

香港特別行政區
立法會
議事規則委員會

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

2001 年 7 月至 2002 年 6 月的工作進度報告

**Progress Report for the period
July 2001 to June 2002**

**2002 年 7 月 10 日
10 July 2002**

CONTENTS

Chapter		Page
1.	Introduction	1
2.	Review of the procedure to debate the Policy Address	2
3.	Review of the procedures and working mechanism of committees of the Council	3
—	Provision of papers by the Administration for discussion at Panel meetings and Bills Committee meetings	3
—	Preparation of minutes of proceedings of committees	4
4.	Review of provisions and expressions used in procedural rules	7
—	Rule 20 of the Rules of Procedure (Presentation of Petitions)	7
—	Rule 54(1) and 54(2) of the Rules of Procedure	9
—	Provisions in the Rules of Procedure and House Rules relating to tenure of office of chairmen and deputy chairmen of the Finance Committee and the House Committee	10
—	Rule 84 of the Rules of Procedure (Personal Pecuniary Interest to be Disclosed)	11
5.	Acknowledgement	13

Appendix

- I. Membership list**

 - II. List of issues studied by the Committee on Rules of Procedure during the 2001-2002 Legislative Council session**
-

1. Introduction

1.1 The Committee on Rules of Procedure (the Committee) is a committee of the Legislative Council (LegCo) established under Rule 74 of the Rules of Procedure of the Council. The functions of the Committee are to review the Rules of Procedure of the Council and the committee system, propose to the Council any amendments or changes as are considered necessary, and examine matters of practice and procedure relating to the Council referred by the Council or its committees or the President, or raised by its own members.

1.2 The Committee consists of 12 members, including the Chairman Hon Jasper TSANG Yok-sing, the Deputy Chairman Hon Margaret NG and 10 other members, appointed by the President in accordance with the recommendations of the House Committee (HC). The membership list is in **Appendix I**.

1.3 This report covers the period from July 2001 to June 2002, during which a total of 7 Committee meetings were held to study a wide range of issues under the following categories:

- (a) review of the procedure to debate the Policy Address;
- (b) review of the procedures and working mechanism of the committees of the Council; and
- (c) review of provisions and expressions used in procedural rules.

A complete list of the issues studied by the Committee in the current session is in **Appendix II**.

2. Review of the procedure to debate the Policy Address

2.1 In the report period, the Committee reviewed the new arrangements for the debate on the Policy Address, which were tried out in the 2001-2002 Legislative Council session. Having sought Members' views on these arrangements the Committee has concluded that last year's arrangements should continue, subject to some adjustments being made to a few areas. The Committee is now consulting the Administration on these proposed adjustments and will be submitting its proposals to the House Committee for endorsement after the Administration's views have been received.

3. Review of the procedures and working mechanism of committees of the Council

3.1 In the report period, the Committee examined the current procedures adopted by committees of the Council, including the provision of papers by the Administration for discussion at Panel meetings and Bills Committee meetings and the arrangements for the preparation of minutes of proceedings of committees.

Provision of papers by the Administration for discussion at Panel meetings and Bills Committee meetings

Deadline for provision of discussion papers for Panel meetings

3.2 The Committee reported to HC in June 2001 on the progress of the implementation of measures to improve the mechanism for the scrutiny of legislative and financial proposals. Following a series of discussions thereafter, the Committee and the Administration agreed on the following proposed arrangements to provide different deadlines for different scenarios for providing discussion papers for Panel meetings :

- (a) The Administration to provide papers at least five clear days before the relevant Panel meeting for items with at least 3 weeks' notice;
- (b) The Administration to provide papers at least two clear days before the relevant Panel meeting for items involving time critical proposals, e.g. financial proposals, or where the need to consult Panels does not arise until a very late stage;
- (c) The Administration to provide papers as soon as practicable for items with less than 3 weeks' notice; certain policy initiatives requiring the approval of the Executive Council; and matters involving commercially sensitive information; and
- (d) Panel Chairmen should decide whether or not the relevant item should be deleted from the agenda if the papers are not received by the deadline.

These were endorsed by HC in January 2002.

Provision of discussion papers or draft Committee stage amendments for Bills Committee meetings

3.3 The Committee also considered the need to impose a deadline for providing discussion papers or draft Committee stage amendments (CSAs) for Bills Committee meetings. Members found it difficult to set an across-the-board deadline because the frequency of meetings of Bills Committees varied from case to case. Since a bills committee invariably consulted the Administration's representatives in fixing meetings, the Administration should have assessed its ability to provide discussion papers or any draft CSAs at a reasonable time before the meeting. The Committee proposed that, in line with the arrangement for late provision of discussion papers for Panels, the Chairman of the relevant bills committee might decide not to discuss draft CSAs that arrived too late before a meeting, if the situation warranted. The proposal was endorsed by HC.

3.4 HC also endorsed the Committee's proposal to request the Administration to arrange, as far as possible, for papers to be provided by 11:00 am if a deadline fell on a day before a public holiday, so that they might be despatched to Members on the same day. In response, the Administration undertook to accommodate the request as far as possible. The new arrangements were implemented with effect from 1 March 2002.

Preparation of minutes of proceedings of committees

New arrangements for preparation of minutes

3.5 At its meeting held on 5 October 2001, HC endorsed the following arrangements proposed by the Committee for the preparation of minutes of proceedings of committees:

Types of minutes

- (a) where no report would normally be published to record the deliberations and views of a committee upon the completion of the study of a specific subject, a detailed form of minutes as adopted for Panels should be used;
- (b) where a report would be published upon the completion of the study of a specific subject, the minutes of the meetings

should be presented in condensed form, recording the decisions of a committee, outstanding matters to be followed up at future meetings, undertakings by the Administration, decision of members to move Committee Stage Amendments, etc. All proceedings should be audio-recorded and the audio record indexed to facilitate easy retrieval. Where considered necessary by the committee, verbatim transcripts of the relevant parts of the proceedings of a committee meeting might be produced;

- (c) the current practice of preparing the minutes of meetings of House Committee, Finance Committee and its subcommittees, Committee on Members' Interests, Public Accounts Committee, Committee on Rules of Procedure and select committees should be maintained; and

Target time for producing draft minutes of meetings

- (d) Subject to factors which may affect the timely production of minutes, the following target times for the production of minutes should be set -
 - (i) the draft minutes of a two-hour regular Panel meeting should be available for the Administration's comments within two weeks of the meeting; and
 - (ii) the draft minutes of a two-hour bills committee or subcommittee meeting should be available for the Administration's comments within three working days of the meeting.

Target time for the Administration to comment on draft minutes of meetings

3.6 Commensurate with the new arrangements, the Administration agreed to provide comments on the draft minutes in condensed form within three working days and those in detailed form within one week.

Review of new arrangements for preparation of minutes

3.7 In putting forward its proposals to HC, the Committee undertook to review the new arrangements after they had been tried out for a period of

four months which ended on 28 February 2002.

3.8 During the trial period, the clerks concerned were generally able to meet the target time for the preparation of minutes of meetings held in that period. The main reasons for the clerks' not meeting the target times included: other urgent work commitments, staff on leave, public holidays which fell within the target time and the duration of some meetings being substantially longer than a normal 2-hour meeting slot.

3.9 The Administration was generally able to meet the target time for providing comments on the draft minutes of meetings in detailed form, but took longer time for providing comments on the draft minutes in condensed form. According to the Administration, the delay was attributable to a number of factors. In most cases, the longer time was attributable to the need for the Administration to co-ordinate a joint reply where more than one bureau, department or outside body were involved in a particular meeting.

3.10 The Committee considered that the new arrangements had generally worked satisfactorily. Taking account of the respective suggestions by the Administration and Committee clerks in relation to the arrangements, the Committee recommended that the arrangements should continue, with the following adjustments:

- (a) the target time for the production of draft minutes in the condensed form be extended to three clear days;
- (b) the target time for the Administration to offer comments on these draft minutes be extended to three clear days; and
- (c) the alternative format, as suggested by a Bill Committee, for indexing the proceedings of a meeting the minutes of which are prepared in the condensed form, should be adopted.

The recommendations were endorsed by HC in June 2002. The adjusted arrangements will be implemented with effect from the 2002-2003 Legislative Council session.

4. Review of provisions and expressions used in procedural rules

4.1 In the report period, the Committee reviewed the provisions and expressions used in procedural rules and considered textual amendments to Rule 84 of the Rules of Procedure proposed by the Committee on Members' Interests (CMI).

Rule 20 of the Rules of Procedure (Presentation of Petitions)

4.2 Further to the review of the provisions of the Rules of Procedure relating to the presentation of petitions by the Committee in March 2001, the Committee conducted a further review thereof in February 2002.

Right to petition

4.3 The Committee noted that the provisions of Rule 20 of the Rules of Procedure on the right to present petition and procedure for presentation were modelled on the practice in the United Kingdom (UK) where it is the right of every commoner in UK to prepare and present petitions to the House of Commons in case of grievance. Presentation of petitions can be formal or informal, and all petitions will be referred by the House to the relevant Minister.

4.4 Given that there was already a precedent of presenting petitions to the Council, the Committee considered that Members' existing rights in this respect should not be undermined.

Petition vis-a-vis statement

4.5 Regarding the purposes of a petition vis-a-vis a statement made under Rule 28, the Committee noted that under Rule 20(2) of the Rules of Procedure, the Member concerned should certify that the petition is respectful and, in his opinion, deserving of presentation. It requires the Chief Executive (CE)'s written consent if a petition makes a request as set out in Rule 20(3). A petition may also be referred to a select committee under Rule 20(6). Thus, petitions and statements serve different purposes. The Committee did not see the need to change Rule 20(2), (3) and (6).

Scope of petitions

4.6 The Committee noted that Rule 20 of the Rules of Procedure does not restrict the scope of petitions. As regards the need to prescribe the scope of petitions, the Committee noted that in UK, Australia and Canada, a petition to the House of Commons/House of Representatives should contain a request to the House for a remedy which is within its competence to grant. When the Committee discussed the provisions on presentation of petitions last year, a Member considered that the practice in the above countries could serve as an appropriate guiding principle. Noting that there is already an implied provision on presentation of petitions, under which the request made in a petition should not go beyond the powers and functions of the Council, the Committee decided against making any rule to prescribe the scope of petitions.

Notice of petitions

4.7 The Committee noted that under Rule 20(2) of the Rules of Procedure, a Member who wishes to present a petition to the Council should inform the President not later than the day before the meeting at which he wishes to present it. The Committee considered that the current notice period of one day could meet the practical need for Members to present petitions in case of emergencies. It preferred retaining the relevant provisions.

4.8 As regards whether the notice period of one day is sufficient for the President to seek CE's written views to decide if the request made in a petition is that set out in Rule 20(3) concerning the charging effect of a petition, the Committee was of the view that the President should be able to make such a decision within a short period of time. It took the view that if a Member considers that his petition may relate to what is set out in Rule 20(3), he should inform the President as early as possible so that, if the President considers that the petition relates to the provisions of Rule 20(3), the Member concerned can also have enough time to seek CE's written consent.

Referral of petitions to select committees

4.9 The Committee noted that the existing arrangement for referral of petitions to select committees is modelled on a previous practice in UK. However, select committees in UK are virtually standing committees, and their nature of work is similar to the standing committees and Panels of the Council in Hong Kong. Since April 1974, all petitions in UK except those presenting personal grievances have been transmitted to the relevant Minister by the Clerk to the House of Commons. Ministers are not required to reply to petitions, but they frequently do so and any observations they make should

be laid before the House and printed.

4.10 The Committee was of the view that while the effectiveness of the existing mechanism deserved further examination, the mechanism itself should not develop into something like a redress system. On the other hand, it would not be meaningful if changes were made such that petitions would be referred to HC for further referral to the relevant committees.

4.11 The Committee noted some members' concern that the arrangement for the referral of a petition to a select committee under Rule 20(6), which is different from that in respect of other items of Council business, does not require approval by a resolution of the Council and therefore deprives Members of an opportunity to discuss the referral arrangement. In this connection, the Committee pointed out that a select committee formed to handle petitions cannot exercise the powers under the Legislative Council (Powers and Privileges) Ordinance (Cap.382) to order witnesses to testify or give evidence, unless it is authorized to do so by a resolution of the Council. As the Council had never referred petitions to select committees, the Committee was not worried that Members may choose to set up select committees by virtue of Rule 20(6) which provides a relatively easy way for forming such committees.

4.12 The Committee decided that Rule 20 of the Rules of Procedure on presentation of petitions should remain unchanged.

Rule 54(1) and 54(2) of the Rules of Procedure

4.13 The Committee considered the need to amend Rule 54(1) and 54(2) of the Rules of Procedure, which provide that the President shall call for the signification, by a designated public officer at a Council meeting, of the written consent of CE to a Member's bill which relates to Government policies, before the Council enters upon consideration of the second reading of the bill, and that the signification shall be recorded in the minutes of the Council's proceedings. Rule 54(1) relates to Rule 51(4) which gives effect to Article 74 of the Basic Law. Article 74 provides, inter alia, that CE's written consent shall be required before bills relating to government policies are introduced.

4.14 The Committee noted that although CE's written consent is a prerequisite for the introduction of a Member's bill relating to Government policies under Article 74 of the Basic Law, signification of the consent at a Council meeting is not. Currently, under Rule 51(4) a Member's notice to present a bill relating to Government policies must be accompanied by the

relevant written consent of CE, before the President approves its inclusion in the Agenda of a Council meeting. Members are then notified of the bill's presentation and of CE's consent when they are each given a copy of the bill and its explanatory memorandum under Rule 52(2).

4.15 As there were different views among members regarding the need for the designated public officer's signification of the consent under Rule 54(1) and 54(2), the Committee agreed to deliberate the matter further in the next LegCo session.

Provisions of the Rules of Procedure and House Rules relating to tenure of office of chairmen and deputy chairmen of the Finance Committee and the House Committee

4.16 The tenure of office of the respective chairmen and deputy chairmen of the Finance Committee (FC) and HC for each session is set out in the Rules of Procedure. Rules 71(2) and 75(2) provide that the respective chairmen and deputy chairmen shall hold office until the election of the chairmen and deputy chairmen of the committee in the session next following that for which they were elected.

4.17 The Committee's review of the House Rules and the FC Procedure revealed some inconsistencies between them and the Rules of Procedure. House Rule 20(c) and the relevant rules in the FC Procedure, Public Works Subcommittee (PWSC) Procedure and Establishment Subcommittee (ESC) Procedure, respectively provide that the election of chairmen and deputy chairmen of HC, FC, PWSC and ESC for the second or each subsequent session in a Legislative Council term may take place at a meeting before the relevant session commences. The purpose of this provision is to allow the newly elected chairmen to decide on the agenda for the first meetings of these committees/subcommittees which are usually held shortly after a new session commences. Rules 71(2) and 75(2) of the Rules of Procedure, however, seem to imply that the elections may take place only after the commencement of the new session.

4.18 To rectify the situation, the Committee proposed that the Rules of Procedure be amended to provide that:

- (a) the chairmen and deputy chairmen of FC and HC shall hold office until the chairmen and deputy chairmen for the next session are respectively elected in the new session or, if the election is held before the new session commences, they shall hold office until the commencement of that new

- session; and
- (b) for the second or each subsequent session of a Legislative Council term, the election of the chairmen and deputy chairmen of FC and HC may take place at a meeting held before the relevant session commences.

4.19 The Committee also proposed that consequential amendments be made to Rule 20 of and Appendix IV to the House Rules.

4.20 The amendments to Rules of Procedure proposed by the Committee were endorsed by HC in June 2002 and approved by the Council on 3 July 2002. With the passage of the amendments to the Rules of Procedure by the Council, consequential amendments will be made to the House Rules, and recommendations will be made to FC to amend the FC Procedure, PWSC Procedure and ESC Procedure accordingly.

Rule 84 of the Rules of Procedure (Personal Pecuniary Interest to be Disclosed)

4.21 On the recommendation of the Committee on Members' Interests (CMI) that the terms of Rule 84 should be adjusted to provide more clarity, the Committee considered and supported the proposals.

Splitting subrule (1) of Rule 84 into two subrules

4.22 The first part of Rule 84(1) prohibits a Member from participating in voting on a question in which he has a direct pecuniary interest which is not subject to the three exceptions stated therein. The second part stipulates a requirement that a Member who has a direct pecuniary interest on a question to be voted on should withdraw from the Council or a committee of the whole Council. The withdrawal requirement as stated in the Chinese version of the second part applies equally to all Members having a direct pecuniary interest, including those Members whose direct pecuniary interests are subject to the exceptions in the first part. CMI was concerned that should a literal interpretation of the second part be adopted, a Member who had an excepted direct pecuniary interest had to withdraw when a vote was taken although, by virtue of the first part, the Member need not withdraw and might in fact participate in the voting. CMI proposed to amend the second part by making reference to the direct pecuniary interests which are excepted, as in the first part, and by splitting these two parts into two subrules, so as to remove any possible doubts.

Rearranging Rule 84(2) as new Rule 83A and deleting Rule 84(3)

4.23 Rule 84 covers two issues. Rule 84(2) and (3) are concerned with the disclosure of pecuniary interests and the remaining subrules are concerned with the voting procedure where there is a pecuniary interest. CMI proposed that, in the interest of clarity, these two issues should be covered in two separate rules. It proposed that Rule 84(2) be re-drafted to become a new Rule 83A to cover disclosure of pecuniary interests and as the new Rule 83A would cover the scope of Rule 84(3), to delete the latter from the Rules of Procedure. Moreover, amendments were required to be made to Rules 84(3A) and 85 consequential upon the amendments to Rule 84(1), (2) and (3).

4.24 The above proposed amendments were endorsed by HC in March 2002 and approved by the Council on 3 July 2002.

5. Acknowledgement

5.1 The Committee wishes to record its appreciation of the views of Members of the Council and their support for the work of the Committee.

5.2 The Committee also wishes to recognize the effective support provided by the LegCo Secretariat, in particular the clerks who served the Committee during the session.

議事規則委員會委員名單
Membership list of Committee on Rules of Procedure

主席 Chairman	曾鈺成議員, JP	Hon Jasper TSANG Yok-sing, JP
副主席 Deputy Chairman	吳靄儀議員	Hon Margaret NG
委員 Members	丁午壽議員, JP	Hon Kenneth TING Woo-shou, JP
	李柱銘議員, SC, JP	Hon Martin LEE Chu-ming, SC, JP
	李華明議員, JP	Hon Fred LI Wah-ming, JP
	吳亮星議員, JP	Hon NG Leung-sing, JP
	黃宏發議員, JP	Hon Andrew WONG Wang-fat, JP
	劉健儀議員, JP	Hon Miriam LAU Kin-ye, JP
	劉漢銓議員, GBS, JP	Hon Ambrose LAU Hon-chuen, GBS, JP
	劉慧卿議員, JP	Hon Emily LAU Wai-hing, JP
	胡經昌議員, BBS	Hon Henry WU King-cheong, BBS
	葉國謙議員, JP	Hon IP Kwok-him, JP
	(合共： 12 位議員) (Total： 12 Members)	
秘書 Clerk	陳美卿小姐	Miss Salumi CHAN, until 7 January 2002
	徐偉誠先生	Mr Colin CHUI, from 8 January 2002
法律顧問 Legal Adviser	馬耀添先生, JP	Mr Jimmy MA, JP

Committee on Rules of Procedure

**List of issues studied during the
2001-2002 Legislative Council Session**

Item	Issue	Reference	Progress/Remarks
1	To review new arrangements for the debate on the Policy Address, which were tried out in the 2001-02 LegCo session	Rule 13 of Rules of Procedure	The Committee considers that last year's arrangements should continue, subject to some adjustments being made to a few areas and will submit its proposals to the House Committee after consultation with the Administration.
2	Timing for provision of discussion papers by the Administration for meetings of Panels and Bills Committees	House Rules 21 and 22	The House Committee endorsed the Committee's recommendations on the provision of discussion papers by the Administration for meetings of Panels and of Bills Committees, which were implemented with effect from 1 March 2002.
3	To try out and review new arrangements for the preparation of minutes of proceedings of committees	House Rule 25	The House Committee endorsed the adjusted arrangements proposed by the Committee, which will be implemented with effect from the 2002-2003 Legislative Council session.
4	To consider the need to amend Rule 54(1) and 54(2) in relation to the requirement for designated public officer to signify Chief Executive's written consent to the introduction of a Member's bill which relates to Government policies at Council meeting	Article 74 of the Basic Law, Rules 51(4), 54(1) and 54(2) of Rules of Procedure	The Committee decided to deliberate the matter further.

Item	Issue	Reference	Progress/Remarks
5	To set out clearly the tenure of office of the Chairman and deputy Chairman of the House Committee and Finance Committee in the Rules of Procedure	Rule 71(2), 75(2), proposed new Rule 71(2A) and 75(2A) of Rules of Procedure, Rule 20 of and Appendix IV to House Rules	<p>The House Committee endorsed the proposed amendments to Rule 71(2) and 75(2) and the proposed new Rule 71(2A) and 75(2A) of Rules of Procedure, as well as Rule 20 of and Appendix IV to House Rules.</p> <p>The motion to amend the Rules of Procedure was approved by the Council meeting on 3 July 2002.</p>
6	Textual amendments to Rule 84 proposed by the Committee on Members' Interests (CMI)	Rule 84 of Rules of Procedure	<p>The CMI's proposal was supported by the Committee on Rules of Procedure and the House Committee.</p> <p>The motion to amend the Rules of Procedure was approved by the Council meeting on 3 July 2002.</p>
7	To review the provisions relating to the presentation of petitions	Rule 20 of Rules of Procedure	The Committee decided that the existing provisions should remain unchanged.

Legislative Council Secretariat
3 July 2002

G:\CROP>List of Issue\Dealt_E.doc\man