

# 立法會

## *Legislative Council*

LC Paper No. LS 7/17-18

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### **Finance Committee**

#### **Relevant legal and procedural issues relating to the directions to be issued by the Chairman of the Finance Committee on the speaking time limit for debates on motions to shorten the duration of the division bell and the scheduling of Finance Committee meetings**

#### **Purpose**

This note provides information on the relevant legal and procedural issues relating to the directions that the Chairman of the Finance Committee ("FC") plans to issue on the speaking time limit for debates on motions to shorten the duration of the division bell and the scheduling of FC meetings in order to facilitate discussion at the informal meeting to be held on 17 October 2017.

#### **Speaking on motions to shorten the duration of the division bell**

2. Under paragraph 46 of the Finance Committee Procedure ("FCP"), when the Chairman puts a question to FC for its decision and a division is claimed by a member, the Chairman shall order the Committee to proceed to a division and the division shall be held forthwith immediately after a division bell has been rung for five minutes. FCP 47 provides for the procedure to move a motion to shorten the division bell to one minute where further divisions are anticipated to be claimed under the same agenda item.

3. The FCP is silent on the procedure on how members may speak on a motion to shorten the duration of the division bell. In the circumstances, reference may be made to Part H (Rules 36 to 42) of the Rules of Procedure ("RoP") which sets out the rules of speaking in Council. By virtue of RoP 43 and FCP 38, the rules in Part H of RoP apply to FC proceedings unless the Chairman orders otherwise.

4. In the light of RoP 43, the FC Chairman is given discretion to decide whether and how the rules in Part H of RoP should apply to FC

proceedings. While the Chairman may seek the advice of the Clerk and Legal Adviser to FC in exercising his discretion, the decision must be made by him independently. From the legal point of view, the Chairman does not have an unfettered discretionary decision making power. In exercising his discretion, the Chairman has to take into account all relevant considerations, act reasonably and on reasonable grounds and exercise the discretion independently. According to decided cases on administrative law, while a public authority may establish internal policies or guidelines on the way it will exercise its discretion, it should be prepared to make exceptions on the basis of individual case.<sup>1</sup>

5. In the present case, the relevant grounds and considerations for the exercise of the Chairman's discretion may include the purpose of moving a motion to shorten the duration of the division bell, how FC has debated such motion and relevant procedures of Westminster-style overseas parliaments, and how to ensure that FC's business can be conducted in a fair, orderly and efficient manner while allowing time for members to speak on the motion. The Chairman must be careful not to adopt a rule that will bind himself as to the way in which his discretion will be exercised. In this regard, it is noted from paragraph 8 of the relevant draft note on the Chairman's direction that while the Chairman will normally allow each member to speak on a motion to shorten the duration of the division bell for not more than one minute, he is prepared to allow a longer speaking time having regard to individual circumstances of the case.

### **Scheduling of FC meetings**

6. Under RoP 71(6) and FCP 10, the time and the place of FC meetings are determined by the Chairman. These provisions are similar to those applicable to other committees of the Legislative Council. For example, RoP 76(5) and RoP 77(11) respectively provide that a Bills Committee and a Panel shall meet at the time and the place determined by the chairman of the Bills Committee and the Panel. Under the above rules, the chairman of the relevant committee has the power to determine the date and time of committee meetings.

Prepared by  
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<sup>1</sup> *Lavender v Minister of Housing and Local Government* [1970] 1 WLR 1231; *British Oxygen v Minister of Technology* [1971] AC 610.