

COUNCIL COMMITTEES (RULES OF PROCEDURE) ORDER

(Legal Notice 2 of 2010)

Citation and application

1. This Order may be cited as the Council Committees (Rules of Procedure) Order, 2010 and applies to all Council Committees constituted under section 56 of the Constitution.

Interpretation

2. In this Order unless the context otherwise requires—

“**Chairman**” means a member of Legislative Council appointed by the Governor to be the Chairman of a Council Committee under the provisions of section 56 of the Constitution, and includes (when the context so admits) the Deputy Chairman or an elected member presiding at a meeting in accordance with rule 6(2);

“**Committee Secretary**” means a public officer appointed by the Chief Secretary to conduct correspondence and keep Minutes of all proceedings and meetings of a Committee;

“**Deputy Chairman**” means a member of the Committee, being an elected member, designated by the Governor (after consulting the Chairman) to be the Deputy Chairman of the Committee, to act as Chairman whenever the Chairman is absent or otherwise unable to perform the functions of Chairman;

“**Elected Member**” means a member of the Committee who is an Elected Member of the Legislative Council;

“**Head of Department**” means the public officer in charge of a Government Department, and includes an officer appointed temporarily to act in that capacity.

Meetings

3. (1) Subject to rule 4, each Council Committee shall meet at such times and at such places as the Chairman (after consultation with any relevant Head of Department) may direct.

(2) Written notice of the time and place of each meeting shall be sent by the Committee Secretary to every member of the Committee, not less than five working days before the meeting; provided that, in a case where the Chairman considers a meeting to be of urgency and importance, the period of notice may be reduced or dispensed with.

(3) Meetings shall be held in public except where, in respect of any item of business, the Chairman directs or the Committee resolves that the public should be excluded because the nature of that business is such that it ought to be treated as confidential.

(4) A direction or resolution under paragraph (3) may be made about the business of a future meeting, and the Chairman shall make arrangements for the public to be made aware in advance of time and place of any meeting which includes items of business to be considered in public.

(5) A meetings of a Committee may be held by means of a conference between members of the Committee who are not all in one place but each of whom is able to hear (and be heard by) each of the others simultaneously.

Members may requisition a meeting

4. (1) Any two Elected Members of a Committee may requisition a meeting by

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giving notice of their request to the Chairman in writing; such notice shall be signed by both the members requisitioning the meeting and shall state the business to be considered; and the Chairman shall (after consultation with any relevant Head of Department) call a meeting of the Committee as soon as is practicable after the receipt of such notice.

(2) At a meeting of a Committee requisitioned under this rule, no business shall be considered other than that stated in the notice requisitioning the meeting.

Agenda

5. (1) The Chairman (in consultation with any relevant Head of Department) shall decide the agenda for each meeting (other than a meeting requisitioned under rule 4), and a copy of the agenda shall be sent to each member together with the notice of the meeting.

(2) Unless, in exceptional circumstances, the Chairman dispenses with this requirement, each agenda item shall be supported by a concise memorandum identifying the subject matter and the issues for consideration by the Committee, and all such memoranda (together with any other papers referred to therein) shall be circulated to members either with the notice of meeting or in any event not later than two working days before the meeting.

(3) The Secretary shall, at the same time as sending the same to Members of the Committee, send to the Chief Secretary, the Financial Secretary, and the Attorney General, copies of all notices of meetings, agenda, and memoranda (but not additional papers referred to in memoranda).

(4) No business other than that shown on the agenda shall be brought before a meeting, unless the Chairman considers it of such urgency as would justify convening a special meeting with short notice under rule 3(2).

Presiding in Committee

6. (1) The Chairman shall, so far as is practicable, preside at every meeting of a Committee.

(2) In the absence of the Chairman, there shall preside at the meeting—

(a) the Deputy Chairman; or

(b) if the Deputy Chairman be also absent, a committee member who is an Elected Member, selected by the members present from among themselves.

Quorum

7. (1) No business shall be conducted at any Committee meeting unless a quorum is present.

(2) A quorum of a Committee shall comprise 3 members of the Committee (including the Chairman or member presiding) but a committee is not quorate unless the number of elected members in attendance exceeds the number of unelected members.

Minutes

8. (1) The Committee Secretary shall, within two working days after each meeting (in consultation with the Chairman) prepare a draft Minute of the meeting, and send a copy thereof to each member of the Committee, to any relevant Head of Department, and to each of the *ex officio* members of the Legislative Council.

(2) If any member of the Committee wishes to challenge the accuracy of a draft Minute, he shall give notice thereof to the Chairman no later than 4pm on the third working

day after the circulation of the draft; if no such notices are received by the Chairman, he shall sign the draft Minute certifying it to be a true record of the meeting.

(3) If, in respect of any draft Minute, the Chairman receives a notice under paragraph (2), he shall cause the draft to be placed on the agenda for the next meeting of the Committee for approval (if necessary, calling an extra meeting for that purpose); when the draft has been approved by the Committee (with or without amendment), the Chairman or other member presiding shall sign the draft Minute certifying it to be a true record of the meeting.

(4) No objection shall be allowed as to the accuracy of a Minute after it has been certified as a true record pursuant to paragraph (2) or paragraph (3).

(5) Subject to paragraph (6), a copy of every signed Minute shall be sent by the Committee Secretary to—

(a) the Governor; and

(b) each member of the Legislative Council.

(6) If a Chairman (after consultation with any relevant Head of Department) considers that the Minute (or any part or parts thereof) is of such a confidential nature that distribution of all or part thereof should be restricted, he may withhold distribution until he has sought the advice of the Governor; and the Governor may direct that circulation shall be restricted.

(7) It shall be the duty of the Chairman to ensure, either during the consideration of each item of business or as a separate agenda item, that each meeting specifically addresses the question which (if any) items of business should be the subject of publicity and whether any of them may be publicised in advance of the minutes of the meeting being approved.

Committee recommendations

9. Whenever a Committee decision contains any recommendation to the Governor or the Governor in Council, such recommendation shall be clearly identified in the Minutes, and by a separate communication signed by the Chairman and addressed to the Governor through the Chief Secretary.

Questions to be decided by majority vote

10. All questions for the decision of a Committee shall be determined by the majority of the votes of the members present and voting; the Chairman or other member presiding shall have an original vote and, in the event of an equality of votes, a second or casting vote.

Method of voting

11. Voting shall be by show of hands; provided that, if at least two members so request, a roll call shall be taken of the members present, and the individual votes shall be listed in the Minutes. If the roll call differs from the show of hands, the roll call shall prevail.

Conflict of interest

12. (1) If a member has any financial or other interest, direct or indirect (such as is required to be registered by the Code of Conduct for Legislative Councillors, or by any rule of law), in any matter under consideration by a Committee he shall, as soon as such business is entered upon, disclose the fact:

Provided that, if it is apparent to a member in advance of a meeting that he will be required to make a declaration under this paragraph in relation to any item of business, he shall inform the Chairman as soon as it is reasonably practicable to do so.

(2) When a declaration is made under paragraph (1), the Chairman (acting in his or her discretion) may—

- (a) require a member who has made the disclosure to withdraw from the meeting while the item of business is discussed; or
- (b) order that the member be allowed to remain and participate in the discussion but may not vote; or
- (c) order that the member be allowed to remain but may neither participate in the discussion nor vote; or
- (d) declare that the interest disclosed is not one which materially affects the ability of the member to participate objectively in the determination of the item of business (in which case, the member may vote on the issue).

(3) A member who has made a disclosure under paragraph (1) shall not, unless the Chairman makes a declaration under paragraph (2)(d), be counted as part of the quorum; if the meeting thereby becomes inquorate, the item of business shall stand adjourned to the next meeting of the Committee.

Committee's Powers

13. (1) Each committee is responsible for—

- (a) the formulation of policy, consistent with relevant laws and with policies or other lawful instructions given by the Governor or the Governor in Council, and
- (b) the strategic monitoring of Government activities,

in relation to the subjects assigned to it by the Governor in accordance with section 58 of the Constitution.

(2) For the avoidance of doubt, a committee—

- (a) may make recommendation to the Governor in Council for the amendment or revocation of relevant laws or policies; but
- (b) may not itself exercise any power or function—
 - (i) in relation to any of the Governor's special responsibilities listed in paragraphs (a) to (e) in section 44(1) of the Constitution; or
 - (ii) in a manner which is inconsistent with any law or with policies or other lawful instructions given by the Governor or the Governor in Council.

Persons who may attend Committee

14. (1) The Chairman (after consultation with any relevant Head of Department) may invite any person to attend a meeting of a Committee (either generally, or for a specific item of business), notwithstanding that such person is not a member of the Committee, if in the opinion of the Chairman the presence of that person is desirable; a person so attending may speak (but not vote) at the meeting.

(2) The Chief Secretary, the Financial Secretary, and the Attorney General, each has the right to attend (either personally or by a proxy nominated by him) any Committee Meeting and may speak (but not vote) thereat.

Cross-cutting issues

15. (1) Where any business before a committee touches upon any matter for which some other committee has responsibility, the Committee shall not proceed to a decision on such business until the other Committee or Department has been informed of the matter and its views thereon, if any, have been received and considered.

(2) In the circumstances described in paragraph (1), the Chairmen of the respective Committees may agree to appoint a Joint Working Party to consider the issues; and to make recommendations to both Committees.

(3) In the event of two or more Committees being unable to resolve any point of difference, the matter shall be referred to the Governor in Council.

(4) Without prejudice to the forgoing provisions of this section, it shall be the duty of the Chairman to ensure, either during the consideration of each item of business or as a separate agenda item, that each meeting specifically addresses any issues arising from the meeting (or the item of business) which are likely to affect the responsibilities of other committees or to be affected by the work of other committees; and to ensure that appropriate arrangements are made for consultation and the exchange of information.

(5) The minutes shall record any action required arising from paragraph (4).

Sub-Committees

16. (1) The Chairman may appoint sub-committees, for such purposes as may from time to time conveniently be addressed or managed by a sub-committee.

(2) Each sub-committee shall comprise—

(a) a Convener, appointed by the Chairman from amongst the Elected Members of the committee, to act as chairman of the sub-committee;

(b) such other members of the committee as the Chairman may appoint; and

(c) such other persons (if any) as the Chairman may appoint with the consent of the Governor.

(3) The provisions of these rules apply *mutatis mutandis* to sub-committees as they apply to committees; save that—

(a) copies of draft minutes and minutes shall be sent only to members of the sub-committee, the Chairman of the committee, and the *ex officio* members of the Legislative Council; and

(b) copies of the notices of meeting, agenda, and any memoranda, shall be sent only to members of the sub-committee and the Chairman of the Committee.

(4) Unless the Chief Secretary, at the request of the Chairman, appoints separate Secretaries to sub-committees, the Committee Secretary shall also act as Secretary to each sub-committee.

Chairman may act on Committee's behalf between meetings

17. Between meetings of a Committee, the Chairman (in consultation with any relevant Head of Department) may take action on the Committee's behalf on matters which are of a routine nature or are of such urgency that it is impossible to convene a meeting by the time within which it may be necessary for him to act; the Chairman shall report all such action at the next meeting of the Committee.

Use of email and fax

18. Notices and documents relating to Committee business may, if the intended recipient has consented and provided the Secretary with an email address or a fax number, be sent by email or fax.

Revocation

- 19.** The Council Committees (Rules of Procedure) Order, 2005, is revoked.