行政區基本法》

決議

(根據《中華人民共和國香港特別行政區基本法》第七十五條)

《香港特別行政區立法會議事規則》

議決修訂《香港特別行政區立法會議事規則》，修訂方式列於附表。

附表

修訂《香港特別行政區立法會議事規則》

1. 加入第 1B 條

在第 1A 條 之後 —

加入

“1B. 立法會主席

立法會設有立法會主席一職，其職權載於《基本法》

第七十二條、香港法律及本《議事規則》。”。

2. 修訂第 3 條（主持立法會及全體委員會會議）

第 3(1) 條 —

廢除

“立法會設有立法會主席一職，主席”

代以

“立法會主席”。

3. 修訂第 14 條（會議日期及時間）

第 14(4) 條 –

(1) 廢除

“另擇一天”。

(2) 廢除

“命令於另一天繼續舉行會議”

代以

“命令於任何時間或任何一天繼續為此目的舉行會議”。

(3) 廢除

“當天會議須暫停舉行，並須於該另一天復會繼續處理有關事項”

代以

“會議須暫停舉行，並須於該時間或該天復會繼續處理有關事項”。

4. 修訂第 17 條 (會議法定人數)

(1) 在第 17(2)條中，在“宣布休會待續。” 之後 –

加入

“立法會主席可召開會議，以完成在任何一天因會議不足法定人數而休會待續在議程上出現的未完事項，如立法會主席認為必須召開這會議，根據此款規定而休會待續的立法會會議，須當作是被命令暫停的會議，可按規則第 14(4)條（會議日期及時間）的規定，於立法會主席命令的時間或日期復會繼續處理有關事項。”。

(2) 在第 17(3)條中，在“即須回復為立法會，”之後

加入

“立法會主席須點算立法會會議人數。如當時已足會議法定人數，立法會須再次轉變為全體委員會，但如果不足會議法定人數，”。

5. 修訂第 19 條（立法會議程）

(1) 在第 19(1)條中，在“每次會議”之前

加入

“在沒有抵觸第 1A 款的情況下，”。

(2) 在第 19(1)條 之後—

加入

“(1A)就任何將列於立法會會議的議程中的議案或任何法案，立法會主席或立法會全體委員會主席有權選擇就該等議案或法案提出的修正案、新條文及新附表，並有權指示他認為類同的兩項或以上的議案或修正案予以合併。”。

6. 修訂第 20 條 (呈請書的提交)

(1) 第 20(6)條—

廢除

所有“專責委員會”

代以

“內務委員會”。

(2) 第 20(6)條—

廢除

“20 名議員”

代以

“全體議員的二分之一” 。

7. 修訂第 30 條 (議案及修正案的預告方式)

(1) 第 30(3)(b)條—

廢除

“然後予以印載；或”

代以

“然後予以印載，該等修改包括因議案或修正案
合併而需作出的修改；” 。

(2) 第 30(3)(c)條—

廢除

“ 。”

代以

“；或” 。

(3) 在第 30(3)(c)條 之後—

加入

“(d) 退回簽署該預告的議員：

- (i) 因該預告不獲立法會主席選擇；或
- (ii) 因該預告已和另一議案或修正案併。”。

(4) 在第 30(3)條 之後—

加入

“(3A) 立法會主席如認為恰當，可在根據第(3)(d)款發出指示前，要求任何曾就議案或修正案作出預告的議員解釋其議案或修正案的主題，使立法會主席可就此事宜作出判斷及考慮有關解釋。如將合併的議案或修正案是由超過 1 名議員提出，立法會主席可指定由哪名議員提出有關的合併議案或修正案。”。

8. 修訂第 38 條 (議員可發言多於一次的情況)

在第 38(3)條中，在“新事宜” 之後—

加入

“及只可就被誤解的部分發言”。

9. 修訂第 40 條 (辯論中止待續或全體委員會休會待續)

在第 40(4)條的末處

加入

“如全體委員會主席認為動議委員會現即休會待續的議案是濫用程序，可決定不提出待決議題或無經辯論而把議題付諸表決。”。

10. 修訂第 45 條（立法會及委員會會議中的秩序）

(1) 第 45(1)條－

廢除

“常設或專責”。

(2) 在第 45 (2) 條中，在“該次會議；”之後－

加入

“根據本款規定被全體委員會主席被命令退席的議員須繼續退席立法會，不得參與立法會的該次會議。”。

11. 修訂第 49 條（點名表決）

(1) 第 49(4)條－

廢除

“主席須就該議案提出待議議題”

代以

“主席須無經辯論而就該議案提出的待決議題付諸表決。”。

(2) 第 49(6)條—

廢除

“立法會主席須就該議案提出待議議題”

代以

“立法會主席須無經辯論而就該議案提出的待決議題付諸表決”。

12. 修訂第 57 條 (法案的修正案)

在第 57(4)(d)條中，在“修正案”之後 -

加入

“或由兩項或以上修正案組成的系列修正案”。

13. 修訂第 75 條 (內務委員會)

(1) 第 75(10) 條 -

廢除

“；或”

代以

“；”。

(2) 第 75(10) (c)條 -

廢除

“。”

代以

“；或”。

(3) 在第 75(10) (c)條 之後 -

加入

“(d) 根據規則第 20(6)條(呈請書的提交)向其交付的呈請書。”。

(4) 第 75(10A)條 -

廢除

“及其他文書”

代以

“，其他文書及呈請書”。

14. 加入第 79C 條

在第 79B 條 之後 —

加入

“79C. 委員會主席決定委員會會議議程

任何委員會的會議議程須由其主席決定。”。

15. 加入第 79D 條

在第 79B 條 之後 —

加入

“79D. 委員會主席應用《議事規則》及其他行事
方式

就任何在委員會的行事方式及程序中，或在適用於該委員會的行事方式及程序中，均沒有規定的任何事宜，須按該委員會主席認為《議事規則》所訂與此相關的行事方式及程序處理，並須在作

出所需變通後適用於該委員會。”。

16. 修訂附表 1（選舉立法會主席的程序）

(1) 在英文文本中 —

廢除

所有 “presiding Member”

代以

“Presiding Member”

(2) 廢除

“立法會主席的選舉須在立法會會議上進行。”

代以

“總則

1. 立法會主席的選舉須在立法會會議上舉行。”。

(3) 加入第 1A 段

在第 1 段 之後 —

加入

“1A. 選舉須在議員已按照第 1 條(宗教式或非宗

教式宣誓)的規定及香港法律作宗教式或非宗教式宣誓後的新一屆第一次會議上舉行。如有需要在屆中選舉立法會主席，該次選舉須在立法會一次完全只為選舉立法會主席的目的而進行的會議上舉行；議程不得載有任何其他事務；會議舉行的日期和開始的時間，由立法會代理主席(猶如他是規則第 14 條(會議日期及時間)所指的立法會主席)作出決定。”。

(4) 在第 3 段中，在“以示接受提名”後 —

加入

“，並聲明其具有資格可根據《基本法》第七十一條及第 4(2)條(立法會主席的選舉)成為立法會主席”。

(5) 第 6 段 —

廢除

“須主持立法會主席的選舉”

代以

代以

“須作為主持立法會主席選舉的議員(“主持選舉的議員”)，其職權僅限於按照第 4(1) 條(立法會主席的選舉)及本附表的規定主持選舉立法會主席的會議”。

(6) 加入第 7A 段及第 7B 段

在第 7 段 之後 —

加入

“7A. 主持選舉的議員只可在其宣布已當選立法會主席的議員姓名後將會議休會待續。如主持選舉的議員有必要暫停會議，會議須於暫停後 1 小時內復會。在所有選舉立法會主席的程序完成前，不得命令會議再次暫停。

7B. 主持選舉的議員在整個選舉過程中不得准許議員發言，但規程問題除外。規程問題不容辯論。如主持選舉的議員認為有議員濫用程序，主持選舉的議員可拒絕准許任何議員提出任何規程問

題。”。

(7) 第 17 段 —

廢除

“然後視乎情況，著手處理會議事項、宣布休會待
續、或暫停舉行會議”

代以

“然後宣布休會待續”。

**Basic Law of the Hong Kong Special Administrative Region of the
People's Republic of China**

Resolution

(Under Article 75 of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China)

**Rules of Procedure of the Legislative Council of the
Hong Kong Special Administrative Region**

Resolved that the Rules of Procedure of the Legislative Council of
the Hong Kong Special Administrative Region be amended as set out
in the Schedule.

Schedule

Amendments to Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

1. **Rule 1B added**
After Rule 1A –
Add
“1B. The President of the Legislative Council
There shall be a President of the Council whose powers and functions are set out in Article 72 of the Basic Law, the laws of Hong Kong and these Rules of Procedure.”.

2. **Rule 3 amended (Presiding in Council and in Committee of the whole Council)**
Rule 3(1) –
 - (1) **Repeal**
“There shall be a”
Substitute
“The”.
 - (2) **Repeal**
“who”.

3. **Rule 14 amended (Days and Hours of Meetings)**
Rule (14)(4) –
 - (1) **Repeal**
“on another day”.
 - (2) **Repeal**
“continue on such other day”
Substitute
“continue at any hour or on any day”.
 - (3) **Repeal**
“on such other day”
Substitute
“at such hour or on such day”.

4. **Rule 17 amended (Quorum)**

(1) In Rule 17(2), after “without question put.” –

Add

“The President may call a meeting to complete the unfinished business on the Agenda after the Council has been so adjourned, and should the President consider that such a meeting has to be called the adjournment of the Council under this subrule shall be deemed to be a meeting ordered to be suspended and may be resumed for the continuation of business at such hour or on such day pursuant to Rule 14(4).”

(2) In Rule 17(3), after “shall be resumed and” –

Add

“the President shall count the Council. If a quorum is then present the Council shall again resolve itself into committee but if a quorum is not present, ”.

5. **Rule 19 amended (The Agenda of the Council)**

(1) Rule 19(1) –

Repeal

“All”

Substitute

“Subject to subrule (1A), all”.

(2) After Rule 19(1) –

Add

“(1A) In respect of any motion or any bill to be placed on the Agenda for a meeting of the Council, the President or the Chairman of a committee of the whole Council shall have the power to select the amendments, new clauses or new schedules to be proposed to such motion or bill, and also the power to direct two or more motions or amendments considered by him to be cognate to be combined.”.

6. **Rule 20 amended (Presentation of Petitions)**

(1) Rule 20(6) –

Repeal

“a select committee” (wherever appearing)

Substitute

“the House Committee”.

(2) Rule 20(6) –

Repeal

“If not less than 20 Members”

Substitute

“If no less than one half of all Members of the Council”.

7. **Rule 30 amended (Manner of Giving Notice of Motions and Amendments)**

(1) In Rule 30(3)(b), after “such alterations” –

Add

“, which includes those necessitated by the combination of motions or amendments,”;

(2) Rule 30(3)(c) –

Repeal

“.”

Substitute

“; or”;

(3) After Rule 30(3)(c) –

Add

“(d) that it be returned to the Member who signed it:

(i) as it has not been selected by the President; or

(ii) as it has been combined with another motion or amendment.”.

(4) After Rule 30(3) –

Add

“(3A) Before a direction is given under subrule (3)(d), the

President may, if he thinks fit, request any Member who has given notice of a motion or an amendment to give such explanation of the subject matter of the motion or amendment as may enable him to form his judgment on the matter, and may take into account the explanation so given. In the event that there are more than one Member proposing the motions or amendments to be combined, the President may designate which Member shall propose it.”.

8. **Rule 38 amended (Occasions when a Member may Speak more than once)**

In Rule 38(3), after “new matter” –

Add

“and shall only speak on the part which has been misunderstood”.

9. **Rule 40 amended (Adjournment of Debate or of Proceedings of a Committee of the Whole Council)**

In Rule 40(4), at the end –

Add

“Where the Chairman is of the opinion that the moving of the adjournment of proceedings is an abuse of procedure, he may decide not to propose the question or to put the question forthwith without debate.”

10. **Rule 45 amended (Order in Council and Committee)**

(1) Rule 45(1) –

Repeal

“standing or select”.

(2) Rule 45(2) –

Repeal

“; and the Clerk”

Substitute

“The Member who has been so ordered to withdraw by a chairman of a committee of the whole Council under this subrule shall continue to withdraw from the Council for the remainder of that meeting. The Clerk”.

11. **Rule 49 amended (Divisions)**

(1) Rule 49(4) –

Repeal

“shall propose the question on that motion”

Substitute

“shall put the question on that motion without debate”.

(2) Rule 49(6) –

Repeal

“shall propose the question on that motion”

Substitute

“shall put the question on that motion without debate”.

12. **Rule 57 amended (Amendments to Bills)**

In Rule 57(4)(d), before “which is” –

Add

“or a series of two or more amendments”.

13. **Rule 75 amended (House Committee)**

(1) Rule 75(10) –

Repeal

“; or”.

(2) Rule 75(10) –

Repeal

“(b).”

Substitute

“(b); or”.

(3) After Rule 75(10) (c)–

Add

“(d) a petition referred to it under Rule 20(6) (Presentation of Petitions).”.

(4) Rule 75(10A) –

Repeal

“and other instruments”

Substitute

“, other instruments and petitions”.

14. **Rule 79C added**

After Rule 79B –

Add

“79C. Determining the agenda of a meeting of a committee by Chairmen of Committees

The agenda of a meeting of any committee shall be determined by its chairman.”.

15. **Rule 79D added**

After Rule 79B –

Add

“79D. Application of the Rules of Procedure and other practices by Chairmen of Committees

In any matter not provided for in the practice and procedure of, or that apply to, a committee, the practice and procedure to be followed by that committee shall be such as provided in the Rules of Procedure that are considered by the chairman of that committee as relevant and should be applied with necessary modification.”.

16. **Schedule 1 amended (Procedure for the Election of the President of the Legislative Council)**

(1) In the English text –

Repeal

“presiding Member” (wherever appearing)

Substitute

“Presiding Member”.

(2) **Repeal**

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

Substitute

“General

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

(3) **Paragraph 1A added**

After paragraph 1–

Add

“1A. The election shall be held at the first meeting of a new term after Members of the Council have made or subscribed an oath or affirmation in accordance with Rule 1 (Oath or Affirmation) and the laws of Hong Kong. If there is a need to elect the President in the middle of a term, the election shall take place at a meeting of the Council conducted for the sole purpose of conducting such election, at which no other business shall be placed on the agenda, with the day it is to be held and the hour it is to begin determined by the President’s Deputy as if he were the President for the purpose of Rule 14 (Days and Hours of Meetings).”

(4) In paragraph 3, after “acceptance of nomination” –

Add

“and to declare that he or she is qualified to become the President under Article 71 of the Basic Law and Rule 4(2) (Election of President)”.

(5) Paragraph 6 –

Repeal

“Rule 1A shall preside at the election of the

President.”

Substitute

“Rule 1A (Precedence of Members) shall be the Member presiding over the election of the President (“Presiding Member”), whose powers and functions are limited to chairing the meeting to elect the President in accordance with Rule 4(1) of the Rules of Procedure and this Schedule.”.

(6) Paragraph 7A and 7B added

After paragraph 7 –

Add

“7A. The Presiding Member may only adjourn the Council after he has declared the name of the candidate who has been elected as the President. Where it is necessary for the Presiding Member to suspend the meeting, the meeting shall resume not later than one hour after the meeting was suspended. No further suspension may be ordered before all procedures to elect the President are completed.

7B. No speech or debate shall be allowed throughout the entire election process. Where a Member has raised a point of order, the point of order shall forthwith be ruled upon by the Presiding Member without debate. Where the Presiding Member considers that there is an abuse of the procedure, he may refuse to allow any Member to raise any point of order.”.

(7) Paragraph 17 –

Repeal

“shall then proceed with the business of the meeting or adjourn the Council or suspend the meeting, as the case may be”

Substitute

“shall then adjourn the Council”.

立法會
Legislative Council

立法會CROP 43/17-18號文件
LC Paper No. CROP 43/17-18

致 : 立法會秘書 (傳真號碼 Fax No : 2810 1691)
To : Clerk to the Legislative Council

議員作出議案預告
Notice of Motion by Member

謹按照《議事規則》第29(1)條作出預告，本人擬在__2017__年__11__月__15__日舉行的立法會會議上，動議附錄所列的議案。

In accordance with Rule 29(1) of the Rules of Procedure, I hereby give notice of my intention to move the motion in the Appendix at the Legislative Council meeting of __15 November 2017__.



簽署
Signature:

姓名
Name:

Martin LIAO Cheung-kong

聯絡人姓名
Name of contact person:

Candice LI

聯絡人的聯絡資料
Contact details of contact person:

25767121 /
(辦公室電話號碼)
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(手提電話號碼)
(mobile tel. no.)

27988802 /
(傳真號碼)
(fax no.)

(電郵地址)
(e-mail address)

日期
Date:

31 October 2017

《中華人民共和國香港特別行政區基本法》

決議

(根據《中華人民共和國香港特別行政區基本法》第七十五條)

《香港特別行政區立法會議事規則》

議決修訂《香港特別行政區立法會議事規則》，修訂方式列於附表。

附表

修訂《香港特別行政區立法會議事規則》

1. 修訂第 17 條 (會議法定人數)
 - (1) 第 17(1)條 -
廢除
 - (a) “及全體委員會的” ；及
 - (b) “或全體委員會主席” 。
 - (2) 在第 17(1)條 之後 -
加入
“(1A) 立法會全體委員會會議法定人數包括主席在內為 20 人。” 。
2. 修訂第 54 條 (二讀)
在第 54(4)條中，在 “任何議員” 之後 -
加入
“在獲得立法會主席的同意後” 。
3. 修訂第 55 條 (法案的付委)
在第 55(1)(a)條中，在 “該項議案可” 之後 -
加入
“在獲得立法會主席同意的情況下” 。
4. 修訂第 66 條 (發回重議的法案)
在第 66(4)條中，在 “任何議員” 之後 -
加入
“在獲得立法會主席的同意後” 。

5. 修訂第 88 條 (新聞界及公眾人士離場)

在第 88(1)條中，在“無經預告而起立”之後 -

加入

“，並在獲得立法會主席、全體委員會主席、委員會主席或小組委員會主席的同意後，”。

**Basic Law of the Hong Kong Special Administrative Region of the
People's Republic of China**

Resolution

(Under Article 75 of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China)

**Rules of Procedure of the Legislative Council of the
Hong Kong Special Administrative Region**

Resolved that the Rules of Procedure of the Legislative Council of
the Hong Kong Special Administrative Region be amended as set out
in the Schedule.

Schedule

Amendments to the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

1. **Rule 17 amended (Quorum)**

(1) Rule 17(1) –

Repeal

(a) “and of a committee of the whole Council”; and

(b) “or Chairman”.

(2) After Rule 17(1) –

Add

“(1A) The quorum of a committee of the whole Council shall be 20 members including the Chairman.”.

2. **Rule 54 amended (Second Reading)**

In Rule 54(4), after “on a motion which”–

Add

“, with the consent of the President,”.

3. **Rule 55 amended (Committal of Bills)**

In Rule 55(1)(a), after “on a motion which”–

Add

“, with the consent of the President,”.

4. **Rule 66 amended (Bills Returned for Reconsideration)**

In Rule 66(4), after “on a motion which”–

Add

“, with the consent of the President,”.

5. **Rule 88 amended (Withdrawal of Members of the Press and of the Public)**

In Rule 88(1), after “rise and”–

Add

“, with the consent of the President, Chairman or chairman,”.

(傳真及專人送遞)

2017 年 10 月 27 日

立法會

議事規則委員會

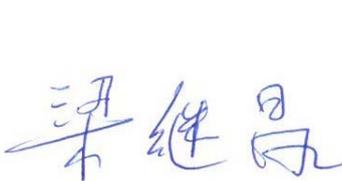
謝偉俊主席：

就 38 名議員建議修改《議事規則》提出的修訂建議

38 名議員就《議事規則》提出了多項修訂，這些修訂將對立法會大會、財務委員會及多個委員會的運作造成重大影響。經詳細審閱後，我們認為大部份的修訂建議都需要作進一步的修訂，以避免對立法會的運作造成不可挽回的影響。

來函謹附上我們對 38 名議員的修訂建議所作的再修訂建議（見附件）。我們要求 主席閣下能作出安排，於即將舉行的議事規則委員會會議上，能在討論相關議程時一併討論後述所列出的修訂建議。

委員會成員



梁繼昌議員



郭榮鏗議員



楊岳橋議員



涂謹申議員

謹啟

1B. 立法會主席

原議案修訂：

立法會設有立法會主席一職，其職權載於《基本法》第七十二條、香港法律及本《議事規則》。

建議修訂一：

立法會設有立法會主席一職，**立法會主席在執行職務時，須時刻保持和維護立法會的自主權**，其職權載於《基本法》第七十二條、香港法律及本《議事規則》。

3. 主持立法會及全體委員會會議

原議案修訂：

(1) 立法會設有立法會主席一職，主席如出席立法會或全體委員會會議，並認為能執行主席職務，須主持立法會會議或擔任全體委員會主席。

建議修訂一：

立法會設有立法會主席一職，主席的職責是必須平衡立法會中多數人與少數人的權益，並確保立法會各方面的利益得到倡議和保障，不會被任意濫用的權力損害。主席如出席立法會或全體委員會會議，並認為其能執行主席職務，須主持立法會會議或擔任全體委員會主席。

14. 會議日期及時間

原議案修訂：

(4) 立法會主席如認為為了在立法會會議上適當地處理完議程上的各項事務，有必要另擇一天繼續處理未完事項，則可命令於任何時間或任何一天另擇一天繼續為此目的舉行會議。凡立法會主席在立法會會議上作此命令，當天該天會議須暫停舉行，並須於該另擇一時間或該天天復會繼續處理有關事項。

建議修訂一：

(4) 立法會主席如認為為了在立法會會議上適當地處理完議程上的各項事務，有必要另擇一天繼續處理未完事項，則可命令於 **另任何時間或任何一曆日任何時間**天另擇一天繼續 **為此目的**舉行會議。凡立法會主席在立法會會議上作此命令，當天 **該天**會議須暫停舉行，並須於該 **選定日子（但不包括會議暫停當天）及**另擇一時間 **或該天**天復會繼續處理有關事項。

17. 會議法定人數

原議案修訂：

如出席會議的議員不足法定人數，而有人向立法會主席提出此事，立法會主席即須指示傳召議員到場。15 分鐘後，如仍不足法定人數，立法會主席即無須付諸表決而宣布休會待續。立法會主席可召開會議，以完成在任何一天因會議不足法定人數而休會待續在議程上出現的未完事項，如立法會主席認為必須召開這會議，根據此款規定而休會待續的立法會會議，須當作是被命令暫停的會議，可按規則第 14(4) 條的規定，於立法會主席命令的時間或日期復會繼續處理有關事項。

建議修訂一：

(2) 如出席會議的議員不足法定人數，而有人向立法會主席提出此事，立法會主席即須指示傳召議員到場。15 分鐘後，如仍不足法定人數，立法會主席即無須付諸表決而宣布休會待續。立法會主席如在下一次會議前收到分區直接選舉組別及功能團體組別均過半數議員去信要求，可召開會議，以完成在任何一天因會議不足法定人數而休會待續在議程上出現的未完事項，~~如立法會主席認為必須召開這會議~~，根據此款規定而休會待續的立法會會議，須當作是被命令暫停的會議，可按規則第 14(4) 條的規定，於立法會主席命令的時間或日期復會繼續處理有關事項。

建議修訂二：

(2) 如出席會議的議員不足法定人數，而有人向立法會主席提出此事，立法會主席即須指示傳召議員到場。15 分鐘後，如仍不足法定人數，立法會主席即無須付諸表決而宣布休會待續。立法會主席如在下一次會議前收到全體議員三分之二多數去信要求，可召開會議，以完成在任何一天因會議不足法定人數而休會待續在議程上出現的未完事項，如立法會主席認為必須召開這會議，根據此款規定而休會待續的立法會會議，須當作是被命令暫停的會議，可按規則第 14(4) 條的規定，於立法會主席命令的時間或日期復會繼續處理有關事項。

原議案修訂：

(3) 如未有足夠法定人數出席會議，而有人向全體委員會主席提出此事，全體委員會主席即須指示傳召議員到場。15 分鐘後，如仍不足法定人數，委員會即須回復為立法會，立法會主席須點算立法會會議人數。如當時已足會議法定人數，立法會須再次轉變為全體委員會，但如果不足會議法定人數，立法會主席即無須付諸表決而宣布休會待續。

建議修訂一：

(3) 如未有足夠法定人數出席會議，而有人向全體委員會主席提出此事，全體委員會主席即須指示傳召議員到場。15 分鐘後，如仍不足法定人數，委員會即須回復為立法會，立法會主席須點算立法會會議人數。如當時已足會議法定人數，立法會**主席須即時提出是否再次轉變為全體委員會的待決議案，議員即可進行辯論。如議案獲得通過，須立法會即**再次轉變為全體委員會，但如果不足會議法定人數**或上述議案無法獲得通過，**立法會主席即無須付諸表決而宣布休會待續。

建議修訂二：

(3) 如未有足夠法定人數出席會議，而有人向全體委員會主席提出此事，全體委員會主席即須指示傳召議員到場。15 分鐘後，如仍不足法定人數，委員會即須回復為立法會，立法會主席須點算立法會會議人數。如當時已足會議法定人數，立法會主席須即時提出是否再次轉為全體委員會的待決議案，議員即可進行辯論。如獲全體議員三分之二多數通過，一須即再次轉變為全體委員會，但如果不足會議法定人數或上述議案無法獲得通過，立法會主席即無須付諸表決而宣布休會待續。

19. 立法會議程

原議案修訂：

(1) 立法會議程由立法會主席決定，並須有中、英文本。在沒有抵觸第 1A 款的情況下，每次會議所有經事先作出預告的事項，須依照本議事規則第 18 條(各類事項的次序)規定的次序，列於該次會議的議程內。

建議修訂一：

(1) 立法會議程由立法會主席決定，並須有中、英文本。在沒有抵觸第 (1A) 款及 (3) 款的情況下，每次會議所有經事先作出預告的事項，須依照本議事規則第 18 條(各類事項的次序)規定的次序，列於該次會議的議程內。

建議修訂二：

(1) 立法會議程由立法會主席決定，並須有中、英文本。在沒有抵觸第 (1A) 款的情況下，每次會議所有經事先作出預告的事項，須依照本議事規則第 18 條(各類事項的次序)規定的次序，列於該次會議的議程內。

原議案修訂：

(1A) 就任何將列於立法會會議的議程中的議案或任何法案，立法會主席或立法會全體委員會主席有權選擇就該等議案或法案提出的修正案、新條文及新附表，並有權指示他認為類同的兩項或以上的議案或修正案予以合併。

建議修訂一：

(1A) 就任何將列於立法會會議的議程中的議案或任何法案，立法會主席或立法會全體委員會主席有權選擇就該等議案或法案提出的修正案、新條文及新附表，**致函獲動議人同意下，並**有權指示他認為類同的兩項或以上的議案或修正案予以**分拆或**合併。

建議修訂二：

(1A) 就任何將列於立法會會議的議程中的議案或任何法案，立法會主席或立法會全體委員會主席有權選擇就該等議案或法案提出的修正案、新條文及新附表，**致函獲動議人同意下，並**有權指示他認為類同的兩項或以上的議案或修正案予以合併。

20. 呈請書的提交

原議案修訂：

(6) 呈請書提交後，如有議員即時起立，要求將呈請書交付專責內務委員會處理，立法會主席即須請支持此項要求的議員起立；如有不少於 ~~20~~ 名議員 全體議員的二分之一 起立，呈請書即告交付 內務專責 委員會處理。

建議修訂一：

(6) 呈請書提交後，如有議員即時起立，要求將呈請書交付專責內務委員會 全體委員所成組成的專責委員會 處理 並提交報告予內務委員會，立法會主席即須請支持此項要求的議員起立；如有不少於 ~~20~~ 名議員 全體議員的三分之一分區直接選舉產生的議員的三分之一或功能團體選舉產生的議員的三分之一 起立，呈請書即告交付專責委員會處理，該專責委員會須撰寫呈請書 報告並 交付 內務專責 委員會處理。

建議修訂二：

(6) 呈請書提交後，如有議員即時起立，要求將呈請書交付專責內務委員會 全體委員所成組成的專責委員會 處理 並提交報告予內務委員會，立法會主席即須請支持此項要求的議員起立；如有不少於 ~~20~~ 名議員 全體議員的三分之一各地方選區直接選舉產生的一名議員及由功能團體選舉產生的一名議員 起立，呈請書即告交付專責委員會處理，該專責委員會須撰寫呈請書 報告並 交付 內務專責 委員會處理。

30. 議案及修正案的預告方式

原議案修訂：

(3) 就議案或修正案所作預告，須呈交立法會主席，由其指示按以下方式處理 -

- (a) 按所交來的原有措辭印載；或
- (b) 按其指示修改，然後予以印載，該等修改包括因議案或修正案合併而需作出的修改；或
- (c) 因其認為不合乎規程，將該預告退回簽署該預告的議員；或
- (d) (d) 退回簽署該預告的議員：
 - (i) 因該預告不獲立法會主席選擇；或
 - (ii) 因該預告已和另一議案或修正案合併。

(4) 立法會主席如認為恰當，可在根據第(3)(d)款發出指示前，要求任何曾就議案或修正案作出預告的議員解釋其議案或修正案的主題，使立法會主席可就此事宜作出判斷及考慮有關解釋。如將合併的議案或修正案是由超過 1 名議員提出，立法會主席可指定由哪名議員提出有關的合併議案或修正案。如立法會秘書就相同修正案接獲多於一項預告，最早作出預告而未有撤回該預告的議員為修正案的動議人。

建議修訂一：

- (3) 就議案或修正案所作預告，須呈交立法會主席，由其指示按以下方式處理 –
- (a) 按所交來的原有措辭印載；或
 - (b) 按其指示修改，然後予以印載，該等修改包括因議案或修正案合併而需作出的修改及其修改須徵得提案或修正案議員同意；
或
 - (c) 因其認為不合乎規程，將該預告退回簽署該預告的議員。— ；
或
 - (d) (d) 退回簽署該預告的議員：
 - (i) 因該預告不獲立法會主席選擇； 或
 - (ii) 因該預告已獲提案或修正案議員同意下和另一議案或修正案合併。
- (4) 立法會主席如認為恰當，可在根據第(3)(d)款發出指示前，要求任何曾就議案或修正案作出預告的議員解釋其議案或修正案的主題，使立法會主席可就此事宜作出判斷及考慮有關解釋提出合併建議，合併建議須獲得提案或修正案議員同意才可合併。如將合併的議案或修正案是由超過 1 名議員提出，立法會主席可根據最早作出預告而未有撤回該預告的議員為動議人指定由哪名議員提出有關的合併議案或修正案。—如立法會秘書就相同修正案接獲多於一項預告，最早作出預告而未有撤回該預告的議員為修正案的動議人。—

38. 議員可發言多於一次的情況

原議案修訂：

(3) 已就某議題發言的議員，可再次發言以解釋其先前發言中被誤解的部分，但發言時不得提出新事宜及只可就被誤解的部分發言。

建議修訂一：

(3) 已就某議題發言的議員，可再次發言以解釋其先前發言中被誤解的部分，但發言時不得提出新事宜及只可就被誤解的部分發言；若相關議員提出要求，主席必須暫停會議，與相關議員重看相關發言片段，以釐清發言內容。

40. 辯論中止待續或全體委員會休會待續

原議案修訂：

(4) 在立法會全體委員會會議上，議員可無經預告而動議一項委員會現即休會待續的議案，全體委員會主席須即提出該議案的待議議題。議案如獲通過，委員會即須回復為立法會；議案如被否決，則委員會的程序即須繼續進行。如全體委員會主席認為動議委員會現即休會待續的議案是濫用程序，全體委員會主席可決定不提出待決議題或無經辯論而把議題付諸表決。

建議修訂一：

(4) 在立法會全體委員會會議上，議員可無經預告而動議一項委員會現即休會待續的議案，全體委員會主席須即提出該議案的待議議題。議案如獲通過，委員會即須回復為立法會；議案如被否決，則委員會的程序即須繼續進行。如全體委員會主席認為動議委員會現即休會待續的議案是濫用程序，**即該議員已就該項議題提出一次休會待續的議案**，全體委員會主席可決定不提出待決議題或無經辯論而把議題付諸表決。

建議修訂二：

(4) 在立法會全體委員會會議上，議員可無經預告而動議一項委員會現即休會待續的議案，全體委員會主席須即提出該議案的待議議題。議案如獲通過，委員會即須回復為立法會；議案如被否決，則委員會的程序即須繼續進行。如全體委員會主席認為動議委員會現即休會待續的議案是濫用程序，全體委員會主席可決定不提出待決議題或無經辯論而把議題付諸表決，須即時提出該議員有否濫用程序的待決議案，由全體委員會展開辯論，並於五分鐘表決鐘聲後付諸表決，若議案獲通過，該項休會待續議案將不獲受理。

45. 立法會及委員會會議中的秩序

原議案修訂：

(1) 立法會主席、全體委員會主席或任何常設或專責委員會主席如發覺有議員在辯論中不斷提出無關的事宜，或冗贅煩厭地重提本身或其他議員的論點，於向立法會或委員會指出該議員的行為後，可指示該議員不得繼續發言。

建議修訂一：

(1) 立法會主席、全體委員會主席或任何常設或專責根據本《議事規則》第 72、73 及 75 條所組成的委員會主席如發覺有議員在辯論中不斷提出無關的事宜，或冗贅煩厭地重提本身或其他議員的論點，於向立法會或委員會指出該議員的行為後，可指示該議員不得繼續發言。

建議修訂二：

(1) 立法會主席、全體委員會主席或任何常設或專責委員會主席如發覺有議員在辯論中不斷提出無關的事宜，或冗贅煩厭地重提本身或其他議員的論點，於向立法會或委員會指出該議員的行為後，可指示該議員不得繼續發言。

建議修訂三：

(1) 立法會主席、全體委員會主席或任何常設或專責委員會主席如發覺有議員在辯論中不斷提出無關的事宜，或冗贅煩厭地重提本身或其他議員的論點，於向立法會或委員會即時提出待決議題：判斷冗贅發言，並經討論及表決指出該議員的行為後，可指示該議員不得繼續發言。

原議案修訂：

(2) 如議員行為極不檢點，立法會主席、全體委員會主席或任何委員會主席即須命令其立即退席，不得繼續參與立法會或委員會的該次會議。根據本款規定被全體委員會會議主席命令退席的議員須繼續退席立法會，不得參與立法會的該次會議。—立法會秘書或任何委員會的秘書須按照主席的命令採取行動，以確保該命令得以遵從。

建議修訂一：

(2) 如議員行為極不檢點，立法會主席、全體委員會主席或任何委員會主席即須命令其立即退席，不得繼續參與立法會或委員會的該次會議。根據本款規定被全體委員會會議主席命令退席的議員須繼續退席立法會 當日全體委員會會議，不得參與立法會的該次會議而行使本款的主席亦須在會議後以書面向全體立法會議員解釋該命令的原因及理據。—立法會秘書或任何委員會的秘書須按照主席的命令採取行動，以確保該命令得以遵從。

49. 點名表決

原議案修訂：

(4) 在緊接立法會主席宣布議案修正案的點名表決結果或全體委員會主席宣布法案的任何條文或任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就該議案或該議案的任何修正案，或就法案的任何條文或任何修正案進行點名表決時，立法會或全體委員會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時立法會主席或全體委員會主席須無經辯論而就該議案提出的待決待議議題付諸表決。

建議修訂一：

(4) 在緊接立法會主席宣布議案修正案的點名表決結果或全體委員會主席宣布法案的任何條文或任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就該議案或該議案的任何修正案，或就法案的任何條文或任何修正案進行點名表決時，立法會或全體委員會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時提出縮短表決鐘聲時間的議員，必須證明並非濫用程序或拖延議案，立法會主席或全體委員會主席須無經辯論而就該議案提出的待決待議議題付諸表決。

建議修訂二：

(4) 在緊接立法會主席宣布議案修正案的點名表決結果或全體委員會主席宣布法案的任何條文或任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就該議案或該議案的任何修正案，或就法案的任何條文或任何修正案進行點名表決時，立法會或全體委員會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時立法會主席或全體委員會主席須無經辯論而就該議案提出的待決待議議題付諸表決；若有議員要求進行辯論，立法會或全體委員會須隨即就議案展開辯論，並於五分鐘表決鐘聲後付諸表決。

原議案修訂：

(6) 如有多於一項有關立法會議程所列附屬法例或本議事規則第 29(2)(b) 條(議案及修正案的預告)所提述的文書的議案(本議事規則第 29(3)條提述的議案除外)，則在立法會主席宣布該議案或該議案的任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就附屬法例或文書提出的議案或該議案的任何修正案進行點名表決時，立法會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時立法會主席須無經辯論而就該議案提出的待決議題付諸表決待議議題。

建議修訂一：

(6) 如有多於一項有關立法會議程所列附屬法例或本議事規則第 29(2)(b) 條(議案及修正案的預告)所提述的文書的議案(本議事規則第 29(3) 條提述的議案除外)，則在立法會主席宣布該議案或該議案的任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就附屬法例或文書提出的議案或該議案的任何修正案進行點名表決時，立法會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時 提出縮短表決鐘聲時間的議員，必須證明並非濫用程序或拖延議案，立法會主席須無經辯論而就該議案提出的待決議題付諸表決待議議題。

建議修訂二：

(6) 如有多於一項有關立法會議程所列附屬法例或本議事規則第 29(2)(b) 條(議案及修正案的預告)所提述的文書的議案(本議事規則第 29(3) 條提述的議案除外)，則在立法會主席宣布該議案或該議案的任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就附屬法例或文書提出的議案或該議案的任何修正案進行點名表決時，立法會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時立法會主席須無經辯論而就該議案提出的待決議題付諸表決待議議題；若有議員要求進行辯論，立法會或全體委員會須隨即就議案展開辯論，並於五分鐘表決鐘聲後付諸表決。

57. 法案的修正案

原議案修訂：

(4) 以下規定適用於與法案有關的修正案：

(a) 修正案必須與法案的主題及有關條文的主題有關。

(b) 修正案不得與已獲通過的條文或全體委員會就法案先前所作的決定不一致。

(c) 修正案不得令建議修正的條文變得不能理解或不合語法。

(d) 不可動議全體委員會主席認為瑣屑無聊或無意義的修正案。

(e) 凡動議對具備兩個法定語文文本的法案作出修正，除非該修正案明顯地只影響其中一個文本，否則每一個文本均須作出修正；但不可動議令兩個文本相互抵觸或意義差歧的修正案或由兩項或以上修正案組成的系列修正案。

建議修訂一：

(e) 凡動議對具備兩個法定語文文本的法案作出修正，除非該修正案明顯地只影響其中一個文本，否則每一個文本均須作出修正；但不可動議令兩個文本相互抵觸或意義差歧的修正案或由兩項或以上修正案組成的系列修正案。

75. 內務委員會

原議案修訂：

(10) 委員會須決定下列事宜的研究方式 -

- (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) (a) 或 (b) 段提述的附屬法例或文書的任何擬稿；
- (d) 根據規則第 20(6) 條向其交付的呈請。

(10A) 在研究第(10)款所提述的附屬法例及其他文書及呈請書後，委員會可向立法會提交報告。

建議修訂一：

(10) 委員會須決定下列事宜的研究方式 -

- (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) (a) 或 (b) 段提述的附屬法例或文書的任何擬稿；
- (d) 根據規則第 20(6) 條向其交付的呈請書報告。

(10A) 在研究第(10)款所提述的附屬法例及其他文書及呈請書報告後，委員會可向立法會提交報告。

原議案修訂：

79C. 委員會主席決定委員會會議議程

任何委員會的會議議程須由其主席決定。

建議修訂一：

任何委員會的會議議程須由其主席 **及在委員沒有反對下**決定。

建議修訂二：

任何委員會的會議議程須由其主席 **及在委員過半同意下**決定。

建議修訂三：

任何委員會的會議議程須由其主席 **在會議前五整天作出預告，並經委員會委員同意後**決定。

原議案修訂：

79D. 委員會主席應用《議事規則》及其他行事方式

就任何在委員會的行事方式及程序中，或在適用於該委員會的行事方式及程序中，均沒有規定的任何事宜，須按該委員會主席為《議事規則》所訂與此相關的行事方式及程序處理，並須在作出所需變通後適用於該委員會。

建議修訂一：

就任何在委員會的行事方式及程序中，或在適用於該委員會的行事方式及程序中，均沒有規定的任何事宜，須按該委員會主席為《議事規則》所訂與此相關的行事方式及程序處理，並須在作出所需變通後適用於該委員會 **的該次會議，會議完結後須將變通程序提交到內務委員會及按本《議事規則》第 74 條（議事規則委員會）所列程序處理。**

建議修訂二：

就任何在委員會的行事方式及程序中，或在適用於該委員會的行事方式及程序中，均沒有規定的任何事宜，須按該委員會主席 **在參考為《議事規則》所訂與此相關的行事方式及程序後，舉行特別會議與該委員會的委員討論，並經立法會大會同意及以書面通告所有立法會議員後的方式**處理，並須在作出所需變通後適用於該委員會。

附表 1

選舉立法會主席的程序

原議案修訂：

1. 立法會主席的選舉須在立法會會議上進行

1A. 選舉須在議員已按照《議事規則》第 1 條的規定及香港法律作宗教式或非宗教式宣誓後的第一屆第一次會議上舉行。如有需要在屆中選舉立法會主席，該次選舉須在立法會一次完全只為選舉立法會主席的目的而進行的會議上舉行；議程不得載有任何其他事務；會議舉行的日期和開始的時間，由立法會代理主席（猶如他是規則第 14 條所指的立法會主席）作出決定。

建議修訂一：

1A. 選舉須在議員已按照《議事規則》第 1 條的規定及香港法律作宗教式或非宗教式宣誓後的第一屆第一次會議上舉行。如有需要在屆中選舉立法會主席，該次選舉須在立法會一次完全只為選舉立法會主席的目的而進行的會議上舉行，該會議須在主席出缺後 3 個星期內舉行；
議程不得載有任何其他事務；會議舉行的日期和開始的時間，由立法會代理主席（猶如他是規則第 14 條所指的立法會主席）作出決定。

建議修訂二：

1A. 選舉須在議員已按照《議事規則》第 1 條的規定及香港法律作宗教式或非宗教式宣誓後的第一屆第一次會議上舉行。如有需要在屆中選舉立法會主席，該次選舉須在立法會一次完全只為選舉立法會主席的目的而進行的會議上舉行，該會議須在主席出缺後 6 個星期內舉行；
議程不得載有任何其他事務；會議舉行的日期和開始的時間，由立法會代理主席（猶如他是規則第 14 條所指的立法會主席）作出決定。

建議修訂三：

1A. 選舉須在議員已按照《議事規則》第 1 條的規定及香港法律作宗教式或非宗教式宣誓後的第一屆第一次會議上舉行。如有需要在屆中選舉立法會主席，該次選舉須在立法會一次完全只為選舉立法會主席的目的而進行的會議上舉行； ~~除了進行《議事規則》第 18(a) 或 (b) 條所述事項之外~~，議程不得載有任何其他事務，若需要進行《議事規則》第 18(a) 或 (b) 條所述事項，則以該等事項為先； 會議舉行的日期和開始的時間，由立法會代理主席（猶如他是規則第 14 條所指的立法會主席）作出決定。

建議修訂四：

1A. 選舉須在議員已按照《議事規則》第 1 條的規定及香港法律作宗教式或非宗教式宣誓後的第一屆第一次會議上舉行。如有需要在屆中選舉立法會主席，該次選舉須在立法會一次完全只為選舉立法會主席的目的而進行的會議上舉行； ~~，在第一屆第一次會議~~ 議程不得載有任何其他事務； 會議舉行的日期和開始的時間，由立法會代理主席（猶如他是規則第 14 條所指的立法會主席）作出決定。

原議案修訂：

3. 立法會主席的提名表格須由一名作為提名人的議員，以及另外至少 3 名作為附議人的議員簽署。獲提名的議員須在表格上簽署以示接受提名，並聲明具有資格可根據《基本法》第七十一條及《議事規則》第 4(2)條成為立法會主席。表格填妥後，須在選舉日至少 4 整天前送達立法會秘書辦事處。

建議修訂一：

立法會主席的提名表格須由一名作為提名人的議員，以及另外至少 3 名作為附議人的議員簽署。獲提名的議員須在表格上簽署以示接受提名，並以書面方式聲明具有資格可根據《基本法》第七十一條及《議事規則》第 4(2)條成為立法會主席。表格填妥後，須在選舉日至少 4 整天前送達立法會秘書辦事處。

建議修訂二：

立法及主席的提名表格須由一名作為提名人的議員，以及另外至少 3 名作為附議人的議員簽署。獲提名的議員須在表格上簽署以示接受提名，並聲明其本人自立法會換屆選舉或補選結果刊憲當天起已具有資格可根據《基本法》第七十一條及《議事規則》第 4(2)條成為立法會主席。表格填妥後，須在選舉日至少 4 整天前送達立法會秘書辦事處。

建議修訂三：

立法會主席的提名表格須由一名作為提名人的議員，以及另外至少 3 名作為附議人的議員簽署。獲提名的議員須在表格上簽署以示接受提名，並聲明具有資格可根據《基本法》第七十一條及~~《議事規則》第 4(2)條~~成為立法會主席。表格填妥後，須在選舉日至少 4 整天前送達立法會秘書辦事處。

原議案修訂：

6. 出席會議的議員中根據本議事規則第 1A 條而定為連續擔任議員時間最長者，須主持立法會主席的選舉的議員（“主持選舉的議員”），其職權僅限於按照《議事規則》第 4(1) 條及本附表的規定主持選舉立法會主席的會議。

建議修訂一：

出席會議的議員中根據本議事規則第 1A 條而定為連續擔任議員時間最長者，須主持立法會主席的選舉的議員（“主持選舉的議員”），其職權僅限於按照《議事規則》第 4(1)、**44、45** 條及本附表的規定主持選舉立法會主席的會議。

原議案修訂：

7A. 主持選舉的議員只可在其宣布已當選立法會主席的議員姓名後將會議休會待續。如主持選舉的議員有必要暫停會議，會議須在暫停後 1 小時內復會。在所有選舉立法會主席的程序完成前，不得命令會議再次暫停。

建議修訂一：

7A. 主持選舉的議員只可在其宣布已當選立法會主席的議員姓名 ~~後~~ ~~前~~ 將會議休會待續。如主持選舉的議員有必要暫停會議，會議須在暫停後 1 小時內復會。在所有選舉立法會主席的程序完成前，不得命令會議再次暫停。

建議修訂二：

7A. 主持選舉的議員只可在其宣布已當選立法會主席的議員姓名後將會議休會待續。如主持選舉的議員有必要暫停會議，會議須在暫停後 ~~1~~ ~~24~~ 小時內復會。在所有選舉立法會主席的程序完成前，不得命令會議再次暫停。

建議修訂三：

7A. 主持選舉的議員只可在其宣布已當選立法會主席的議員姓名後將會議休會待續。如主持選舉的議員有必要暫停會議，會議須在暫停後 1 小時內復會。在所有選舉立法會主席的程序完成 ~~前~~ ~~後~~，不得命令會議再次暫停。

原議案修訂：

7B. 主持選舉的議員在整個選舉過程中不得准許議員發言，但規程問題除外。規程問題不容辯論。如主持選舉的議員認為有議員濫用程序，主持選舉的議員可拒絕准許任何議員提出任何規程問題。

建議修訂一：

7B. 主持選舉的議員在整個選舉過程中不得准許議員發言，~~但規程問題除外~~ 除非得到主席的酌情、質詢候選人或提出規程問題。規程問題~~不容~~只限提出問題的議員和主持選舉的議員 辯論。如主持選舉的議員認為有議員濫用程序，主持選舉的議員可拒絕准許任何議員提出任何規程問題。

原議案修訂：

17. 隨後，主持選舉的議員須讓位予立法會主席。立法會主席可向立法會陳詞，然後視乎情況，~~著手處理會議事項、宣布休會待續、或暫停舉行會議。~~

建議修訂一：

17. 隨後，主持選舉的議員須讓位予立法會主席。立法會主席可向立法會陳詞，然後視乎情況執行《議事規則》第 14(4) 條暫停會議在另一天恢復、第 14(5) 條 ~~視乎情況，著手處理會議事項、宣布休會待續、或暫停舉行會議。~~

附錄 V
Appendix V
立法會CROP 8/17-18號文件
LC Paper No. CROP 8/17-18

Committee on Rules of Procedure
Hon Paul TSE Wai-chun, JP
(By hand)

18 October 2017

Dear Chairman,

Members of the Democratic Camp have long been considering how to amend the Rules of Procedure of the Legislative Council in order to bring the rules and procedures up to date and in line with the needs of Hong Kong as a modern and democratic society in the 21st Century.

The proposed amendments include, inter alia, the following considerations and directions:

- to enable better access for disabled persons or persons with special needs;
- to restrain the arbitrary use of power by the LegCo President;
- to enable better access to LegCo information by the public and the media;
- to streamline procedures in order to make them more transparent and accountable;
- to ensure no members will be discriminated against by reason of their family position or sex;
- to enshrine the fundamental rights and freedoms of the Hong Kong people as stipulated in the Basic Law; and
- to enable the Legislative Council to better exercise its powers to hold the executive authorities to account.

The proposed amendments are summarised in detail in the Annex attached to this letter. We would like to submit the same to CROP for its consideration, and would be happy to listen to any views and/or comments which members may have. We are open

to change and/or amend any of these proposals if necessary in due course.

Yours faithfully,



Alvin Yeung

Dennis Kwok



Kenneth Leung

Members of the Committee on Rules of Procedure

c.c. Mr. Daniel SIN (By Fax: 2840 0269)

擬修訂之議事規則條目大綱

	修改內容	涉及修改／增加之條文
1.	要求首席大法官監誓	第 1 條
2.	議員獲批准宣誓，但其後卻被有關機關判斷為失效，有關議員應享有其於立法會工作的酬金、福利及各類實報實銷開支。	第 1 條
3.	議員的排名無需以連續擔任年期	第 1A(1)條
4.	以議員的得票作排名準則	第 1A(2)條
5.	議員應尊重市民的基本權利	第 1B 條
6.	加入手語作為法定語言	第 2 條
7.	可以用手語主持會議	第 2 條
8.	立法會主席的職責是必須平衡立法會中多數人與少數人的權益	第 3(1A)條
9.	立法會主席應時刻保持和維護立法會的自主權	第 3A 條
10.	立法會主席須由過去 7 年在外國無居留權的香港特別行政區永久性居民中的中國公民擔任	第 4 條
11.	立法會主席須由地區直選議員擔任	第 4 條
12.	內務委員會主席須由地區直選議員擔任	第 5 條
13.	加入會議錄像作為官方文件	第 6 條
14.	縮短立法會文件覆檢年期	第 6(5A)(a)條
15.	為委員會及小組委員會增加副秘書	第 6(7)條
16.	加入助理秘書協助秘書	第 6(9)條
17.	法律顧問須向所有議員提供意見	第 7(2)條
18.	增加助理法律顧問	第 7(3)條
19.	立法會、立法會轄下任何委員會、小組委員會或議員可邀請行政長官出席會議	第 8 條
20.	設書面預告期通知立法會、財委會及轄下小組所出席之官員	第 9 條
21.	邀請外國政要出席立法會會議	第 9A 條
22.	確保大會會議公開進行	第 11 條
23.	行政長官須在第一次立法會會議發表施政報告	第 13(1A)條
24.	會議書面預告日子由 14 天減少至 12 天	第 14(2)條
25.	立法會主席不能提前召開會議日期及時間	第 14(3)條

26.	兩會期間照常開會	第 14(6)條
27.	需要全體立法會議員三分之二同意召開特別會議	第 15(2)條
28.	家庭友善議會	第 17A 條
29.	須確保立法會議員有足夠資源履行職務	第 83AA 條
30.	傷健共融	第 86A 條
31.	確保委員會及小組委員會公開進行	第 79C 條
32.	確保立法會不受執法機關干預	第 45A 條
33.	若《議事規則》未有言明，立法會主席可向議事規則委員會諮詢	第 92 條
34.	修正議事規則中的異體字	第 1, 4, 12-15 條

立法會 Legislative Council

1

致 : 立法會秘書
To : Clerk to the Legislative Council

(傳真號碼 Fax No : 2537 1204)

議員作出議案預告 Notice of Motion by Member

謹按照《議事規則》第29(1)條作出預告，本人擬在 2017年 11月 15日舉行的立法會會議上，動議附錄所列的議案。

In accordance with Rule 29(1) of the Rules of Procedure, I hereby give notice of my intention to move the motion in the Appendix at the Legislative Council meeting of 15 Nov, 2017.



簽署
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[Handwritten Signature]

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楊岳橋

聯絡人姓名
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日期
Date:

18-10-2017

Appendix

**Basic Law of the Hong Kong Special Administrative Region of the
People's Republic of China**

Resolution

(Under Article 75 of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China)

**Rules of Procedure of the Legislative Council of the
Hong Kong Special Administrative Region**

Resolved that the Rules of Procedure of the Legislative Council of the Hong Kong
Special Administrative Region be amended as set out in the Schedule.

Schedule

Amendments to Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

1. Rule 3A added

After Rule 3—

Add

“3A. Autonomy of the Council

The President, in discharging of his duties, shall preserve and defend the autonomy of the Legislative Council at all times.”.

2. Rule 45A added

After Rule 45—

Add

“45A. Power to Administer Internal Affairs and Police Power

The power to administer internal affairs and the police power within the Council shall be vested in the Council. Law enforcement agencies shall not enter the Council unless so decided by a two-thirds majority of the Members. In case of emergency, the President may decide in his own right.”.

3. Rule 79C added

After Rule 79B—

Add

“79C. Committee and Subcommittee Meetings be Held Openly

Notwithstanding Rule 88, all meetings of the committee and subcommittee shall be conducted in an open manner, except those held by the Legislative Council Commission, the Committee on the Rules of Procedures, customarily held in camera or otherwise as required by the Rules of Procedures or by law. If a meeting is to be held in camera, it shall be so decided by two-thirds majority of the Members of that committee or subcommittee.”.

4. Rule 92 amended (Procedure if Rules of Procedure do not Provide)

Rule 92, after “if he thinks fit,”—

Add

“consult the Committee on Rules of Procedure and”.

《中華人民共和國香港特別行政區基本法》

決議

(根據《中華人民共和國香港特別行政區基本法》第七十五條)

《香港特別行政區立法會議事規則》

議決修訂《香港特別行政區立法會議事規則》，修訂方式列於附表。

附表

修訂《香港特別行政區立法會議事規則》

1. 加入第 3A 條
在第 3 條之後——
加入
“3A. 立法會的自主權
立法會主席在執行職務時，須時刻保持和維護立法會的自主權。”。
2. 加入第 45A 條
在第 45 條之後—
加入
“45A. 內務權和警察權
立法會主席在立法會大樓內行使內務權和警察權，任何執法機關未經許可不得進入立法會大樓。如有必要讓執法機關進入，須得到全體立法會議員三分之二的多數同意。立法會主席可在緊急情況下作決定。”。
3. 加入第 79C 條
在第 79B 條之後—
加入
“79C. 委員會及小組委員會公開會議
儘管議事規則第 88 條有所規定，立法會轄下委員會及小組委員會的會議，除行政管理委員會、議事規則委員會的會議、按照慣例通常以閉門形式進行的會議、或由議事規則或其他有關法律另有規定外，須公開舉行。若舉行閉門會議，須先得到委員會或小組委員會全部委員三分之二的同意方可舉行。”。
4. 修訂第 92 條(議事規則未有規定的程序)
第 92 條，在“如立法會主席認為適合，可”之後——
加入
“諮詢議事規則委員會及”。

立法會

Legislative Council

2

致 : 立法會秘書
To : Clerk to the Legislative Council

(傳真號碼 Fax No : 2537 1204)

議員作出議案預告

Notice of Motion by Member

謹按照《議事規則》第29(1)條作出預告，本人擬在 2017 年 11 月 15 日舉行的立法會會議上，動議附錄所列的議案。

In accordance with Rule 29(1) of the Rules of Procedure, I hereby give notice of my intention to move the motion in the Appendix at the Legislative Council meeting of 15/11/2017.



簽署
Signature:

陳淑莊

姓名
Name:

陳淑莊

聯絡人姓名
Name of contact person:

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(e-mail address)

日期
Date:

18-10-2017

Appendix

**Basic Law of the Hong Kong Special Administrative Region of the
People's Republic of China**

Resolution

(Under Article 75 of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China)

**Rules of Procedure of the Legislative Council of the
Hong Kong Special Administrative Region**

Resolved that the Rules of Procedure of the Legislative Council of the Hong Kong
Special Administrative Region be amended as set out in the Schedule.

Schedule

Amendments to Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

1. Rule 4 amended (Election of President)

Rule 4(2), after “20 years.”—

Add

“The President must be a Member elected from the geographical constituency.”.

2. Rule 6 amended (Duties of the Clerk)

Rule 6(5A)(a)—

Repeal

“25 years”

Substitute

“20 years”.

3. Rule 6 amended (Duties of the Clerk)

After Rule 6(8) —

Add

“(9) The Deputy Clerk shall assist the Clerk in discharge of his duties under Rules 6(1) to (8).”.

4. Rule 83AA amended (Claims for Reimbursement of Operating Expenses or Applications for Advance of Operating Funds)

Repeal

“When making a claim for reimbursement of operating expenses or applying for advance of operating funds in accordance with A Guide for Reimbursement of Operating Expenses for Members of the Legislative Council, or acting for purposes related thereto, a Member shall -

(a) ensure that any information provided or any declaration or certification made is true, accurate and complete; and

(b) act according to any undertaking that he has given.”

Substitute

“(1) When making a claim for reimbursement of operating expenses or applying for advance of operating funds in accordance with A Guide for Reimbursement of Operating Expenses for Members of the Legislative Council, or acting for purposes related thereto, a Member shall -

- (a) ensure that any information provided or any declaration or certification made is true, accurate and complete; and
- (b) act according to any undertaking that he has given.

(2) The Clerk must ensure that Members are provided with the necessary facilities and resources within the Legislative Council for the proper execution of their duties.”.

《中華人民共和國香港特別行政區基本法》

決議

(根據《中華人民共和國香港特別行政區基本法》第七十五條)

《香港特別行政區立法會議事規則》

議決修訂《香港特別行政區立法會議事規則》，修訂方式列於附表。

附表

修訂《香港特別行政區立法會議事規則》

1. 修訂第 4 條(立法會主席的選舉)

第 4(2)條，在“擔任。”之後——

加入

“立法會主席須由地區直選議員擔任。”。

2. 修訂第 6 條 (立法會秘書的職責)

第 6(5A)(a)條—

廢除

“25 年”

代以

“20 年”。

3. 修訂第 6 條 (立法會秘書的職責)

在第 6(8)條之後—

加入

“(9) 立法會助理秘書須協助秘書執行其根據本議事規則第 6(1)至(8)條的職務。”。

4. 修訂第 83AA 條 (申請發還工作開支或申請預支營運資金)

廢除

“議員根據《立法會議員申請發還工作開支的指引》申請發還工作開支或申請預支營運資金，或就與此有關的目的行事時，必須 -

(a) 確保提供或作出的任何資料、申報／聲明或證明是真實、準確及詳盡的；及

(b) 依照他已作出的任何承諾行事。”

代以

“(1) 議員根據《立法會議員申請發還工作開支的指引》申請發還工作開支或申請預支營運資金，或就與此有關的目的行事時，必須 -

(a) 確保提供或作出的任何資料、申報／聲明或證明是真實、準確及詳盡的；及

(b) 依照他已作出的任何承諾行事。

(2) 立法會秘書必須確保立法會議員在立法會內獲得必要的設施和資

源，以妥善履行職務。”。

3

立法會 Legislative Council

致 : 立法會秘書
To : Clerk to the Legislative Council

(傳真號碼 Fax No : 2537 1204)

議員作出議案預告 Notice of Motion by Member

謹按照《議事規則》第29(1)條作出預告，本人擬在 2017 年 11 月 15 日舉行的立法會會議上，動議附錄所列的議案。

In accordance with Rule 29(1) of the Rules of Procedure, I hereby give notice of my intention to move the motion in the Appendix at the Legislative Council meeting of 15 Nov, 2017.



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[Signature]

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Wu Chi Wei

聯絡人姓名
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日期
Date:

18-10-2017

Appendix

**Basic Law of the Hong Kong Special Administrative Region of the
People's Republic of China**

Resolution

(Under Article 75 of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China)

**Rules of Procedure of the Legislative Council of the
Hong Kong Special Administrative Region**

Resolved that the Rules of Procedure of the Legislative Council of the Hong Kong
Special Administrative Region be amended as set out in the Schedule.

Schedule

Amendments to Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

1. Rule 1A amended (Precedence of Members)

- (1) Rule 1A(1), after “according to the” —

Repeal

“continuous”.

- (2) Rule 1A(1), after “period of time for which he has held office in the Council” —

Repeal

“,”

Substitute

“whilst it is not necessary for him to hold office for a continuous period of time; when more than one Member has held office for the same period of time, ”.

- (3) Rule 1A(2), after “two or more Members who have held office for an equal” —

Repeal

“continuous”.

2. Rule 1A amended (Precedence of Members)

- (1) Rule 1A(2)—

Repeal

“As”

Substitute

“Subject to Rule 1A(1), as”.

- (2) Rule 1A(2), after “precedence shall be given to the one who”—

Add

“has received more votes in the election; if two or more members have received the same number of votes, precedence shall be given to the one who”.

3. Rule 7 amended (Counsel to the Legislature)

- Rule 7(2), after “the President”—

4. Rule 14 amended (Days and Hours of Meetings)

After Rule 14(5)——

Add

“(6) Meetings of the Council shall continue to be held during the annual plenary sessions of the National People's Congress and the Chinese People's Political Consultative Conference unless the President orders otherwise.”.

《中華人民共和國香港特別行政區基本法》

決議

(根據《中華人民共和國香港特別行政區基本法》第七十五條)

《香港特別行政區立法會議事規則》

議決修訂《香港特別行政區立法會議事規則》，修訂方式列於附表。

附表

修訂《香港特別行政區立法會議事規則》

1. 修訂第 1A 條 (議員的排名)

- (1) 第 1A(1)條，在 “立法會議員的排名序按” 之後 ——
廢除
“連續” 。
- (2) 第 1A(1)條，在 “擔任立法會議員的時間而定” 之後——
廢除
“；”
代以
“，擔任時間不一定需要連續；惟若時間相同，則” 。
- (3) 第 1A(2)條，在 “如有兩名或以上議員” 之後 ——
廢除
“連續” 。

2. 修訂第 1A 條 (議員的排名)

- (1) 第 1A(1)條，在 “如有兩名或以上議員” 之前 ——
加入
“除議事規則第 1A (1) 條另有規定外，” 。
- (2) 第 1A(1)條，在 “則根據” 之後——
加入
“選舉時所得票數作排名，以較高者為先，若仍然相同則以” 。

3. 修訂第 7 條 (立法機關法律顧問)

- 第 7(2)條，在 “向立法會主席” 之後——
加入
“、立法會議員” 。

4. 修訂第 14 條 (會議日期及時間)

- 在第 14 (5) 條之後—
加入
“(6) 立法會須在中華人民共和國全國人民代表大會會議和中國人民政治協商會議全國委員會進行期間繼續召開會議，惟主席另有命令者除外。” 。

立法會 Legislative Council

4

致 : 立法會秘書
To : Clerk to the Legislative Council

(傳真號碼 Fax No : 2537 1204)

議員作出議案預告 Notice of Motion by Member

謹按照《議事規則》第29(1)條作出預告，本人擬在 2017 年 11 月 15 日舉行的立法會會議上，動議附錄所列的議案。

In accordance with Rule 29(1) of the Rules of Procedure, I hereby give notice of my intention to move the motion in the Appendix at the Legislative Council meeting of 15 NOV 2017.



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Charles Mok

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莫乃光

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(電郵地址)
(e-mail address)

日期
Date:

18-10-2017

**Basic Law of the Hong Kong Special Administrative Region of the
People's Republic of China**

Resolution

(Under Article 75 of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China)

**Rules of Procedure of the Legislative Council of the
Hong Kong Special Administrative Region**

Resolved that the Rules of Procedure of the Legislative Council of the Hong Kong
Special Administrative Region be amended as set out in the Schedule.

Schedule

Amendments to Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

1. **Rule 6 amended (Duties of the Clerk)**

Rule 6(5), after “records, ”——

Add

"video recording,".

2. **Rule 8 amended (Attendance of the Chief Executive)**

(a) Rule 8(b) —

Repeal

"and";

(b) Rule 8(c) —

Repeal

","

Substitute

"and".

(c) Rule 8, after paragraph (c)

Add

"(d) upon the invitation of the Council, any committee, subcommittee or Member."

3. **Rule 14 amended (Days and Hours of Meetings)**

Rule 14(3)——

Repeal

", or to an earlier day or hour"

4. **Rule 1 amended (Oath or Affirmation)**

(a) Rule 1, Chinese text——

Repeal

“凡舉行”

Substitute

“凡舉行”.

(b) Rule 1, Chinese text——

Repeal

“換屆選舉後”

Substitute

“換屆選舉後”。

5. Rule 4 amended (Election of President)

(a) Rule 4, subtitle in Chinese text——

Repeal

“立法會主席的選舉”

Substitute

“立法會主席的選舉”。

(b) Rule 4(4), Chinese text, after “因應該次立法會會議而”——

Repeal

“舉行”

Substitute

“舉行”。

6. Rule 12 amended (First Meeting of Term)

(a) Rule 12(2) ——

Repeal

“(立法會主席的選舉)”

Substitute

“(立法會主席的選舉)”。

(b) Rule 12(2), Chinese text, after “程序進行” ——

Repeal

“立法會主席的選舉”

Substitute

“立法會主席的選舉”。

7. Rule 13 amended (The Chief Executive’s Policy Address)

Rule 13(1), Chinese text——

Repeal

“舉行”

Substitute

“舉行”。

8. Rule 14 amended (Days and Hours of Meetings)

Rule 14—

Rule 14(2), Chinese text—

Repeal

"舉行"

Substitute

"舉行".

9. Rule 15 amended (Meetings for Urgent Business)

(a) Rule 15(1), Chinese text, after "解散之後的期間" —

Repeal

"舉行"

Substitute

"舉行".

(b) Rule 15(1), Chinese text, after "會議應在指明" —

Repeal

"舉行"

Substitute

"舉行".

(c) Rule 15(1), Chinese text, after "立法會議員的換屆" —

Repeal

"選舉"

Substitute

"選舉".

《中華人民共和國香港特別行政區基本法》

決議

(根據《中華人民共和國香港特別行政區基本法》第七十五條)

《香港特別行政區立法會議事規則》

議決修訂《香港特別行政區立法會議事規則》，修訂方式列於附表。

附表

修訂《香港特別行政區立法會議事規則》

1. 修訂第 6 條(立法會秘書的職責)

第 6(5)條，在“紀錄、”之後——

加入

“會議錄像、”。

2. 修訂第 8 條(行政長官出席會議)

(a) 第 8(b)條—

廢除

“及”;

(b) 第 8(c)條—

廢除

“;

代以

“及”。

(c) 第 8 條，在 (c) 段之後—

加入

“(d) 受立法會、立法會轄下任何委員會、小組委員會或議員邀請。”。

3. 修訂第 14 條 (會議日期及時間)

第 14(3)條—

廢除

“或提前”。

4. 修訂第 1 條 (宗教式或非宗教式宣誓)

(a) 第 1 條—

廢除

“凡舉行”

代以

“凡舉行”。

(b) 第 1 條—

廢除

“換屆選舉後”

代以

“換屆選舉後”。

5. 修訂第 4 條 (立法會主席的選舉)

(a) 第 4 條，標題——

廢除

“立法會主席的選舉”

代以

“立法會主席的選舉”。

(b) 第 4 (4) 條，在 “因應該次立法會會議而” 之後——

廢除

“舉行”

代以

“舉行”。

6. 修訂第 12 條 (每屆任期的首次會議)

(a) 第 12(2)條，在 “第 4 條” 之後——

廢除

“(立法會主席的選舉)”

代以

“(立法會主席的選舉)”。

(b) 第 2 條，在 “程序進行” 之後——

廢除

“立法會主席的選舉”

代以

“立法會主席的選舉”。

7. 修訂第 13 條 (行政長官發表施政報告)

第 13(1)條——

廢除

“舉行”

代以

“舉行”。

8. 修訂第 14 條 (會議日期及時間)

(a) 第 14(1)條——

廢除

"舉行"

代以

"舉行"。

- (b) 第 14(2)條——

廢除

"舉行"

代以

"舉行"。

9. 修訂第 15 條 (處理急切事項的會議)

- (a) 第 15(1)條，在“解散之後的期間”之後——

廢除

"舉行"

代以

"舉行"。

- (b) 第 15(1)條，在“會議應在指明”之後——

廢除

"舉行"

代以

"舉行"。

- (c) 第 15(1)條，在“立法會議員的換屆”之後——

廢除

"選舉"

代以

"選舉"。

5

立法會 Legislative Council

致 : 立法會秘書
To : Clerk to the Legislative Council

(傳真號碼 Fax No : 2537 1204)

議員作出議案預告 Notice of Motion by Member

謹按照《議事規則》第29(1)條作出預告，本人擬在 2017 年 11 月 15 日舉行的立法會會議上，動議附錄所列的議案。

In accordance with Rule 29(1) of the Rules of Procedure, I hereby give notice of my intention to move the motion in the Appendix at the Legislative Council meeting of 15 NOV, 2017.



簽署
Signature:

陳智軒

姓名
Name:

CHAN CHI CHUEN

聯絡人姓名
Name of contact person:

[Redacted]

聯絡人的聯絡資料
Contact details of contact person:

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(office tel. no.)

[Redacted]
(手提電話號碼)
(mobile tel. no.)

(傳真號碼)
(fax no.)

[Redacted]
(電郵地址)
(e-mail address)

日期
Date:

18-10-2017

Appendix

**Basic Law of the Hong Kong Special Administrative Region of the
People's Republic of China**

Resolution

(Under Article 75 of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China)

**Rules of Procedure of the Legislative Council of the
Hong Kong Special Administrative Region**

Resolved that the Rules of Procedure of the Legislative Council of the Hong Kong
Special Administrative Region be amended as set out in the Schedule.

Schedule

Amendments to Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

1. Rule 1B added

After Rule 1A—

Add

“1B. Fundamental Rights

All Members of the Council (including the President), in carrying out their duties at the Council, shall respect the fundamental rights of Hong Kong Residents enshrined in Chapter III of the Basic Law and give due consideration to the provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other applicable international human rights instruments.”.

2. Rule 2 amended (Language)

After “A Member may address the Council”—

Add

“or chair a meeting”.

3. Rule 4 amended (Election of President)

Rule 4(2), after “any foreign country”—

Add

“for the past 7 years,”.

4. Rule 9A added

After Rule 9—

Add

“9A. Foreign Dignitaries

The Council may invite foreign dignitaries to attend meetings of the Council, any committee or subcommittee thereof from time to time when the President thinks fit.”.

《中華人民共和國香港特別行政區基本法》

決議

(根據《中華人民共和國香港特別行政區基本法》第七十五條)

《香港特別行政區立法會議事規則》

議決修訂《香港特別行政區立法會議事規則》，修訂方式列於附表。

附表

修訂《香港特別行政區立法會議事規則》

1. 加入第 1B 條

在第 1A 條之後——

加入

“1B. 基本權利

任何議員（包括主席）在履行立法會職務時，必須尊重《基本法》第三章所訂明香港居民的基本權利，以及充分考慮《公民權利和政治權利國際公約》、《經濟、社會與文化權利的國際公約》和有關國際人權文書的條文。”。

2. 修訂第 2 條(語文)

第 2 條，在“議員在立法會發言”之後——

加入

“或主持會議”。

3. 修訂第 4 條 (立法會主席的選舉)

第 4(2)條，在“連續滿 20 年並在”之後——

加入

“過去 7 年在”。

4. 加入第 9A 條

在第 9 條之後——

加入

“9A. 外國政要

如果主席認為恰當，立法會可以不時邀請外國政要參與立法會會議、立法會轄下任何委員會或小組委員會。”。

立法會

Legislative Council

6

致 : 立法會秘書
To : Clerk to the Legislative Council

(傳真號碼 Fax No : 2537 1204)

議員作出議案預告

Notice of Motion by Member

謹按照《議事規則》第29(1)條作出預告，本人擬在 2017 年 11 月 15 日舉行的立法會會議上，動議附錄所列的議案。

In accordance with Rule 29(1) of the Rules of Procedure, I hereby give notice of my intention to move the motion in the Appendix at the Legislative Council meeting of 15 Nov 2017.



簽署
Signature:

梁繼昌

姓名
Name:

梁繼昌

聯絡人姓名
Name of contact person:

[Redacted]

聯絡人的聯絡資料
Contact details of contact person:

37582602
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30209849
(傳真號碼)
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[Redacted]
(電郵地址)
(e-mail address)

日期
Date:

18-10-2017

Appendix

**Basic Law of the Hong Kong Special Administrative Region of the
People's Republic of China**

Resolution

(Under Article 75 of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China)

**Rules of Procedure of the Legislative Council of the
Hong Kong Special Administrative Region**

Resolved that the Rules of Procedure of the Legislative Council of the Hong Kong
Special Administrative Region be amended as set out in the Schedule.

Schedule

Amendments to Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

1. Rule 6 amended (Duties of the Clerk)

Rule 6(7), after “with a clerk” —

Add

“and, unless the Clerk orders otherwise, a deputy clerk”.

2. Rule 9 amended (Attendance of Public Officers)

Rule 9(2), after “a subcommittee of the Finance Committee” —

Add

“ and shall give notice of the item(s) in writing to the Clerk not less than six clear days before the meeting, but shorter notice may be given if the Chairman of the Finance Committee so directs under exceptional circumstances ”.

3. Rule 14 amended (Days and Hours of Meetings)

Rule 14(2) —

Repeal

“14 clear days before the meeting”

Substitute

“12 clear days before the meeting”.

《中華人民共和國香港特別行政區基本法》

決議

(根據《中華人民共和國香港特別行政區基本法》第七十五條)

《香港特別行政區立法會議事規則》

議決修訂《香港特別行政區立法會議事規則》，修訂方式列於附表。

附表

修訂《香港特別行政區立法會議事規則》

1. 修訂第 6 條 (立法會秘書的職責)

第 6(7)條，在 “一名秘書” 之後—

加入

“及(除非立法會秘書另有指示)一名副秘書” 。

2. 修訂第 9 條(官員列席會議)

第 9(2)條，在 “向立法會秘書作出預告” 之後—

加入

“，並須在該次會議日期不少於 6 整天前以書面向立法會秘書作出預告，但在特殊情況下如財務委員會主席另有指示，可給予較短時間的預告” 。

3. 修訂第 14 條 (會議日期及時間)

第 14(2)條，在 “須由立法會秘書於會議日期最少” 之後—

廢除

“14 整天前發給各議員”

代以

“12 整天前發給各議員” 。

7

立法會 Legislative Council

致 : 立法會秘書
To : Clerk to the Legislative Council

(傳真號碼 Fax No : 2537 1204)

議員作出議案預告 Notice of Motion by Member

謹按照《議事規則》第29(1)條作出預告，本人擬在 2017年11月
15日舉行的立法會會議上，動議附錄所列的議案。

In accordance with Rule 29(1) of the Rules of Procedure, I hereby give notice
of my intention to move the motion in the Appendix at the Legislative Council meeting
of 15 NOV, 2017.



簽署
Signature:

姓名
Name:

張超雄

聯絡人姓名
Name of contact person:

聯絡人的聯絡資料
Contact details of contact person:

26139200

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2799 7290

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(fax no.)

(電郵地址)
(e-mail address)

日期
Date:

18-10-2017

Appendix

**Basic Law of the Hong Kong Special Administrative Region of the
People's Republic of China**

Resolution

(Under Article 75 of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China)

**Rules of Procedure of the Legislative Council of the
Hong Kong Special Administrative Region**

Resolved that the Rules of Procedure of the Legislative Council of the Hong Kong
Special Administrative Region be amended as set out in the Schedule.

Schedule

Amendments to Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

1. **Rule 2 amended (Language)**

Rule 2, after “either”——

Add

“sign language”.

2. **Rule 5 amended (President's Deputy)**

Rule 5(1), after “President's deputy.”——

Add

“The chairman of the House Committee must be a Member elected from the geographical constituency.”.

3. **Rule 15 amended (Meetings for Urgent Business)**

Rule 15(2), after “at such hour as he may specify”——

Add

“or he shall call a special meeting if so decided by a two-thirds majority of the Members”.

4. **Rule 86A added**

After Rule 86——

Add

“86A. Inclusion Policy

The Council considers access and inclusion as a priority and aims to make the Council accessible to disabled Members of the Council, staff and visitors. No Member shall be prevented from carrying out his duties at the Council by reason of his or her disability.”.

《中華人民共和國香港特別行政區基本法》

決議

(根據《中華人民共和國香港特別行政區基本法》第七十五條)

《香港特別行政區立法會議事規則》

議決修訂《香港特別行政區立法會議事規則》，修訂方式列於附表。

附表

修訂《香港特別行政區立法會議事規則》

1. 修訂第 2 條(語文)

第 2 條，在“可用”之後——

加入

“手語”。

2. 修訂第 5 條(立法會代理主席)

第 5(1)條，在“擔任。”之後——

加入

“內務委員會主席須由地區直選議員擔任。”。

3. 修訂第 15 條 (處理急切事項的會議)

第 15 條—

第 15(2)條，在“召開特別會議”之後—

加入

“，或須在獲得全體議員三分之二同意下召開特別會議”。

4. 加入第 86A 條

在第 86 條之後—

加入

“86A. 傷健政策

立法會以可達度和共融性為優先考慮範疇，目的是讓傷健立法會議員、工作人員和公眾人士均能進出立法會。任何立法會議員不會因為其身體障礙而被妨礙執行其立法會職務。”。

立法會

Legislative Council

8

致 : 立法會秘書
To : Clerk to the Legislative Council

(傳真號碼 Fax No : 2537 1204)

議員作出議案預告

Notice of Motion by Member

15 謹按照《議事規則》第29(1)條作出預告，本人擬在 2017 年 11 月 15 日舉行的立法會會議上，動議附錄所列的議案。

In accordance with Rule 29(1) of the Rules of Procedure, I hereby give notice of my intention to move the motion in the Appendix at the Legislative Council meeting of 15 Nov 2017.



簽署
Signature:

譚文豪

姓名
Name:

譚文豪

聯絡人姓名
Name of contact person:

[Redacted]

聯絡人的聯絡資料
Contact details of contact person:

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[Redacted]
(手提電話號碼)
(mobile tel. no.)

22435509
(傳真號碼)
(fax no.)

[Redacted]
(電郵地址)
(e-mail address)

日期
Date:

18-10-2017

Appendix

**Basic Law of the Hong Kong Special Administrative Region of the
People's Republic of China**

Resolution

(Under Article 75 of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China)

**Rules of Procedure of the Legislative Council of the
Hong Kong Special Administrative Region**

Resolved that the Rules of Procedure of the Legislative Council of the Hong Kong
Special Administrative Region be amended as set out in the Schedule.

Schedule

Amendments to Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

1. Rule 11A added (Council Meetings be Held Openly)

After Rule 11 —

Add

“11A. Council Meetings be Held Openly

All meetings of the Council shall be conducted in an open manner, subject to Rule 88 or otherwise as required by the Rules of Procedures or by law.”.

2. Rule 13 amended (The Chief Executive shall deliver a Policy)

Rule 13(1A), after “The Chief Executive shall deliver a Policy Address to the Council”—

Repeal

“, if he so wishes,”

3. Rule 17A added

After Rule 17 —

Add

“17A. Family Friendly

No member, male or female, will ever be prevented from participating in meetings of the Council by reason of having the care of a minor under the age of three.”.

《中華人民共和國香港特別行政區基本法》

決議

(根據《中華人民共和國香港特別行政區基本法》第七十五條)

《香港特別行政區立法會議事規則》

議決修訂《香港特別行政區立法會議事規則》，修訂方式列於附表。

附表

修訂《香港特別行政區立法會議事規則》

1. 加入第 11A 條
在第 11 條之後—
加入
“11A. 立法會會議為公開會議
立法會的會議，除議事規則第 88 條、其他議事規則條文或其他有關法律另有規定外，須公開舉行。”。
2. 修訂第 13 條（行政長官發表施政報告）
第 13（1A）條，在“行政長官”之後——
廢除
“可隨其意願”
3. 加入第 17A 條
在第 17 條之後—
加入
“17A. 家庭友善
任何立法會議員（不論性別）不會因為需要照顧未滿 3 歲的小童而妨礙其出席立法會會議。”。

立法會

Legislative Council

(9)

致 : 立法會秘書
To : Clerk to the Legislative Council

(傳真號碼 Fax No : 2537 1204)

議員作出議案預告

Notice of Motion by Member

謹按照《議事規則》第29(1)條作出預告，本人擬在2017年11月15日舉行的立法會會議上，動議附錄所列的議案。

In accordance with Rule 29(1) of the Rules of Procedure, I hereby give notice of my intention to move the motion in the Appendix at the Legislative Council meeting of 15 NOV 2017.

簽署
Signature



姓名
Name:

聯絡人姓名
Name of contact person:

聯絡人的聯絡資料
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日期
Date:

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郭榮鏗

[Redacted]

[Redacted]
(手提電話號碼)
(mobile tel. no.)

[Redacted]
(電郵地址)
(e-mail address)

18-10-2017

Appendix

**Basic Law of the Hong Kong Special Administrative Region of the
People's Republic of China**

Resolution

(Under Article 75 of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China)

**Rules of Procedure of the Legislative Council of the
Hong Kong Special Administrative Region**

Resolved that the Rules of Procedure of the Legislative Council of the Hong Kong
Special Administrative Region be amended as set out in the Schedule.

Schedule

Amendments to Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

1. Rule 1 amended (Oath or Affirmation)

Rule 1, after “the Oaths and Declarations Ordinance (Cap. 11)” —

Add

“under the supervision of the Chief Justice”.

2. Rule 1 amended (Oath or Affirmation)

Rule 1, after “before he attends a meeting or votes in the Council.” —

Add

“In case an oath or affirmation subscribed by a Member is approved by the Clerk or the President or any member acting in the President’s place but invalidated by a competent authority thereafter, the Member shall be entitled to the remuneration, benefits for and various kinds of reimbursements for expenses arising from his work carried out at the Legislative Council.”.

3. Rule 3 amended (Presiding in Council and in Committee of the Whole Council)

After Rule 3(1) —

Add

“(1A) The duties of the President require the balancing of the rights and interests of the majority and minority in the Council and that the interests of all parts of the Council are advocated and protected against the use of arbitrary authority.”.

4. Rule 7 amended (Counsel to the Legislature)

After Rule 7(2) —

Add

“(3) The Deputy Counsel shall assist the Counsel to the Legislature in discharge of his duties under Rules 7(1) and (2)”.

《中華人民共和國香港特別行政區基本法》

決議

(根據《中華人民共和國香港特別行政區基本法》第七十五條)

《香港特別行政區立法會議事規則》

議決修訂《香港特別行政區立法會議事規則》，修訂方式列於附表。

附表

修訂《香港特別行政區立法會議事規則》

1. 修訂第 1 條(宗教式或非宗教式宣誓)

第 1 條，在“《宣誓及聲明條例》(第 11 章)的規定”之後——

加入

“及首席大法官監督下”。

2. 修訂第 1 條(宗教式或非宗教式宣誓)

第 1 條，在“亦須遵照本條規則再次宣誓。”之後——

加入

“假如秘書、主席或代主席行事的議員批准某議員的宣誓，但其後卻被有關機關判斷為失效，有關議員應享有其於立法會工作的酬金、福利及各類實報實銷開支。”。

3. 修訂第 3 條 (主持立法會及全體委員會會議)

在第 3(1)條之後——

加入

“(1A) 立法會主席的職責是必須平衡立法會中多數人與少數人的權益，並確保立法會各方面的利益得到倡議與保障，不會被任意濫用的權力損害。”。

4. 修訂第 7 條 (立法機關法律顧問)

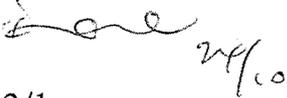
在第 7 (2) 條之後——

加入

“(3) 立法會助理法律顧問須協助立法機關法律顧問執行其根據本議事規則第 7(1)及(2)條的職務。”。

Tel No : 3919 3300
Fax No : 2810 1691

M E M O

To : Clerk to Committee on Rules of Procedure
From : CCS(3)1
via ASG3 
Our ref : CB(3)/A/53/1
Date : 24 October 2017

Proposals to amend the Rules of Procedure

In accordance with Rule 74(1) of the Rules of Procedure (“RoP”), the President has directed that the following 11 notices given by 10 Members to move proposed resolutions to amend RoP at the Council meeting of 15 November 2017 be referred to CRoP for examination:

- (a) nine notices given by Hon Alvin YEUNG, Hon Tanya CHAN, Hon WU Chi-wai, Hon Charles Peter MOK, Hon CHAN Chi-chuen, Hon Kenneth LEUNG, Dr Hon Fernando CHEUNG, Hon Jeremy TAM and Hon Dennis KWOK on 18 October 2017; and
- (b) two notices given by Hon CHAN Chi-chuen and Dr Hon KWOK Ka-ki on 19 October 2017.



(Thomas WONG)
CCS(3)1

Encl.

表格編號 CB(3)-6
Form No.

立法會 Legislative Council

立法會CROP 25/17-18號文件
LC Paper No. CROP 25/17-18

致 : 立法會秘書 (傳真號碼 Fax No : 2537 1204)
To : Clerk to the Legislative Council

議員作出議案預告 Notice of Motion by Member

謹按照《議事規則》第29(1)條作出預告，本人擬在 2017 年 10 月 15 日舉行的立法會會議上，動議附錄所列的議案。

In accordance with Rule 29(1) of the Rules of Procedure, I hereby give notice of my intention to move the motion in the Appendix at the Legislative Council meeting of _____.



簽署
Signature:

陳志全

姓名
Name:

陳志全

聯絡人姓名
Name of contact person:

劉如岸

聯絡人的聯絡資料
Contact details of contact person:

25439500
(辦公室電話號碼)
(office tel. no.)

[Redacted]
(手提電話號碼)
(mobile tel. no.)

[Redacted]
(傳真號碼)
(fax no.)

[Redacted]
(電郵地址)
(e-mail address)

日期
Date:

19-10-2017

(9/2012)

《中華人民共和國香港特別行政區基本法》

立法會決議

《香港特別行政區立法會議事規則》

議決修訂《香港特別行政區立法會議事規則》——

(a) 在第 24 條中——

(i) 廢除第 (4) 款而代以——

“(4) 每次會議可提出不多於二條無經預告的質詢，每名議員可在每一會期作出不多於一條無經預告的質詢，如主席信納有關議員已經或將會私下向政府作出充分的預告，以便政府能答覆該質詢，則可批准該議員無經預告而提出該質詢。”。

BASIC LAW OF THE HONG KONG SPECIAL
ADMINISTRATIVE REGION OF THE PEOPLE'S
REPUBLIC OF CHINA

RESOLUTION OF THE LEGISLATIVE COUNCIL

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

Resolved that the Rules of Procedure of the Legislative Council
of the Hong Kong Special Administrative Region be
amended—

(a) in Rule 24—

(i) by repealing subrule (4) and substituting—

“(4) Not more than two questions without notice may be asked at any one meeting, and a member may ask not more than one question without notice in a session, the President may permit the question to be asked without notice, if he is satisfied that sufficient private notice of the question has been or is to be given by the Member concerned to the Government to enable the question to be answered.”.

表格編號 CB(3)-6
Form No.

立法會 Legislative Council

致 : 立法會秘書 (傳真號碼 Fax No : 2810 1691)
To : Clerk to the Legislative Council

議員作出議案預告 Notice of Motion by Member

謹按照《議事規則》第29(1)條作出預告，本人擬在 2017年11月
15日舉行的立法會會議上，動議附錄所列的議案。

In accordance with Rule 29(1) of the Rules of Procedure, I hereby give notice
of my intention to move the motion in the Appendix at the Legislative Council meeting
of 15 NOV 2017



簽署
Signature:

[Handwritten Signature]

姓名
Name:

郭家麒

聯絡人姓名
Name of contact person:

Janet Au

聯絡人的聯絡資料
Contact details of contact person:

2811 8076 / [Redacted]

(辦公室電話號碼)
(office tel. no.)

(手提電話號碼)
(mobile tel. no.)

2245 5508 / [Redacted]

(傳真號碼)
(fax no.)

(電郵地址)
(e-mail address)

日期
Date:

19/10/2017

(9/2016)

《中華人民共和國香港特別行政區基本法》

決議

(根據《中華人民共和國香港特別行政區基本法》第七十五條)

《香港特別行政區立法會議事規則》

議決修訂《香港特別行政區立法會議事規則》，修訂方式列於附表。

附表

修訂《香港特別行政區立法會議事規則》

1. 修訂第 24 條 (質詢預告)

第 24(4)條，在“如議員以事項性質急切”之後—

廢除

“及”

代以

“或”。

2. 修訂第 44 條 (主席決定為最終決定)

第 44 條，在“最終決定。”之後—

加入

“若有超過一位議員反對主席某一項決定，主席須容許議員發言申述理據。主席須要就議員的反對作出解釋並記錄在案，而該決定並不能成為同類決定的先例。”。

3. 修訂第 71 條 (財務委員會)

第 71(SA)條，在“法定人數為”之後—

廢除

“主席加上 8 名委員”

代以

“包括主席在內委員人數的三分之一(整數後的分數不計)。”。

4. 修訂第 75 條 (內務委員會)

第 75(12A)條，在“包括主席在內”之後—

廢除

“的 20 名委員”

代以

“委員人數的三分之一(整數後的分數不計)。”。

**Basic Law of the Hong Kong Special Administrative Region of the
People's Republic of China**

Resolution

(Under Article 75 of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China)

**Rules of Procedure of the Legislative Council of the
Hong Kong Special Administrative Region**

Resolved that the Rules of Procedure of the Legislative Council of the Hong Kong
Special Administrative Region be amended as set out in the Schedule.

Schedule

Amendments to Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

1. Rule 24 amended (Notice of Questions)

Rule 24(4), after “If a Member asks the permission of the President to ask a question without notice on the ground that it is of an urgent character” —

Repeal

“and”

Substitute

“or”.

2. Rule 44 amended (Decision of Chair Final)

Rule 44, after “shall be final.” —

Add

“If any decision is objected by more than one Member, the President or the Chairman shall allow the Members to explain the objection. The President or the Chairman shall then explain his decision and the explanation should be put on record. The decision shall not be binding on later decisions.”

3. Rule 71 amended (Finance Committee)

Rule 71(5A), before “shall form a quorum of the committee.” —

Repeal

“The chairman and 8 other members ”

Substitute

“One third of the number of the Members (a fraction of the whole number being disregarded), including the chairman,”.

4. Rule 75 amended (House Committee)

Rule 75(12A), before “, including the chairman.” —

Repeal

“20 members.”

Substitute

“One third of the number of the members (a fraction of the whole number being disregarded)”.

《議事規則》修訂建議列表

註：

1. 38 名議員的原修訂以**粗斜字體**或刪除線標示，而第二批修訂建議加以**灰階**標示。
2. 梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修訂以**粗斜字體及下加虛線**標示。
3. 廖長江議員於 2017 年 10 月 31 日提交的決議案與上述第一項不同的修訂，會以**下加雙橫線**標示。

新加入 1B. 立法會主席

1. 38 名議員的原修訂建議

1B. 立法會主席

立法會設有立法會主席一職，其職權載於《基本法》第七十二條、香港法律及本《議事規則》。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

1B. 立法會主席

立法會設有立法會主席一職，立法會主席在執行職務時，須時刻保持和維護立法會的自主權，其職權載於《基本法》第七十二條、香港法律及本《議事規則》。

3. 主持立法會及全體委員會會議

2017年2月10日版本

(1) 立法會設有立法會主席一職，主席如出席立法會或全體委員會會議，並認為能執行主席職務，須主持立法會會議或擔任全體委員會主席。

1. 38名議員的原修訂建議

(1) 立法會設有立法會主席一職，主席如出席立法會或全體委員會會議，並認為能執行主席職務，須主持立法會會議或擔任全體委員會主席。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

(1) 立法會設有立法會主席一職，主席的職責是必須平衡立法會中多數人與少數人的權益，並確保立法會各方面的利益得到倡議和保障，不會被任意濫用的權力損害。主席如出席立法會或全體委員會會議，並認為其能執行主席職務，須主持立法會會議或擔任全體委員會主席。

14. 會議日期及時間

2017年2月10日版本

(4) 立法會主席如認為為了在立法會會議上適當地處理完議程上的各項事務，有必要另擇一天繼續處理未完事項，則可命令於另一天繼續舉行會議。凡立法會主席在立法會會議上作此命令，當天會議須暫停舉行，並須於該另一天復會繼續處理有關事項。

1. 38名議員的原修訂建議

(4) 立法會主席如認為為了在立法會會議上適當地處理完議程上的各項事務，有必要另擇一天繼續處理未完事項，則可命令於任何時間或任何一天另一天繼續為此目的舉行會議。凡立法會主席在立法會會議上作此命令，當天會議須暫停舉行，並須於該另一時間或該天天復會繼續處理有關事項。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

(4) 立法會主席如認為為了在立法會會議上適當地處理完議程上的各項事務，有必要另擇一天繼續處理未完事項，則可命令於另任何時間或任何一曆日任何時間天另一天繼續為此目的舉行會議。凡立法會主席在立法會會議上作此命令，當天該天會議須暫停舉行，並須於該選定日子(但不包括會議暫停當天)及另一時間或該天天復會繼續處理有關事項。

17. 會議法定人數

2017年2月10日版本

(1) 立法會及全體委員會的會議法定人數為不少於全體議員的二分之一，包括立法會主席或全體委員會主席在內。

(2) 如出席會議的議員不足法定人數，而有人向立法會主席提出此事，立法會主席即須指示傳召議員到場。15分鐘後，如仍不足法定人數，立法會主席即無須付諸表決而宣布休會待續。

(3) 如未有足夠法定人數出席會議，而有人向全體委員會主席提出此事，全體委員會主席即須指示傳召議員到場。15分鐘後，如仍不足法定人數，委員會即須回復為立法會，立法會主席即無須付諸表決而宣布休會待續。

1. 38名議員的原修訂建議及第二批修訂建議

(1) 立法會及全體委員會的會議法定人數為不少於全體議員的二分之一，包括立法會主席或全體委員會主席在內。

(1A) 立法會全體委員會會議法定人數包括主席在內為20人。

(2) 如出席會議的議員不足法定人數，而有人向立法會主席提出此事，立法會主席即須指示傳召議員到場。15分鐘後，如仍不足法定人數，立法會主席即無須付諸表決而宣布休會待續。**立法會主席可召開會議，以完成在任何一天因會議不足法定人數而休會待續在議程上出現的未完事項，如立法會主席認為必須召開這會議，根據此款規定而休會待續的立法會會議，須當作是被命令暫停的會議，可按規則第14(4)條的規定，於立法會主席命令的時間或日期復會繼續處理有關事項。**

(3) 如未有足夠法定人數出席會議，而有人向全體委員會主席提出此事，全體委員會主席即須指示傳召議員到場。15分鐘後，如仍不足法定人數，委員會即須回復為立法會，立法會主席**須點算立法會會議人數。如當時已足會議法定人數，立法會須**

再次轉變為全體委員會，但如果不足會議法定人數，立法會主席即無須付諸表決而宣布休會待續。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

建議修訂一：

(2) 如出席會議的議員不足法定人數，而有人向立法會主席提出此事，立法會主席即須指示傳召議員到場。15 分鐘後，如仍不足法定人數，立法會主席即無須付諸表決而宣布休會待續。**立法會主席如在下一次會議前收到分區直接選舉組別及功能團體組別均過半數議員去信要求，可召開會議，以完成在任何一天因會議不足法定人數而休會待續在議程上出現的未完事項，如立法會主席認為必須召開這會議，根據此款規定而休會待續的立法會會議，須當作是被命令暫停的會議，可按規則第 14(4) 條的規定，於立法會主席命令的時間或日期復會繼續處理有關事項。**

(3) 如未有足夠法定人數出席會議，而有人向全體委員會主席提出此事，全體委員會主席即須指示傳召議員到場。15 分鐘後，如仍不足法定人數，委員會即須回復為立法會，立法會主席**須點算立法會會議人數。如當時已足會議法定人數，立法會主席須即時提出是否再次轉為全體委員會的待決議案，議員即可進行辯論。如議案獲得通過，須立法會即再次轉變為全體委員會，但如果不足會議法定人數或上述議案無法獲得通過，立法會主席**即無須付諸表決而宣布休會待續。

建議修訂二：

(2) 如出席會議的議員不足法定人數，而有人向立法會主席提出此事，立法會主席即須指示傳召議員到場。15 分鐘後，如仍不足法定人數，立法會主席即無須付諸表決而宣布休會待續。**立法會主席如在下一次會議前收到全體議員三分之二多數去信要求，可召開會議，以完成在任何一天因會議不足法定人數而休會待續在議程上出現的未完事項，如立法會主席認為必須召開這會議，根據此款規定而休會待續的立法會會議，須當作是被命令暫停的會議，可按規則第 14(4) 條的規定，於立法會主席命令的時間或日期復會繼續處理有關事項。**

(3) 如未有足夠法定人數出席會議，而有人向全體委員會主席提出此事，全體委員會主席即須指示傳召議員到場。15 分鐘後，如仍不足法定人數，委員會即須回復為立法會，立法會主席須點算立法會會議人數。如當時已足會議法定人數，立法會主席須即時提出是否再次轉為全體委員會的待決議案，議員即可進行辯論。如獲全體議員三分之二多數通過，須即再次轉變為全體委員會，但如果不足會議法定人數或上述議案無法獲得通過，立法會主席即無須付諸表決而宣布休會待續。

3. 廖長江議員於 2017 年 10 月 31 日提交的決議案的修訂建議

(2) 如出席會議的議員不足法定人數，而有人向立法會主席提出此事，立法會主席即須指示傳召議員到場。15 分鐘後，如仍不足法定人數，立法會主席即無須付諸表決而宣布休會待續。立法會主席可召開會議，以完成在任何一天因會議不足法定人數而休會待續在議程上出現的未完事項，如立法會主席認為必須召開這會議，根據此款規定而休會待續的立法會會議，須當作是被命令暫停的會議，可按規則第 14(4) 條(會議日期及時間)的規定，於立法會主席命令的時間或日期復會繼續處理有關事項。

19. 立法會議程

2017年2月10日版本

(1) 立法會議程由立法會主席決定，並須有中、英文本。每次會議所有經事先作出預告的事項，須依照本議事規則第 18 條(各類事項的次序)規定的次序，列於該次會議的議程內。

1. 38 名議員的原修訂建議

(1) 立法會議程由立法會主席決定，並須有中、英文本。**在沒有抵觸第 1A 款的情況下**，每次會議所有經事先作出預告的事項，須依照本議事規則第 18 條(各類事項的次序)規定的次序，列於該次會議的議程內。

(1A) 就任何將列於立法會會議的議程中的議案或任何法案，立法會主席或立法會全體委員會主席有權選擇就該等議案或法案提出的修正案、新條文及新附表，並有權指示他認為類同的兩項或以上的議案或修正案予以合併。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

建議修訂一：

(1) 立法會議程由立法會主席決定，並須有中、英文本。**在沒有抵觸第(1A)及(3)款的情況下**，每次會議所有經事先作出預告的事項，須依照本議事規則第 18 條(各類事項的次序)規定的次序，列於該次會議的議程內。

(1A) 就任何將列於立法會會議的議程中的議案或任何法案，立法會主席或立法會全體委員會主席有權選擇就該等議案或法案提出的修正案、新條文及新附表，致函獲勳議人同意下，並有權指示他認為類同的兩項或以上的議案或修正案予以分拆或合併。

建議修訂二：

(1) 立法會議程由立法會主席決定，並須有中、英文本。**在沒有抵觸第(1A)款的情況下**，每次會議所有經事先作出預告的事項，須依照本議事規則第 18 條(各類事項的次序)規定的次序，列於該次會議的議程內。

(1A) 就任何將列於立法會會議的議程中的議案或任何法案，立法會主席或立法會全體委員會主席有權選擇就該等議案或法案提出的修正案、新條文及新附表，致函獲勳議人同意下，並有權指示他認為類同的兩項或以上的議案或修正案予以合併。

20. 呈請書的提交

2017年2月10日版本

(6) 呈請書提交後，如有議員即時起立，要求將呈請書交付專責委員會處理，立法會主席即須請支持此項要求的議員起立；如有不少於20名議員起立，呈請書即告交付專責委員會處理。

1. 38名議員的原修訂建議

(6) 呈請書提交後，如有議員即時起立，要求將呈請書交付專責內務委員會處理，立法會主席即須請支持此項要求的議員起立；如有不少於~~20名議員~~全體議員的二分之一起立，呈請書即告交付內務專責委員會處理。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

建議修訂一：

(6) 呈請書提交後，如有議員即時起立，要求將呈請書交付專責內務委員會全體委員所成組成的專責委員會處理並提交報告予內務委員會，立法會主席即須請支持此項要求的議員起立；如有不少於~~20名議員~~全體議員的二分之一分區直接選舉產生的議員的三分之一或功能團體選舉產生的議員的三分之一起立，呈請書即告交付專責委員會處理，該專責委員會須撰寫呈請書報告並交付內務專責委員會處理。

建議修訂二：

(6) 呈請書提交後，如有議員即時起立，要求將呈請書交付專責內務委員會全體委員所成組成的專責委員會處理並提交報告予內務委員會，立法會主席即須請支持此項要求的議員起立；如有不少於~~20名議員~~全體議員的二分之一各地方選區直接選舉產生的一名議員及由功能團體選舉產生的一名議員起立，呈請書即告交付專責委員會處理，該專責委員會須撰寫呈請書報告並交付內務專責委員會處理。

30. 議案及修正案的預告方式

2017年2月10日版本

(3) 就議案或修正案所作預告，須呈交立法會主席，由其指示按以下方式處理——

- (a) 按所交來的原有措辭印載；或
- (b) 按其指示修改，然後予以印載；或
- (c) 因其認為不合乎規程，將該預告退回簽署該預告的議員。

(4) 如立法會秘書就相同修正案接獲多於一項預告，最早作出預告而未有撤回該預告的議員為修正案的動議人。

1. 38名議員的原修訂建議

(3) 就議案或修正案所作預告，須呈交立法會主席，由其指示按以下方式處理——

- (a) 按所交來的原有措辭印載；或
- (b) 按其指示修改，然後予以印載，**該等修改包括因議案或修正案合併而需作出的修改**；或
- (c) 因其認為不合乎規程，將該預告退回簽署該預告的議員~~；或~~；**或**
- (d) **退回簽署該預告的議員：**
 - (i) **因該預告不獲立法會主席選擇；或**
 - (ii) **因該預告已和另一議案或修正案合併。**

(4) **立法會主席如認為恰當，可在根據第(3)(d)款發出指示前，要求任何曾就議案或修正案作出預告的議員解釋其議案或修正案的主題，使立法會主席可就此事宜作出判斷及考慮有關解**

~~釋。如將合併的議案或修正案是由超過 1 名議員提出，立法會主席可指定由哪名議員提出有關的合併議案或修正案。如立法會秘書就相同修正案接獲多於一項預告，最早作出預告而未有撤回該預告的議員為修正案的動議人。~~

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

(3) 就議案或修正案所作預告，須呈交立法會主席，由其指示按以下方式處理——

- (a) 按所交來的原有措辭印載；或
- (b) 按其指示修改，然後予以印載，該等修改包括因議案或修正案合併而需作出的修改及其修改須徵得提案或修正案議員同意；或
- (c) 因其認為不合乎規程，將該預告退回簽署該預告的議員~~。~~；或
- (d) 退回簽署該預告的議員：
 - (i) 因該預告不獲立法會主席選擇；或
 - (ii) 因該預告已獲提案或修正案議員同意下和另一議案或修正案合併。

(4) 立法會主席如認為恰當，可在根據第(3)(d)款發出指示前，要求任何曾就議案或修正案作出預告的議員解釋其議案或修正案的主題，使立法會主席可就此事宜作出判斷及考慮有關解釋提出合併建議，合併建議須獲得提案或修正案議員同意才可合併。如將合併的議案或修正案是由超過 1 名議員提出，立法會主席可根據最早作出預告而未有撤回該預告的議員為動議人指定由哪名議員提出有關的合併議案或修正案。如立法會秘書就相同修正案接獲多於一項預告，最早作出預告而未有撤回該預告的議員為修正案的動議人。

3. 廖長江議員於 2017 年 10 月 31 日提交的決議案的修訂建議

(3) 就議案或修正案所作預告，須呈交立法會主席，由其指示按以下方式處理——

- (a) 按所交來的原有措辭印載；或
- (b) 按其指示修改，然後予以印載，**該等修改包括因議案或修正案合併而需作出的修改**；或
- (c) 因其認為不合乎規程，將該預告退回簽署該預告的議員；**或**
- (d) **退回簽署該預告的議員：**
 - (i) **因該預告不獲立法會主席選擇；或**
 - (ii) **因該預告已和另一議案或修正案合併。**

(3A) 立法會主席如認為恰當，可在根據第(3)(d)款發出指示前，要求任何曾就議案或修正案作出預告的議員解釋其議案或修正案的主題，使立法會主席可就此事宜作出判斷及考慮有關解釋。如將合併的議案或修正案是由超過 1 名議員提出，立法會主席可指定由哪名議員提出有關的合併議案或修正案。

38. 議員可發言多於一次的情況

2017年2月10日版本

(3) 已就某議題發言的議員，可再次發言以解釋其先前發言中被誤解的部分，但發言時不得提出新事宜。

1. 38名議員的原修訂建議

(3) 已就某議題發言的議員，可再次發言以解釋其先前發言中被誤解的部分，但發言時不得提出新事宜 **及只可就被誤解的部分發言**。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

(3) 已就某議題發言的議員，可再次發言以解釋其先前發言中被誤解的部分，但發言時不得提出新事宜 **及只可就被誤解的部分發言；若相關議員提出要求，主席必須暫停會議，與相關議員重看相關發言片段，以釐清發言內容**。

40. 辯論中止待續或全體委員會休會待續

2017年2月10日版本

(4) 在立法會全體委員會會議上，議員可無經預告而動議一項委員會現即休會待續的議案，全體委員會主席須即提出該議案的待議議題。議案如獲通過，委員會即須回復為立法會；議案如被否決，則委員會的程序即須繼續進行。

1. 38名議員的原修訂建議

(4) 在立法會全體委員會會議上，議員可無經預告而動議一項委員會現即休會待續的議案，全體委員會主席須即提出該議案的待議議題。議案如獲通過，委員會即須回復為立法會；議案如被否決，則委員會的程序即須繼續進行。**如全體委員會主席認為動議委員會現即休會待續的議案是濫用程序，可決定不提出待決議題或無經辯論而把議題付諸表決。**

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

建議修訂一：

(4) 在立法會全體委員會會議上，議員可無經預告而動議一項委員會現即休會待續的議案，全體委員會主席須即提出該議案的待議議題。議案如獲通過，委員會即須回復為立法會；議案如被否決，則委員會的程序即須繼續進行。**如全體委員會主席認為動議委員會現即休會待續的議案是濫用程序，即該議員已就該項議題提出一次休會待續的議案，全體委員會主席可決定不提出待決議題或無經辯論而把議題付諸表決。**

建議修訂二：

(4) 在立法會全體委員會會議上，議員可無經預告而動議一項委員會現即休會待續的議案，全體委員會主席須即提出該議案的待議議題。議案如獲通過，委員會即須回復為立法會；議案如被否決，則委員會的程序即須繼續進行。**如全體委員會主席**

認為動議委員會現即休會待續的議案是濫用程序，全體委員會主席可決定不提出待決議題或無經辯論而把議題付諸表決須即時提出該議員有否濫用程序的待決議案，由全體委員會展開辯論，並於五分鐘表決鐘聲後付諸表決，若議案獲通過，該項休會待續議案將不獲受理。

45. 立法會及委員會會議中的秩序

2017年2月10日版本

(1) 立法會主席、全體委員會主席或任何常設或專責委員會主席如發覺有議員在辯論中不斷提出無關的事宜，或冗贅煩厭地重提本身或其他議員的論點，於向立法會或委員會指出該議員的行為後，可指示該議員不得繼續發言。

(2) 如議員行為極不檢點，立法會主席、全體委員會主席或任何委員會主席即須命令其立即退席，不得繼續參與立法會或委員會的該次會議；立法會秘書或任何委員會的秘書須按照主席的命令採取行動，以確保該命令得以遵從。

1. 38名議員的原修訂建議

(1) 立法會主席、全體委員會主席或任何常設或專責委員會主席如發覺有議員在辯論中不斷提出無關的事宜，或冗贅煩厭地重提本身或其他議員的論點，於向立法會或委員會指出該議員的行為後，可指示該議員不得繼續發言。

(2) 如議員行為極不檢點，立法會主席、全體委員會主席或任何委員會主席即須命令其立即退席，不得繼續參與立法會或委員會的該次會議。**根據本款規定被全體委員會會議主席被命令退席的議員須繼續退席立法會，不得參與立法會的該次會議。**立法會秘書或任何委員會的秘書須按照主席的命令採取行動，以確保該命令得以遵從。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

建議修訂一：

(1) 立法會主席、全體委員會主席或任何常設或專責**根據本《議事規則》第72、73及75條所組成的**委員會主席如發覺有議員在辯論中不斷提出無關的事宜，或冗贅煩厭地重提本身或

其他議員的論點，於向立法會或委員會指出該議員的行為後，可指示該議員不得繼續發言。

(2) 如議員行為極不檢點，立法會主席、全體委員會主席或任何委員會主席即須命令其立即退席，不得繼續參與立法會或委員會的該次會議。**根據本款規定被全體委員會會議主席被命令退席的議員須繼續退席立法會當日全體委員會會議，不得參與立法會的該次會議而行使本款的主席亦須在會議後以書面向全體立法會議員解釋該命令的原因及理據。**立法會秘書或任何委員會的秘書須按照主席的命令採取行動，以確保該命令得以遵從。

建議修訂二：

(1) 立法會主席、全體委員會主席**或任何常設或專責委員會主席**如發覺有議員在辯論中不斷提出無關的事宜，或冗贅煩厭地重提本身或其他議員的論點，於向立法會或委員會指出該議員的行為後，可指示該議員不得繼續發言。

建議修訂三：

(1) 立法會主席、全體委員會主席或任何**常設或專責**委員會主席如發覺有議員在辯論中不斷提出無關的事宜，或冗贅煩厭地重提本身或其他議員的論點，於向立法會或委員會**即時提出待決議題：判斷冗贅發言，並經討論及表決**指出該議員的行為後，可指示該議員不得繼續發言。

3. 廖長江議員於 2017 年 10 月 31 日提交的決議案的修訂建議

(2) 如議員行為極不檢點，立法會主席、全體委員會主席或任何委員會主席即須命令其立即退席，不得繼續參與立法會或委員會的該次會議；**根據本款規定被全體委員會會議主席被命令退席的議員須繼續退席立法會，不得參與立法會的該次會議。**立法會秘書或任何委員會的秘書須按照主席的命令採取行動，以確保該命令得以遵從。

49. 點名表決

2017年2月10日版本

(4) 在緊接立法會主席宣布議案修正案的點名表決結果或全體委員會主席宣布法案的任何條文或任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就該議案或該議案的任何修正案，或就法案的任何條文或任何修正案進行點名表決時，立法會或全體委員會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時立法會主席或全體委員會主席須就該議案提出待議議題。

(6) 如有多於一項有關立法會議程所列附屬法例或本議事規則第29(2)(b)條(議案及修正案的預告)所提述的文書的議案(本議事規則第29(3)條提述的議案除外)，則在立法會主席宣布該議案或該議案的任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就附屬法例或文書提出的議案或該議案的任何修正案進行點名表決時，立法會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時立法會主席須就該議案提出待議議題。

1. 38名議員的原修訂建議

(4) 在緊接立法會主席宣布議案修正案的點名表決結果或全體委員會主席宣布法案的任何條文或任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就該議案或該議案的任何修正案，或就法案的任何條文或任何修正案進行點名表決時，立法會或全體委員會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時立法會主席或全體委員會主席須**無經辯論而**就該議案提出**的待決待議**議題**付諸表決**。

(6) 如有多於一項有關立法會議程所列附屬法例或本議事規則第29(2)(b)條(議案及修正案的預告)所提述的文書的議案(本議事規則第29(3)條提述的議案除外)，則在立法會主席宣布該議案或該議案的任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就附屬法例或文書提出的議案或該議案的任何修正案進行點名表決時，立法會須在點名表決鐘聲響起一分鐘後

立即進行各該點名表決。屆時立法會主席須**無經辯論而**就該議案提出**的待決議題付諸表決待議議題**。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

建議修訂一：

(4) 在緊接立法會主席宣布議案修正案的點名表決結果或全體委員會主席宣布法案的任何條文或任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就該議案或該議案的任何修正案，或就法案的任何條文或任何修正案進行點名表決時，立法會或全體委員會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時**提出縮短表決鐘聲時間的議員，必須證明並非濫用程序或拖延議案，**立法會主席或全體委員會主席須**無經辯論而**就該議案提出**的待決待議議題付諸表決**。

(6) 如有多於一項有關立法會議程所列附屬法例或本議事規則第 29(2)(b)條(議案及修正案的預告)所提述的文書的議案(本議事規則第 29(3)條提述的議案除外)，則在立法會主席宣布該議案或該議案的任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就附屬法例或文書提出的議案或該議案的任何修正案進行點名表決時，立法會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時**提出縮短表決鐘聲時間的議員，必須證明並非濫用程序或拖延議案，**立法會主席須**無經辯論而**就該議案提出**的待決議題付諸表決待議議題**。

建議修訂二：

(4) 在緊接立法會主席宣布議案修正案的點名表決結果或全體委員會主席宣布法案的任何條文或任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就該議案或該議案的任何修正案，或就法案的任何條文或任何修正案進行點名表決時，立法會或全體委員會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時立法會主席或全體委員會主席須**無經辯論而**就該議案提出**的待決待議議題付諸表決；若有議員要求進行辯論，立法會或全體委員會須隨即就議案展開辯論，並於五分鐘表決鐘聲後付諸表決。**

(6) 如有多於一項有關立法會議程所列附屬法例或本議事規則第 29(2)(b)條(議案及修正案的預告)所提述的文書的議案(本議事規則第 29(3)條提述的議案除外)，則在立法會主席宣布該議案或該議案的任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就附屬法例或文書提出的議案或該議案的任何修正案進行點名表決時，立法會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時立法會主席須**無經辯論而**就該議案提出的**待決議題付諸表決待議議題；若有議員要求進行辯論，立法會或全體委員會須隨即就議案展開辯論，並於五分鐘表決鐘聲後付諸表決。**

54. 二讀

2017年2月10日版本

(4) 除與撥款法案有關者外，在負責法案的議員就現即二讀該法案的議案發言後，辯論須中止待續，而該法案須交付內務委員會處理，除非立法會就任何議員提出的一項可無經預告而動議的議案另有命令。

1. 38名議員的第二批修訂建議

(4) 除與撥款法案有關者外，在負責法案的議員就現即二讀該法案的議案發言後，辯論須中止待續，而該法案須交付內務委員會處理，除非立法會就任何議員**在獲得立法會主席的同意後**提出的一項可無經預告而動議的議案另有命令。

55. 法案的付委

2017年2月10日版本

(1) 二讀法案的議案如獲通過，該法案即告付委予全體委員會，除非——

- (a) 立法會通過議案，將法案付委予一專責委員會；該項議案可無經預告，但須在該法案二讀後即時由任何議員動議；或
- (b) 立法會主席認為該法案會特別惠及或反之特別影響某人、某社團或某法團，在此情況下，立法會主席可指示將該法案付委予一專責委員會。

1. 38名議員的第二批修訂建議

(1) 二讀法案的議案如獲通過，該法案即告付委予全體委員會，除非——

- (a) 立法會通過議案，將法案付委予一專責委員會；該項議案可**在獲得立法會主席同意的情況下**無經預告，但須在該法案二讀後即時由任何議員動議；或
- (b) 立法會主席認為該法案會特別惠及或反之特別影響某人、某社團或某法團，在此情況下，立法會主席可指示將該法案付委予一專責委員會。

57. 法案的修正案

2017年2月10日版本

- (4) 以下規定適用於與法案有關的修正案：
- (a) 修正案必須與法案的主題及有關條文的主題有關。
 - (b) 修正案不得與已獲通過的條文或全體委員會就法案先前所作的決定不一致。
 - (c) 修正案不得令建議修正的條文變得不能理解或不合語法。
 - (d) 不可動議全體委員會主席認為瑣屑無聊或無意義的修正案。

1. 38名議員的原修訂建議

- (4) 以下規定適用於與法案有關的修正案：
- (a) 修正案必須與法案的主題及有關條文的主題有關。
 - (b) 修正案不得與已獲通過的條文或全體委員會就法案先前所作的決定不一致。
 - (c) 修正案不得令建議修正的條文變得不能理解或不合語法。
 - (d) 不可動議全體委員會主席認為瑣屑無聊或無意義的修正案或由兩項或以上修正案組成的系列修正案。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

- (4) 以下規定適用於與法案有關的修正案：
- (a) 修正案必須與法案的主題及有關條文的主題有關。
 - (b) 修正案不得與已獲通過的條文或全體委員會就法案先前所作的決定不一致。
 - (c) 修正案不得令建議修正的條文變得不能理解或不合語法。
 - (d) 不可動議全體委員會主席認為瑣屑無聊或無意義的修正案 或由兩項或以上修正案組成的系列修正案。
 - (e) 凡動議對具備兩個法定語文文本的法案作出修正，除非該修正案明顯地只影響其中一個文本，否則每一個文本均須作出修正；但不可動議令兩個文本相互抵觸或意義差歧的修正案或系列修正案。

66. 發回重議的法案

2017年2月10日版本

(4) 在立法會秘書讀出法案簡稱後，一名獲委派官員可以就該法案發回發言，該法案隨即交付內務委員會，除非立法會就任何議員提出的一項可無經預告而動議的議案另有命令。

1. 38名議員的第二批修訂建議

(4) 在立法會秘書讀出法案簡稱後，一名獲委派官員可以就該法案發回發言，該法案隨即交付內務委員會，除非立法會就任何議員 **在獲得立法會主席同意後** 提出的一項可無經預告而動議的議案另有命令。

75. 內務委員會

2017年2月10日版本

- (10) 委員會須決定下列事宜的研究方式——
- (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) (a)或(b)段提述的附屬法例或文書的任何擬稿。

1. 38名議員的原修訂建議

- (10) 委員會須決定下列事宜的研究方式——
- (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) (a)或(b)段提述的附屬法例或文書的任何擬稿；~~或。~~
 - (d) **根據規則第20(6)條向其交付的呈請。**

(10A) 在研究第(10)款所提述的附屬法例~~及~~、其他文書~~及呈請書~~後，委員會可向立法會提交報告。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

- (10) 委員會須決定下列事宜的研究方式——

- (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) (a)或(b)段提述的附屬法例或文書的任何擬稿；~~或。~~
- (d) 根據規則第 20(6)條向其交付的呈請報告。**

(10A) 在研究第(10)款所提述的附屬法例~~及~~、其他文書~~及呈請書報告~~後，委員會可向立法會提交報告。

3. 廖長江議員於 2017 年 10 月 31 日提交的決議案的修訂建議

- (10) 委員會須決定下列事宜的研究方式——
 - (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) (a)或(b)段提述的附屬法例或文書的任何擬稿；~~或。~~
 - (d) 根據規則第 20(6)條(呈請書的提交)向其交付的呈請書。**

(10A) 在研究第(10)款所提述的附屬法例~~及~~、其他文書~~及呈請書~~後，委員會可向立法會提交報告。

新加入 79C. 委員會主席決定委員會會議議程

1. 38 名議員的原修訂建議

79C. 委員會主席決定委員會會議議程

任何委員會的會議議程須由其主席決定。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

建議修訂一：

79C. 委員會主席決定委員會會議議程

任何委員會的會議議程須由其主席及在委員沒有反對下決定。

建議修訂二：

79C. 委員會主席決定委員會會議議程

任何委員會的會議議程須由其主席及在委員過半同意下決定。

建議修訂三：

79C. 委員會主席決定委員會會議議程

任何委員會的會議議程須由其主席在會議前五整天作出預告，並經委員會委員同意後決定。

新加入 79D. 委員會主席應用《議事規則》及其他行事方式

1. 38 名議員的原修訂建議

79D. 委員會主席應用《議事規則》及其他行事方式

就任何在委員會的行事方式及程序中，或在適用於該委員會的行事方式及程序中，均沒有規定的任何事宜，須按該委員會主席認為《議事規則》所訂與此相關的行事方式及程序處理，並須在作出所需變通後適用於該委員會。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

建議修訂一：

79D. 委員會主席應用《議事規則》及其他行事方式

就任何在委員會的行事方式及程序中，或在適用於該委員會的行事方式及程序中，均沒有規定的任何事宜，須按該委員會主席認為《議事規則》所訂與此相關的行事方式及程序處理，並須在作出所需變通後適用於該委員會的該次會議，會議完結後須將變通程序提交到內務委員會及按本《議事規則》第 74 條(議事規則委員會)所列程序處理。

建議修訂二：

79D. 委員會主席應用《議事規則》及其他行事方式

就任何在委員會的行事方式及程序中，或在適用於該委員會的行事方式及程序中，均沒有規定的任何事宜，須按該委員會主席在參考認為《議事規則》所訂與此相關的行事方式及程序後，舉行特別會議與該委員會的委員討論，並經立法會大會同意及以書面通告所有立法會議員後的方式處理，並須在作出所需變通後適用於該委員會。

88. 新聞界及公眾人士離場

2017年2月10日版本

(1) 在立法會、全體委員會、委員會或小組委員會會議上，議員可隨時無經預告而起立動議新聞界及公眾人士離場，並指明新聞界及公眾人士離場適用於當天會議的餘下程序，抑或只於審議某些事項的一段時間。議案一經動議，立法會主席、全體委員會主席、委員會主席或小組委員會主席隨即須提出該待議議題，而立法會、全體委員會、委員會或小組委員會須先行處理該議題，然後繼續處理該議案動議時立法會、全體委員會、委員會或小組委員會當前的事項。

1. 38名議員的第二批修訂建議

(1) 在立法會、全體委員會、委員會或小組委員會會議上，議員可隨時無經預告而起立，**並在獲得立法會主席、全體委員會主席、委員會主席或小組委員會主席的同意後**，動議新聞界及公眾人士離場，並指明新聞界及公眾人士離場適用於當天會議的餘下程序，抑或只於審議某些事項的一段時間。議案一經動議，立法會主席、全體委員會主席、委員會主席或小組委員會主席隨即須提出該待議議題，而立法會、全體委員會、委員會或小組委員會須先行處理該議題，然後繼續處理該議案動議時立法會、全體委員會、委員會或小組委員會當前的事項。

附表 1

選舉立法會主席的程序

第 1 條及新加入第 1A 條

2017 年 2 月 10 日版本

立法會主席的選舉須在立法會會議上進行。

1. 38 名議員的原修訂建議

總則

1. 立法會主席的選舉須在立法會會議上進行。

1A. 選舉須在議員已按照《議事規則》第 1 條的規定及香港法律作宗教式或非宗教式宣誓後的新一屆第一次會議上舉行。如有需要在屆中選舉立法會主席，該次選舉須在立法會一次完全只為選舉立法會主席的目的而進行的會議上舉行；議程不得載有任何其他事務；會議舉行的日期和開始的時間，由立法會代理主席(猶如他是規則第 14 條所指的立法會主席)作出決定。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

建議修訂一：

1A. 選舉須在議員已按照《議事規則》第 1 條的規定及香港法律作宗教式或非宗教式宣誓後的新一屆第一次會議上舉行。如有需要在屆中選舉立法會主席，該次選舉須在立法會一次完全只為選舉立法會主席的目的而進行的會議上舉行，該會議須在主席出缺後 3 個星期內舉行；議程不得載有任何其他事務；會議舉行的日期和開始的時間，由立法會代理主席(猶如他是規則第 14 條所指的立法會主席)作出決定。

建議修訂二：

1A. 選舉須在議員已按照《議事規則》第 1 條的規定及香港法律作宗教式或非宗教式宣誓後的新一屆第一次會議上舉行。如有需要在屆中選舉立法會主席，該次選舉須在立法會一次完全只為選舉立法會主席的目的而進行的會議上舉行，該會議須在主席出缺後 6 個星期內舉行；議程不得載有任何其他事務；會議舉行的日期和開始的時間，由立法會代理主席(猶如他是規則第 14 條所指的立法會主席)作出決定。

建議修訂三：

1A. 選舉須在議員已按照《議事規則》第 1 條的規定及香港法律作宗教式或非宗教式宣誓後的新一屆第一次會議上舉行。如有需要在屆中選舉立法會主席，該次選舉須在立法會一次完全只為選舉立法會主席的目的而進行的會議上舉行；除了進行《議事規則》第 18(a)或(b)條所述事項之外，議程不得載有任何其他事務，若需要進行《議事規則》第 18(a)或(b)條所述事項，則以該等事項為先；會議舉行的日期和開始的時間，由立法會代理主席(猶如他是規則第 14 條所指的立法會主席)作出決定。

建議修訂四：

1A. 選舉須在議員已按照《議事規則》第 1 條的規定及香港法律作宗教式或非宗教式宣誓後的新一屆第一次會議上舉行。如有需要在屆中選舉立法會主席，該次選舉須在立法會一次完全只為選舉立法會主席的目的而進行的會議上舉行；在第一屆第一次會議議程不得載有任何其他事務；會議舉行的日期和開始的時間，由立法會代理主席(猶如他是規則第 14 條所指的立法會主席)作出決定。

3. 廖長江議員於 2017 年 10 月 31 日提交的決議案的修訂建議

1A. 選舉須在議員已按照第 1 條(宗教式或非宗教式宣誓)的規定及香港法律作宗教式或非宗教式宣誓後的新一屆第一次會議上舉行。如有需要在屆中選舉立法會主席，該次選舉須在立法會一

次完全只為選舉立法會主席的目的而進行的會議上舉行；議程不得載有任何其他事務；會議舉行的日期和開始的時間，由立法會代理主席(猶如他是規則第 14 條(會議日期及時間)所指的立法會主席)作出決定。

第 3 條

2017 年 2 月 10 日版本

3. 立法會主席的提名表格須由一名作為提名人的議員，以及另外至少 3 名作為附議人的議員簽署。獲提名的議員須在表格上簽署以示接受提名。表格填妥後，須在選舉日至少 4 整天前送達立法會秘書辦事處。

1. 38 名議員的原修訂建議

3. 立法會主席的提名表格須由一名作為提名人的議員，以及另外至少 3 名作為附議人的議員簽署。獲提名的議員須在表格上簽署以示接受提名，**並聲明其具有資格可根據《基本法》第七十一條及《議事規則》第 4(2) 條成為立法會主席**。表格填妥後，須在選舉日至少 4 整天前送達立法會秘書辦事處。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

建議修訂一：

3. 立法會主席的提名表格須由一名作為提名人的議員，以及另外至少 3 名作為附議人的議員簽署。獲提名的議員須在表格上簽署以示接受提名，**並以書面方式聲明其具有資格可根據《基本法》第七十一條及《議事規則》第 4(2) 條成為立法會主席**。表格填妥後，須在選舉日至少 4 整天前送達立法會秘書辦事處。

建議修訂二：

3. 立法會主席的提名表格須由一名作為提名人的議員，以及另外至少 3 名作為附議人的議員簽署。獲提名的議員須在表格上簽署以示接受提名，**並聲明其本人自立法會換屆選舉或補選結果刊憲當日起已具有資格可根據《基本法》第七十一條及《議事規則》第 4(2) 條成為立法會主席**。表格填妥後，須在選舉日至少 4 整天前送達立法會秘書辦事處。

建議修訂三：

3. 立法會主席的提名表格須由一名作為提名人的議員，以及另外至少 3 名作為附議人的議員簽署。獲提名的議員須在表格上簽署以示接受提名，**並聲明其具有資格可根據《基本法》第七十一條及《議事規則》第 4(2)條成為立法會主席**。表格填妥後，須在選舉日至少 4 整天前送達立法會秘書辦事處。

3. 廖長江議員於 2017 年 10 月 31 日提交的決議案的修訂建議

3. 立法會主席的提名表格須由一名作為提名人的議員，以及另外至少 3 名作為附議人的議員簽署。獲提名的議員須在表格上簽署以示接受提名，**並聲明其具有資格可根據《基本法》第七十一條及第 4(2)條(立法會主席的選舉)成為立法會主席**。表格填妥後，須在選舉日至少 4 整天前送達立法會秘書辦事處。

第 6 條

2017 年 2 月 10 日版本

6. 出席會議的議員中根據本議事規則第1A條而定為連續擔任議員時間最長者，須主持立法會主席的選舉。

1. 38 名議員的原修訂建議

6. 出席會議的議員中根據本議事規則第 1A 條而定為連續擔任議員時間最長者，須**作為**主持立法會主席選舉**的議員("主持選舉的議員")**，其職權僅限於按照《議事規則》第 4(1)條及本附表的規定主持選舉立法會主席的會議。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

6. 出席會議的議員中根據本議事規則第 1A 條而定為連續擔任議員時間最長者，須**作為**主持立法會主席選舉**的議員("主持選舉的議員")**，其職權僅限於按照《議事規則》第 4(1)、44、45 條及本附表的規定主持選舉立法會主席的會議。

3. 廖長江議員於 2017 年 10 月 31 日提交的決議案的修訂建議

6. 出席會議的議員中根據本議事規則第 1A 條而定為連續擔任議員時間最長者，須**作為**主持立法會主席選舉**的議員("主持選舉的議員")**，其職權僅限於按照第 4(1)條立法會主席的選舉及本附表的規定主持選舉立法會主席的會議。

第 7 條

2017 年 2 月 10 日版本

7. 如根據上文第6段連續擔任議員時間最長的該名議員獲提名候選立法會主席一職，則未獲提名為候選人的議員中排名最先者，須主持選舉。

1. 38 名議員的原修訂建議 (廖長江議員10月31日提交的決議案並不包括此項修訂建議)

7. 如根據上文第 6 段連續擔任議員時間最長的該名議員獲提名候選立法會主席一職 **或不能執行主席職務**，則未獲提名為候選人的議員中排名最先者，須主持選舉。

新加入第 7A 條

1. 38 名議員的原修訂建議

7A. 主持選舉的議員只可在其宣布已當選立法會主席的議員姓名後將會議休會待續。如主持選舉的議員有必要暫停會議，會議須在暫停後 1 小時內復會。在所有選舉立法會主席的程序完成前，不得命令會議再次暫停。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

建議修訂一：

7A. 主持選舉的議員只可在其宣布已當選立法會主席的議員姓名後將會議休會待續。如主持選舉的議員有必要暫停會議，會議須在暫停後 1 小時內復會。在所有選舉立法會主席的程序完成前，不得命令會議再次暫停。

建議修訂二：

7A. 主持選舉的議員只可在其宣布已當選立法會主席的議員姓名後將會議休會待續。如主持選舉的議員有必要暫停會議，會議須在暫停後 1.24 小時內復會。在所有選舉立法會主席的程序完成前，不得命令會議再次暫停。

建議修訂三：

7A. 主持選舉的議員只可在其宣布已當選立法會主席的議員姓名後將會議休會待續。如主持選舉的議員有必要暫停會議，會議須在暫停後 1 小時內復會。在所有選舉立法會主席的程序完成後，不得命令會議再次暫停。

新加入第 7B 條

1. 38 名議員的原修訂建議

7B. 主持選舉的議員在整個選舉過程中不得准許議員發言，但規程問題除外。規程問題不容辯論。如主持選舉的議員認為有議員濫用程序，主持選舉的議員可拒絕准許任何議員提出任何規程問題。

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

7B. 主持選舉的議員在整個選舉過程中不得准許議員發言，但規程問題除外除非得到主席的酌情、質詢候選人或提出規程問題。規程問題不容只限提出問題的議員和主持選舉的議員辯論。如主持選舉的議員認為有議員濫用程序，主持選舉的議員可拒絕准許任何議員提出任何規程問題。

第 17 條

2017 年 2 月 10 日版本

17. 隨後，主持選舉的議員須讓位予立法會主席。立法會主席可向立法會陳詞，然後視乎情況，著手處理會議事項、宣布休會待續、或暫停舉行會議。

1. 38 名議員的原修訂建議

17. 隨後，主持選舉的議員須讓位予立法會主席。立法會主席可向立法會陳詞，然後~~視乎情況，著手處理會議事項、~~宣布休會待續~~、或暫停舉行會議。~~

2. 經梁繼昌議員、涂謹申議員、郭榮鏗議員及楊岳橋議員的修正的修訂建議

17. 隨後，主持選舉的議員須讓位予立法會主席。立法會主席可向立法會陳詞，然後~~視乎情況，著手處理會議事項、~~視乎情況執行《議事規則》第 14(4)條暫停會議在另一天恢復、第 14(5)條~~視乎情況，著手處理會議事項、~~宣布休會待續~~、或暫停舉行會議。~~

10 名泛民議員對《議事規則》的擬修訂建議

1. 宗教式或非宗教式宣誓

除為了令本條規則得以遵從者外，議員如未按照《宣誓及聲明條例》(第 11 章)的規定及首席大法官監督下作宗教式或非宗教式宣誓，不得參與立法會會議或表決。凡舉舉行換屆選舉後，以前已作該等宗教式或非宗教式宣誓的議員，在參與立法會會議或表決之前，亦須遵照本條規則再次宣誓。假如秘書、主席或代主席行事的議員批准某議員的宣誓，但其後卻被有關機關判斷為失效，有關議員應享有其於立法會工作的酬金、福利及各類實報實銷開支。

1A. 議員的排名

(1) 立法會議員的排名序按連續擔任立法會議員的時間而定，擔任時間不一定需要連續；惟若時間相同，則連續擔任立法會議員的時間較長者先排。

(2) 除議事規則第 1A(1)條另有規定外，如有兩名或以上議員連續擔任議員的時間相同，則根據選舉時所得票數作排名，以較高者為先，若仍然相同則以本議事規則第 1 條(宗教式或非宗教式宣誓)的規定較先宣誓的議員排名較先。

1B. 基本權利

任何議員（包括主席）在履行立法會職務時，必須尊重《基本法》第三章所訂明香港居民的基本權利，以及充分考慮《公民權利和政治權利國際公約》、《經濟、社會與文化權利的國際公約》和有關國際人權文書的條文。

2. 語文

陳志全議員的修訂建議

議員在立法會發言或主持會議，可用普通話、粵語或英語。

張超雄議員的修訂建議

議員在立法會發言，可用手語、普通話、粵語或英語。

3. 主持立法會及全體委員會會議

(1A) 立法會主席的職責是必須平衡立法會中多數人與少數人的權益，並確保立法會各方面的利益得到倡議與保障，不會被任意濫用的權力損害。

3A. 立法會的自主權

立法會主席在執行職務時，須時刻保持和維護立法會的自主權。

4. 立法會主席的選舉

陳淑莊議員的修訂建議

(2) 立法會主席由年滿 40 周歲，在香港通常居住連續滿 20 年並在外國無居留權的香港特別行政區永久性居民中的中國公民擔任。立法會主席須由地區直選議員擔任。

陳志全議員的修訂建議

(2) 立法會主席由年滿 40 周歲，在香港通常居住連續滿 20 年並在過去 7 年在外國無居留權的香港特別行政區永久性居民中的中國公民擔任。

(4) 立法會解散期間，如須召開立法會會議審議急切事項，則立法會解散前擔任立法會主席的人士須當作為立法會主席並負責召開及主持會議，並在因應該次立法會會議而舉舉行的全體委員會會議上擔任主席。如該名人士缺席或不能執行主席職務，則立法會解散前擔任立法會代理主席的人士須主持會議及擔任主席。如擔任該兩個職位的人士均缺席或不能執行主席職務，則由出席會議的議員互選一名主席，主持會議。

5. 立法會代理主席

(1) 立法會代理主席由根據本議事規則第 75(2)條(內務委員會)獲選的內務委員會主席擔任。內務委員會主席須由地區直選議員擔任。

6. 立法會秘書的職責

(5) 立法會秘書須負責保管表決結果、紀錄、會議錄像、法案及其他呈交立法會的文件；議員及執行職務時涉及立法會事務的官員均可在合理時間查閱此等文件，其他人士亦可根據立法會主席批准的安排查閱。

(5A) (a) 立法會秘書須在文件或紀錄存在 ~~25年~~20年內進行附表 2 的立法機關文件及紀錄查閱政策(b)段所提述的覆檢，以確定應否將可提供該等文件或紀錄以供查閱的時間提早，而若有關文件或紀錄仍未可提供予公眾查閱，則須在上次覆檢後最少每 4 年再覆檢一次。

(b) 立法會秘書可根據查閱立法機關文件及紀錄事宜委員會所制訂的任何指引，拒絕提供某份文件或紀錄以供查閱。

(7) 立法會秘書須負責為立法會每一個委員會及小組委員會提供一名秘書及(除非立法會秘書另有指示)一名副秘書。

(9) 立法會助理秘書須協助秘書執行其根據本議事規則第 6(1)至(8)條的職務。

7. 立法機關法律顧問

(2) 立法機關法律顧問的一般職責，是就立法會的事務或行政所引起的法律問題，向立法會主席、立法會議員及立法會秘書提供意見。

(3) 立法會助理法律顧問須協助立法機關法律顧問執行其根據本議事規則第 7(1)及(2)條的職務。

8. 行政長官出席會議

行政長官可為以下目的酌情決定出席立法會或立法會轄下任何委員會或小組委員會的會議——

- (a) 在任何其認為適當的時間，包括在特別會議上，向立法會發言；
- (b) 就政府的工作，答覆立法會議員向其提出的質詢；~~及~~
- (c) 提出任何政策、措施、法案、決議案、議案或議題，以便由及在立法會或有關委員會或小組委員會辯論~~。~~；及

(d) 受立法會、立法會轄下任何委員會、小組委員會或議員邀請。

9. 官員列席會議

(2) 獲委派官員可就擬列入立法會、財務委員會或財務委員會轄下小組委員會會議議程內的事項，向立法會秘書作出預告，並須在該次會議日期不少於 6 整天前以書面向立法會秘書作出預告，但在特殊情況下如財務委員會主席另有指示，可給予較短時間的預告。

9A. 外國政要

如果主席認為恰當，立法會可以不時邀請外國政要參與立法會會議、立法會轄下任何委員會或小組委員會。

11A. 立法會會議為公開會議

立法會的會議，除議事規則第 88 條、其他議事規則條文或其他有關法律另有規定外，須公開舉行。

12. 每屆任期的首次會議

(2) 在所有出席會議的議員作宗教式或非宗教式宣誓後，須按照本議事規則第 4 條(立法會主席的選舉)規定的程序進行立法會主席的選舉。

13. 行政長官發表施政報告

(1A) 行政長官可隨其意願在每一會期首次會議上向立法會發表施政報告。

(1) 在行政長官向立法會發表施政報告不少於 14 天後舉行的會議上，議員可動議就行政長官發表施政報告向其致謝。如擬動議有關議案，必須在立法會審議該議案當天不少於 7 整天前作出預告，否則不得動議：(2000 年第 86 號法律公告)

但立法會主席可酌情免卻預告。(2000 年第 86 號法律公告)

14. 會議日期及時間

(1) 立法會每一會期內的會議，須在立法會主席所決定的日期及時間舉行；同一會期內連續兩次會議不得相隔多於 6 個星期。

(2) 除新一會期首次會議，以及每屆立法會首個會期開始後 14 整天內舉行的會議外，立法會每次會議的書面預告，須由立法會秘書於會議日期最少 14 整天前發給各議員；但遇緊急情況，或按本議事規則第 8 條(行政長官出席會議)及第 15 條(處理急切事項的會議)舉行的會議，立法會主席可免卻如此預告，而在此情況下須盡早通知各議員。

(3) 立法會主席決定會議日期及時間後，可隨時將會議的日期或時間押後或提前。

(6) 立法會須在中華人民共和國全國人民代表大會會議和中國人民政治協商會議全國委員會進行期間繼續召開會議，惟主席另有命令者除外。

15. 處理急切事項的會議

(1) 立法會主席須應行政長官的要求召開立法會緊急會議。如須在立法會任期完結或解散之後的期間舉舉行緊急會議，會議應在指明舉舉行選出立法會議員的換屆選舉舉的日期(如多於一日，則為首日)前召開。

(2) 在立法會一個會期結束而下一會期仍未開始的一段休假期內，立法會主席可在其指定的日期及時間召開特別會議，或須在獲得全體議員三分之二同意下召開特別會議。

17A. 家庭友善

任何立法會議員(不論性別)不會因為需要照顧未滿 3 歲的小童而妨礙其出席立法會會議。

24. 質詢預告

陳志全議員的修訂建議

~~(4) 如議員以事項性質急切及與公眾有重大關係為理由，請求立法會主席准許無經預告而提出質詢，則立法會主席如信納該質詢確屬此性質，而有關議員已經或將會私下向政府作出充分的預告，以便政府能答覆該質詢，則可批准該議員無經預告而提出該質詢。每次會議可提出不多於二條無經預告的質詢，每名議員可在每一會期作出不多於一條無經預告的質詢，如主席信納有關議員已經或將會私下向政府作出充分的預告，以便政府能答覆該質詢，則可批准該議員無經預告而提出該質詢。~~

郭家麒議員的修訂建議

(4) 如議員以事項性質急切及或與公眾有重大關係為理由，請求立法會主席准許無經預告而提出質詢，則立法會主席如信納該質詢確屬此性質，而有關議員已經或將會私下向政府作出充分的預告，以便政府能答覆該質詢，則可批准該議員無經預告而提出該質詢。

44. 主席決定為最終決定

立法會主席、全體委員會主席或任何委員會主席分別就立法會及委員會會議遵照會議規程行事負責。主席在會議規程問題上所作決定為最終決定。若有超過一位議員反對主席某一項決定，主席須容許議員發言申述理據。主席須要就議員的反對作出解釋並記錄在案，而該決定並不能成為同類決定的先例。

45A. 內務權和警察權

立法會主席在立法會大樓內行使內務權和警察權，任何執法機關未經許可不得進入立法會大樓。如有必要讓執法機關進入，須得到全體立法會議員三分之二的多數同意。立法會主席可在緊急情況下作決定。

71. 財務委員會

(5A) 委員會的會議法定人數為主席加上~~8~~名委員包括主席在內委員人數的三分之一(整數後的分數不計)。

75. 內務委員會

(12A) 委員會的會議法定人數為包括主席在內的~~20~~名委員委員人數的三分之一(整數後的分數不計)。

79C. 委員會及小組委員會公開會議

儘管議事規則第 88 條有所規定，立法會轄下委員會及小組委員會的會議，除行政管理委員會、議事規則委員會的會議、按照慣例通常以閉門形式進行的會議、或由議事規則或其他有關法律另有規定外，須公開舉行。若舉行閉門會議，須先得到委員會或小組委員會全部委員三分之二的同意方可舉行。

83AA. 申請發還工作開支或申請預支營運資金

(1) 議員根據《立法會議員申請發還工作開支的指引》申請發還工作開支或申請預支營運資金，或就與此有關的目的行事時，必須——

- (a) 確保提供或作出的任何資料、申報／聲明或證明是真實、準確及詳盡的；及
- (b) 依照他已作出的任何承諾行事。

(2) 立法會秘書必須確保立法會議員在立法會內獲得必要的設施和資源，以妥善履行職務。

86A. 傷健政策

立法會以可達度和共融性為優先考慮範疇，目的是讓傷健立法會議員、工作人員和公眾人士均能進出立法會。任何立法會議員不會因為其身體障礙而被妨礙執行其立法會職務。

92. 議事規則未有規定的程序

對於本議事規則內未有作出規定的事宜，立法會所須遵循的方式及程序由立法會主席決定；如立法會主席認為適合，可諮詢議事規則委員會及參照其他立法機關的慣例及程序處理。

38 名議員¹ 對《議事規則》提出的修訂建議

《議事規則》	修訂建議	立法會秘書處的觀察所得及關注意見
1. 有關立法會主席權力的一般條文		
1B (新訂)	<u>立法會主席</u> <u>立法會設有立法會主席一職，其職權載於《基本法》第七十二條、香港法律及本《議事規則》。</u>	在終審法院就梁國雄訴立法會主席(終院民事上訴 2014 年第 1 號)一案所作的判決中，終審法院認為，《議事規則》內凡關乎立法會主席及其職權的條文，均須受訂明立法會主席職權的《基本法》第七十二條所規限，當中包括"主持會議"的權力，以確保立法會事務以有序、有效及公平的方式處理。在上訴法庭 [2013] 2 HKC 580 中，上訴法庭認為立法會主席根據《基本法》第七十二條第(一)項主持會議的權力，是得到《議事規則》所訂的其他職能和權力補充的，即《議事規則》是賦予立法會主席額外的權力，而不是剝奪他根據《基本法》第七十二條第(一)項獲賦予的權力。
3	(1) 立法會 設有立法會主席一職 ，主席如出席立法會或全體委員會會議，並認為能執行主席職務，須主持立法會會議或擔任全體委員會主席。	
2. 在立法會會議和全體委員會程序中的議案及修正案		
A. 選取修正案以進行辯論及表決		
19 (1A) (新訂)	<u>就任何將列於立法會會議的議程中的議案或任何法案，立法會主席或立法會全</u>	議事規則委員會曾先後在 2014 年 6 月和 2017 年 6 月就處理拉布的擬議程序諮詢全體議員。在所提出的建議中，

¹ 該 38 名議員為：石禮謙議員、張宇人議員、林健鋒議員、黃定光議員、李慧琼議員、陳克勤議員、陳健波議員、梁美芬議員、黃國健議員、葉劉淑儀議員、田北辰議員、何俊賢議員、易志明議員、姚思榮議員、馬逢國議員、陳恒鑾議員、梁志祥議員、麥美娟議員、郭偉強議員、張華峰議員、葛珮帆議員、廖長江議員、潘兆平議員、蔣麗芸議員、盧偉國議員、鍾國斌議員、吳永嘉議員、何君堯議員、何啟明議員、周浩鼎議員、邵家輝議員、柯創盛議員、容海恩議員、陳振英議員、張國鈞議員、陸頌雄議員、劉國勳議員及劉業強議員。

《議事規則》	修訂建議	立法會秘書處的觀察所得及關注意見
	<u>體委員會主席有權選擇就該等議案或法案提出的修正案、新條文及新附表，並有權指示他認為類同的兩項或以上的議案或修正案予以合併。</u>	<p>有一項是參照英國下議院及加拿大眾議院的相關安排，旨在賦權立法會主席選取修正案，以在全體委員會審議階段進行辯論及表決。</p> <p>在 2014 年 11 月，議事規則委員會未能就擬議的程序方案達成共識。在 2017 年 6 月，大多數作出回應的議員都不支持上述建議。</p>
30(3)(d)(i) (新訂)	<p><u>退回簽署該預告的議員：</u></p> <p>(i) <u>因該預告不獲立法會主席選擇；或</u></p>	<p>有關的修訂建議旨在賦予立法會主席額外的權力，以補充他根據《基本法》第七十二條第(一)項獲賦予的主持會議的權力。</p>
B. 將議案或修正案合併		
30(3)(b)	<u>按其指示修改，然後予以印載，該等修改包括因議案或修正案合併而需作出的修改；或</u>	這是一項新建議。有關的修訂建議旨在賦予立法會主席額外的權力，以補充他根據《基本法》第七十二條第(一)項獲賦予的主持會議的權力。
30(3)(d)(ii) (新訂)	<u>因該預告已和另一議案或修正案合併。</u>	
30(3A)(新訂)	<u>立法會主席如認為恰當，可在根據第(3)(d)款發出指示前，要求任何曾就議案或修正案作出預告的議員解釋其議案或修正案的主題，使立法會主席可就此事宜作出判斷及考慮有關解釋。如將合併</u>	

《議事規則》	修訂建議	立法會秘書處的觀察所得及關注意見
	<p><u>的議案或修正案是由超過 1 名議員提出，立法會主席可指定由哪名議員提出有關的合併議案或修正案。</u></p>	
<p>C. 要求議案或修正案的動議人解釋有關主題</p>		
<p>30(3A)(新訂)</p>	<p><u>立法會主席如認為恰當，可在根據第(3)(d)款發出指示前，要求任何曾就議案或修正案作出預告的議員解釋其議案或修正案的主題，使立法會主席可就此事宜作出判斷及考慮有關解釋。如將合併的議案或修正案是由超過 1 名議員提出，立法會主席可指定由哪名議員提出有關的合併議案或修正案。</u></p>	<p>這是一項新建議。有關的修訂建議旨在賦予立法會主席額外的權力，以補充他根據《基本法》第七十二條第(一)項獲賦予的主持會議的權力。</p>
<p>D. 指定某名議員動議議案或修正案</p>		
<p>30(3A)(新訂)</p>	<p><u>立法會主席如認為恰當，可在根據第(3)(d)款發出指示前，要求任何曾就議案或修正案作出預告的議員解釋其議案或修正案的主題，使立法會主席可就此事宜作出判斷及考慮有關解釋。如將合併的議案或修正案是由超過 1 名議員提出，立法會主席可指定由哪名議員提出有關的合併議案或修正案。</u></p>	<p>這是一項新建議。有關的修訂建議旨在賦予立法會主席額外的權力，以補充他根據《基本法》第七十二條第(一)項獲賦予的主持會議的權力。</p>

《議事規則》	修訂建議	立法會秘書處的觀察所得及關注意見
57(4)(d)	不可動議全體委員會主席認為瑣屑無聊或無意義的修正案 <u>或由兩項或以上修正案組成的系列修正案</u> 。	<p>議事規則委員會曾先後在 2014 年 6 月和 2017 年 6 月就處理拉布的擬議程序諮詢全體議員。在所提出的建議中，有一項是旨在把"瑣屑無聊或無意義"此項限制的適用範圍延展至適用於"一系列修正案"。</p> <p>在 2014 年 11 月，議事規則委員會未能就擬議的程序方案達成共識。在 2017 年 6 月，大多數作出回應的議員都不支持上述建議。</p>
3. 會議法定人數		
A. 如有立法會會議因法定人數不足而休會待續，可在下次編定的會議日期前召開會議以完成處理上次會議的未完事項		
14(4)	立法會主席如認為為了在立法會會議上適當地處理完議程上的各項事務，有必要 <u>另擇一天</u> 繼續處理未完事項，則可命令於 <u>任何時間或任何一天另一天</u> 繼續為 <u>此目的</u> 舉行會議。凡立法會主席在立法會會議上作此命令， <u>當天</u> 會議須暫停舉行，並須於該 <u>另一時間或該天天</u> 復會繼續處理有關事項。	有關的修訂建議旨在補充立法會主席根據《基本法》第七十二條第(三)項獲賦予的決定開會時間的權力。
17(2)	如出席會議的議員不足法定人數，而有人向立法會主席提出此事，立法會主席即須指示傳召議員到場。15 分鐘後，如	有關的修訂建議旨在補充立法會主席根據《基本法》第七十二條第(三)項獲賦予的決定開會時間的權力。

《議事規則》	修訂建議	立法會秘書處的觀察所得及關注意見
	<p>仍不足法定人數，立法會主席即無須付諸表決而宣布休會待續。<u>立法會主席可召開會議，以完成在任何一天因會議不足法定人數而休會待續在議程上出現的未完事項，如立法會主席認為必須召開這會議，根據此款規定而休會待續的立法會會議，須當作是被命令暫停的會議，可按規則第 14(4)條(會議日期及時間)的規定，於立法會主席命令的時間或日期復會繼續處理有關事項。</u></p>	
17(1A)	<p><u>立法會全體委員會會議法定人數包括主席在內為 20 人。</u></p>	<p>這項修訂建議或有被視作和《基本法》第七十五條條文不一致之虞，而第七十五條訂明立法會舉行會議的法定人數為不少於全體議員的二分之一。立法會主席已獲一名資深大律師(即何沛謙資深大律師)就與立法會及全體委員會會議法定人數有關的事宜提供意見。資深大律師認為，考慮到各項因素，包括全體委員會的成員組成與立法會相同(即立法會所有議員)、在全體委員會進行的程序是立法會立法程序的重要和必要部分，加上在緊接回歸之前立法局與其全體委員會的會議法定人數亦相同，因此就第七十五條而言，《基本法》起草委員的立法原意極不可能是讓會議法定人數規定只涵蓋立法會的會議，而不適用於全體委員會的會議。事實上，另一名外間大律師，御用大律師 Lord Lester of Herne Hill 亦曾就同一事宜提供意見，而 Lord Lester 同樣認為，儘管第七十五條未有明確提述全</p>

《議事規則》	修訂建議	立法會秘書處的觀察所得及關注意見
		體委員會，但亦須將該條文解釋為規定全體委員會的會議法定人數與立法會相同。
B. 在全體委員會因法定人數不足而休會待續後點算立法會會議法定人數		
17(3)	如未有足夠法定人數出席會議，而有人向全體委員會主席提出此事，全體委員會主席即須指示傳召議員到場。15 分鐘後，如仍不足法定人數，委員會即須回復為立法會，立法會主席 <u>須點算立法會會議人數。如當時已足會議法定人數，立法會須再次轉變為全體委員會，但如果不足會議法定人數，立法會主席</u> 即無須付諸表決而宣布休會待續。	這項修訂建議旨在恢復《議事規則》第 17(3)條在 2014 年 10 月前所用的版本。
4. 呈請書的處理		
A. 呈請書須有不少於全體議員的二分之一起立支持才可獲交付處理		
20(6)	呈請書提交後，如有議員即時起立，要求將呈請書交付 <u>專責內務</u> 委員會處理，立法會主席即須請支持此項要求的議員起立；如有不少於 <u>20 名議員全體議員的二分之一</u> 起立，呈請書即告交付 <u>內務專責</u> 委員會處理。	

《議事規則》	修訂建議	立法會秘書處的觀察所得及關注意見
B. 內務委員會在決定審議呈請書及向立法會報告的方式方面所擔當的角色		
75(10)	<p>委員會須決定下列事宜的研究方式 ——</p> <p>(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；</p> <p>(b) 根據任何條例訂立的任何其他文書；或</p> <p>(c) (a)或(b)段提述的附屬法例或文書的任何擬稿；或。</p> <p><u>(d) 根據規則第20(6)條(呈請書的提交)向其交付的呈請書。</u></p>	<p>議事規則委員會曾在 2001-2002 年度會期研究將呈請書交付"內務委員會，再由該委員會交付有關委員會處理"的建議。當時的意見認為，雖然現行機制的效果值得再予以研究，但機制本身不應朝類似申訴機制的方向發展。另一方面，如更改為將呈請書交付內務委員會後再由該委員會交付有關委員會處理，這樣做則意義不大。</p> <p>這些是因應《議事規則》第 20(6)條的修訂建議而提出的相應修訂。</p>
75(10A)	<p>在研究第(10)款所提述的附屬法例及，其他文書及呈請書後，委員會可向立法會提交報告。</p>	
5. 濫用程序 —— 賦權立法會主席、全體委員會主席或委員會主席可不提出某些待議議題以供辯論或不容許動議某些議案		
40(4)	<p>在立法會全體委員會會議上，議員可無經預告而動議一項委員會現即休會待續</p>	<p>這項修訂建議旨在賦予全體委員會主席額外的權力，以履行主席在確保以有序及有效的方式進行會議方面的職責和</p>

《議事規則》	修訂建議	立法會秘書處的觀察所得及關注意見
	<p>的議案，全體委員會主席須即提出該議案的待議議題。議案如獲通過，委員會即須回復為立法會；議案如被否決，則委員會的程序即須繼續進行。<u>如全體委員會主席認為動議委員會現即休會待續的議案是濫用程序，可決定不提出待決議題或無經辯論而把議題付諸表決。</u></p>	<p>職能。</p>
54(4)	<p>除與撥款法案有關者外，在負責法案的議員就現即二讀該法案的議案發言後，辯論須中止待續，而該法案須交付內務委員會處理，除非立法會就任何議員<u>在獲得立法會主席的同意後</u>提出的一項可無經預告而動議的議案另有命令。</p>	<p>這項修訂建議旨在賦予立法會主席額外的權力，以補充他根據《基本法》第七十二條第(一)項獲賦予的主持會議的權力。</p>
55(1)	<p>二讀法案的議案如獲通過，該法案即交付委予全體委員會，除非——</p> <p>(a) 立法會通過議案，將法案付委予一專責委員會；該項議案可<u>在獲得立法會主席同意的情況下</u>無經預告，但須在該法案二讀後即時由任何議員動議；或</p>	<p>這項修訂建議旨在賦予立法會主席額外的權力，以補充他根據《基本法》第七十二條第(一)項獲賦予的主持會議的權力。</p>
66(4)	<p>在立法會秘書讀出法案簡稱後，一名獲</p>	<p>這項修訂建議旨在賦予立法會主席額外的權力，以補充他</p>

《議事規則》	修訂建議	立法會秘書處的觀察所得及關注意見
	委派官員可以就該法案發回發言，該法案隨即交付內務委員會，除非立法會就任何議員 <u>在獲得立法會主席同意後</u> 提出的一項可無經預告而動議的議案另有命令。	根據《基本法》第七十二條第(一)項獲賦予的主持會議的權力。
88(1)	在立法會、全體委員會、委員會或小組委員會會議上，議員可隨時無經預告而起立， <u>並在獲得立法會主席、全體委員會主席、委員會主席或小組委員會主席的同意後</u> ，動議新聞界及公眾人士離場，並指明新聞界及公眾人士離場適用於當天會議的餘下程序，抑或只於審議某些事項的一段時間。議案一經動議，立法會主席、全體委員會主席、委員會主席或小組委員會主席隨即須提出該待議議題，而立法會、全體委員會、委員會或小組委員會須先行處理該議題，然後繼續處理該議案動議時立法會、全體委員會、委員會或小組委員會當前的事項。	這項修訂建議旨在賦予立法會主席、全體委員會主席或是委員會或小組委員會主席額外的權力以主持會議。
6. 點名表決鐘 —— 賦權立法會主席可在無經辯論的情況下將縮短點名表決鐘鳴響時間的議案付諸表決		
49(4)	在緊接立法會主席宣布議案修正案的點	議事規則第 49(4)、(5)、(6)及(7)條訂明，議員可無經預告

《議事規則》	修訂建議	立法會秘書處的觀察所得及關注意見
	<p>名表決結果或全體委員會主席宣布法案的任何條文或任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就該議案或該議案的任何修正案，或就法案的任何條文或任何修正案進行點名表決時，立法會或全體委員會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時立法會主席或全體委員會主席須無經辯論而就該議案提出的待決待議議題付諸表決。</p>	<p>而立即動議於其後進行點名表決時，立法會或全體委員會須在點名表決鐘聲響起一分鐘後立即進行其後各該點名表決。《議事規則》並無規定立法會主席或全體委員會主席必須在就該議案提出待議議題後才將之付諸表決。</p> <p>在過往的立法會會議上，曾有議員要求就內務委員會主席動議的縮短點名表決鐘鳴響時間的議案發言，亦曾就該等議案進行辯論。舉例而言：</p> <p>(a) <u>2011年3月4日的立法會會議</u> 就《2010年立法會(修訂)條例草案》進行的辯論</p>
49(6)	<p>如有多於一項有關立法會議程所列附屬法例或本議事規則第 29(2)(b)條(議案及修正案的預告)所提述的文書的議案(本議事規則第 29(3)條提述的議案除外)，則在立法會主席宣布該議案或該議案的任何修正案的點名表決結果後，議員可無經預告而立即動議於其後就附屬法例或文書提出的議案或該議案的任何修正案進行點名表決時，立法會須在點名表決鐘聲響起一分鐘後立即進行各該點名表決。屆時立法會主席須無經辯論而就該議案提出的待決待議議題付諸表決待議議題。</p>	<p>在該條例草案的全體委員會審議階段辯論中，吳靄儀議員發言反對將點名表決鐘鳴響時間縮短，其理由是有若干名議員分散處於立法會大樓內的不同地點。縮短點名表決鐘鳴響時間的議案被否決。</p> <p>(b) <u>2014年10月29日的立法會會議</u> 就商務及經濟發展局局長根據《釋義及通則條例》第54A條動議的擬議決議案進行的辯論</p> <p>在就這項決議案進行辯論的立法會會議上，何俊仁議員和梁國雄議員發言反對將點名表決鐘鳴響時間縮短，其理由是鳴響點名表決鐘較長時間可方便議員在各點名表決進行期間稍事休息。縮短點名表決鐘鳴響時間的議案獲得通過。</p>

《議事規則》	修訂建議	立法會秘書處的觀察所得及關注意見
7. 多次發言 —— 聲稱其先前發言中有某部分被誤解的議員只能就該部分發言		
38(3)	已就某議題發言的議員，可再次發言以解釋其先前發言中被誤解的部分，但發言時不得提出新事宜 <u>及只可就被誤解的部分發言</u> 。	
8. 委員會中的秩序 —— 任何委員會的主席均可指示不斷提出無關的事宜或冗贅煩厭地重提論點的委員不得繼續發言		
45(1)	立法會主席、全體委員會主席或任何 常設或專責 委員會主席如發覺有議員在辯論中不斷提出無關的事宜，或冗贅煩厭地重提本身或其他議員的論點，於向立法會或委員會指出該議員的行為後，可指示該議員不得繼續發言。	<p>在 2010-2011 年度會期，於某些委員會的會議進行期間曾發生涉及部分議員行為不檢的事件，議事規則委員會其後討論有何方法可確保委員會運作暢順。議事規則委員會大部分委員支持將《議事規則》第 44 及 45 條延伸至涵蓋立法會轄下所有委員會。</p> <p>內務委員會在 2011 年 4 月 15 日的會議上討論議事規則委員會就延伸《議事規則》第 44 及 45 條的適用範圍所提出的建議。由於有部分議員表示反對將第 45(1)條延伸至涵蓋所有委員會的主席，議事規則委員會主席遂於 2011 年 5 月 11 日的立法會會議上分別動議兩項議案，一項修訂第 44 及 45(2)條，而另一項則修訂第 45(1)條。第一項議案得到立法會通過，第二項則被立法會否決。</p> <p>這項建議會將《議事規則》第 45(1)條所訂現時各常設委員會主席享有的權力，延伸至涵蓋其他委員會的主席。</p>

《議事規則》	修訂建議	立法會秘書處的觀察所得及關注意見
<p>9. 從全體委員會會議上退席 —— 被下令從全體委員會會議上退席的議員亦須從立法會會議上退席，不得繼續參與有關會議</p>		
45(2)	<p>如議員行為極不檢點，立法會主席、全體委員會主席或任何委員會主席即須命令其立即退席，不得繼續參與立法會或委員會的該次會議；<u>根據本款規定被全體委員會會議主席被命令退席的議員須繼續退席立法會，不得參與立法會的該次會議。</u>立法會秘書或任何委員會的秘書須按照主席的命令採取行動，以確保該命令得以遵從。</p>	<p>有關的修訂建議旨在述明全體委員會主席所作的退席命令的效力，使主席無需再作出命令而有關議員亦須從立法會會議上退席，不得繼續參與該次立法會會議。</p>
<p>10. 委員會的主席就會議議程作出決定的權力</p>		
79C (新訂)	<p><u>委員會主席決定委員會會議議程</u></p> <p><u>任何委員會的會議議程須由其主席決定。</u></p>	<p>這是一項新建議。根據《事務委員會主席手冊》，現行的安排如下：</p> <p>議程 <u>決定議程項目</u></p> <p>2.12 《議事規則》及《內務守則》並無條文訂明會議的議程項目由誰決定。根據慣常做法，主席會在事務委員會會議上，就日後會議的議程項目徵詢委員意見。在這方面，秘書會擬備一份"待議事項一覽表"以協助事務委員會。</p>

《議事規則》	修訂建議	立法會秘書處的觀察所得及關注意見
		<p>2.13 會議議程由事務委員會決定，在議程項目的次序、措辭及各項議題的討論時限經主席審核同意後，會議議程應連同會議預告一併發給委員(亦請參閱上文第 2.10 及 2.11 段)。</p> <p>《議事規則》第 79B 條賦予委員會副主席權力，如有委員會委員要求舉行會議討論某項有迫切重要性的問題，而須交由主席考慮，但在該委員提出要求 48 小時內聯絡不到主席以作此決定，則副主席有權決定委員會舉行會議的日期、時間及地點。為確保兩條規則一致，或須對《議事規則》第 79B 及/或 79C 條作出相應修訂。</p>
11. 將《議事規則》作適應化修改後適用於各委員會		
79D (新訂)	<p><u>委員會主席應用《議事規則》及其他行事方式</u></p> <p><u>就任何在委員會的行事方式及程序中，或在適用於該委員會的行事方式及程序中，均沒有規定的任何事宜，須按該委員會主席認為《議事規則》所訂與此相關的行事方式及程序處理，並須在作出所需變通後適用於該委員會。</u></p>	<p>這是一項新建議。若這項修訂建議是旨在將《議事規則》作適應化修改後適用於委員會，以賦權委員會主席可決定委員會的行事方式及程序，便有可能抵觸《議事規則》M 部的某些現行條文。該等條文訂明，除《議事規則》另有規定外，委員會的行事方式及程序由有關委員會自行決定。(參見《議事規則》第 71(13)、72(11)、73(7)、73A(13)、74(6)、74A(11)、75(18)、76(11)及 77(15)條)。</p>

《議事規則》	修訂建議	立法會秘書處的觀察所得及關注意見
12. 選舉立法會主席的程序		
附表 1	見附件。	<p>議事規則委員會曾在 2016-2017 年度會期研究選舉立法會主席的程序。議事規則委員會察悉，有議員關注到是否需要進行事先核實和查證，以確定參選立法會主席一職的候選人的資格符合《基本法》第七十一條第二款所訂的規定。議事規則委員會總結認為，應進行諮詢以就下述事宜向全體議員徵詢意見：應否規定參選立法會主席一職的議員須在提名程序中作出一項法定聲明，以確認他們符合《基本法》第七十一條第二款就國籍及居港年期訂明的規定，抑或由相關修選人按照現行自覺信守制度作出一項書面聲明便已足夠。</p> <p><u>附表 1 的擬議新訂第 7A 段</u></p> <p>根據《議事規則》第 14(5)條，宣布立法會休會待續的權力歸屬立法會主席。待選出立法會主席後，由新當選的立法會主席按照附表 1 第 17 段所訂，根據《基本法》第七十二條第(一)項主持會議，然後根據《議事規則》第 14(5)條宣布休會待續，或會是更適當的做法。</p> <p>至於會議須於暫停後 1 小時內恢復舉行的擬議規定，若主持選舉的議員因不可預見的情況而在會議暫停超過 1 小時後才恢復舉行會議，則會議的合法性或有效性便有可能受到質疑。</p>

附表 1

選舉立法會主席的程序

總則

1. 立法會主席的選舉須在立法會會議上進行。

1A. 選舉須在議員已按照第 1 條(宗教式或非宗教式宣誓)的規定及香港法律作宗教式或非宗教式宣誓後的新一屆第一次會議上舉行。如有需要在屆中選舉立法會主席，該次選舉須在立法會一次完全只為選舉立法會主席的目的而進行的會議上舉行；議程不得載有任何其他事務；會議舉行的日期和開始的時間，由立法會代理主席(猶如他是規則第 14 條(會議日期及時間)所指的立法會主席)作出決定。

提名

2. 立法會秘書須於選舉日至少 7 整天前邀請議員提名立法會主席一職的人選，並將**附件 I**的提名表格分發給各議員。

3. 立法會主席的提名表格須由一名作為提名人的議員，以及另外至少 3 名作為附議人的議員簽署。獲提名的議員須在表格上簽署以示接受提名，並聲明其具有資格可根據《基本法》第七十一條及第 4(2)條(立法會主席的選舉)成為立法會主席。表格填妥後，須在選舉日至少 4 整天前送達立法會秘書辦事處。

4. 任何議員無論屬於被提名人、提名人或附議人的身份，其姓名均不得出現在多於一張提名表格之上。如某議員的姓名出現在多於一張提名表格之上(不論是被提名人、提名人或附議人的身份)，則只有立法會秘書辦事處接獲的首張提名表格方為有效，立法會秘書須隨即把失效的表格送回提名人。

5. 截止提名後，立法會秘書須擬備一份名單，按其辦事處接獲提名表格的先後次序列出所有候選人的姓名，並於選舉日至少兩整天前將名單分發給所有立法會議員。

選舉

6. 出席會議的議員中根據本議事規則第 1A 條而定為連續擔任議員時間最長者，須作為主持立法會主席選舉的議員("主持選舉的議員")，其職權僅限於按照第 4(1)條(立法會主席的選舉)及本附表的規定主持選舉立法會主席的會議。

7. 如根據上文第 6 段連續擔任議員時間最長的該名議員獲提名候選立法會主席一職，則未獲提名為候選人的議員中排名最前者，須主持選舉。

7A. 主持選舉的議員只可在其宣布已當選立法會主席的議員姓名後將會議休會待續。如主持選舉的議員有必要暫停會議，會議須在暫停後 1 小時內復會。在所有選舉立法會主席的程序完成前，不得命令會議再次暫停。

7B. 主持選舉的議員在整個選舉過程中不得准許議員發言，但規程問題除外。規程問題不容辯論。如主持選舉的議員認為有議員濫用程序，主持選舉的議員可拒絕准許任何議員提出任何規程問題。

8. 主持選舉的議員就位後，隨即進行立法會主席的選舉。主持選舉的議員須宣布立法會秘書辦事處接獲的全部有效提名。

9. 如立法會主席一職只有一項有效提名，則主持選舉的議員須如是宣布，並宣布該名候選人當選。

10. 如有兩項或更多的有效提名，則主持選舉的議員須命令以不記名的方式進行投票，並指示立法會秘書發給每名出席會議的議員一張選票，選票的格式如**附件 II** 所示。所有候選人的姓名須按立法會秘書辦事處接獲提名的先後次序，列於選票上。

11. 出席會議並有意投票的議員只須在選票上其屬意的候選人姓名旁邊的空格內劃上“✓”號，並將選票放進投票箱。任何未劃上“✓”號、未妥為劃上“✓”號或劃有多於一個“✓”號的選票，將會作廢。

12. 所有出席會議並有意投票的議員投票後，立法會秘書須在全體出席會議的議員面前點算選票，並向主持選舉的議員報告點票結果；該名主持選舉的議員須核對點票結果，予以確認。

13. 主持選舉的議員須宣布各候選人之中獲最高票數的一名候選人當選為立法會主席。

14. 如兩名或以上候選人獲相同最高票數，則主持選舉的議員須命令在同一次會議上，按上文第 10 至 13 段所規定的方法，對該等獲相同最高票數的候選人進行第二輪投票。

15. 如在第二輪投票中未有一名候選人獲得的票數較其他任何候選人為高，則主持選舉的議員須宣布其將以抽籤方式決定其中一名候選人當選為立法會主席。

16. 主持選舉的議員將隨即進行抽籤，並按結果隨即宣布該名候選人當選為立法會主席。

17. 隨後，主持選舉的議員須讓位予立法會主席。立法會主席可向立法會陳詞，然後~~視乎情況，著手處理會議事項、宣布休會待續、或暫停舉行會議。~~

10 名議員¹ 對《議事規則》提出的修訂建議

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
1. 要求議員在首席大法官監督下作出立法會誓言。			
1	除為了令本條規則得以遵從者外，議員如未按照《宣誓及聲明條例》(第11章)的規定及 <u>首席大法官監督下</u> 作宗教式或非宗教式宣誓，不得參與立法會會議或表決。凡舉行換屆選舉後，以前已作該等宗教式或非宗教式宣誓的議員，在參與立法會會議或表決之前，亦須遵照本條規則再次宣誓。	郭榮鏗議員	無論《基本法》或是《宣誓及聲明條例》(第 11 章)第 19 條都沒有這樣的法定要求。首席大法官是司法機構的首長，並應根據《基本法》第八十五條獨立進行審判。現實中，由於候任議員作出的誓言可在法庭上受到質疑，這項修訂建議難免引起質疑，就是要首席大法官在立法會的議員宣誓程序中擔當任何角色或介入其中是否適當。若首席大法官介入宣誓程序，或會對各級法院獨立行使由《基本法》第八十條和第八十二條分別授予的審判權和終審權造成損害。這項修訂建議可能會影響到《基本法》第八十、八十二和八十五條。
2. 如某人所作立法會誓言其後被主管當局判定為失效，容許該人接受和保留議員的薪酬、福利及各類開支。			
1	除為了令本條規則得以遵從者外，議員如未按照《宣誓及聲明	郭榮鏗議員	

¹ 該 10 名議員為：楊岳橋議員、陳淑莊議員、胡志偉議員、莫乃光議員、陳志全議員、梁繼昌議員、張超雄議員、譚文豪議員、郭榮鏗議員及郭家麒議員。

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
	<p>條例》(第 11 章)的規定作宗教式或非宗教式宣誓，不得參與立法會會議或表決。凡舉行換屆選舉後，以前已作該等宗教式或非宗教式宣誓的議員，在參與立法會會議或表決之前，亦須遵照本條規則再次宣誓。<u>假如秘書、主席或代主席行事的議員批准某議員的宣誓，但其後卻被有關機關判斷為失效，有關議員應享有其於立法會工作的酬金、福利及各類實報實銷開支。</u></p>		
<p>3. 根據擔任議員的合計(而非連續)時間(或所得票數)決定議員的排名序。</p>			
<p>1A(1)、(2)</p>	<p>(1) 立法會議員的排名序按<u>連續</u>擔任立法會議員的時間而定之，<u>擔任時間不一定需要連續；惟若時間相同，則連續</u>擔任立法會議員的時間較長者先排。</p> <p>(2) <u>除議事規則第1A(1)條另有規定外</u>，如有兩名或以上議員<u>連續</u>擔任議員的時間相同，則根據選舉時所得票數作排名，以較高者為先，若仍然相同則以本議事</p>	<p>胡志偉議員</p>	

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
	規則第1條(宗教式或非宗教式宣誓)的規定較先宣誓的議員排名較先。		
4. 規定所有議員(包括立法會主席)在履行職務時，必須尊重《基本法》第三章所訂明香港居民的基本權利，並須充分考慮《基本法》第三十九條所述的相關國際人權文書。			
1B (新訂)	<p><u>基本權利</u></p> <p><u>任何議員（包括主席）在履行立法會職務時，必須尊重《基本法》第三章所訂明香港居民的基本權利，以及充分考慮《公民權利和政治權利國際公約》、《經濟、社會與文化權利的國際公約》和有關國際人權文書的條文。</u></p>	陳志全議員	
5. 容許議員使用普通話、粵語或英語主持會議。			
2	議員在立法會發言 <u>或主持會議</u> ，可用普通話、粵語或英語。	陳志全議員	
6. 容許使用"手語"。			
2	議員在立法會發言，可用 <u>手語</u> 、普通話、粵語或英語。	張超雄議員	

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
7. 規定立法會主席必須平衡立法會內多數派與少數派議員的權益。			
3(1A)	<u>立法會主席的職責是必須平衡立法會中多數人與少數人的權益，並確保立法會各方面的利益得到倡議與保障，不會被任意濫用的權力損害。</u>	郭榮鏗議員	
8. 規定立法會主席在履行職務時須保持和維護立法會的自主權。			
3A (新訂)	<u>立法會的自主權</u> <u>立法會主席在執行職務時，須時刻保持和維護立法會的自主權。</u>	楊岳橋議員	
9. 規定立法會主席須從由地方選區產生的議員中選出，而且在"過去 7 年"間並無外國居留權。			
4(2)	立法會主席由年滿 40 周歲，在香港通常居住連續滿 20 年並在外國無居留權的香港特別行政區永久性居民中的中國公民擔任。 <u>立法會主席須由地區直選議員擔任。</u>	陳淑莊議員	根據《基本法》第七十一條，任何議員(不論是經由地方選區還是功能界別選舉產生的議員)只要符合有關國籍、年齡、居留權及居住年期的規定，均可被選為立法會主席。《基本法》第七十一條並無訂有建議的額外規定。提出在《議事規則》內訂立此等額外規定，這或會出現和《基本法》第七十一條條文不一致的情況。
4(2)	立法會主席由年滿 40 周歲，在香港通常居住連續滿 20 年並在 <u>過去 7 年</u> 在外國無居留權的香港	陳志全議員	

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
	特別行政區永久性居民中的中國公民擔任。		
10. 規定內務委員會主席須從由地方選區產生的議員中選出。			
5	(1) 立法會代理主席由根據本議事規則第 75(2)條(內務委員會)獲選的內務委員會主席擔任。 <u>內務委員會主席須由地區直選議員擔任。</u>	張超雄議員	
11. 規定立法會秘書須保管"會議錄像"供議員、官員及其他人士查看。			
6(5)	立法會秘書須負責保管表決結果、紀錄、 <u>會議錄像</u> 、法案及其他呈交立法會的文件；議員及執行職務時涉及立法會事務的官員均可在合理時間查閱此等文件，其他人士亦可根據立法會主席批准的安排查閱。	莫乃光議員	
12. 將就紀錄進行覆檢的年限由 25 年縮短至 20 年。			
6(5A)(a)	立法會秘書須在文件或紀錄存在 25年 <u>20年</u> 內進行附表 2 的立法機關文件及紀錄查閱政策(b)段所提述的覆檢，以確定應否將可提	陳淑莊議員	這項建議應由查閱立法機關文件及紀錄事宜委員會討論，該委員會負責"考慮任何其他有關立法機關文件及紀錄查閱政策或由該政策引起的事宜"(《議事規則》第

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
	供該等文件或紀錄以供查閱的時間提早，而若有關文件或紀錄仍未可提供予公眾查閱，則須在上次覆檢後最少每 4 年再覆檢一次。		74A(1)(d)條。
13. 規定為立法會每一個委員會及小組委員會提供一名副秘書。			
6(7)	立法會秘書須負責為立法會每一個委員會及小組委員會提供一名秘書 <u>及(除非立法會秘書另有指示)一名副秘書</u> 。	梁繼昌議員	這項建議應由立法會行政管理委員會("行政管理委員會")討論，因為這項建議或會造成《公共財政條例》(第 2 章)和《立法會行政管理委員會條例》(第 443 章)所訂的人手編制及/或資源分配問題。此外，根據第 443 章第 10(d)條，決定立法會秘書處的結構及職能的權力在於行政管理委員會。
14. 規定立法會助理秘書須協助立法會秘書執行其職務。			
6(9) (新訂)	<u>立法會助理秘書須協助秘書執行其根據本議事規則第 6(1)至(8)條的職務。</u>	陳淑莊議員	由於這項修訂建議或會造成香港法例第 2 章和第 443 章所訂的人手編制及/或資源分配問題，亦可能會牽涉到第 443 章所訂的立法會秘書處的結構，因此應由行政管理委員會討論這項修訂建議。

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
15. 規定立法機關法律顧問須就立法會的事務或行政所引起的法律問題，向議員和立法會主席及立法會秘書提供意見。			
7(2)	立法機關法律顧問的一般職責，是就立法會的事務或行政所引起的法律問題，向立法會主席、 <u>立法會議員</u> 及立法會秘書提供意見。	胡志偉議員	這項建議或會造成法律顧問角色衝突的問題，因為同一人將須同時向立法會主席和議員提供意見，而立法會主席卻須在立法會的法律顧問(即立法機關法律顧問)協助下裁定議員的擬議議案及修正案是否可以提出。
16. 規定"立法機關助理法律顧問"須協助立法機關法律顧問執行其職務。			
7(3) (新訂)	<u>立法會助理法律顧問須協助立法機關法律顧問執行其根據本議事規則第 7(1)及(2)條的職務。</u>	郭榮鏗議員	這項建議會牽涉到立法會秘書處的結構，並可能造成人手編制及資源分配問題，而這些事宜都是行政管理委員會職責範圍內的事務。
17. 訂明行政長官可在"(d)受立法會、立法會轄下任何委員會、小組委員會或議員邀請"下，酌情決定出席立法會或任何委員會或小組委員會的會議。			
8(b)及(c) (d)(新訂)	(b) 就政府的工作，答覆立法會議員向其提出的質詢； 及 (c) 提出任何政策、措施、法案、決議案、議案或議題，以便由及在立法會或有關委員會或小組委員會	莫乃光議員	擬議的第(d)段似乎不屬於《議事規則》第 8 條所指的"目的"，反而是一項讓行政長官可酌情決定出席立法會、委員會或小組委員會會議的條件/情況。

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
	<p>辯論 一；及</p> <p><u>(d) 受立法會、立法會轄下任何委員會、小組委員會或議員邀請。</u></p>		
<p>18. 規定政府當局須就會議的議程項目作出不少於 6 整天的預告，並讓財務委員會("財委會")主席可在特殊情況下容許作出較短時間的預告。</p>			
<p>9(2)</p>	<p>獲委派官員可就擬列入立法會、財務委員會或財務委員會轄下小組委員會會議議程內的事項，向立法會秘書作出預告，<u>並須在該次會議日期不少於 6 整天前以書面向立法會秘書作出預告，但在特殊情況下如財務委員會主席另有指示，可給予較短時間的預告。</u></p>	<p>梁繼昌議員</p>	<p>《議事規則》第 9(2)條是關於獲委派官員就擬列入(a)立法會、(b)財委會或(c)財委會轄下小組委員會的會議議程內的事項，向立法會秘書作出預告。這項修訂建議看似是賦權財委會主席可在特殊情況下，容許就立法會會議作出較短時間的議程項目預告，但根據《基本法》第七十二條，只有立法會主席才能行使這項權力。因此，這項修訂建議或會出現和《基本法》第七十二條條文不一致的情況。</p>
<p>19. 容許立法會或立法會主席邀請外國政要出席立法會或立法會轄下任何委員會或小組委員會的會議。</p>			
<p>9A (新訂)</p>	<p><u>外國政要</u></p> <p><u>如果主席認為恰當，立法會可以不時邀請外國政要參與立法會會議、立法會轄下任何委員會或小組委員會。</u></p>	<p>陳志全議員</p>	<p>並無足夠資料顯示這項修訂建議與《基本法》第七十三條所訂的任何立法會職能有關。"外國政要"的定義或涵義亦不清晰。</p>

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
20. 規定所有立法會會議，除《議事規則》第 88 條、其他《議事規則》條文或其他有關法律另有規定外，須公開舉行。			
11A (新訂)	<p>立法會會議為公開會議</p> <p><u>立法會的會議，除議事規則第 88 條、其他議事規則條文或其他有關法律另有規定外，須公開舉行。</u></p>	譚文豪議員	
21. 規定行政長官須在第一次立法會會議發表施政報告。			
13(1A)	行政長官可隨其意願在每一會期首次會議上向立法會發表施政報告。	譚文豪議員	這項修訂可能超越了《基本法》第七十三條第(四)項所賦予立法會的權力，因為該條文賦權立法會"聽取行政長官的施政報告並進行辯論"，但並無說明行政長官須於何時發表其施政報告。《基本法》第六十四條規定政府須定期向立法會作施政報告，但並無訂明政府何時須這樣做。何時發表施政報告由行政長官決定，對《議事規則》作任何修改以期主導有關時間，可能會與《基本法》第六十四條及第七十三條條文出現不一致情況。

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
22. 將立法會會議所需預告期由 14 整天縮減至 12 整天。			
14(2)	除新一會期首次會議，以及每屆立法會首個會期開始後 14 整天內舉行的會議外，立法會每次會議的書面預告，須由立法會秘書於會議日期最少 14 <u>12</u> 整天前發給各議員；但遇緊急情況，或按本議事規則第 8 條(行政長官出席會議)及第 15 條(處理急切事項的會議)舉行的會議，立法會主席可免卻如此預告，而在此情況下須盡早通知各議員。	梁繼昌議員	
23. 禁止立法會主席將召開立法會會議的日子或時間提前			
14(3)	立法會主席決定會議日期及時間後，可隨時將會議的日期或時間押後 或 <u>提前</u> 。	莫乃光議員	這項修訂限制了立法會主席決定會議時間的權力，可能會出現和《基本法》第七十二條第(三)項的規定不一致情況。
24. 規定立法會須在中華人民共和國人民代表大會會議和中國人民政治協商會議全國委員會進行期間繼續召開會議，"惟[立法會主席]另有命令者除外"。			
14(6)(新訂)	<u>立法會須在中華人民共和國全國人民代表大會會議和中國人民政治協商會議全國委員會進行期間繼續召開會議，惟主席另有命</u>	胡志偉議員	這項修訂建議可能會出現和《基本法》的條文不一致情況，因為其目的是剔除或限制立法會主席根據《基本法》第七十二條第(三)項決定立法會會議時間的憲制權

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
	<u>令者除外。</u>		力。
25. 規定在夏季休會期間，立法會主席須在"獲得全體會議員三分之二的大多數同意"下召開特別會議			
15(2)	在立法會一個會期結束而下一會期仍未開始的一段休假期內，立法會主席可在其指定的日期及時間召開特別會議， <u>或須在獲得全體議員三分之二同意下召開特別會議。</u>	張超雄議員	這項修訂或會出現和《基本法》第七十二條第(四)項不一致的情況，因為該條文賦權(但並非規定)立法會主席在休會期間召開特別會議。
26. 訂明任何立法會議員不會因為需要照顧未滿 3 歲的小童而妨礙其出席立法會會議。			
17A (新訂)	家庭友善 <u>任何立法會議員(不論性別)不會因為需要照顧未滿 3 歲的小童而妨礙其出席立法會會議。</u>	譚文豪議員	香港法例第 382 章《立法會(權力及特權)條例》第 19(a)條已作出規定，包括禁止任何人妨礙前往或離開會議廳範圍，或在會議廳範圍內的任何議員。就修訂建議關於在會議廳範圍內提供照顧兒童的設施這方面而言，這似乎與立法會的行事方式及程序無關，只是關乎人手及資源分配問題，應由行政管理委員會根據香港法例第 2 章及第 443 章予以討論。

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
27. 剔除無經預告而提出質詢必須是基於事項性質急切及與公眾有重大關係此現行準則，並進一步訂明在任何一次會議上只可提出不多於兩項無經預告的質詢，以及每名議員在一個會期內不可提出多於一項無經預告的質詢。			
24(4)	<p>如議員以事項性質急切及與公眾有重大關係為理由，請求立法會主席准許無經預告而提出質詢，則立法會主席如信納該質詢確屬此性質，而有關議員已經或將會私下向政府作出充分的預告，以便政府能答覆該質詢，則可批准該議員無經預告而提出該質詢。</p> <p><u>每次會議可提出不多於二條無經預告的質詢，每名議員可在每一會期作出不多於一條無經預告的質詢，如主席信納有關議員已經或將會私下向政府作出充分的預告，以便政府能答覆該質詢，則可批准該議員無經預告而提出該質詢。</u></p>	陳志全議員	
28. 修訂相關準則，令無經預告而提出的質詢必須是基於性質急切或與公眾有重大關係。			
24(4)	<p>如議員以事項性質急切及或與公眾有重大關係為理由，請求立法會主席准許無經預告而提出質</p>	郭家麒議員	

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
	<p>詢，則立法會主席如信納該質詢確屬此性質，而有關議員已經或將會私下向政府作出充分的預告，以便政府能答覆該質詢，則可批准該議員無經預告而提出該質詢。</p>		
<p>29. 訂明如有多於一名議員反對立法會主席或全體委員會主席就規程問題所作的決定，則(a)立法會主席或全體委員會主席須讓該等議員解釋其反對原因，及(b)立法會主席或全體委員會主席繼而須解釋其所作的決定；並進一步訂明立法會主席或全體委員會主席所作決定不應約束其後的決定。</p>			
44	<p>立法會主席、全體委員會主席或任何委員會主席分別就立法會及委員會會議遵照會議規程行事負責。主席在會議規程問題上所作決定為最終決定。<u>若有超過一位議員反對主席某一項決定，主席須容許議員發言申述理據。主席須要就議員的反對作出解釋並記錄在案，而該決定並不能成為同類決定的先例。</u></p>	郭家麒議員	
<p>30. 禁止執法機關進入立法會大樓，除非立法會三分之二的議員決定讓其進入。</p>			
45A (新訂)	<u>內務權和警察權</u>	楊岳橋議員	根據《警隊條例》(第 232 章)第 50(3)條，如任何警務人員有理由相信任何須予逮捕

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
	<p><u>立法會主席在立法會大樓內行使內務權和警察權，任何執法機關未經許可不得進入立法會大樓。如有必要讓執法機關進入，須得到全體立法會議員三分之二的多數同意。立法會主席可在緊急情況下作決定。</u></p>		<p>的人已進入或置身在某處，則居住在該處或管理該處的人在該警務人員提出要求時，須容許該警務人員自由進入該處，並給予一切合理的便利，以便他在內搜查。其他執法機關(例如消防處、勞工督察或廉政專員公署人員)根據其相關條例亦擁有進入處所以執行其法定職責的類似權力。²除非亦對第 232 章及其他相關條例作適當修改，豁免行政管理委員會遵從讓相關執法機關進入處所的合法要求，否則，讓執法機關進入立法會大樓或會議廳範圍執行其法定職責並不受《議事規則》所規限。</p>
<p>31. 增加下述會議的法定人數：(a)財委會由主席加上 8 名委員及(b)內務委員會由 20 名委員，增加至"議員人數的三分之一(整數後的分數不計)，包括主席在內"。</p>			
71 及 75	<p>71(5A) 委員會的會議法定人數為主席加上8名委員包括主席在內委員人數的三分之一(整數後的分數不計)。</p> <p>75(12A) 委員會的會議法定人數為包括主席在內的20名委員委員人數的三分之一(整數後的分</p>	郭家麒議員	

² 見例如《消防條例》(第 95 章)第 8 條、《入境條例》(第 115 章)第 17L 條及《廉政公署條例》(第 204 章)第 10(3)(b)條。

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
	<u>數不計</u>)。		
<p>32. 規定委員會或小組委員會的會議、除行政管理委員會、議事規則委員會的會議、按照慣例通常以閉門形式進行的會議、或由《議事規則》或其他有關法例另有規定外，均須公開舉行。若舉行閉門會議，須先得到相關委員會或小組委員會全部委員三分之二的大多數同意方可舉行。</p>			
79C (新訂)	<p><u>委員會及小組委員會公開會議</u></p> <p><u>儘管議事規則第 88 條有所規定，立法會轄下委員會及小組委員會的會議，除行政管理委員會、議事規則委員會的會議、按照慣例通常以閉門形式進行的會議、或由議事規則或其他有關法律另有規定外，須公開舉行。若舉行閉門會議，須先得到委員會或小組委員會全部委員三分之二的同意方可舉行。</u></p>	楊岳橋議員	
<p>33. 規定立法會秘書必須確保立法會議員在立法會內獲得必要的設施和資源，用以妥善履行其職務。</p>			
83AA (2) (新訂)	<p><u>立法會秘書必須確保立法會議員在立法會內獲得必要的設施和資源，以妥善履行職務。</u></p>	陳淑莊議員	<p>這項修訂建議似乎與立法會的行事方式及程序無關，而是關乎設施及資源等屬於行政管理委員會職權範圍的事宜。根據香港法例第 443 章第 9(a)及(b)條，透過秘書處向立法會提供行政支援及服務，為立法</p>

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
			會議員及秘書處職員提供辦公地方，均屬行政管理委員會的職責及職能。向立法會秘書施加該等規定或職責或會抵觸第 443 章第 9 條，亦可能會超越了《議事規則》應予涵蓋的事務範圍。
34. 讓傷健立法會議員、工作人員和公眾人士均能進出立法會。			
86A (新訂)	<p><u>傷健政策</u></p> <p><u>立法會以可達度和共融性為優先考慮範疇，目的是讓傷健立法會議員、工作人員和公眾人士均能進出立法會。任何立法會議員不會因為其身體障礙而被妨礙執行其立法會職務。</u></p>	張超雄議員	這項修訂建議似乎與立法會的行事方式及程序無關，但屬於行政管理委員會的職權範圍，而根據第 443 章第 9 條，行政管理委員會須透過秘書處向立法會提供行政支援及服務，並為議員及職員提供辦公地方。議員可考慮此事應否由行政管理委員會討論，因為當中可能涉及香港法例第 2 章及第 443 章所述的資源分配問題。
35. 在《議事規則》第 92 條訂明立法會主席可諮詢議事規則委員會。			
92	對於本議事規則內未有作出規定的事宜，立法會所須遵循的方式及程序由立法會主席決定；如立法會主席認為適合，可 <u>諮詢議事規則委員會</u> 及參照其他立法機關的慣例及程序處理。	楊岳橋議員	

《議事規則》	修訂建議	提出的議員	立法會秘書處的觀察所得及關注意見
36. 以"舉"取代"舉"。			
1、4、12、 13、14 及 15	在文本內出現的所有"舉"字。	莫乃光議員	

附錄IX
Appendix IX

立法會CROP 51/17-18號文件
LC Paper No. CROP 51/17-18

致 香港特別行政區立法會
議事規則委員會謝偉俊主席

謝主席，

呈交 38 名建制派議員修改《議事規則》建議的法律意見

張宇人議員及陳克勤議員謹代表 38 名建制派議員向主席 閣下
提交一份我們提出修改《議事規則》建議的法律意見，供主席 閣下參
考。

順頌

政安!

張宇人

立法會議員 張宇人



立法會議員 陳克勤

二零一七年十一月六日

Re: Quorum of a Committee of the whole Council

JOINT OPINION

A. Introduction

1. Instructing solicitors are acting for certain Members of the Legislative Council. This opinion addresses the issue whether, in the light of Article 75 of the Basic Law of the Hong Kong Special Administrative Region (“**BL 75**”), the Legislative Council (“**Council**”) may constitutionally amend the Council’s Rules of Procedure (“**RoP**”), in particular, Rule 17 of the RoP (“**Rule 17**¹”), to change the quorum required for meetings of the committee of the whole Council in a manner which is different from that stipulated in BL 75. The specific questions arising from this issue are set out in §4 below.

2. BL 75 provides:

“The quorum for the meeting of the Legislative Council of the Hong Kong Special Administrative Region shall be not less than one half of all its members.

The rules of procedure of the Legislative Council shall be made by the Council on its own, provided that they do not contravene this Law”.

3. The current version of Rule 17 reads as follows:

“(1) The quorum of the Council and of a committee of the whole Council shall be not less than one half of all its Members including the President or Chairman.

(2) If the attention of the President is drawn to the fact that a quorum is not present, he shall direct the Members to be summoned. If after 15 minutes have expired a quorum is not present, he shall adjourn the Council without question put.

¹ Rules referred to in this opinion are those of the Rules of Procedure of the Legislative Council.

(3) If the attention of the Chairman in committee of the whole Council is drawn to the fact that a quorum is not present, he shall direct the Members to be summoned. If after 15 minutes have expired, a quorum is not then present the Council shall be resumed and the President shall adjourn the Council without question put.

(4) If from the number of Members present at a division, including those who abstained from voting, it appears that a quorum is not present, the division shall be invalid, and the procedure prescribed in subrule (2) or (3) shall be followed.

(5) The question on which the Council is adjourned under subrules (2), (3) and (4) shall stand over until the next meeting”.

B. The Instructions

4. This opinion seeks to answer the following specific questions, namely:

(1) On a true and proper construction of BL 75, whether the quorum requirement stipulated therein applies to a meeting of the Council itself or does it extend to meetings of the committees of the Council;

(2) In particular, on a true and proper construction of BL 75, whether the said quorum requirement applies to a meeting of a committee of the whole Council;

(3) On a true and proper construction of BL 75, whether it is within the delegated power of the Council to set on its own quorum requirements for meetings of the committees of the Council different from that of a meeting of the Council; and

(4) In particular, on a true and proper construction of BL 75, whether it is within the delegated power of the Council to set on

its own a quorum requirement for a meeting of a committee of the whole Council different from that of a meeting of the Council.

C. Relevant Rules of the RoP

C1. *The RoP*

5. The RoP are the internal rules made by resolutions at Council meetings to regulate its proceedings. They provide the principles and framework for the conduct of business in the Council and its committees and set out, among other things, the procedural steps for processing bills, subsidiary legislation, requirement governing motions and amendment, manner of speaking, etc. The RoP currently in use were made by the First Legislative Council at its first meeting on 2 July 1998 and since then have been amended from time to time. It was a conscious decision of the First Legislative Council that the Standing Orders of the pre-1997 Legislature of Hong Kong should be used as a framework for the RoP and the parliamentary system with which Hong Kong people were familiar, together with the body of customs, precedents and traditions, should continue to be used in the HKSAR Legislature: *A Companion to The History, Rules and Practices of the Legislative Council of the Hong Kong Special Administrative Region* (“*Companion*”) §1.28.²

C2. *Committee of the whole Council*

6. A committee of the whole Council is a committee of the Council with the function to discuss the details of a bill. It comprises all members of the Council (**including the President**). When the President is present at a meeting of the whole Council, he shall be the chairman: Rule 3. A committee of the whole Council has the power to make amendments to a bill including new clauses and new schedules (Rule 56) subject to the restrictions in Rule 57.

7. A committee of the whole Council has existed in the legislative process of the Hong Kong Legislature for over a century since 1858 when the then Standing Orders provided for rules for the committal or recommittal of a bill to a committee of the whole Council after it had been read a second time. The Standing Orders went through a major revamping in 1968. The functions and

² Available at http://www.legco.gov.hk/general/english/procedur/companion/main_toc.html.

mode of operation were set out in Part K of the 1968 Standing Orders: *Companion* §§1.20 and 1.21.

8. Part K of the Standing Orders governed the procedure on bills and set out a procedure for committee of the whole Council. This procedure was adopted by the First Legislative Council and became the current Part K of RoP.

9. According to the procedure on bills set out in Part K of RoP, the Council is required to resolve itself into committee after second reading of a bill so that the committee of the whole Council can discuss the details of the bill. Whereas Rule 38 restricts Members from speaking more than once *in the Council*, it specifically provides for exemption to such restriction in respect of discussions on clauses, schedules and amendments to a bill in the committee of the whole Council. Separate procedure is also provided for a committee of the whole Council in Rule 58. Under Rule 58(12), when all proceedings in committee of the whole Council are concluded, the Council shall resume and a Member shall report the bill to the Council with or without amendment as the case may be.

10. While a bill, after second reading, shall stand committed to a committee of the whole Council, the Council or the President may decide to commit the bill to a select committee: Rule 55. The select committee shall follow the procedure set out in Rule 79 and, before it reports the bill to the Council, the select committee deals with the bill in the same manner as a committee of the whole Council as prescribed in Rule 58. When all proceedings regarding the bill have been concluded in a select committee and the committee has agreed to its report, the chairman shall report the bill at the next meeting of the Council, with or without amendments: Rule 60. The chairman shall move in the Council that the report be adopted. At that juncture, any Member may propose that the whole or any part of the bill be recommitted to a committee of the whole Council. If the recommitment is agreed to, the Council shall immediately resolve itself into a committee of the whole Council, and the procedure prescribed in Rule 58 shall follow: Rule 61.

11. After a committee of the whole Council has reported to the Council or the motion to adopt the select committee's report is agreed to, the bill is deemed to have been ordered for its third reading: Rule 59. The Council shall proceed to the third reading of the bill on a motion that the bill be read the third time and do pass: Rule 63. The Member or public officer in charge of the bill

may announce that the bill be withdrawn or postponed at the beginning of proceedings for its third reading: Rule 64.

12. Under BL 49, if the Chief Executive considers that a bill passed by the Legislative Council is not compatible with the overall interests of the HKSAR, he or she may return it to the Legislative Council for reconsideration. The procedure in Rule 66 will then follow.

13. It is clear in Part K that a committee of the whole Council performs a part of the legislative function but not the full functions of the Council in the law-making process. The Council is required to resolve itself in committee each time when a bill is read for the second time. If, for example, there are three bills to be dealt with at a single Council meeting, the Council shall resolve itself into committee three times.

14. Prior to the 1992-1993 session, it had been a long-standing practice for all the bills which had reached the same stage were dealt with one by one and move to the next stage at the same Council sitting. In other words, the Council resolved itself into committee to proceed with the proceedings of committee of the whole Council on all the bills which had been read a second time at that meeting. When all proceedings had been completed, the Council resumed and proceeded to third reading stage. The change adopted in July 1992 aimed to obviate the need for public officers to wait for their turn at every stage until their respective bills were finally read the third time at the same meeting: *Companion* §7.79.

15. As shown in the above procedure, the meeting of the Council and the meeting of a committee of the whole Council have always been kept separate. The President becomes the chairman and all Members are addressed as “members (of the committee)” as opposed to “the Honourable Member” (which is apposite nomenclature during meetings of the Council).

16. There is nothing in the RoP to suggest that a committee of the whole Council is in effect the Legislative Council, or it should be regarded as the Council, simply because it comprises all Members of the Council, or the President is its chairman, or it deals with amendments to bills which is an important part of the legislative process. Part K of the Standing Orders of the pre-1997 Legislature were in existence at the time when the Basic Law was

drafted (from 1985 to 1990). Should there be any need to regard “a committee of the whole Council” as the “Legislative Council” for the purpose of BL 75, it would have been made clear either in BL 75 or the extrinsic materials.

C3. Quorum of the Meeting of a Committee of the whole Council

17. The quorum of a committee of the whole Council is set out in Rule 17(1). It provides that “the quorum of the Council and of a committee of the whole Council shall be not less than one half of all its Members including the President or Chairman”. This provision was modelled on Standing Order (“SO”) 10(1) of the pre-1997 Legislature.

18. The quorum of committee of the whole Council first appeared in SO 10(1) of the 1968 Standing Orders. According to the then SO 10(1), the quorum was 10 members excluding the Chairman, although the quorum of the Council at that time was 5 Members (including the President), according to the Royal Instructions for Hong Kong before July 1997.

19. In the 1969 Royal Instructions, the quorum of the Council was increased from 5 to 10 Members (including the President). However, the quorum of a committee of the whole Council remained unchanged (at 10 Members excluding the President). Even at that stage, therefore, the quorum of the two bodies was not the same.

20. In 1971, the word “excluding” was changed to “including”. It was only at that point that the quorum of the two bodies became the same.

21. In short, while there could be changes in the Royal Instructions over the quorum of the Council, the quorum of a committee of the whole Council continued to be administered according to SO 10(1) which could be different from that for the Council as provided in the Royal Instructions.

22. In 1985, the quorum of both the Council and committee of the whole Council was increased to 20 Members including the President, when Members of the Council were increased to 57: *Companion*, Chapter 7, footnote 27 and Appendix 3-A.

23. As SO 10(1) was worded to the effect that the quorum for the Council and committee of the whole Council was the same, the revised quorum requirement applied to both the Council and committee of the whole Council.

24. In July 1997, the Provisional Legislative Council amended Rule 17(1) to reflect the quorum requirement for the Council stipulated in BL 75.

C4. Other Committees

25. Apart from the committee of the whole Council, there are some 50 committees working at the same time to assist the work of the Council: §6.17; *Cheng Kar-shun & Leung Chi-kin v Hon Li Fung-ying* [2011] 2 HKLD 555 §191. Like the committee of the whole Council, some of these committees perform functions relating to the legislative process including select committees, the House Committee and Bills Committees which play a significant role in the law-making process: Companion §§6.25 – 6.28.

26. A select committee has the function to consider any matter or bill which the Council may refer to it. The size of each select committee is determined by the President, taking into account the recommendations of the House Committee. Its quorum is one third of the members excluding the chairman, a fraction of a whole number being disregarded: Rule 78.

27. The House Committee comprises all Members of the Council except the President. Its function is to decide how a legislative proposal is to be handled before and after it is formally presented to the Council, e.g. by referring it to a panel for pre-legislative study or to a Bills Committee after the second reading debate on the bill is adjourned for detailed scrutiny. Its quorum is 20 members including the chairman: Rule 75(12A).

28. The Bills Committee is responsible for scrutinizing the bill, including the general merits and principles, and the detailed provisions, of it as well as any amendments relevant to it. Its quorum is 3 members including the chairman, or one third of the members including the chairman (a fraction of the whole number being disregarded): Rule 76.

29. The quorum of these committees, as well as other committees of the Council, is laid down in the RoP which are made by the Council upon a motion

usually moved by the chairman of the Committee on Rules of Procedure. Any proposed changes to the RoP are usually referred to the Committee on Rules of Procedure for study before a report is submitted to the House Committee for consultation with its members.

30. Different committees have different quorum requirements. Generally speaking, the quorum of committees is usually one-third of the membership, though in some cases a lower quorum has been adopted, e.g. the Finance Committee³ the quorum of which is the chairman and 8 other members: *Companion* 13.107 – 13.112; Appendix 13-A (where the quorum of each committee is summarised).

31. Since the making of the RoP on 2 July 1998, no question has been raised on the power of the Legislative Council in determining the quorum of any of its committees.

C5. Rule 17 (Quorum)

32. Rule 17 (Quorum) was adopted from the previous SO 10 of the 1968 Standing Orders. It applies to the Council and committee of the whole Council. Except for the number of attendees required for meeting the quorum requirement, Rule 17 is a mirror image of SO 10. The respective sentence structure of the two provisions are identical.

33. RoP 17 was amended in 2014 to dispense with the need to count the Council after the Chairman of a committee of whole Council is satisfied that a quorum is not present at the meeting and Council has resumed. The Council shall then be adjourned without further counting.

34. The original Rule 17(3), which was identical to SO 10(3) and had been in use from 1968 to 2014, reads as follows:

“If the attention of the Chairman in committee of the whole Council is drawn to the fact that a quorum is not present, he shall

³ The Finance Committee comprises all Members of the Council except the President. Its functions include the approval of changes proposed to be made to the approved estimates of expenditure. Such approval, once given by the Finance Committee does not require further approval of the Council for it to take effect.

act as provided in paragraph (2) of this order, save that if he is satisfied that a quorum is not then present the Council shall be resumed and the President shall count the Council. If a quorum is then present the Council shall again resolve itself into committee but if a quorum is not present the President shall adjourn the Council without question put”.

35. Notwithstanding the amendment of Rule 17(3) in 2014 to remove the requirement to count the Council after the President is satisfied that a quorum is not present in the committee of the whole Council, the Council still needs to be resumed before the President can adjourn the Council for the lack of a quorum in the Council.

D. Interpretation of “Legislative Council” in the Basic Law

36. The questions set out in section B above are concerned with the interpretation of the term “Legislative Council” in BL 75.

37. It is well-established that “the proper starting point in statutory interpretation, as well as constitutional and contractual interpretation, is to look at the relevant words or provisions having regard to their context and purpose”: *Leung Chun Ying v Ho Chun Yan Albert* (2013) 16 HKCFAR 735 §12 (Ma CJ).

38. Within the context of the Basic Law, it is noted that the term “Legislative Council” appears in various provisions in Section 3 of Chapter 4 of the Basic Law. BL 66 provides that the Council shall be the legislature of the Region. BL 72 sets out the powers and functions of the President of the Council. BL 73 provides for the Council’s powers and functions. BL 75 stipulates the quorum for the meeting of the Council, and provides that the rules of procedure shall be made by the Council on its own. BL 77 provides that Members of the Council shall be immune from legal action in respect of their statements at meetings of the Council and BL 78 provides that they shall not be subjected to arrest when attending or on their way to a meeting of the Council. BL 79 provides that the President of the Council shall declare that a Member of the Council is no longer qualified for the office under any of the circumstances set out in the seven sub-paragraphs thereof.

39. The term is also used in other Sections of Chapter 4 of the Basic Law. In Section 1, BL 48(11) refers to the Chief Executive's power and function "to decide, in the light of security and vital public interests, whether government officials or other personnel in charge of government affairs should testify or give evidence before the Legislative Council or its committees".

40. Further, in Section 2 of Chapter 4, BL 62(6) provides that the Government of the HKSAR shall exercise the power and function "to designate officials to sit in on the meetings of the Legislative Council and to speak on behalf of the government".

41. The question on whether the term "Legislative Council" only refers to the full body which functions in plenary meetings was considered by Mr. Justice Cheung (now the Chief Judge of the High Court) in *Cheng Kar-shun & Leung Chi-kin v Hon Li Fung-ying* [2011] 2 HKLRD 555. There, the applicants argued that only the Legislative Council, as a full body, shall have the power to summon, as required when exercising its powers and functions in BL 73(1) to (9), persons concerned to testify or give evidence. The Court rejected such argument, holding (at §143) that:

"As a matter of language, 'Legislative Council' in article 73 is quite clearly capable of meaning the Legislative Council functioning as a full body or the Council functioning through committees, as the individual context may require, just as the term is capable of such interpretation under articles 62(6), 77 and 78".

42. As stated in §25 above, the Legislative Council performs its functions through a committee system made up of more than 50 committees working at the same time. It would be unrealistic to expect that all functions of the Legislative Council under BL 73 can only be performed by the Council as a full body, or designated officers of the government are only expected to attend and speak at meeting of the Council under BL 62(6) and not in committees, or members of the Council are only given the immunity for what they say at meetings of the Council but not at committee meetings in the context of BL 77 or immune from arrest under BL 78 for attending meetings of the Council only.

43. On the other hand, his Lordship by no means implied that the term should likewise bear such extended meaning in the context of the other articles of Basic Law, or even the “individual context” of *each* of the provisions in the four articles singled out by him. His Lordship referred to other provisions in the Basic Law and quoted (at §129) BL 75(1) as an example which he regarded as providing the quorum requirement for sitting in plenary session of the Legislative Council. He held (at §138) that BL 62(6) “demonstrates how flexible ‘the Legislative Council’ is used in the Basic Law” and that “it is dangerous to treat the Basic Law as if it were a piece of ordinary legislation and use the standard technique of compare-and-contrast to bring out a certain meaning by way of interpretation”.

44. In respect of BL 75, the historical context shows that the quorum of many committees was different from that of the Council. Even in the case of the committee of the whole Council, the quorum at different points in history was also different from that of the Council. Moreover, Rule 17 itself demonstrates that the procedure of the committee of the whole Council is kept wholly separate from that of the Council. This goes to show that such committee is treated as one of the committees established by the Council, as opposed to the plenary body of the Council itself.

45. Indeed, it is highly doubtful that the stringent quorum requirement of BL 75 could practically be applied to the committee level. Such a requirement would make the functioning of the committees less than flexible, thereby undermining the effectiveness and efficiency of these bodies. If, as stated above, the committee of the whole Council is a body at the same level as other committees, it is difficult to see how (in the context of BL 75) it is capable of being included therein for the purpose of the quorum requirement if the other committees are excluded therefrom.

46. Within the context of BL 75, “the Legislative Council” is mentioned twice in the article: one relating to the quorum of its meetings, and the other concerning its power to make rules of procedure on its own. As stated in §29 above, the quorum of the committees of the Council is laid down in the RoP which are made by the Council. There is no indication in BL 75 that such practice should be changed so as to mandate the RoP to be made by the Council as well as its committees. Nor is there any need for such a modification.

47. If the second reference to “Legislative Council” in BL 75 is intended to be a reference only to the full Council at plenary meetings, that would strongly reinforce the interpretation of the first reference to such term as discussed above.

48. The above may now be summarised by the following propositions: (i) it is impractical for the same stringent quorum requirement to be stipulated for *all* the committees of the Council; (ii) historically, different quorum requirements have been stipulated for different committees; (iii) in procedural term, the Council is always kept separate from the committee of the whole Council; (iv) the procedures of the Council, as well as of its committees, are laid down in the RoP, which are made by the full Council at plenary meetings; (v) there is no indication, nor any necessity to infer, that the second reference to “Legislative Council” in BL 75 should be interpreted to mean both the Council and the Council acting through its committees; and (vi) if the drafters of the Basic Law had intended to single out the committee of the Council as being different and distinct from the other committees of the Council, for the purpose of the quorum requirement under the first reference to “Legislative Council” in BL 75, they would certainly have stated such intention expressly in that article.

E. Answers to the Specific Questions

49. In the light of the above, the correct answers to the specific questions set out in §4 above are as follows:

(a) On a true and proper construction of Article 75 of the Basic Law of the HKSAR, whether the quorum requirement therein contained applies to a meeting of the Council itself or does it extend to meetings of the committees of the Legislative Council

50. BL75 lays down two specific requirements:

(a) the quorum for the meeting of the Legislative Council of the Hong Kong Special Administrative Region shall be not less than one half of all its members; and

(b) the rules of procedure of the Legislative Council shall be made by the Council on its own, provided that they do not contravene the Basic Law.

51. It is clear from the plain meaning of BL75 that “the Legislative Council of the Hong Kong Special Administrative Region” refers to the plenary body of Council comprising all its Members with the President acting as its chair in accordance with BL72. The Council has the power to carry out all the functions listed under BL73 and may delegate its powers and functions to any of its committees through the making of its Rules of Procedure, as established in the case of *Cheng Kar-shun & Leung Chi-kin v Hon Li Fung-ying & Others* [2011] 2 HKLRD 555.

52. If the “Legislative Council” in BL75 were to include committees of the Council, it would mean that the quorum of not less than half of its (i.e. Council’s) members should also apply to meetings of the committees across the board. In that case, with the large number of committees of the Council working at any one time, the application of the quorum requirement to all committees would not be realistic or at all achievable. This could not have been the purpose of BL75.

53. The quorum requirements for different committees vary, and they are set out in respective parts of the RoP made by the Council at its plenary meetings. This arrangement had already been in place during the drafting of the Basic Law and it was the full Council which made its Standing Orders. Had it been the intention to include the quorum of committees in BL75, it would have been made clear in the provision and other extrinsic materials. BL48(11) is clear about the existence of committees. The fact that “committees” is not mentioned in BL75 means that “the Legislative Council” in BL75(1) is only intended for the Council as a full body. Besides, no question has been raised that the quorum of any of the committees of the Legislative Council contravenes BL75.

54. In the second part of BL75, the “Legislative Council” is again referred to in the context of the rules of procedure of the Council. There is no question about this second “Legislative Council” in BL75 being taken to mean the Council as a full body. There cannot be another interpretation of “the Legislative Council”. Should there be any intention to have different meanings

for the two references to the “Legislative Council” in the same article, there is no reason why it is not made clear in the provision.

55. In our opinion, on a true and proper construction of BL 75, the quorum requirement stipulated therein applies to a meeting of the Council itself.

(b) In particular, on a true and proper construction of BL75, whether the said quorum requirement applies to a meeting of a committee of the whole Council

56. A committee of the whole Council has its distinct function in the legislative process designed and made into rules in the RoP by the Council. The proceedings of the Council and committee of the whole Council are kept separate despite the overlapping membership and chairmanship. The steps taken to ascertain whether a quorum is present in a meeting of the Council and in committee of the whole Council under SO10 (3) and RoP 17(3), as well as the delineation of functions between committee of the whole Council and the Council in Part K of SO and RoP, shows that the Council and a committee of the whole Council are two separate entities.

57. The adoption of the same quorum requirement for the Council and committee of the whole Council throughout the history of the Legislature in Hong Kong is, in our opinion, more for operational expediency. With the same membership and chairmanship sitting at the same venue and in the same block of time on the same day, with one switching to another at various junctures of proceedings, it is quite natural and logical for them to have the same quorum requirement; but it is all a matter of the Council’s own choice and not required by law.

58. Our conclusion is that the quorum requirement under BL75 does not apply to a meeting of a committee of the whole Council.

(c) On a true and proper construction of BL75, whether it is within the delegated power of the Legislative Council to set on its own quorum requirements to meetings of the committees of the Legislative Council different from that of a meeting of the Council

59. According to BL75(2), the Legislative Council is given the power to make rules of procedure on its own, provided that they do not contravene the Basic Law. The rules of procedure contain details of the way the Council conducts its business, such as the legislative process, its mode of deliberation and its functioning through committees.

60. In the case of *Leung Kwok Hung v. The President of Legislative Council of the HKSAR*, Hartmann J (as he then was) held that in the context of BL73 (1), the phrase, ‘in accordance with ... legal procedures’ means that the Legislative Council must act not only in accordance with the Basic Law itself but also in accordance with the rules of procedure which the Council has the power [under BL75] to set for itself in order to govern the manner in which it enacts, amends or repeals laws” (§7).

61. The need for the Legislative Council to operate through a system of committees is given recognition in *Cheng Kar-shun & Leung Chi-kin v Hon Li Fung-ying* (§149). The way the committees operate is provided for in the rules of procedure. Quorum, being one of the essential elements in the operation of a committee, is inevitably included in the rules of procedure.

62. The Legislative Council before 1997 was also subject to a quorum requirement provided constitutionally by the Royal Instructions in relation to sittings of the Council. No such requirement was provided in respect of committees of the Council. The pre-1997 Council had in substance the same power to make standing orders pursuant to the power given to it under the Royal Instructions to establish committees and stipulate the quorum requirements that should apply to them. The quorum requirements for committees currently stipulated in the RoP are exactly the same as those in the pre-1997 Standing Orders. Therefore, it was and still is a matter for the Council to decide in its Standing Orders (pre-1997) or Rules of Procedure (post-1997) detailed procedures including the establishment of committees, and stipulating what the quorum requirements are for these committees.

63. The only quorum requirement set out in the Basic Law is in BL75 which applies to the meeting of the Council. No such requirement is imposed on committees of the Council including a committee of the whole Council, although their existence was within the contemplation of the Basic Law as

evidenced by BL 48(11) in which committee of Legislative Council was referred to as one of the forums before which government officials may testify or give evidence.

64. We conclude that it is within the delegated power of the Council to set on its own quorum requirements for meetings of the committees of the Council different from that of a meeting of the Council.

(d) In particular, on a true and proper construction of BL75, whether it is within the delegated power of the Legislative Council to set on its own a quorum requirement to a meeting of a committee of the whole Council different from that of a meeting of the Council

65. Questions (d) and (b) are related. We do not consider that there is any question about the power of the Legislative Council to make rules of procedure relating to the functioning of its committees including the setting of a quorum requirement for a meeting of such committees. This Question relates more to whether there is any difference between a committee of the whole Council and other committees, resulting that the Legislative Council does not have the power to determine the quorum of committee of the whole Council.

66. As explained in the answer to Question (b) (§§56 & 57 above), a committee of the whole Council is a committee being delegated with the function to discuss details of a bill and make amendments to it under the rules of procedure. The delegated function carried out by a committee of the whole Council is part of the legislative process which is also subject to the decision of the Council. Although the committee of the whole Council normally sits on the same day of the Council meeting if a bill reaches the committee stage, the Council and committee of the whole Council are kept separate under the RoP.

67. There is no rule of law nor is it a Basic Law requirement that a committee delegated to perform certain functions of the plenary body of the Legislative Council must have the same quorum requirement as the Legislative Council. This is evidenced by the fact that a select committee on bills referred to it under Rule 54 has a quorum requirement of two-thirds of its members excluding the chairman.

68. In other words, if the Council were to change the legislative process in such a way that discussions on the details of a bill and amendments to it are to be undertaken by the Council itself, there is nothing in the Basic Law to disallow the removal of committee of the whole Council from the legislative process. By the same token, it is entirely in order for the Council to decide how a committee of the whole Council should operate, including the quorum requirement for its meetings.

69. Since the Basic Law has not made any provisions on the procedural steps that a bill must go through before the Legislative Council can pass it into law, subject to the voting requirements provided in Annex II, Part 2 of the Basic Law, such steps are for the Legislative Council to decide pursuant to BL75. A fortiori, any quorum requirement of a committee in the RoP, be it a committee of the whole Council, a select committee to which a bill is referred, or any other committees, it is for the Council to decide through the making of its rules of procedure.

70. We conclude that it is within the delegated power of the Council to set on its own a quorum requirement for a meeting of a committee of the whole Council different from that of a meeting of the Council.



Lord Pannick QC
Blackstone Chambers



Jimmy Ma
Liberty Chambers

Dated this 6th of November 2017.

THE LEGISLATIVE COUNCIL, FILIBUSTERS AND QUORUM-BUSTING

ADVICE

Introductory

1. I have been instructed to advise the President of the Legislative Council (“the Council”) on what is available to him in terms of the law, practice and procedure: to deal with incessant quorum calls triggered for the purpose of filibustering; and to reduce the possibility of the abrupt adjournment of a Council meeting with unfinished business due to the absence of a quorum.
2. In particular I am asked whether
 - a. the quorum requirement prescribed by Article 75 (1) of the Basic Law applies to all Council meetings, including meetings of the Committee of the whole Council or can be limited to particular junctures, for example, excluding the proceedings of the Committee of the whole Council, or parts of the meetings;
 - b. it would be consistent with the Basic Law and any other laws to impose a restriction on Members’ right to make quorum calls during Council meetings.
3. Those specific questions need to be considered in context. The underlying issues are of political and constitutional as well as legal importance. They affect good governance in Hong Kong’s developing democracy, the proper working of the Council on behalf of Hong Kong’s residents, and the rights and responsibilities of its Members, in accordance with the Basic Law.

4. The issues are difficult and complex. I am grateful for the full Instructions and material I have received and I have benefited from my discussions with my Instructing Solicitors.

5. The Chairman of the Drafting Committee for the Basic Law, Mr. Ji Pengfei, addressing the Third Session of the Seventh National People's Congress, on 28 March 1990, said
"While the part of the existing political structure proven to be effective will be maintained, a democratic system that suits Hong Kong reality should be introduced."

6. I shall attempt to advise in a way that suits that reality. The Chairman of the Drafting Committee also referred to the system for different voting procedures in Annex II to the Basic Law as
"taking into consideration the interests of all social strata and ... [preventing] endless debates over government bills, thus helping the government work with efficiency."

7. It is significant that the Chairman of the Drafting Committee foresaw the mischief of "endless debates over government bills". The current situation within the Council involves endless debates so that the government cannot work with efficiency in the interests of the people of Hong Kong. No doubt those who filibuster believe that their actions are in the public interest in blocking bills with which they disagree and exerting pressure in the campaign for full democracy in Hong Kong. But if parliamentary democracy is to endure after the present fifty-year transition, the political branches need to find ways of maintaining what the Chairman of the Drafting Committee described as "a democratic system that suits Hong Kong reality."

8. It is apparent from my instructions that there is a political impasse about proposals to reform the Council's procedures and practices. The difficulty about advising on possible changes to Rules of Procedure is

not only that they are unlikely to win a majority in Council but also that they will not prevent other forms of abuse of procedure. The underlying problem is one of the current political culture and gridlock through a lack of consensus. That problem cannot be solved by changes in the Rules of Procedure, and, in any event, it seems that there is insufficient political support to make those changes.

9. I hope my advice may be useful in promoting workable reforms in the interests of good governance and democracy for Hong Kong residents. There are three ways in which the political gridlock might be brought to an end by:

- i. self-regulation by the majority of Members of the Council, including agreement on Rule changes;
- ii. intervention by the courts; and
- iii. continuing use of the powers vested in the President under the Basic Law and Rule 92 of the Rules of Procedure.

10. The first possibility is unlikely to be attainable within a reasonable time.

11. As regards the second option, I gratefully adopt the comprehensive Written Case for the President in the pending appeal to the CFA by Mr. Leung Kwok Hung. I would hope that the CFA could be persuaded to do more than reject the Appellant's arguments and dismiss the appeal, but would also indicate, as did the lower Courts, that the President's decision to close the debate was within his powers under the Basic Law and Rule 92 and that he has the power to stop a further round of filibustering. It should be possible to persuade the CFA to affirm the judgments below.

12. As regards the third option, I am impressed by the care and sensitivity with which the President has exercised his powers, aided by his Legal Adviser. The President's rulings have not been challenged by judicial review except in Mr. Leung Kwok Hung's case. If they were challenged I would expect them to be upheld by the courts.
13. The outcome of Mr. Leung Kwok Hung's appeal is likely to assist the President in his use of his powers. If the Council is unable to muster a majority in favour of rule changes to counter filibustering, the President will be compelled to continue to use those powers as a matter of necessity. He will develop the internal law and practice of the Council and the guidance given the Members and the officers of the Council without the need to amend the Rules of Procedure.
14. That process is welcomed in the Written Case for Mr. Leung Kwok Hung which describes (§92) the President's rulings since 1 July 1997 as "being of value for future reference" and as "precedents by which subsequent Presidents, Members and officers are guided" [citing Erskine May's reference to the Speaker's rulings in the House of Commons]. However, the appeal is designed to prevent the President from being able to use his powers to tackle the problems of filibustering.

Freedom of speech, parliamentary privilege, and the judicial function

15. A primary function of a legislature is to debate and pass resolutions freely on subjects of its own choosing. That is a cornerstone of parliamentary democracy. Members of a democratic legislature have the right to say what they will and to discuss what they will. This single most important aspect of the common law of parliamentary privilege is secured by Article 9 of the Bill of Rights 1688-89 that commands that the freedom of speech and debate and proceedings in

Parliament ought not to be impeached or questioned in any court or place out of Parliament. It is a collective privilege of the institution as a whole. It means for example that a Member may not be sued for defamation for what he or she alleges in the legislature.

16. Freedom of speech and debate does not of course mean that legislators have an absolute right to speak and debate endlessly or to violate the sub judice rule, or to obstruct the Council's proceedings and bring them to a standstill. To do so is an abuse of common law privilege that protects the Council and its Members collectively.

17. The Hong Kong courts, as well as the Council, its officers and Members, have a duty to ensure that the Council acts in a way that is compatible with the Basic Law. Because of the separation of powers between the independent judiciary and the political branches of government, as well as the protection given by common law privilege, the Courts must not and do not generally exercise their jurisdiction to intervene in the Council's internal workings, but they do so exceptionally where necessary to further and not frustrate the object and purpose of the Basic Law in creating the Council and conferring functions and powers upon the Council and its officers.

Freedom of speech and filibustering

18. Members of the Council, like everyone, have the right to freedom of speech, guaranteed by Article 27 of the Basic Law. That is their right as individuals. Freedom of speech is also central to the Council's role. This is fundamental to the effective workings of the Council and is achieved by parliamentary privilege – the common law protection of “proceedings in Parliament”. Members are immune from exposure to civil or criminal liabilities in respect of what they say or do in the course of proceedings in the Council or its committees. Common law

privilege protects freedom of speech within the legislature as a collective institution.

19. The privilege does not license Members to abuse the procedures of the Council. It is subject to such limits as are reasonably required to make effective the powers and functions granted by the Basic Law. That is why the Rules of Procedure, made under Article 75 of the Basic Law confer the power to limit the length and frequency of Members' speeches and to control the business of the Council. That is also why the Rules prevent Members from interfering with the rule of law. And it is why the President is empowered by Rule 92, if any matter is not provided for in the Rules, to decide the practice and procedure to be followed in the Council. Filibustering is a matter not provided in the Rules.

Quorums, filibustering and quorum busting

Quorum requirements

20. When a body has members who make decisions its rules prescribe a minimum number of members required to constitute a quorum. The quorum requirement prescribed by Article 75 of the Basic Law applies not only when votes are taken but also to the meetings of the Council and the committee of the whole Council as a whole in plenary session.
21. A quorum call may be made at any time during a meeting and cannot be confined only to certain parts of the meeting. If there is no quorum the meetings has to be adjourned with unfinished business.

Filibusters

22. A filibuster is a tactic used to prolong debate, allowing Members to delay or prevent a vote on a given proposal. It is sometimes referred to as "talking out a bill" and is a form of obstruction. It was used by Irish

nationalists in the House of Commons in the 1880s and resulted in changes to the Commons procedures to control and limit the length of debates.

23. The use and misuse by opponents of the timetabling of Bills and other procedures is of ancient origin and widely practised in legislatures across the world. What is known in the USA as “quorum-busting” is a well-known filibustering technique to delay or prevent the passage of legislation. It has resulted in gridlock within the US Senate. Both Houses of the Australian federal Parliament apparently have strictly enforced rules in their Standing Orders on how long members may speak, and the political culture appears not to have condoned persistent filibustering.

Quorum busting

24. Quorum busting involves Members deliberately preventing a meeting from being quorate by absenting themselves. It is used as a form of filibustering by minorities seeking to block the adoption of a measure they oppose. It is often difficult to prove that the lack of a quorum is the result of a deliberate intention to filibuster, though in Hong Kong Members have candidly explained when they engage in filibustering by means of quorum busting.
25. The rules of legislatures across the world do not expressly forbid filibustering, but have rules instead to protect their proceedings from being obstructed by controlling the timing and length of debates and compliance with rulings from the authorities of the legislature.
26. Because of the difficulty of drawing a line between acceptable parliamentary tactics and unacceptable filibustering, attempts to forbid filibustering in Rules of Procedure would be difficult to draft. They

would also risk breaching the collective freedom of speech and debate of the Council and its Members and casting doubt on the impartiality and fairness of the President in enforcing an anti-filibuster Rule.

27. In my view, the better approach is to control the timing and length of debates and the Members' conduct in debates, and compliance with the relevant Rules of Procedure, as the President is already doing with the assistance of the Legal Adviser, using Rule 92 as a last resort.

House of Commons Rules

28. The Standing Orders of the House of Commons contain detailed rules governing, for example, sittings of the House, quorums, the arrangement and timing of public and private business, "dilatatory" motions, closure of debate, division unnecessarily claimed, disorderly conduct, order in debate, time limits on speeches, and programming of bills.
29. The combined effect of these rules is to enable the Speaker and chairs of committees to control and limit abuses, whether by filibustering or otherwise. Opposition parties still seek to use procedural tactics that might be regarded as filibustering to prevent the government having its way during the legislative process. But there are strong regulatory powers that work in practice in part because politicians in Opposition have to think about what their position would be if the same tactics were used against them in office.

House of Lords' experience

30. My experience, based on 20 years as a life peer in the appointed House of Lords, may be of interest even though it is not analogous to the Hong Kong system. The House is self-regulating: the Lord Speaker has no power to rule on matters of order. The preservation of order and the

rules of debate are the responsibility of the House itself, and any member may draw attention to breaches of order or failures to observe the customs.

31. The “usual channels” of the government and opposition parties in the House agree the programming and timetabling of business. The Leader of the House and Government whips (with the support of the Clerks) guide the House, unlike the Commons where the Speaker of the House with the support of the Clerks) does so.
32. The Companion to the Standing Orders and Guide to the Proceedings of the House of Lords, laid before the House by the Clerk of the Parliaments, is the Lords’ bible on procedure and practice. The Companion gives guidance about such matters as relevance, order of speaking, interruption of speeches, speaking more than once, attendance at debate, and length of speeches.
33. In January 2011, self-regulation broke down in the Lords when Labour Opposition peers attempted to delay the passage of the Parliamentary Voting System and Constituencies Bill 2010 until 16 February which was the deadline given by the Electoral Commission to allow the referendum on the Alternative Vote to take place on 5 May. On the eighth day and night of debate, staff set up camp beds and refreshments to allow peers to rest.
34. The experience was unpleasant and caused some to contemplate introducing the strict procedures of the House of Commons to curtail debates. However, the Leader of the Opposition and her colleagues persuaded the filibusters not to repeat the exercise and self-regulation was restored because of the common interest of all sides of the House in the orderly and efficient conduct of the business of the House. Of

course the collegiate political culture of the House of Lords is unlikely to be emulated in the very different circumstances in Hong Kong.

Hong Kong experience

35. During some Council meetings in recent legislative sessions a few Members made quorum calls at frequent intervals with the avowed intention of filibustering the relevant proceedings. As a result, a substantial amount of meeting time was spent on ringing the quorum bell for summoning Members to form a quorum.
36. The term “quorum call” refers to a Member drawing to the President’s attention the fact that a quorum is not present, thereby triggering the procedure to summon Members to form a quorum: Rules 17 (2) and (3) of the Rules of Procedure. There were also occasions where, because of the lack of a quorum after the expiry of 15 minutes for summoning Members, the Council was adjourned with unfinished business.
37. At the Council meeting on 18 June 2014 a few Members made quorum calls at frequent intervals with the avowed intend of filibustering the relevant proceedings – a ploy known as “quorum busting”.
38. The Rules of Procedure contain wide powers governing the length of speeches and debates, and give wide discretion to the President in deciding, among other things, the agenda and timing of meetings.
39. I have been provided with three examples of the President’s rulings on closing a debate at the Committee stage of the Council, and for the allocation of time on the Appropriations Bills of 2013 and 2014, together with his reasons. They are models of clarity, fairness, and proportionality in the exercise of these essential powers.

40. However, in the pending appeal in *Leung Kwok Hung*, the appellant contends that the President has no power to close or set a time limit on a debate on a bill on his own, and that legislators are entitled to prolong debates on a bill indefinitely in order to exert pressure on the executive to accede to their demands. In my view, that approach makes a mockery of the very essence of democratic government and is unsustainable.

41. The abuses of procedure that have occurred on the basis of such a misguided approach are illustrated by what happened to the Legislative Council (Amendment) Bill 2012. In *Leung Kwok Hung*, Mr. Justice Lam explained in the CFI that the Bill consisted of three clauses. At the resumption of its Second Reading, two legislators proposed 1, 232 and 74 amendments. The Committee of the Whole Council spent 36.5 hours on the debate before the President ruled that it should come to an end. Given the procedural requirement that each amendment has to be separately voted upon, it was estimated that the voting on all these amendments would take another 30 hours or more. The motion for the Second Reading was passed after a debate of 8 hours and 39 minutes and 20 members spoke.

42. The proceedings continued the following day at Committee stage but were adjourned through lack of a quorum. When the debate resumed, a legislator moved to adjourn the proceedings and the debate on the adjournment took 4 hours and 29 minutes. The motion was negative and the President as chairman of the Committee indicated, without objection, that there would be a joint debate of all the amendments proposed by the two legislators. The joint debate continued over two days but was adjourned due to the absence of a quorum. It resumed and was continued overnight. By that time the debate had been conducted for 33.5 hours. The Chairman had ruled during the course

of the debate 75 times that a speech was irrelevant and many times that a speech was repetitious.

43. The CFI judgment recalled (§12) that the Chairman

“took the view that he needed to balance the interest of the minority to express their views and to use tactics permitted by the Rules of Procedure to contest with the Government on the one hand and his responsibility to ensure the effective conduct of its business by the Council on the other. Even though there was no procedure for a closure motion in the rules of procedure, he opined that the debate at Committee Stage should not continue indefinitely. His assessment of the situation was that objectively speaking the debate was not serving the proper objective of a debate. He considered that the debate should come to an end.”

44. After further proceedings, the Chairman decided to stop the Committee debate on the amendments, relying on Rule 92 of the Rules of Procedure. The legality of that decision has been challenged so far without success by Mr. Leung Kwok Hung and is pending in the CFA for hearing in September 2014.

45. I have reviewed the attempts within the Committee on Rules of Procedure to draw up and recommend specific procedures to deal with filibustering. There appears to be complete political gridlock. Amendments to the Rules of Procedure are made by a Member's motion and require a simple majority of Members returned by functional constituencies and by geographical constituencies. In the current political climate, I am instructed that a majority is unlikely to be secured from among Members returned by geographical constituencies.

46. I have been given a press report of 23 May 2014 when the Chief Executive, Mr. Leung Chun-Ying's criticised filibustering Members. He said that the tactic had spread to other Council committees and that Hong Kong residents were becoming fed up. He said that a number of

relief measures for the public were at risk of being delayed and that the Members responsible were “not only violating the aspirations of the people but also affecting Hong Kong’s competitiveness.”

47. A number of possible options have been canvassed, including:
- a. interpreting Article 75 of the Basic Law as not applying to proceedings of the Committee of the whole Council;
 - b. amending Rule 17 of the Rules of Procedure to restrict quorum calls at certain junctures of the meeting;
 - c. amending the Rules to allow a longer period to summon Members to return to meetings;
 - d. amending the Rules so that no quorum calls may be made unless business has intervened;
 - e. amending the Rules to give the President the discretion to suspend a meeting instead of adjourning the Council;
 - f. exercising the power under Rule 92 to disallow quorum calls made with the sole intention to filibuster;
 - g. exercising the power under Rule 92 to prevent Members from leaving a meeting unless with good reason, such as the need to attend another committee meeting;
 - h. using the Rule 92 power to prevent Members from leaving a meeting halfway through unless with good reasons that must be given to the President.

48. I shall summarise my advice about these possible options in paragraph 91 below.

The Basic Law

49. As far as possible, the Council must be self-regulating, but it is the power and duty of the courts of the Hong Kong SAR to interpret the

provisions of the Basic Law, such power having been delegated by the Standing Committee of the National People's Congress to the courts by Article 158 (2) of the Basic Law.

50. The Basic Law is an entrenched constitutional instrument implementing the unique principle of "one country, two systems". It uses ample and general language and is a "living instrument" intended to meet changing needs and circumstances. In interpreting the Basic Law, a purposive approach is to be applied. Gaps and ambiguities are bound to arise, and, in resolving them, the courts give effect to the principles and purposes of the Basic Law, ascertained from the Basic Law and extrinsic materials and the context. The courts must avoid a literal, technical, narrow or rigid approach. Assistance may be gained from any traditions or usages that have given meaning to the language used: *Ng Kar Ling v Director of Immigration* (1999) 2 HKCFAR 4, at page 28D to I.

51. Because the context and purpose of the Basic Law were established when it was enacted, the extrinsic materials are mainly pre-enactment materials brought into existence before or at the same time as the enactment : *Director of Immigration v Chong Fung Yuen* (2001) 4 HKCFAR 211, at p. 224D to H. They include the Joint Declaration and the Explanations on the Basic Law (Draft) given at the Third Session of the Seventh National People's Congress on 28 March 1990, shortly before its adoption on 4 April 1990.

52. Once the courts conclude that the meaning of the text, construed in the light of its context and purpose, is clear, the courts must give effect to the clear language of the language: *Chong Fung Yuen*, at page 225A-B.

53. The Basic Law did not create a new legislature out of nowhere. By establishing the Council, the Basic Law does not make a complete break from the past, but nor is the Council simply a continuation of the pre-1997 colonial legislature. Matters such as budgets, taxation and public expenditure have continued to be discussed by the Council at its committee level as before, but insofar as they require legislation that must be done in a plenary meeting of the Council just as in the colonial days: *Cheng Kar-Shun*, §§111-13, and 123.
54. The express powers and functions given to the Council under the Basic Law carry with them all those powers that are necessary to make effective the exercise of the powers and functions so granted. The word “necessary” in this context means “reasonably required” rather than “absolute necessity”: *Cheng Kar-Shun*, §209.
55. The powers must be exercised lawfully, fairly and in accordance with the principle of proportionality.
56. Article 8 of the Basic Law provides that
- “The laws previously in force in Hong Kong, that is the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, except for any that contravene this Law and subject to any amendment by the legislature of the Hong Kong Special Administrative Region [HKSAR].”
57. Article 160 (1) of the Basic Law provides that the laws previously in force in Hong Kong (before 1997) shall be adopted in Hong Kong except for those which the Standing Committee of the National People’s Congress declares to be in contravention of the Basic Law. One such law is contained in the common law protected by Article 9 of the English Bill of Rights of 1688-89, that is, the common law protecting parliamentary privilege that applies to the Council and its Members.

58. Article 11 provides that the system for safeguarding (amongst other things) the legislative system and the relevant policies shall be based on the Basic Law.
59. Article 17 vests legislative power in the HKSAR. Article 66 makes the Legislative Council the legislature of the region.
60. Article 72 empowers the President of the Council (amongst other things) to decide on the agenda and on the time of meetings, and to exercise the powers and functions prescribed by the Rules of Procedure of the Council. The Chief Judge said in the CA Judgment of *Leung Kwok Hung* at paragraph 60,
“Whatever may be the effect of those rules interpreted on their own, it must be read subject to the constitutional power under function of the President under Article 72 (1) to preside over meetings.”
61. It is Article 72 that gives the President the powers needed to enable him to protect the integrity and efficient operation of the Council and its committees and the rights and duties of Members, as he has done in using Rule 92 of the Rules of Procedure.
62. Article 73 sets out the Council’s powers and functions. They must be exercised in the Council complying with the quorum requirements prescribed by Article 75.
63. Article 75 provides that
“The quorum for the meeting of the Legislative Council of the [HKSAR] shall be not less than one half of all its members.
The rules of procedure of the Legislative Council shall be made by the Council on its own, provided that they do not contravene this Law.”

64. Article 75 refers only to the Council and not to the Council when it sits in a Committee of the whole Council. However, by parity of reasoning with the judgment of Andrew Cheung J. in *Cheng Kar Shun v Li Fung Ying*, deciding, in the absence of express words in Article 73 (9) that the power to summon witnesses to testify or to give evidence may be exercised by the Council at the committee level, in my view, even though Article 75 does not expressly refer to a committee of the whole Council, it must be interpreted as requiring the same quorum for the committee of the Council as for the Council.

65. I also consider that the reference in Article 75 to “meetings” covers all meetings of the Council and the committee of the whole Council when motions are to be considered and voted on as regards any of the matters referred to in Article 73. In other words, I do not consider that it would be legitimate to restrict the quorum requirement or quorum calls only to some parts of the meeting.

66. The autonomy of the Council in respect of its own procedure, subject to compliance with the Basic Law, is enshrined in Article 75 (2).

67. Article 79 requires the President of the Council to declare that a Member is no longer qualified for the office (amongst other things) when he or she, with no valid reason, is absent from meetings for three consecutive months without the President’s consent, or when he or she is censured for misbehavior or breach of oath by a vote of two-thirds of the Members of the Council present.

68. The Basic Law does not define what constitutes “misbehavior” by a member. Legislative Council Ordinance, Cap.242, also contains no definition but makes clear (Section 1 (3)) that it includes breach of the Member’s oath given under Section 40 (1) (b) (iii). Section 40 (1) (b)

requires candidates for election to declare that they will uphold the Basic Law.

69. However, since Article 79 requires a vote of two-thirds of the Members present before the President is able to declare that a Member is no longer qualified for office, it is not a useful power in the current political context in the Council.

The Rules of Procedure

70. The Council made the Rules of Procedure under Article 75 of the Basic Law. Just as the Basic Law should be interpreted avoiding a rigid, literal, narrow or rigid approach, so should the Rules of Procedure. It is important not to make a fortress out of the Rules but to interpret and apply them in a way that promotes the effective working of the Council and its committees.

The Quorum Rules

71. Rule 17 provides that :

“(1) The quorum of the Council and of a committee of the whole Council shall be not less than one half of all its Members including the President or Chairman.

(2) If the attention of the President is drawn to the fact that a quorum is not present, he shall direct the Members to be summoned. If after 15 minutes have expired a quorum is not then present he shall adjourn the Council without question put.

(3) If the attention of the Chairman in committee of the whole Council is drawn to the fact that a quorum is not present, he shall direct the Members to be summoned. If after 15 minutes have expired, a quorum is not then present the Council shall be resumed and the President shall count the Council. If a quorum is then present the Council shall again resolve itself into committee but if a quorum is not present the President shall adjourn the Council without question put.

(4) If from the number of Members present at a division, including those who abstained from voting, it appears that a quorum is not present, the division shall be invalid, and the procedure prescribed in sub rule (2) or (3) shall be followed.

(5) The question on which the Council is adjourned under sub rule (2), (3) and (4) shall stand over until the next meeting.”

72. I am instructed that, in addition to the circumstances specified in Rule 17, the present practice is that if a quorum is not present at the appointed start time of a Council meeting, the President directs the Members to be summoned with the ringing of the quorum bell for up to 15 minutes. The President does not of his own accord count the Members present to ascertain the presence of a quorum during a Council meeting. Although that practice is not expressly authorised under Rule 17, in my view it is within the President’s discretionary powers.

73. The same approach applies to the President’s power to suspend rather than to adjourn the Council. In my view, where it is reasonably required to suspend rather than to adjourn the Council the President has the power to do so by necessary implication. It is unnecessary to amend Rule 17 in this respect.

74. It has been suggested that filibustering might be countered by amending Rule 17

- a. to restrict quorum calls at certain junctures of the meeting; or
- b. to allow a longer period to summon Members to return to meetings; or
- c. to prevent quorum calls being made unless business has intervened.

75. In my view, the quorum requirement in Article 75 of the Basic Law applies to every meeting of the Council and a committee of the whole Council whenever votes on bill or motions on other matters are being considered. It is important that Members are informed before voting, and quorum calls provide an incentive for them to be present at the discussions and debates before they vote. It is strongly arguable that options a. and c. are inconsistent with the object and purpose of Article 75. As for option b. lengthening the period to summon Members would be compatible with Article 75 but it would be likely to aggravate the problem of delays.

Limiting length of speeches

76. Rule 36 (5) provides that, subject to Rule 37 (Recommendation of House Committee as to Time of Speaking) a Member shall not, without the permission of the President or the Chairman, to be given only in exceptional circumstances, make a speech lasting more than fifteen minutes. I do not know how strictly this Rule is enforced in practice. Nor do I know whether the House Committee has made recommendations under Rule 37 as to the time of speaking on a motion or amendment (other than a motion intended to have legislative effect) has worked in practice.

77. Rule 38 permits a Member to speak more than once on a question in committee of the whole Council. On its face, Rule 38 would appear to permit a Member to speak as many times as he or she wishes, provided that each speech is limited to not more than fifteen minutes. In *Leung Kwok Hung*, the Court of Appeal noted, at paragraph 60, page 20, the argument by Mr. Martin Lee SC on behalf of the Appellant, that the combined effect of Rules 34 (3) and (6), 38 (1)(a) and 58 is that legislators may speak again and again in a debate in the Committee of

the whole Council until no or no other legislator indicates his intention to speak.

78. In its present form, Rule 38 encourages rather than inhibits filibustering. It should be amended to limit the occasions when a Member may speak more than once but it seems unlikely in the current political climate that this will happen.

Content of speeches

79. Rule 41 (1) provides that Member shall restrict his observations to the subject under discussion and shall not introduce matter irrelevant to that subject. The President has sought again and again to invoke this provision but it has been wholly ineffective in curtailing persistent filibustering.

Order in Council and in committee

80. Rule 45 (1) provides that the President, the Chairman of committee of the whole Council or the chairman of any standing or select committee, after having called the attention of the Council or committee to the conduct of a Member who persists in irrelevant or tedious repetition of his own or other Members' arguments in the debate, may direct him to discontinue his speech.

81. In the pending appeal to the CFA the appellant suggests that this is an effective power to deal with filibustering that should be used rather than Rule 92. However, practice has shown Rule 45 (1) to be ineffective.

82. In the President's ruling on closing the joint debate at the Committee stage of the Legislative Council (Amendment) Bill 2012, he explained

the filibustering that occurred resulting in his drawing members attention on more than 75 occasions to the need to comply with Rule 45 (1). That did not bring the filibuster to an end, which is why the President was compelled to use Rule 92.

83. Rule 45 (2) empowers the President and chairmen of a committee to discipline Members whose conduct is “grossly disorderly” by ordering their withdrawal from the meeting. Whether conduct is grossly disorderly is a question of fact to be determined by the President or chairmen. The use of this power to tackle filibustering would not be likely to succeed but rather to encourage further abuses of procedure.

Procedure if Rules of Procedure do not provide

84. Rule 92 provides that:

“In any matter not provided for in these Rules of Procedure, the practice and procedure to be followed in the Council shall be such as may be decided by the President who may, if he thinks fit, be guided by the practice and procedure of other legislatures.”

85. The way the President has interpreted and given effect to Rule 92 is, in my view, lawful, fair and proportionate. He has used the power only where appropriate and necessary where the Rules do not otherwise apply.

86. I have already advised against adopting a narrowly technical approach to the Rules based on tabulated legalism. For example, in my view, Rule 17 should be interpreted as empowering the President to suspend rather than adjourn the meeting of the Council where this is reasonably required. If this view were challenged, it would mean that the matter of suspending rather than adjourning would not be provided for in the Rules, and the Rule 92 power could be exercised.

87. To take another example, Rule 57 applies to amendments that are to be moved to bills in committee of the whole Council. In his ruling on the Committee stage of the Legislative Council (Amendment) Bill 2012, the President recalled that one Member had tabled 74 amendments, and another Member had tabled 1,232 amendments. Both Members had made it clear that their purpose in proposing so many amendments was to prolong the Committee stage of the Bill so as to force the Administration to shelve the Bill.

88. The President ruled that none of the amendments had breached Rule 57 and all were admissible and could be moved to the Bill. He saw no prospect of the debate coming to an end. He consulted the Clerk to the Council bore in mind his duty

“to strike a balance between the protection of the rights of individual Members to speak in Council and the efficient conduct of business of the Council as a law making institution.”

89. The President’s ruling sets out details of the advice he received (§§10-19) with which I entirely agree. I also agree with the President’s opinion (§§20-22).

90. I would hope and expect this approach to be approved by the CFA in the pending appeal and advise that it is the correct approach in tackling the problems created by filibustering under current political circumstances.

Summary of advice

91. In my opinion:

- a. The quorum requirement prescribed by Article 75 (1) of the Basic Law (of not less than half of all Members of the Council) applies to all meetings of the full body of Council (as distinct from its Committees established under the Rules of Procedure).

- b. The quorum requirement also applies to the proceedings of the Committee of the Whole Council as well as to the Council, but not to other committees with lower quorum requirements. It applies not only whenever a vote on a bill or an amendment to a bill or on any other motion is taken but to the meeting resulting in a vote.
- c. The Council may not decrease the quorum for meetings of the full body of the Council below one half of all its Members since that would be contrary to Article 75 (1).
- d. The quorum requirement cannot be limited to particular junctures, such as only when a vote is taken, or when considering particular types of business since that would be contrary to the clear language of Article 75 (1) applying the requirement to meetings and not to parts of meetings.
- e. The quorum requirement cannot be limited where it is used to filibuster; it is an objective requirement regardless of the political move or intention of the Member making a quorum call and it would exceed the President's powers were he to disallow quorum calls made with the intention to filibuster.
- f. It would be futile to attempt to tackle the problems of filibustering by seeking to amend the Rules, since apparently there would not be sufficient support within the Council to do so.
- g. Even if it were politically possible to amend the Rules, it is unlikely that this would solve the problems of filibustering

without a change in the current political culture that has enabled filibustering to flourish. The President's interpretation could be challenged and other means found to undermine his authority.

- h. Because the Rules do not enable the problems to be dealt with in any other way, and because it is unlikely that suitable amendments to the Rules can be made, the President is fully justified in using the discretionary powers conferred by Rule 92 to decide upon the practice and procedure to be followed in the Council, guided, if he thinks fit, by the practice and procedure of other legislatures.
- i. The President's rulings under Rule 92 will develop a body of internal law and practice that is unlikely to be successfully challenged in the courts if the President invokes the Rule only where the exigencies of the situation reasonably require him to do so, and if he acts fairly without apparent or actual bias, after consulting the Members.
- j. Where appropriate and necessary, the President may use the Rule 92 power to set a timetable for a debate, or to close a debate, or to suspend a meeting instead of adjourning the Council.
- k. It is within the wide discretion vested in the President for him to decide that it is more proportionate to suspend a meeting instead of adjourning the Council, for example, to enable discussion to take place about the handling of business, timetabling, etc.

- l. In my view, Rule 17 gives him the power to suspend rather than to adjourn, but if that is not the case the President may exercise the Rule 92 power.

- m. It would not be a proportionate use of the power under Rule 92 (and under the Basic Law) to prevent Members from leaving a meeting unless with good reason, such as the need to attend another committee meeting, or to prevent Members from leaving a meeting halfway through unless with good reason given to the President.

Conclusion

92. If necessary I should be glad to advise to clarify or amplify my views.

LORD LESTER OF HERNE HILL QC
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30th June 2014

THE LEGISLATIVE COUNCIL, FILIBUSTERS AND QUORUM-BUSTING

SUPPLEMENTAL ADVICE

1. I am asked to advise further on tackling abuses of procedure by Members, including filibustering. The problems confronting the President and the Council are political as well as legal problems. I am not an expert in the politics of Hong Kong but make these suggestions in the hope that they may be useful.
2. The freedom of speech of Members is a vital freedom but it does not justify abuses of procedure done to bring the business of the Council to a halt.. That is why the Westminster Parliament is able to deal with such abuses without violating the vital common law privilege that protects the legislature.
3. Quorum-busting and other forms of filibustering need to be countered by the majority of Members who presumably do not approve of the disruptive tactics of a small minority intent on making it impossible for the Council to function. The problem can be tackled only if Members attend meetings dutifully to ensure the meetings are and remain quorate and support the President in his decisions..
4. Members have rights and privileges but as the Basic Law recognizes they also have responsibilities. For example, the Basic Law provides that, if Members are absent from meetings for three consecutive months with no valid reason, or if they are censured for misbehavior or breach of oath, the President must, under Article 79, declare that they are no longer qualified for office. Article 79 (1) specifically refers to a

Member's "duties". The reference to "no valid reason" for absence indicates the intention that the President has the power to require Members to give reasons for non-attendance when they are requested to do so by the President.

5. Article 104 of the Basic Law requires Members to take the oath when assuming office. When a Member takes the oath he or she swears "to uphold the Basic Law" and to "serve the HKSAR "conscientiously, dutifully, in full accordance with the law, honestly and with integrity" : Oaths and Declarations (Amendment) Ordinance 1997, Schedule 2, Part 5.
6. A Member who fails without good reason to attend after having notice of a meeting of the Council requiring attendance is not upholding the quorum requirement in Article 75 of the Basic Law. His or her absence facilitates quorum busting and other forms of filibuster. A two-thirds majority is required by Rule 94A to disqualify a Member from office for misbehavior/breach of oath under Article 104. If Members fail to attend meetings they disable the Council from being able to maintain proper discipline.
7. A Member who deliberately filibusters to undermine the ability of the Council to function effectively abdicates his or her function as lawmaker and such deliberate and persistent conduct may be in breach of Article 75 of the Basic Law and of his or her oath.
8. The President may wish to consider drawing these matters to the attention of Members. He may also wish to set an agenda for next Wednesday's meeting that includes a strict timetable, including the

time allocated for each item of business and the time when he expects the business to conclude.

9. He may wish to remind Members in advance that the quorum requirements of the Basic Law can only be given effect if Members attend, and that when they took the oath on becoming Members they accepted the duty to attend and ensure a quorum for meetings in accordance with the Basic Law..
10. The President may wish to consider indicating that he will introduce a public register of attendance and non-attendance and will require all Members to give written reasons for non-attendance that will be published in the Register. He may also consider requesting the leaders of each party to promote compliance with the quorum requirements of the Council by introducing a whipping system.
11. The President may also wish to consider indicating that he regards deliberate quorum-busting and other forms of filibustering, or disobedience to his rulings (for example, to discontinue a speech under Rule 45 (1)) in breach the duty on all Members to comply with the Basic Law.
12. I am asked to clarify my advice in the light of Rule 14 (5) read with Rule 17 (2).. Under Rule 14 (5) the President may at any time suspend a meeting or adjourn the Council.
13. However, Rule 17 (2) provides that the President must adjourn the Council if a quorum is not present after fifteen minutes have expired. Rule 17 refers only to the adjournment not the suspension of a meeting.

14. If Rule 17 (2) is read literally, the President must adjourn the Council without question put where there is no quorum after fifteen minutes have expired. However, I do not consider that such a literal and restrictive interpretation is appropriate, whether in interpreting the Basic Law or the Rules made under the Basic Law. It is important to avoid a legalistic and restrictive approach. Rule 17 should not be read as limiting the general power in Rule 14 (2) and should be interpreted as permitting suspension rather than adjournment where this is reasonably required for the effective working of the Council.
15. The express powers and functions given to the Council under the Basic Law carry with them all those powers that are necessary to make effective the exercise of the powers and functions so granted. The word "necessary" in this context means "reasonably required" rather than "absolute necessity": *Cheng Kar-Shun, §209*.
16. In my view, a similar approach applies to the powers and functions given to the President in relation to the quorum requirements and the efficient discharge of the business of the Council and the Committee of the Council.
17. If the President considers that a suspension rather than an adjournment is reasonably required, for example to give more time in attempting to achieve a quorum rather than adjourning that is a proportionate way of making the quorum requirement effective, and, in my view, it is lawful. It is the opposite of circumventing the quorum requirement imposed by the Basic Law.
18. If the President were to suspend the meeting to defeat the quorum requirement that would of course be in breach of the Basic Law. But

what I had in mind was a situation in which an adjournment was appropriate in order to encourage Members to attend and make the meeting quorate. In my experience as a member of the upper house of the Parliament of Westminster, it is sometimes sensible to suspend proceedings to give more time to locate absent Members and seek to make up a quorum or enable business to continue.

19. I have explained that the Rules need to be interpreted flexibly to promote the effectiveness of the Council avoiding the trap of legalism and rigidity. The reason I have advised that the power exists by necessary implication is because it would assist in obtaining the requisite quorum to suspend than to adjourn until another day, reading the Rules purposively and in accordance with common sense and the principle of proportionality.
20. The exercise of the power to suspend rather than adjourn does not of course solve the problem of incessant quorum calls when a meeting resumes after suspension – what is termed “quorum busting” in the USA. That is why I have advised (§91j) that, where appropriate and necessary, the President may use the Rule 92 power to set a timetable for a debate, or to close a debate, or to suspend a meeting.
21. If filibustering continues on 9 July, and the President is unable to persuade Members to maintain an effective Council, this situation needs to be drawn to the attention of the CFA in the pending appeal with a request for the CFA to give a ruling that such conduct violates the Basic Law. But such a ruling is unlikely by itself to solve the underlying political crisis.

22. As a matter of political reality, if half the Members are unwilling to protect the Council against filibustering, the President will not be able to save it from gridlock. That is why I have made the suggestions at the outset of this supplemental advice.

LORD LESTER OF HERNE HILL QC

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5th July 2014

JOINT ADVICE

1. We refer to the Instructions to Counsel dated 20 February 2017 whereby we are asked to advise on 8 issues set out therein. We do not repeat the factual background set out in our Instructions.

Question (a): Whether the quorum requirement under Article 75 of the Basic Law (“BL”) applies throughout a meeting of the Legislative Council (“LegCo”) or can be limited to particular junctures or stages of a LegCo meeting, for example, at the beginning of each meeting, or when a division is claimed by Members

2. BL 75 provides as follows:-

“The quorum for the meeting of the Legislative Council of the Hong Kong Special Administrative Region shall be not less than one half of all its members.

The rules of procedures of the Legislative Council shall be made by the Council on its own, provided that they do not contravene this Law.”

3. The Rules of Procedure (“RoP”) of the LegCo were made by the LegCo on 2 July 1998 pursuant to BL 75. RoP 17 sets out the quorum requirement:-

“(1) The quorum of the Council and of a committee of the whole Council shall be not less than one half of all its Members including the President or Chairman.

(2) If the attention of the President is drawn to the fact that a quorum is not present, he shall direct the Members to be summoned. If after 15 minutes have expired a quorum is not present, he shall adjourn the Council without question put.

(3) If the attention of the Chairman in committee of the whole Council is drawn to the fact that a quorum is not present, he shall direct the Members to be summoned. If after 15 minutes have expired, a quorum is not then present the Council shall be

resumed and the President shall adjourn the Council without question put.

- (4) If from the number of Members present at a division, including those who abstained from voting, it appears that a quorum is not present, the division shall be invalid, and the procedure prescribed in subrule (2) or (3) shall be followed.
 - (5) The question on which the Council is adjourned under subrules (2), (3) and (4) shall stand over until the next meeting.”
4. In our view, the quorum requirement under BL 75 applies throughout a LegCo meeting, and there is no room to argue that the quorum requirement could be limited to particular junctures or stages of a LegCo meeting (for example at the beginning of the meeting or when a division is claimed by Members).
 5. RoP 17(2) provides that if, in the course of a LegCo meeting, the President’s attention is drawn to the fact that a quorum is not present, he is mandated (“shall”) to direct the Members to be summoned; and if a quorum is not present after 15 minutes, the President is mandated (“shall”) to adjourn the meeting without question put (i.e. without the need to ask all those members who are present to make a decision: “無須付諸表決”). This shows that the quorum requirement must be maintained throughout the whole LegCo meeting given the President is mandated to adjourn an inquorate meeting.

*Question (b): If the quorum requirement under BL 75 applies throughout a meeting of LegCo, whether a quorum is presumed to be present (“**presumption of quorum**”) where no Member draws to the attention of the President of LegCo (“President”) that a quorum is not present or where no division is claimed, and thereby the meeting may continue to transact the business on the agenda*

6. At common law, any business transacted at a meeting when a quorum is not present is invalid (unless the company’s articles provide otherwise, see *Re Hartley Baird Ltd.* [1955] Ch 143 for an example of a quorum being required only at the beginning of the meeting). In the UK, however, Parliamentary procedure provides a general exception to the rule, for matters transacted in

the House of Commons are validly effected notwithstanding the absence of a quorum, until that fact is brought to the notice of the Speaker or Chairman as the case may be, and there is a “count out”: *The Law of Meetings, 5th edition, Sir Sebag Shaw & Judge Dennis Smith*, p.71; see also the 18th edition (1971) of *Erskine May Parliamentary Practice* at p.299 (stating the position before the abolishing of “counting” in 1971: paragraph 10 below) as follows:-

“Formerly at the meeting of the House it was the duty of the Speaker to ascertain whether a quorum was present: but *when he had taken the chair, that responsibility rested upon the House ...*” (*emphasis added*)

7. LegCo adopts the same model. The Chinese text of RoP 17(2) is particularly illuminating. It provides: “如出席會議的議員不足法定人數，而有人向立法會主席提出此事，立法會主席即須指示傳召議員到場”。The word “而” demonstrates that a LegCo meeting may carry on despite the absence of a quorum *until* someone brings it to the President’s attention. Otherwise the phrase “而有人向立法會主席提出此事” will be rendered otiose.
8. Whilst not as plain and obvious as the Chinese text, the English text of RoP 17(2) is consistent with our interpretation above. The opening words “*If the attention of the President is drawn to the fact that a quorum is not present*” confirm that the lack of quorum, per se, does not grant an adjournment of a LegCo meeting: the President’s attention must *first* be drawn to it.
9. Our view is further reinforced by RoP 47(1)(b) and 47(2)(b) which set out the procedure when the President puts a question to the Council for its decision by a show of hands. If the President, according to his judgment, states whether or not he thinks the required majority of Members present are in favour of the question, then *subject to a challenge* to his statement by a Member claiming a division, he shall declare the question to have been so decided. The validity of the decision rests upon the President’s judgment as to the requisite majority. It does not depend on the presence / absence of a quorum at the time the President declares the decision *in the absence* of a challenge by a Member.

The wording of the Standing Order No.36(3) (1968 version) based on which RoP 47(1)(b) was modeled was in even clearer terms:-

“The President or Chairman may, according to his judgment of the number of voices on either side, then state that he thinks the Ayes have it or that he thinks the Noes have it, as the case may be; and *if no Member challenges his statement* as provided in the next succeeding paragraph he shall declare the question to have been so decided.”
(*emphasis added*)

10. “Counting” was abolished in the House of Commons in 1971 and the Standing Order contains restrictions against making quorum calls. However, the abolition of “counting” as the means of ascertaining the absence of a quorum does not detract from the discussion above. We consider, by analogy, that so long as the absence of a quorum has not been drawn to the attention of the President, the business transacted at the meeting of LegCo will not be affected and the meeting may continue to transact the business on the agenda. Such an understanding of the procedure is entirely consistent with RoP 17(2). Rather than resorting to such notion as “presumption of quorum”, this is a matter of interpretation of the RoP as to when a quorum count is necessitated.

Question (c): In respect of (b), if there is no presumption of quorum, whether the President, when presiding over a meeting of LegCo in the exercise of his power and function under BL 72(1), has the duty under BL and/or the RoP to ascertain that a quorum is actually present throughout the meeting

11. The powers and functions of the President are set out in BL 72 as follows:-
 - “(1) To preside over meetings;
 - (2) To decide on the agenda, giving priority to government bills for inclusion in the agenda;
 - (3) To decide on the time of meetings;
 - (4) To call special sessions during the recess;
 - (5) To call emergency sessions on the request of the Chief Executive; and

(6) To exercise other powers and functions as prescribed in the [RoP].”

12. None of the above powers and functions imposes any duty on the President actively to ascertain that a quorum is present throughout a LegCo meeting (see also paragraph 6 above: once the President presided over a LegCo meeting, it is up to Members of the Council to raise a quorum challenge).
13. Nor does RoP impose any such duty on the President. In fact, RoP 17(2) tends to suggest that the President may leave it to others to bring to his attention the lack of the requisite quorum in the course of a LegCo meeting. Certainly, it could be the President himself who notices the lack of quorum and brings that to his own attention, but this is a far cry from imposing any duty on the President to ascertain a quorum is present throughout a meeting.

Question (d): If there is no presumption of quorum, whether a meeting of LegCo will have to be adjourned at the juncture when it is inquorate

14. RoP 17(2) provides the answer. A meeting is not automatically adjourned “at the juncture when it is inquorate”. Rather, if the lack of quorum is brought to the President’s attention, Members shall be summoned, and if after 15 minutes the requisite quorum is still not attained, the meeting shall then be adjourned.

Question (e): If there is a presumption of quorum, whether the presumption is rebutted at the time when the attention of the President is drawn to the fact that a quorum is not present or until the expiration of the 15-minute quorum call under RoP 17(2) and (3)

15. We refer to paragraphs 6 to 10 above. As and when the President’s attention is drawn to the fact (or in the event of the President himself notices) that the meeting lacks quorum, no further business should or can validly be transacted. If the requisite quorum is not attained during a LegCo meeting, the meeting will remain inquorate until the requisite quorum is present. It is unnecessary to analyse the question in terms of rebuttal of presumption of quorum.

Question (f): If the quorum requirement under BL 75 applies throughout a meeting of LegCo, whether the validity of the proceedings of LegCo would be affected if it is subsequently found that LegCo business has been transacted and decided upon without a quorum actually present at the meeting, for example, where bills were passed by LegCo pursuant to RoP 47(1)(b) based on the judgment of the President without a division being claimed by Members

16. We refer to paragraphs 6 to 10 above. We do not consider that the validity of the proceedings would be subsequently vitiated so long as attention of the President has not been drawn to the absence of a quorum. We do not consider that decisions reached by President's judgment of a majority pursuant to RoP 47(1)(b) would be invalidated so long as his attention has not been drawn to the lack of a quorum (for example by raising of a point of order). That is to be contrasted with the calling of a division. RoP 17(4) provides that a division shall be invalid if the requisite quorum is not present during the voting.

Question (g): Where a point of order is raised under RoP 17(2) for a lack of quorum and Members are thereby summoned, whether LegCo can continue transacting business during the period of quorum call in view of the quorum requirement under BL 75

17. The answer is no. The purpose of a point of order under RoP 17(2) is to question and ascertain quorum and at that point the President's attention is drawn to the question of quorum. If the requisite quorum is not attained within 15 minutes the meeting will have to be adjourned without question put. It would defeat the purpose of RoP 17(2) if the LegCo could continue to transact business and make decision during the period of quorum call.

Question (h): Whether the quorum requirement under BL 75 only applies to the Council but not to a committee of the whole Council

18. Committee of the whole Council was modeled on the committee of the whole House in the UK which emerged at the beginning of the 17th century. As

explained by the learned editors of *McKay and Johnson, Parliament and Congress: Representation and Scrutiny in the Twenty-First Century* at p.430:-

“Committees of the whole House emerged in England at the beginning of the seventeenth century, in the context of the struggle between the monarch and Parliament over the right to levy taxes, sparked off by what the Houses saw as royal profligacy. The specific reason for the creation of this new parliamentary organ is unclear. It may be that the Commons feared that the Speaker might reveal details of their debates to the King. *Alternatively, the House may simply have been seeking a forum in which debate was attended by less formality.* Lastly, when royal intimidation became intolerable, retreat from the Palace of Westminster to the safety of the more sympathetic City perhaps made a great deal of sense. That was not something the House itself could readily do – or not without substantially raising the political temperature – but a Committee, even one comprising all Members, might and did. Whatever their origin, Committees of the whole House were subsequently seen to be so useful that they survived the Restoration of the Monarchy in 1660.” (*emphasis added*)

19. A good summary of the nature of the committee of the whole Council is set out in [7.11]-[7.13] of “*A Companion to the history, rules and practices of the Legislative Council of the HKSAR*” (published by the LegCo) as follows:-

“Committee of the whole Council

7.11 When describing the procedures of Council meetings, it is necessary also to explain how *the Council and a committee of the whole Council carry out their work at the same Council meeting.* In the Hong Kong Legislature, *a committee of the whole Council comprises all Members of the Council with the President acting as Chairman.* The dual chairmanship of the President in Hong Kong is a unique arrangement since the chairmanship in the committee of the whole House in other legislatures which also adopt the Westminster model is not taken up by the Speaker but by another presiding officer. This unique arrangement, adopted from the pre-1997 Legislature, owes more to expediency than to any special principle. *It is not easy for an observer of a Council meeting to distinguish the proceedings of the Council from those of the committee of the whole Council as they both meet at the same venue and their businesses appear on the same Agenda.*

7.12 *A committee of the whole Council has the power to make amendments to a bill, including adding new clauses and new schedules provided that such amendments are admitted for consideration by the President acting as Chairman of the committee of the whole Council in accordance with the Rules of Procedure. According to the 3-reading*

legislative process provided in the Rules of Procedure, a bill is committed to a committee of the whole Council (or a select committee if so decided by the Council or directed by the President) after a motion for the second reading of the bill has been agreed to by the Council.

7.13 In a committee of the whole Council, Members are addressed as “members” (委員) and the President as “the Chairman” (委員會主席). Almost all rules of speaking, decorum and order, voting and other procedures set out in Parts H (Rules of Speaking), I (Rules of Order) and J (Voting) of the Rules of Procedure which apply to the Council also apply to a committee of the whole Council. *The only difference is that in committee of the whole Council, as an exception to the general rule that Members may only speak once on a question, a member may speak more than once.”* (emphasis added)

20. As the learned editors in *Law of the Hong Kong Constitution* (2nd ed.) put it at [9.026]-[9.029], the LegCo “transforms itself” into the committee of the whole Council after the motion of the second reading of a bill has been agreed to. At the “Committee Stage” each clause of a bill is debated and voted on separately with no limit on the number of times each Member may speak, and upon completion the committee of the whole Council “transforms itself back to Council” and moves to the third reading. In short, the committee of the whole Council is no different from the Council itself.
21. While there is little doubt that the quorum requirement in BL 75 applies to meetings of the Council, BL 75 does not state expressly whether it applies also to the committee of the whole Council.
22. In this regard, we have some reservation as to view expressed by Lord Lester QC who at [64] of his Advice (dated 30 June 2014) stated that “by parity of reasoning” with the decision of *Cheng Kar Shun v Li Fung Ying* [2011] 2 HKLRD 555, BL 75 “must be interpreted as requiring the same quorum for the committee of the [whole] Council as for the Council”. We are not entirely convinced that *Cheng Kar Shun* can be relied upon for such a conclusion. It seems to us that *Cheng Kar Shun* stands for little more than the proposition that as a matter of language, “Legislative Council” in different Articles of the BL (in that case, BL 73) is capable of meaning the LegCo functioning as a full

body or through its committees, “as the individual context may require”: [143]. Thus the phrase “meeting of the LegCo” in BL 75 could cover a meeting of the committee of the whole Council. It does not mean that it must so cover.

23. BL is to be interpreted by construing the language used in the text to ascertain the legislative intent as expressed in the language in the light of its context and purpose: *Director of Immigration v Chong Fung Yuen* (2001) 4 HKCFAR 211 at 223I (per Li CJ).
24. We take the view that it is most unlikely that the drafters of BL 75 intended the quorum requirement therein to cover only meeting of the Council but not the committee of the whole Council, when:
 - (1) considering the fact that the committee of the whole Council was modeled on the committee of the whole House in the UK, and the historical origin of the latter (see paragraph 18 above, in particular the reference “*the House may simply have been seeking a forum in which debate was attended by less formality*”);
 - (2) committee of the whole Council has the same membership as the LegCo, i.e. all LegCo members;
 - (3) after the motion of the second reading of a bill has been agreed to, pursuant to RoP 55, the process of debating and voting on each clause of the bill together with any amendment(s) to the bill takes place at the meeting of the committee of the whole Council pursuant to RoP 56, 57 and 58. This process is certainly an important and clearly an integral part of the legislative process by the LegCo, effectively signifying the endorsement of each clause of the bills by the whole Council itself (although proceeding in the committee of the whole Council);

(4) the quorum for both the Council and the committee of the whole Council was the same immediately prior to the handover, and it is unlikely that the drafters of BL intended to effect any change.

25. We have set out what we can helpfully advise at this stage. If anything arises from our advice above, we are happy to advise further if necessary.

Dated this 8th day of May 2017.



Ambrose Ho SC
Sir Oswald Cheung's Chambers



Jonathan Chang
Temple Chambers

Re: Legislative Council (Quorum)

JOINT ADVICE

Dated this 8th day of May 2017.

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Attn: Mr C P Yen / Ms Linda Chan