

立法會 *Legislative Council*

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Paper for the House Committee meeting on 9 December 2005

Committee on Rules of Procedure

Proposed amendment to the Rules of Procedure regarding motions concerning the amendments to the methods for the selection of the Chief Executive and for the formation of the Legislative Council

Purpose

The Committee on Rules of Procedure (CRoP) invites the House Committee (HC) to endorse CRoP's proposed amendment to the Rules of Procedure (RoP) regarding the motions concerning the amendments to the methods for the selection of the Chief Executive (CE) and for the formation of the Legislative Council (LegCo).

Background

2. On 19 October 2005, the Administration's Constitutional Development Task Force published its Fifth Report (the Fifth Report) containing a package of proposals for the methods for selecting CE in 2007 and for forming LegCo in 2008. The Fifth Report also sets out the two draft motions to be presented by the Government to the Council concerning the amendments to the methods. On 21 October 2005, HC decided to set up a Subcommittee to Study the Administration's Proposals for the Methods for Selecting CE in 2007 and for Forming LegCo in 2008 (the Subcommittee).

Procedure for dealing with the motions proposed by the Administration

3. At its meeting on 7 November 2005, CRoP discussed the procedure for dealing with the proposed motions and decided that, before studying the procedural matters, it should refer the legal issues concerning the motions to the Subcommittee for clarification by the Administration. Having sought the Administration's clarification, the Subcommittee discussed the issues at its meeting on 22 November 2005.

CRoP's views

4. At its meeting on 5 December 2005, CRoP considered the Administration's clarification and the relevant deliberations of the Subcommittee. CRoP noted that RoP already contain provisions for dealing with motions generally. There are no specific provisions stipulating the Interpretation by the Standing Committee of the National People's Congress (NPCSC) that amendments to the methods shall be introduced by the Government only; neither are there specific provisions to give effect to the requirement in Annexes I and II to BL that the endorsement of a two-thirds majority of all Council Members is required for the passage of the proposed amendments to the methods. However, CRoP is of the view that the motions proposed by the Administration can be processed in the Council even in the absence of such provisions in RoP, provided that the procedure does not contravene BL and its Annexes, and the NPCSC's Interpretation.

5. CRoP notes that Rule 46(1) of RoP provides for exceptions to the general rule of requiring a majority vote for the passage of motions. The exceptions include Rules 49B (Disqualification of Member from Office) and 66 (Bills Returned for Reconsideration) of RoP and Articles 52(2), 73(9) (in respect of a motion of impeachment) and 159 of BL which impose different voting requirements, i.e. two-thirds majority of the Members present or of all Members. CRoP proposes to amend Rule 46(1) of RoP to include Annexes I and II to BL in the excepted provisions. The relevant amendment is in the **Appendix**.

6. As the Administration has given notice to move the motions at the Council meeting to be held on 21 December 2005, CRoP recommends that the amendment be presented to HC for endorsement on 9 December 2005 and then to the Council for approval on 14 December 2005. HC's support is also sought for the chairman of CRoP to seek the President's waiver of the required notice for moving the proposed resolution to amend Rule 46(1) of RoP.

Advice sought

7. Members are invited to endorse CRoP's recommendation in paragraphs 5 and 6 as well as the proposed amendment to RoP in the Appendix.

Legislative Council Secretariat
8 December 2005

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concerning the amendments to the methods for the selection of
the Chief Executive and for the formation of the Legislative Council**

PART J

VOTING

46. Decision on Motions

(1) Except as otherwise provided in Rules 49B (Disqualification of Member from Office) and 66 (Bills Returned for Reconsideration) and Articles 52(2), 73(9) (in respect of a motion of impeachment) and 159 of *and Annex I and Annex II* to the Basic Law, the passage of all motions before the Council or a committee of the whole Council shall, subject to subrule (2), require a majority vote of the Members present. (*L.N. 311 of 1998; L.N. 107 of 1999*)

(2) The passage of a motion (other than a motion moved under any of the excepted Rules or Articles of the Basic Law referred to in subrule (1)) or bill introduced by a Member, or an amendment introduced by a Member to any motion or bill, shall require a majority vote of each of the following two groups of Members present – (*L.N. 311 of 1998*)

- (a) Members returned by functional constituencies (Group I);
and
- (b) Members returned by geographical constituencies through direct elections (Group II). (*L.N. 161 of 2004*)

(3) Any motion not passed shall be deemed to be decided in the negative. (*L.N. 311 of 1998*)

(4) There is a majority vote when the Members voting in favour of a question exceed half of the number of Members present at the time of voting. (*L.N. 107 of 1999*)

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Legend:

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