

香港特別行政區
立法會
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**Committee on Rules of Procedure
of the Legislative Council
of the Hong Kong Special Administrative Region**

2003 年 7 月至 2004 年 6 月的工作進度報告

**Progress Report for the period
July 2003 to June 2004**

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CONTENTS

Chapter		Page
1.	Introduction	1
2.	Review of the procedural arrangements of the Council	2
—	Procedure for debate on the Policy Address	2
—	Calling of emergency meetings and operation of the Legislative Council and its committees during the prorogation of the Council	3
—	Presentation of platforms and answering of questions by Members nominated for the office of President of the Legislative Council	7
—	Review of Rule 64 of Rules of Procedure regarding withdrawal of bills	8
3.	Review of the procedures and working mechanism of committees of the Council	10
—	Cancellation of committee meetings due to absence of a quorum within 15 minutes of the appointed meeting time	10
—	Timing for consideration of applications for late membership of committees	12
—	Extension of Rules of Order to committees	14
—	Motions proposed under “Any other business” on the agenda of Panel meetings	15
—	Voting of chairman of a subcommittee	17

Chapter	Page
4. Acknowledgement	20
Appendix	
I. Membership list	
II. List of issues studied by the Committee on Rules of Procedure during the 2003-2004 Legislative Council session (as at 30 June 2004)	

1. Introduction

1.1 The Committee on Rules of Procedure (CRoP) is a committee of the Legislative Council (LegCo) established under Rule 74 of the Rules of Procedure of the Council. The functions of CRoP are to review the Rules of Procedure (RoP) 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 CRoP 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 2003 to June 2004, during which a total of 6 CRoP meetings were held to study a wide range of issues under the following categories:

- (a) review of the procedural arrangements of the Council; and
- (b) review of the procedures and working mechanism of committees of the Council.

A complete list of the issues studied by the Committee in the current session up to 30 June 2004 is in **Appendix II**.

2. Review of the procedural arrangements of the Council

2.1 In the report period, CRoP examined a number of procedural issues of the Council, which included:

- (a) procedure for debate on the Policy Address;
- (b) calling of emergency meetings and operation of LegCo and its committees during the prorogation of the Council;
- (c) presentation of platforms and answering of questions by Members nominated for the office of President of LegCo; and
- (d) review of Rule 64 of RoP regarding withdrawal of bills.

Procedure for debate on the Policy Address

2.2 Having considered the views of Members and the Administration, CRoP proposed that the arrangements for the debate on the 2003 Policy Address should be adopted for the debate on the 2004 Policy Address (the Debate), subject to the following adjustments:

- (a) the total speaking time limit for designated public officers in each debate session should be -
 - (i) for one or two officers, each officer is allowed to speak for not less than 15 minutes, subject to the total speaking time limit of 45 minutes. Under this arrangement, where two officers are to speak, the officer speaking first should not speak for more than 30 minutes, leaving at least 15 minutes for the other officer. Subject to such a restriction, it would be up to the officers to determine their actual speaking time; and
 - (ii) for three or more officers, to be calculated on the basis of 15-minute speaking time limit for each officer;

- (b) the timing and manner in which the Policy Address-related publications are released, as decided by the Administration, should not cause inconvenience to Members;
- (c) there should be policy briefings for Panels after the delivery of the Policy Address and before the commencement of the Debate;
- (d) the Debate should be held two weeks after the delivery of the Policy Address;
- (e) the total speaking time limit for a Member in the five debate sessions should be 20 minutes; and
- (f) provided that no Member may speak after the designated public officer(s) has/have spoken and that the overall 20-minute speaking time limit for a Member is not exceeded, each Member should be allowed to speak once in each session of the Debate. The HC Chairman may speak for more than once in the fifth session on the amendment(s) and in reply respectively. The HC Chairman should, as mover of the Motion of Thanks, have an additional 15-minute speaking time for moving the Motion and in reply. If there is/are amendment(s) to the Motion, she should have another five minutes to speak on the amendment(s).

2.3 These arrangements were endorsed by HC and used for the debate on the 2004 Policy Address held from 4 to 6 February 2004.

Calling of emergency meetings and operation of LegCo and its committees during the prorogation of the Council

2.4 Article 69 of the Basic Law provides that, starting from the second term, each term of office of LegCo shall be four years. It is silent on whether there can be gaps between consecutive terms of LegCo. The current term (i.e. the second term) of the Council lasts for four years; it commenced on 1 October 2000 and will end on 30 September 2004. Under the Legislative Council Ordinance (LCO) (Cap. 542), the Chief Executive (CE) may prorogue the Council before the end of the second LegCo term to enable the general election of Members for the third LegCo term to take place. Prorogation is an arrangement whereby LegCo ceases to transact any

formal business during the period leading up to an upcoming election, although the Council continues to exist and all serving Council Members are still in office. The purpose is to ensure that incumbent Council Members will not have an unfair advantage over other candidates in the election.

2.5 On 16 February 2004, CE appointed in the Gazette 22 July 2004 as the date from which the second term of the Council shall stand prorogued. The Gazette also gave notice that CE had specified 12 September 2004 as the date for holding the general election to elect members for the third term of the office of the Council.

Operation of LegCo and its committees during prorogation

2.6 Article 72(5) of the Basic Law empowers the President of LegCo “To call emergency sessions on the request of the Chief Executive”. Rule 15 of RoP (Meetings for Urgent Business) provides that the President shall, at the request of CE, call emergency meetings of the Council, and that RoP shall apply to such meetings.

2.7 RoP are silent on the status of bills committees and select committees when the Council is prorogued. Section 9(4) of LCO and Rule 11(4) of RoP provide that the consideration of any bill or other business of the Council is to lapse at the end of a term of office or on a dissolution of the Council. Rule 78(5) provides that at the end of a term every select committee of the Council shall be dissolved.

2.8 In considering whether LegCo and its committees should continue to operate during prorogation, CRoP has made reference to the practices and arrangements in overseas territories for the operation of their legislatures and committees during prorogation, and consulted the Administration. Taking into account these practices and arrangements, the Administration’s views and the related statutory requirements, CRoP is of the view that:

- (a) although the status of any Bills Committees (BCs) or select committees will not be affected by the prorogation because the Council’s term has not yet ended, in accordance with the legislative provisions, the Council and its committees should cease to operate during the prorogation of the Council and should not normally carry on with the work of any BC or select committee; and

- (b) although the Council and its committees cease to operate during prorogation, where the President calls emergency Council meetings as requested by CE under Article 72(5) of the Basic Law, the Council should be able to authorize its committees to continue their operation if need be. For instance, if there is a bill which has to be dealt with at emergency Council meetings to complete its legislative procedure, the BC concerned may continue to operate.

Calling of emergency Council meetings during prorogation

2.9 CROp has studied whether Rule 15 of RoP should be amended to specifically provide for the calling of emergency Council meetings during the Council's prorogation. In considering the matter, CROp has asked the Administration the actions that CE will take if he sees a need to request the President to call an emergency Council meeting during prorogation. For example, whether CE will rescind his previous order which prorogued the Council. The Administration's response is that under Rule 15(3) of RoP, RoP shall apply to an emergency Council meeting held under Rule 15(1). Given that the President's power to call emergency sessions at CE's request is derived from Article 72(5) of the Basic Law, it will, as a matter of law, override the order of prorogation made under section 6(3) of LCO. The first sentence of Rule 15(1) reflects this constitutional power. Rule 15(3), in so far as it purports to apply RoP to such meetings, will similarly override the order of prorogation.

2.10 CROp notes that by virtue of Article 72(5) of the Basic Law, the President has the power and function to convene emergency Council meetings at CE's request and the Basic Law has not imposed any restriction on such power and function. Such power and function are reflected in Rule 15(1) of RoP. CROp considers that, as the Council's term of office has not yet ended during prorogation, Rule 15(1) will apply in such circumstance. In other words, during the prorogation of the Council, the President shall, at CE's request, call emergency Council meetings by virtue of Rule 15(1) of RoP. Seen in this light, and taking into account the Administration's view on the matter, CROp considers that it is not necessary to amend Rule 15 of RoP to specifically provide for the calling of emergency Council meetings during prorogation.

Constitutional matters pertaining to prorogation

2.11 In the course of examining the issues relating to the prorogation of the Council, some CRoP members noted that prior to the reunification, the commencement and ending dates of a LegCo session were specified by the Governor because he was the constitutional representative of the British monarch and was responsible for making laws, while LegCo only played a role of advising the Governor. However, the Basic Law now empowers LegCo to make laws and transact business on its own. These members consider that there are no valid grounds for requiring that the commencement and ending dates of a LegCo session be specified by CE. Since Article 72(3) of the Basic Law provides that one of the powers and functions of the President of LegCo is to decide on the time of meetings, the commencement and ending dates of a LegCo session can likewise be determined by the President.

2.12 These members have also pointed out that, whilst the Basic Law does not provide for the prorogation of LegCo by CE before the end of a term of office of LegCo, LCO has made such provisions. These members consider that, to tie in with the Basic Law, LCO should be amended to transfer to the President the power to prorogue the Council. They also suggest that consideration should also be given to whether the operation of the Council and its committees, which has been terminated during prorogation, can resume only when emergency Council meetings are called at CE's request.

2.13 As the above views and suggestions relate to constitutional matters, CRoP recommends that they should be referred to the Panel on Constitutional Affairs for consideration.

2.14 At its meeting on 23 April 2004, HC noted CRoP's views regarding the calling of emergency meetings and the operation of LegCo and its committees during the prorogation of the Council, and endorsed its recommendation in paragraph 2.13 above.

Presentation of platforms and answering of questions by Members nominated for the office of President of LegCo

2.15 CROp has studied whether RoP should provide for a procedure for the presentation of platforms and answering of questions by Members nominated for the office of President of LegCo. In considering the matter, CROp has made reference to the arrangements in this respect that were put in place in the first term of LegCo. As agreed by the Members-elect of the first term of LegCo at a briefing session before the term commenced, a two-hour election forum for the candidates for the office of President was held on 29 June 1998, before the election held at the first Council meeting on 2 July 1998. The forum was held as an open meeting. Each candidate addressed the Members-elect who attended the forum for up to five minutes and thereafter answered questions asked by Members-elect.

2.16 CROp has also examined the procedures for electing the Speakers of the House of Commons in the United Kingdom (UK), the House of Commons in Canada, the House of Representatives in Australia and the Parliament of Singapore, with special regard to whether a debate or question-and-answer (Q&A) session is held before votes are cast. It also made reference to the views of the Procedure Committee of the UK House of Commons on the desirability of manifestoes and hustings in the election of the Speaker.

2.17 Having regard to:

- (a) the arrangements that were put in place in the first term of LegCo;
- (b) the fact that, in the four overseas legislatures studied, it is not a common practice to hold a debate or Q&A session at a formal meeting of the House for Members to put questions to the candidates for Speakership. In UK and Canada, the need of new Members to receive information about the candidates is met by allowing the candidates to address the House before a ballot is held and by informal meetings held outside the Chamber for candidates to address Members and answer their questions; and
- (c) the argument that conducting the procedure for presenting platforms and answering questions by candidates for the Presidency at a Council meeting may have the undesirable consequence of compromising the impartiality of the Presidency and hence the integrity of the Council, as noted by the Procedure Committee of the UK House of Commons,

CRoP recommends that there should be a special forum which is not a Council meeting for the presentation of platforms and answering of questions by the candidates for the office of President. The special forum may take the form of the one held in 1998. The procedure for the holding of, and the rules for, the forum should be provided in the House Rules (HR).

2.18 CRoP has therefore proposed amendments to HR to provide for the forum. The procedure for the conduct of the forum prescribes:

- (a) that the forum shall be an open forum which should last for not more than two hours;
- (b) the method for determining the presiding Member for the forum; and
- (c) the rules for the presentation of platforms and answering of questions by the candidates for the presidency.

2.19 The proposed amendments to HR were endorsed by HC at its meeting on 4 June 2004.

Review of Rule 64 of RoP regarding withdrawal of bills

2.20 CRoP has reviewed Rule 64 of RoP and agreed that the Rule should be amended so that, apart from withdrawal at the beginning of proceedings for Second Reading or Third Reading, bills can also be withdrawn at the beginning of the resumption of the Second Reading debate, subject to:

- (a) Rule 76(9) which prescribes that a BC shall, as soon as it has completed consideration of a bill allocated to it, notify HC and then report further to the Council; and
- (b) Rule 21(4) which provides that where a BC report on a bill has been laid on the table of the Council, the Member presenting the report may, with the President's permission, address the Council on the report at the commencement of the resumption of the Second Reading debate on the bill.

2.21 CROp has also consulted the Administration on the draft amendments to Rule 64 to give effect to the proposal. After considering the Administration's comments, CROp has decided that its proposal be revised along the following lines:

- (a) the timing of the address on the BC report should be changed from the beginning of the resumption of the Second Reading debate to the time when it is laid on the Table of the Council under "Tabling of Papers" on the Agenda of the relevant Council meeting. As such, the address is subject to Rule 21(6) of RoP which does not permit it to provoke a debate; and
- (b) as a result of the change, the timing for the withdrawal announcement should be advanced to the beginning of the resumption of the Second Reading debate. In making the announcement, the Member or public officer in charge of the bill may speak on matters relevant to the withdrawal, including the BC report.

2.22 CROp has asked the Secretariat to prepare the relevant amendments to RoP and HR and seek the Administration's comments thereon, with a view to presenting the amendments to CROp for consideration in the next term of the Council.

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

3.1 In the report period, CRoP examined a number of issues relating to the procedures and working mechanism of committees of the Council, which included:

- (a) cancellation of committee meetings due to absence of a quorum within 15 minutes of the appointed meeting time;
- (b) timing for consideration of applications for late membership of committees;
- (c) extension of Rules of Order to committees;
- (d) motions proposed under “Any other business” on the agenda of Panel meetings; and
- (e) voting of chairman of a subcommittee.

Cancellation of committee meetings due to absence of a quorum within 15 minutes of the appointed meeting time

3.2 CRoP has reviewed Rule 24(g) of HR regarding whether a committee meeting should be cancelled due to the absence of a quorum within 15 minutes of the appointed meeting time, regardless of special circumstances such as the unavailability of the meeting venue at the appointed meeting time. In the review, CRoP has drawn reference from the practices and procedures of the legislatures of UK, New Zealand and the Province of Ontario in Canada.

3.3 CRoP notes that, in accordance with Rule 24(a) of HR, meetings of committees of the Council are normally arranged within the four two-hour time slots on a working day: there is a 15-minute gap between the first and second slots; the second and third slots are separated by the lunch time; there is no time gap between the third and fourth slots; and that venues for committee meetings are often in great demand. Hence, it is not unlikely for committees to encounter the problem of unavailability of the meeting venue at the appointed meeting time because the meeting held at the same venue in an earlier time slot has overrun excessively. To address the problem, CRoP

has examined whether Rule 24(g) of HR should be amended along the following lines:

- (a) the chairman of the committee which does not have access to the reserved meeting venue at the appointed meeting time may decide to use a vacant venue of his/her choice to hold the meeting;
- (b) the 15-minute time limit for the assembly of a quorum should be counted from the time when the meeting venue, be it the original one or the alternative one mentioned in (a) above, is available for holding the meeting and the chairman and the clerk have taken their seats; and
- (c) to provide that after the 15-minute time limit for the assembly of a quorum has expired, a committee chairman may, with the agreement of the members present, exercise discretion to allow a longer period of grace to cater for any special circumstances.

3.4 Regarding the proposal in paragraph 3.3(a), CRoP considers that as venues for committee meetings are in great demand, a committee chairman may encounter difficulties in finding another vacant venue for the meeting. Hence, this option may not be practicable.

3.5 CRoP considers that if the 15-minute time limit is to be calculated on the basis proposed in paragraph 3.3(b), it will be impossible to ascertain the starting time of a meeting. It will also be uncertain how long the Members who are present at the appointed time will have to wait before the meeting can start. Moreover, any changes to the meeting time will affect government officials and/or deputations attending the meeting as they will have been informed of the starting and ending times of the agenda items. CRoP further points out that as most committee meetings are open meetings, changing the appointed meeting time right before the commencement of a meeting may cause confusion among members of the public who wish to observe the meetings.

3.6 As regards the proposal in paragraph 3.3(c), CRoP considers that if the committee chairman may at his/her discretion allow or disallow a grace period, such a decision may give rise to disputes.

3.7 After discussion, CRoP is of the view that Rule 24(g) of HR need not be amended. If the meeting venue of a committee is available but a quorum is absent after 15 minutes of the appointed meeting time, Rule 24(g) should be strictly observed and the meeting should be cancelled. CRoP also urges committee chairmen to keep tight control of the starting and ending times of meetings to avoid any overrun inconveniencing another committee meeting. If the meeting venue is not available at the appointed time because the meeting held in the same venue in an earlier time slot has overrun, the committee chairmen concerned may consider following the arrangement adopted by the Finance Committee (FC) at its meeting on 7 January 2004. At that meeting, the FC Chairman suspended the FC meeting at the appointed starting time of the Establishment Subcommittee (ESC) meeting, which was scheduled to be held in the same venue in the ensuing time slot, to enable the ESC Chairman to declare the ESC meeting open and then suspend it immediately. The FC meeting then resumed and the ESC meeting resumed after the FC meeting had ended.

3.8 HC supported CRoP's views at its meeting on 16 January 2004.

Timing for consideration of applications for late membership of committees

3.9 CRoP has reviewed Rule 23 of HR regarding whether applications for late membership of committees should be dealt with before or after the election of the relevant chairman and deputy chairman, if any.

3.10 CRoP notes that the restriction over the acceptance of late membership imposed in Rule 23 of HR aims at preventing manipulation of the election of the chairmen and deputy chairmen of committees. In keeping with this aim, CRoP recommends that the Rule be revised to expressly provide that applications for late membership of committees and all matters relating to applications for committee membership should be considered **after** the election of the chairmen and deputy chairmen, if any, of the committees concerned.

3.11 CRoP has also considered whether HR should contain provisions regarding the delivery of applications for membership of committees and the handling of disputes arising from the delivery of such applications after the due day for applications. As the closing times for applications for membership of a Panel and for a BC and a subcommittee of HC are set at noon on Saturday and midnight on a working day respectively, there was

concern about how Members can check whether their applications for membership of committees have been delivered to the Secretariat before the closing times.

3.12 To facilitate Members' checking as to whether their applications for membership of committees have been received and processed by the Secretariat, the Secretariat has put in place the following additional administrative arrangement. Under the arrangement, the clerk to the committee concerned will provide, by fax and e-mail, all LegCo Members with:

- (a) a preliminary membership list at:
 - (i) noon on the due day for applications if the due day is a weekday; and
 - (ii) noon on the working day immediately preceding the due day for applications if the due day is a Saturday; and
- (b) an updated membership list as soon as practicable after the due day for applications.

Any disputes arising from the delivery of such applications will be regarded as the raising of questions relating to the signification of committee membership.

3.13 CRoP is of the view that the above administrative arrangement and the revised Rule 23 proposed by CRoP can address the concern relating to the delivery of Members' applications for committee membership to the Secretariat and the handling of disputes arising from the delivery. CRoP therefore does not consider it necessary to make provisions in HR relating to the delivery of such applications.

3.14 At its meeting on 19 March 2004, HC endorsed the amendments to Rule 23 of HR and noted CRoP's above view.

Extension of Rules of Order to committees

3.15 CRoP has studied whether it is necessary to provide express authority for a Panel chairman to deal with the situation where a Member is alleged to have used offensive or insulting language at a Panel meeting, and whether Part I of RoP concerning order at Council meetings, standing committees and select committees should be extended to Panels.

Previous consideration by CRoP to extend Rules 44 and 45 of RoP to other committees

3.16 In April 1999, CRoP considered whether Rules 44 (Decision of Chair Final) and 45 (Order in Council and Committee) should be extended to apply to other committees of the Council, such as HC, CRoP, BCs, Panels, and subcommittees of these committees, as it might be necessary for the chairmen of these other committees to give effect to the rules of order of the Council and to maintain order at meetings of these committees.

3.17 At that time, CRoP noted that in the legislatures in UK, Australia, Canada and the United States of America, the chairman of a committee normally had the power to maintain order and decorum, but his decision was subject to appeal to the relevant committee or the House. The decision for the withdrawal of a Member, however, rested invariably with the House.

3.18 Having regard to the practices in overseas legislatures and as it appeared to CRoP that the then arrangements for meetings of committees had been working well, CRoP decided that it was not necessary to extend Rules 44 and 45 to cover other committees of the Council and their subcommittees.

CRoP's current view

3.19 As invited by HC, CRoP revisited the issue in March 2004. CRoP takes the view that unlike proceedings of the Council, a committee of the whole Council, standing or select committees to which Rules 44 and 45 apply, meetings of the other committees of the Council are working meetings in nature. The existing power given to chairmen of these committees is adequate for them to deal with disputes at meetings. For instance, to deal with the situation in which the use of offensive or insulting language is alleged, the committee chairman concerned may suspend the meeting to let the controversy die down, or the chairman may remind the

Member that his/her remarks are inappropriate. It is therefore not necessary to extend these Rules to cover other committees of the Council and their subcommittees.

3.20 CROp also notes that, to assist committee chairmen in presiding at meetings, the Secretariat will be preparing a Chair's Guide which will include, inter alia, guidelines for them in dealing with controversies arising from Members' speeches or conduct during meetings.

3.21 CROp's view that it is not necessary to extend Part I (Rules of Order) of RoP to apply to all committees of the Council was noted by HC at its meeting on 23 April 2004.

Motions proposed under "Any other business" on the agenda of Panel meetings

3.22 CROp has studied whether motions proposed under "Any other business" on the agenda of Panel meetings or under a newly added discussion item under "Any other business" are admissible under Rule 22(p) of HR.

Background to Rule 22(p) of HR

3.23 Rule 22(p) of HR was made in June 2000 after CROp's consideration of the need to provide a procedure for dealing with proposed motions at Panel meetings. In considering the need for such a procedure, CROp studied all the previous occasions on which motions had been proposed and processed at Panel meetings from the first term of the Council up to May 2000. Sixteen such occasions were identified. Of these cases, two were formally placed on the agenda and all the others were related to discussion items already on the agenda, and **not** under "Any other business".

3.24 CROp considered that since the decision of a Panel was not binding, it was not necessary to lay down the same procedural requirements, which included the notice requirement, as those applicable to motions in the Council. Besides, it was an accepted practice of Panels that items on urgent matters might be included in the agenda of a meeting at very short notice. CROp was therefore of the view that it was not realistic to require that notice be given for motions to be moved at Panel meetings.

3.25 CRoP concluded that whilst it saw the merits of giving Panels and their chairmen considerable latitude in deciding how to deal with members' request to move motions at Panel meetings, some basic guidelines ought to be laid down for Panels' references. Such guidelines, which have been turned into the existing Rule 22(p) of HR, are:

- (a) any motion to be proposed during a Panel meeting should be directly related to an agenda item of that meeting;
- (b) it should be for the chairman of the Panel to decide on the direct relevance of a proposed motion with the agenda item;
- (c) whether a proposed motion is to be proceeded with should be determined by a simple majority of the members present at the Panel meeting; and
- (d) any proposed motion and amendment to a motion should be presented in written form to facilitate members' consideration and voting.

CRoP's view

3.26 CRoP notes that although RoP and HR do not impose a notice requirement for motions to be moved at Panel meetings, Rule 24(e) of HR requires that the agenda of a meeting of a committee shall be issued as early as practicable before the meeting, so that committee members are informed of the discussion items before the meeting. In CRoP's view, the requirement of Rule 22(p) that a motion to be proposed at a Panel meeting should be directly related to an agenda item of that meeting ensures that members will be made aware of the possibility that a motion may be moved without notice on the subject matter of the agenda item. Such knowledge is important in view of the guideline under Rule 24(1) of HR that a motion, if passed by the Panel concerned and thus becoming the Panel's decision, should not be reopened for discussion, unless with the Panel's permission. In contrast, members do not have such knowledge if a motion is allowed to be moved under "Any other business" at a Panel meeting or under a newly added discussion item under "Any other business". In the absence of such knowledge, those Panel members who are not able to attend the meeting may have strong feelings about missing the opportunity to express their views and vote on the motion.

3.27 In the light of the above considerations, CRoP takes the view that motions moved under “Any other business” on the agenda of a Panel meeting or under a newly added discussion item under “Any other business” should **not** be admissible under Rule 22(p) of HR. CRoP does not consider it necessary to amend HR to give effect to the view. Instead, it will be reflected in the Chair’s Guide to be prepared by the Secretariat.

3.28 In the course of discussion, a CRoP member enquired about the timing for dealing with a motion proposed at a Panel meeting and agreed to be proceeded with by the Panel members. CRoP considers that the motion should be dealt with under the agenda item to which it relates. However, the Panel chairman may, with the agreement of the Panel, decide to deal with the motion later at the same meeting.

3.29 CRoP’s above views were noted by HC at its meeting on 21 May 2004.

Voting of chairman of a subcommittee

3.30 In response to a request for clarification of the voting rights of HC’s subcommittees that examine legislative matters, CRoP has considered whether the chairman of a subcommittee of HC, a BC or a Panel should have both an original vote and a casting vote.

3.31 CRoP notes that Rule 75(16) of RoP provides that the HC chairman shall not vote, unless the votes of the other HC members are equally divided in which case he shall have a casting vote. In contrast, Rules 76(8) and 77(13) of RoP respectively provide that a BC chairman or a Panel chairman has a casting vote in addition to his original vote.

3.32 RoP, however, do not contain any provisions regarding voting of the chairmen of subcommittees of these committees. Rule 75(8) stipulates that HC may provide guidelines relating to the procedure of its subcommittees, BCs and Panels. Under Rules 75(18), 76(11) and 77(15), the practice and procedure of the subcommittees of HC, BCs or Panels shall be determined by HC, the relevant BCs or Panels respectively. In any such determination, the BCs and Panels shall take into account any guidelines provided by HC under Rule 75(8). Such guidelines are contained in Rule 26 of HR, which are silent on the voting of chairmen of these subcommittees.

3.33 In considering the matter, CRoP has examined the practice and procedure regarding voting of the chairmen of parliamentary committees/subcommittees in UK, New Zealand and the Province of Ontario in Canada. The rules on voting of chairmen of these parliamentary committees apply to their subcommittees.

3.34 CRoP observes that, currently, the voting rights of chairmen of the various committees of the Council vary, as set out below:

Provision of RoP	Committee	Original vote	Casting vote
71(8)	Finance Committee	No	Yes
72(7)	Public Accounts Committee	No	Yes
73(5)	Committee on Members' Interests	Silent	Yes
73A(9)	Investigation Committee	No	Yes
74(5)	CRoP	Silent	Yes
75(16)	HC	No	Yes
76(8)	BC	Yes	Yes
77(13)	Panel	Yes	Yes
79(6)	Select Committee	No	Yes

3.35 CRoP has considered whether the voting rights of the chairmen of the above committees should be standardized so that they will have the same voting rights, which will also apply to chairmen of subcommittees. After discussion, CRoP opines that an in-depth study should be conducted to examine the implications of standardizing the chairmen's voting rights. The affected committees may also need to be consulted.

3.36 CRoP also considers that, pending the results of the study, HC may determine the voting rights of the chairmen of its subcommittees. In this connection, CRoP recommends that the general principles of the law of meetings concerning the voting rights of the chairman of a committee should be adopted. The principles are:

- (a) the chairman of a committee has the same voting rights as other committee members, unless expressly provided to the contrary in the relevant rules of procedure. It follows that the chairman, like every committee member, has an original vote. However, such vote of the chairman should not be exercised after other committee members have cast their votes, otherwise this will amount to the chairman's exercising a casting vote; and
- (b) the chairman of a committee does not have a casting vote in a tie situation, unless expressly provided in the relevant rules of procedure.

CRoP recommends that, pending the results of the in-depth study, the chairmen of HC's subcommittees that examine legislative matters shall have an original vote but not a casting vote. This should be reflected in the Chair's Guide to be prepared by the Secretariat.

3.37 CRoP's view and recommendation on the issue will be presented to HC in the next term of the Council.

4. Acknowledgement

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

4.2 CRoP also wishes to recognize the effective support provided by the LegCo Secretariat.

Committee on Rules of Procedure

**List of issues studied during the
2003-2004 Legislative Council Session**

(as at 30 June 2004)

Item	Issue	Reference	Progress/Remarks
1	Procedure for debate on the Policy Address	Rule 13 of Rules of Procedure (RoP)	Arrangements for the debate, which were proposed by the Committee on Rules of Procedure (CRoP) and endorsed by the House Committee (HC), were used for the debate on the 2004 Policy Address held from 4 to 6 February 2004.
2	Calling of emergency meetings and operation of the Legislative Council and its committees during the prorogation of the Council	Article 72(5) of Basic Law Sections 6, 9(4) and 11 of Legislative Council Ordinance Rules 11(4) and 15 of RoP	At its meeting on 23 April 2004, HC noted CRoP's views on the issue and endorsed its recommendation that the constitutional issues pertaining to prorogation be referred to the Panel on Constitutional Affairs for consideration.
3	Presentation of platforms and answering of questions by Members nominated for the office of President of the Legislative Council	Rule 1A of HR	Proposed amendments to HR to provide for the forum for the presentation of platforms and answering of questions were endorsed by HC at its meeting on 4 June 2004.
4	Review of Rule 64 of RoP regarding withdrawal of bills	Rules 53, 54(1) to (4), 54(5) to (8) and 55 to 64 of RoP	Proposed amendments to RoP and the House Rules (HR) regarding the issue will be considered by CRoP in the next term of the Council.

Item	Issue	Reference	Progress/Remarks
5	Cancellation of committee meetings due to absence of a quorum within 15 minutes of the appointed meeting time	Rule 24(g) of HR	CRoP's views on the matter including, inter alia, that it is not necessary to amend Rule 24(g) of HR were supported by HC at its meeting on 16 January 2004.
6	Timing for consideration of applications for late membership of committees	Rule 23 of HR	At its meeting on 19 March 2004, HC endorsed CRoP's proposed amendments to Rule 23 of HR and noted CRoP's view that it is not necessary to make provisions in HR relating to the delivery of applications for late membership of committees.
7	Extension of Rules of Order to committees	Part I (Rules of Order) of RoP	CRoP's view that it is not necessary to extend Part I (Rules of Order) of RoP to apply to all committees of the Council was noted by HC at its meeting on 23 April 2004.
8	Motions proposed under "Any other business" on the agenda of Panel meetings	Rules 22(p), 24(e) and (l) of HR	CRoP's views relating to the issue were noted by HC at its meeting on 21 May 2004.
9	Voting of chairman of a subcommittee	Rules 75, 76, 77 of RoP and Rule 26 of HR	CRoP's view and recommendation on the issue will be presented to HC in the next term of the Council.

Legislative Council Secretariat

30 June 2004