

立法會

Legislative Council

LC Paper No. CROP 17/18-19

Ref: CB(4)/CROP/3/60

Paper for the House Committee meeting on 18 January 2019

Proposed consequential amendments to the House Rules on the arrangements relevant to the election of the President of the Legislative Council

Purpose

This paper invites the House Committee to consider the proposed amendments to rule 1A of the House Rules ("HR") consequential to earlier amendments to the Rules of Procedure ("RoP") relating to the election of the President of the Legislative Council ("the President").

Background

2. Following the passage of the amendments to RoP 12(3)¹ and Schedule 1 to RoP in December 2017, the Clerk to the Legislative Council ("the Clerk"), instead of the Member present who has the longest continuous service in the Council, shall be responsible for conducting the election of the President. Adjustments are therefore required to be made to some of the procedural arrangements adopted in the past elections of the President. Amendments to HR consequential to these adjustments are also required. The adjusted arrangements and the proposed amendments to HR, which had been considered and agreed to by the Committee on Rules of Procedure at its meeting on 8 January 2019, are set out in paragraphs 3 to 10 below.

¹ RoP 12(3), as amended in December 2017, provides that the first Council meeting of a term shall be adjourned after all Members present have made or subscribed an oath or affirmation.

Procedural arrangements for the election or re-election of the President

Date and venue of the election or re-election

3. The election of the President will be conducted as soon as practicable following the adjournment of the first Council meeting of a term which, in accordance with RoP 12(3), shall take place after all Members present at the meeting have made or subscribed an oath or affirmation. It is envisaged that the election, which is not conducted at a Council meeting, will be held in the Council Chamber or another venue as arranged by the Clerk.

4. If, in the course of the term of Legislative Council ("LegCo"), the President resigns from office or ceases to be a Member of the Council, a re-election of the President shall be conducted. The current arrangement for the incumbent President or the President's deputy to determine the date of the re-election under the existing HR 1A will remain unchanged. Similar to the election of the President, the re-election, which is also not conducted at a Council meeting, will be held in the Council Chamber or another venue as arranged by the Clerk.

The role and power of the Clerk

5. Paragraphs 1 and 6 of Schedule 1 to RoP provide that the Clerk shall be responsible for conducting the election of the President and shall be present thereat to provide administrative support and services respectively. In accordance with paragraph 7 of Schedule 1 to RoP, the election of the President shall commence once the Clerk has confirmed that Members are ready. The Clerk shall announce all the valid nominations that the Clerk's office has received on the basis of the principle set out in paragraph 4 of Schedule 1 to RoP.² In line with the LegCo honour system, the Clerk will only ensure that each candidate has duly completed the nomination form (including the statutory declaration) as required, rather

² Paragraph 4 of Schedule 1 to RoP provides that 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 (in any of the above capacities), 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.

than verifying the accuracy of the information provided by the Member concerned.

6. The Clerk is expected to be vested with powers incidental to his role to conduct the election of the President as provided under Schedule 1 to RoP. The Clerk may do such acts and things as he considers necessary to ensure that the election is held in an orderly and effective manner. The duties of the Clerk should include ordering a vote by secret ballot if there are two or more valid nominations; determining whether a questionable ballot paper is considered void in consultation with the Members making the nominations; checking the voting result for confirmation; declaring elected as the President the candidate who receives the highest number of votes; and drawing lots to decide which candidate should be the President if no one candidate obtains more votes than any other candidate in the second round of voting.

7. The role and power of the Clerk in an election set out in paragraphs 5 and 6 above should also apply to a re-election of the President.

Proposed consequential amendments to rule 1A of House Rules

8. Under the existing HR 1A(b) and (c), re-election of the President shall be conducted at a Council meeting and be presided by the incumbent President/President's Deputy/the Member present who has the longest continuous service in the Council as determined under HR 1A(b) and (c). As Schedule 1 to RoP provides the Clerk with the responsibility to conduct the election of the President which will no longer be conducted at a Council meeting, consequential amendments to HR 1A are required.

9. The reference to the procedure for the election of the President mentioned in HR 1A(d) will be amended from "the Schedule to RoP" to "Schedule 1 to RoP", so as to be consistent with the current version of RoP. Amendments are also proposed to HR 1A(d) and (e) to expressly provide that the aforesaid election procedure also applies to a re-election of the President and the special forum for presentation of platform and answers of questions by candidates for the office of President will also be held for such re-election.

10. The proposed consequential amendments to HR 1A are in the **Appendix**.

Advice sought

11. Members are invited to consider and endorse the proposed consequential amendments to HR 1A in the **Appendix**.

Council Business Division 4
Legislative Council Secretariat
16 January 2019

Marked-up version of rule 1A of the House Rules

1A. Election of the President of the Legislative Council

- (a) The President of the Legislative Council is to be elected by and from among the Members.
- (b) *The election of the President shall be conducted as soon as practicable following the adjournment of the first Council meeting of a term under Rule 12(3) of the Rules of Procedure.*
- (bc) If, in the course of the term of the Legislative Council, the President resigns from office but remains a Member of the Council, a re-election of the President shall be conducted *as soon as practicable but in any case* not later than ~~at the date of~~ the third meeting of the Council following the receipt of the resignation. The incumbent President shall determine the day of the *re-election*. ~~and shall preside at the election unless~~ *If* his resignation from the office of President has already come into effect, ~~in which case~~ the President's Deputy shall determine the day of the *re-election* ~~and shall preside at the election. If the President's Deputy is being nominated for the office of President, then the Member present who has the longest continuous service in the Council shall preside at the election of the President.~~
- (ed) If, in the course of the term of the Legislative Council, the President ceases to be a Member of the Council, a re-election of the President shall be conducted ~~at a meeting of the Council~~ by order of the President's Deputy. ~~The re-election shall be held~~ as soon as practicable but in any case not later than *the date of* ~~at~~ the third meeting of the Council following the assumption of office by the Member filling the vacancy arising from the President's ceasing to be a Member of the Council. ~~The President's Deputy present shall preside at the election. If the President's Deputy is being nominated for the office of President, then the Member present who has the longest continuous service in the Council shall preside at the election of the President.~~

- (~~de~~) The procedure for the election *or re-election* of the President, *which is not conducted at a Council meeting*, is set out in ~~the~~ *Schedule 1* to the Rules of Procedure. *The election or re-election shall be held in the Council Chamber or another venue as arranged by the Clerk to the Legislative Council. When conducting the election or re-election, the Clerk to the Legislative Council may do such acts and things as he considers necessary to ensure that the election or re-election is held in an orderly and effective manner.*
- (~~ef~~) Prior to ~~the meeting for~~ the election *or re-election* of the President ~~of the Council~~, a candidate for the presidency shall present his platform and answer questions from Members at a special forum which is not a Council meeting. The procedure for the conduct of the forum is set out in Appendix I.

Legend:

Texts proposed to be added are shown in *italics*.

Texts proposed to be deleted are shown with deletion lines.