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

2007-2008 年度會期工作進度報告 (2007年7月12日至2008年7月9日)

Progress Report for the 2007-2008 session (12 July 2007 to 9 July 2008)

2008年7月9日 9 July 2008

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1. Introduction

- 1.1 CRoP is a committee of LegCo established under Rule 74 of the Rules of Procedure (RoP) of the Council. The functions of CRoP are to review 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. They were 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 12 July 2007 to 9 July 2008, during which a total of five CRoP meetings were held to study various issues mainly relating to:
 - (a) the procedural arrangements of the Council; and
 - (b) the procedures and working mechanism of committees of the Council.

A complete list of the issues studied by CRoP in the current session up to 9 July 2008 is in **Appendix II**.

2. Issues relating to the procedural arrangements of the Council

Issues examined

- 2.1 In the report period, CRoP examined a number of procedural issues, which included:
 - (a) proposed procedural arrangements relating to the implementation of BL 73(9) on impeachment of CE;
 - (b) alternative arrangements for moving motions on topical issues at Council meetings;
 - (c) short questions on statements made by designated public officers for elucidation;
 - (d) Members making references to allegations made in published materials against other Members or members of the public; and
 - (e) mode of debate on the Motion of Thanks.

<u>Proposed procedural arrangements relating to the implementation of BL 73(9) on impeachment of CE</u>

- As stated in its previous progress report for the 2006-2007 session, CRoP considered that given the important nature of the impeachment of CE, specific rules should be provided in RoP to deal with the implementation of BL 73(9), and general rules governing motions, rules of speaking, etc should apply where appropriate. After drawing up the proposed procedural arrangements relating to the implementation of BL 73(9), CRoP consulted the Administration and all LegCo Members on the arrangements.
- 2.3 CRoP considered the views of the Administration and Members at its meetings on 5 May 2008 and 2 June 2008 respectively. In the light of some Members' comments, CRoP directed the Secretariat to revise the proposed procedural arrangements for follow-up in the new term.

Alternative arrangements for moving motions on topical issues at Council meetings

- 2.4 In response to the concern that the notice period for motions was too long, thus creating difficulties for Members to raise topical issues for debate at Council meetings in a timely manner, CRoP reviewed the notice period for moving motions not intended to have legislative effect.
- 2.5 CRoP noted that under the present arrangements, Members already had to work within a tight time-frame for giving notice of motions and amendments. On the part of the Secretariat, the processing work in respect of motions and their amendments had become increasingly difficult and time-consuming in recent years, because motions and amendments had become longer and more complex. Any shortening of the notice periods would create practical difficulties for Members and the Secretariat alike, and increase the likelihood of errors and slippage in Council proceedings.
- 2.6 CRoP proposed the following alternative arrangements for moving motions on topical issues:

Allowing a Member to use another Member's debate slot

(a) the transfer of debate slots among Members should be allowed, provided that the request for such transfer was made and agreed to by the Member concerned before the 12 clear days' deadline for giving notice of motions. The Member who had transferred his debate slot would not be regarded as having used his slot, but any priority he originally had before the ballot would be removed. The Member who was allowed to use another Member's debate slot would be regarded as having been allocated a slot under the allocation system. Moreover, the Member who sought to use another Member's debate slot was required to have bid for a slot for the Council meeting concerned but was unsuccessful; and

Extending the duration of adjournment debates held pursuant to RoP 16(4)

(b) the duration of adjournment debates held pursuant to RoP 16(4) should be extended from one hour to one and a half hours. Each Member, including the proposer, might speak for up to five minutes, subject to a total speaking time of 75 minutes allocated to Members. The total speaking time

for designated public officers would remain to be 15 minutes.

2.7 CRoP also recommended that:

- (a) where a Member had transferred his allocated debate slot to another Member, there should be no further transfer of that slot; and
- (b) a debate slot allocated pursuant to the original Rule 14(f) (now changed to 14(j)) and Rule 14A of the House Rules (HR) should not be transferred. The original HR 14(f) provided for allocation of debate slots to Members for debates on urgent, important and topical issues. HR 14A provided for allocation of debate slots to the chairmen of committees of the Council.
- 2.8 All LegCo Members had been consulted on the arrangements proposed by CRoP set out in paragraph 2.6. The majority of Members supported the proposed arrangements. In addition, the Administration had been informed of CRoP's recommendation in paragraph 2.6(b).
- 2.9 The proposed amendments to RoP 16 and HR 14, 14A and 18 to give effect to the proposed arrangements in paragraphs 2.6 and 2.7 were endorsed by HC on 16 May 2008. The proposed amendments to RoP 16 were approved by the Council on 4 June 2008.

<u>Short questions on statements made by designated public officers for elucidation</u>

- 2.10 Under RoP 28(2), Members might raise short questions on a statement made by a public officer at a Council meeting only for the purpose of elucidating it. In practice, on numerous occasions in the past, Members asked questions on a statement not only for elucidation. As a result, the President had no choice but to interrupt the Member concerned to assist him in rephrasing his question, so that it would comply with the rule. This situation was not conducive to the smooth conduct of Council business. At the suggestion of the President, CRoP reviewed RoP 28(2).
- 2.11 In studying the matter, CRoP had made reference to the rules and practices of overseas legislatures in asking questions on ministerial statements. The three legislatures studied were the House of Commons of the United Kingdom (UK) Parliament, the House of Commons of the Parliament of

Canada and the House of Representatives of the New Zealand Parliament.

- 2.12 CRoP recommended that, to facilitate Members in asking questions on a statement made by a designated public officer and to ensure the smooth conduct of Council business, RoP 28(2) should be amended to the effect that short and succinct questions might be asked on a statement made by a designated public officer not only for seeking elucidation, subject to the following:
 - (a) the questions raised should be relevant to the statement; and
 - (b) no debate might arise on the statement and the subsequent questions or answers.

The Administration had been informed of CRoP's recommendation.

2.13 The proposed amendments to RoP 28(2) were endorsed by HC on 25 January 2008 and approved by the Council on 20 February 2008.

Members making references to allegations made in published materials against other Members or members of the public

- 2.14 CRoP reviewed the issue of Members making references at Council meetings to allegations made in newspapers or other published materials against other Members or members of the public, which had already been denied by the Members and persons concerned. CRoP also considered whether RoP should be amended to prevent Members from making such references at Council meetings.
- 2.15 CRoP noted that the existing RoP had no provision prohibiting a Member from making such references at Council meetings. In considering the matter, CRoP had made reference to the relevant rules and practices in the UK House of Commons, the House of Commons of the Parliament of Canada, the House of Representatives of the Parliament of Australia, the House of Representatives of the New Zealand Parliament and the House of Representatives of the United States Congress.
- 2.16 CRoP was of the view that incidents of Members making such references could not be effectively prevented by making provisions in RoP. CRoP therefore decided that it was unnecessary for RoP to be amended.

 Mode of debate on the Motion of Thanks

- 2.17 During the three-day debate on the 2007 Policy Address, there was an obvious increase in the number of Members who wished to speak on various aspects of the Policy Address in one speech, or who wished to speak on subjects which straddled policy areas of various sessions. Owing to the fact that the debate format was a decision of HC, the President had to intervene and remind Members to confine their speeches to the specified policy areas. As a result, some Members modified or shortened their speeches so as to comply with the requirement. The President therefore requested CRoP and HC to study the matter.
- Another area which had caused difficulty to some Members was the grouping of the policy areas proposed by the Administration for the debate on the 2007 Policy Address. According to the Administration, the grouping was drawn up in the light of the policy areas covered by the guiding principles underpinning the Policy Agenda for the year. As the grouping neither followed the policy portfolios of the Bureaux nor the policy areas of Panels, this had resulted in some Directors of Bureaux having to respond in more than one session, and created confusion for some Members over the division of subjects between sessions attended by the same Director of Bureau. There was also the question of whether the 10-minute suspension of the Council for designated public officers to co-ordinate their replies was necessary.
- 2.19 In view of the above, CRoP reviewed the mode of debate on the Motion of Thanks. Some members suggested that there should only be one general debate without the need for different sessions, so that Members might speak freely on any policy areas. After discussion, CRoP decided that it should be left to Members of the new term to decide whether the current mode of debate on the Motion of Thanks should be changed.
- 2.20 As regards the President's concern over the current arrangement for the debate on the Motion of Thanks, CRoP considered that the President might exercise discretion, as she deemed fit, to allow Members to speak on subjects which did not fall under the specified policy areas of the respective session. When the situation warranted, the President might also exercise discretion not to suspend the Council for 10 minutes if the designated public officers did not need the break to co-ordinate their replies after each session.

3. Issues relating to the procedures and working mechanism of committees of the Council

Issues examined

- 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) distribution of work of LegCo Panels;
 - (b) proposing new motions during the 15-minute period of extension or continuation of meeting allowed by the chairman of a committee; and
 - (c) unauthorized disclosure of information relating to the internal deliberations and draft reports of committees of the Council.

Distribution of work of LegCo Panels

- 3.2 CRoP stated in its previous progress report for the 2006-2007 session that a review should be conducted towards the end of the 2007-2008 session to examine the Panel structure and the placement of the seven policy areas which did not fall directly within the portfolio of one Panel, with a view to proposing a Panel structure for the next term. CRoP therefore reviewed the distribution of work of LegCo Panels in May and June 2008, with a view to proposing a Panel structure for the new term. The review examined:
 - (a) whether the current arrangement for some Panels to deal with two or more corresponding Bureaux/Offices had given rise to any operational difficulties; and
 - (b) in what manner those seven policy areas which did not fall strictly within the portfolio of one Panel could be dealt with. The seven policy areas were "women welfare", "human rights, personal data protection and press freedom", "development-related heritage conservation", "social enterprise", "air and sea transport facilities and services", "sustainable development" and "energy supply and safety".
- 3.3 Having consulted the chairmen of the 18 Panels and the

Administration, CRoP recommended that:

- (a) the policy area on women welfare, currently placed under the Panel on Home Affairs, be transferred to the Panel on Welfare Services;
- (b) the policy areas on human rights, personal data protection and press freedom, currently placed under the Panel on Home Affairs, be transferred to the Panel on Constitutional Affairs;
- (c) the policy area on development-related heritage conservation, currently placed under the Panel on Home Affairs, be transferred to the Panel on Development;
- (d) the policy area on social enterprise should continue to be placed under the Panel on Welfare Services;
- (e) the policy area on air and sea transport facilities and services should continue to be placed under the Panel on Economic Development;
- (f) the policy area on sustainable development should continue to be placed under the Panel on Environmental Affairs; and
- (g) the policy area on energy supply and safety should continue to be placed under the Panel on Economic Development.
- 3.4 With the transfers referred to in paragraph 3.3(a) to (c), the number of corresponding Bureaux for the Panel on Home Affairs would be reduced from four to one. The co-ordination work involved in respect of this Panel would become less extensive.
- 3.5 Regarding the recommendation in paragraph 3.3(g), CRoP also agreed that the Panel on Economic Development would focus on discussion of economic issues of energy supply and safety, while the environmental aspect of energy would continue to be followed up by the Panel on Environmental Affairs. Where needed, joint meetings might be held to discuss issues of common interest to the two Panels. Under this arrangement, the Secretary for the Environment would continue to report to the two Panels on energy matters. To put beyond doubt that environmental issues concerning energy were within the purview of the Panel on Environmental Affairs, the terms of reference of the Panel should be suitably amended.
- 3.6 CRoP further noted that matters relating to the Family Council,

currently placed under the purview of the Panel on Welfare Services, were often subsumed under the heading of "family welfare services". As Family Council covered areas in addition to family welfare services, CRoP accepted the Administration's suggestion to specifically stating Family Council under the new terms of reference of the Panel.

3.7 The proposed changes to the terms of reference of the relevant Panels, in **Appendix III**, were endorsed by HC on 13 June 2008. The proposed resolution to give effect to such changes was approved by the Council at the meeting of 2 July 2008. The changes approved by the Council would take effect on the day when the new LegCo term began.

<u>Proposing new motions during the 15-minute period of extension or continuation of meeting allowed by the chairman of a committee</u>

- 3.8 Under the original HR 24A, at a committee meeting, a new motion might be proposed during the period of extension or continuation of meeting allowed by the chairman, i.e. the period of not more than 15 minutes beyond the appointed ending time of the meeting referred to in HR 24A(a). However, no new motion might be proposed during the period of extension decided by the committee, i.e. any period of extension, which was beyond the 15-minute period extended by the chairman, referred to in HR 24A(b) or (c).
- 3.9 Some members requested CRoP to review HR 24A. They considered that a new motion should not be proposed during the 15-minute period of extension or continuation of meeting allowed by the chairman. This was because members of a committee might not have anticipated that a new motion might be moved during this 15-minute period and might have left the meeting by then. CRoP therefore reviewed the arrangement.
- 3.10 CRoP agreed that no new motion should be allowed to be proposed during the period of extension or continuation of meeting allowed by the chairman referred to in HR 24A(a), and recommended that HR 24A should be amended to this effect. The proposed amendments to HR 24A were endorsed by HC on 27 June 2008.

<u>Unauthorized disclosure of information relating to the internal deliberations</u> and draft reports of committees of the Council

3.11 There were incidents of unauthorized disclosure of information relating to the internal deliberations and draft reports of committees of the Council in recent years. In most cases, the source of the leak could not be identified. In response to the requests of the Select Committee to Inquire into the Handling of the Severe Acute Respiratory Syndrome Outbreak by the Government and the Hospital Authority, the Public Accounts Committee and the Committee on Members' Interest, CRoP studied whether clearer and more stringent provisions should be made in the Council's rules in this respect.

3.12 CRoP deliberated various issues, including:

- (a) whether it was necessary to provide, in RoP, clearer and more stringent provisions on unauthorized disclosure of information relating to the internal deliberations and draft reports of committees of the Council; if so, the scope of application of such provisions and whether a mechanism for conducting investigations into the leak of confidential information should also be provided in such provisions;
- (b) whether and what penalty should be imposed on Members found to have made unauthorized disclosure of confidential information; and
- (c) the existing practice of some committees requiring their members to sign a confidentiality undertaking.
- 3.13 In studying the matter, CRoP had made reference to how premature disclosure of committee proceedings and reports was handled in the UK House of Commons, the House of Representatives of the New Zealand Parliament and the House of Commons of the Parliament of Canada.
- 3.14 CRoP was of the view that, to be fair and also be seen to be fair and to protect the credibility of committees and the Council as a whole, clearer and more stringent provisions on unauthorized disclosure of information relating to the internal deliberations and draft reports of committees of the Council should be made in the Council's rules. CRoP agreed that deliberation on the matter should continue in the new term.

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.

Membership list of Committee on Rules of Procedure

Chairman Hon Jasper TSANG Yok-sing, GBS, JP

Deputy Chairman Hon Margaret NG

Members Hon James TIEN Pei-chun, GBS, JP

Hon Martin LEE Chu-ming, SC, JP

Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP

Hon Emily LAU Wai-hing, JP Hon TAM Yiu-chung, GBS, JP Hon LI Fung-ying, BBS, JP

Hon Daniel LAM Wai-keung, SBS, JP

Hon Ronny TONG Ka-wah, SC

Prof Hon Patrick LAU Sau-shing, SBS, JP

Hon KWONG Chi-kin

(Total: 12 Members)

Clerk Ms Miranda HON

Legal Adviser Mr Jimmy MA, JP

Committee on Rules of Procedure

List of issues studied in the 2007-2008 Legislative Council Session

(up to 9 July 2008)

Item	Issue	Reference	Progress/Remarks
1	Proposed procedural arrangements relating to the implementation of Article 73(9) of the Basic Law (BL) on impeachment of the Chief Executive	BL 73(9)	The Administration and all Legislative Council (LegCo) Members had been consulted on the proposed procedural arrangements. The Committee on Rules of Procedure (CRoP) had considered their views, and agreed that the matter should be followed up by CRoP in the new term.
2	Alternative arrangements for moving motions on topical issues at Council meetings	Rule 16 of Rules of Procedure (RoP); Rules 14, 14A and 18 of House Rules (HR)	The proposed amendments to RoP 16 and HR 14, 14A and 18 were endorsed by HC on 16 May 2008. The proposed amendments to RoP 16 were approved by the Council on 4 June 2008.
3	Short questions on statements made by designated public officers for elucidation	RoP 28(2)	The proposed amendments to RoP 28(2) were endorsed by HC on 25 January 2008 and approved by the Council on 20 February 2008.
4	Members making references to allegations made in published materials against other Members or members of the public		CRoP decided that it was unnecessary for RoP to be amended.

Item	Issue	Reference	Progress/Remarks
5	Mode of debate on the Motion of Thanks		CRoP decided that it should be left to Members of the new term to decide whether the current mode of debate on the Motion of Thanks should be changed.
6	Distribution of work of LegCo Panels		The proposed changes to the terms of reference of the relevant Panels were endorsed by HC on 13 June 2008. The proposed resolution to give effect to such changes was approved by the Council at the meeting of 2 July 2008.
7	Proposing new motions during the 15-minute period of extension or continuation of meeting allowed by the chairman of a committee	HR 24A	The proposed amendments to HR 24A were endorsed by HC on 27 June 2008.
8	Unauthorized disclosure of information relating to the internal deliberations and draft reports of committees of the Council	RoP 80 and 81	CRoP was of the view that clearer and more stringent provisions on such unauthorized disclosure should be made in the Council's rules. It agreed that deliberation on the matter should continue in the new term.

<u>Legislative Council Secretariat</u> 9 July 2008

Appendix III

Proposed Changes to the Terms of Reference of Panels

	<u>Panel</u>	Policy Area	Corresponding Bureau/Office
1.	Manpower	 Labour Manpower planning Vocational training Vocational education and qualifications framework 	Labour and Welfare Bureau Education Bureau
2.	Commerce and Industry	Commerce, industry, business and services promotion, innovation and technology, intellectual property protection and inward investment promotion	Commerce and Economic Development Bureau
3.	Public Service	Civil service and Government-funded public bodies, and other public service matters	 Civil Service Bureau Financial Services and the Treasury Bureau
4.	Administration of Justice and Legal Services	Matters relating to the administration of justice and legal services	 Judiciary Department of Justice Administration Wing of the Chief Secretary for Administration's Office
		• Legal aid	Home Affairs Bureau

<u>Panel</u>		Policy Area	<u>Corresponding</u> Bureau/Office
5.	Home Affairs	District, community and rural matters, civic education, building management, youth matters, provision of leisure and cultural services, development of arts and culture, public entertainment, sport and recreation	Home Affairs Bureau
		 Women matters (to be transferred to WS Panel) Human rights, data protection and press freedom (to be transferred to CA Panel) Development related heritage conservation 	Labour and Welfare Bureau Constitutional and Mainland Affairs Bureau Development Bureau
6.	Transport	(to be transferred to DEV Panel)Transport matters	Transport and Housing Bureau
7.	Housing	Private and public housing matters	Transport and Housing Bureau
8.	Security	Security, public order, public safety, nationality and immigration matters	Security Bureau
		Corruption-related matters	• Independent Commission Against Corruption
9.	Constitutional Affairs	Matters relating to implementation of the Joint Declaration and the Basic Law, relations between the Hong Kong Special Administrative Region Government and the Central People's Government and other Mainland authorities, electoral matters and district organizations	Constitutional and Mainland Affairs Bureau
		Personal data protection and press freedom (to be transferred from HA Panel)	Constitutional and Mainland Affairs Bureau

<u>Panel</u>		Policy Area	<u>Corresponding</u> Bureau/Office
		• Human rights (to be transferred from HA Panel)	 Constitutional and Mainland Affairs Bureau Labour and Welfare
10.	Food Safety and Environmental Hygiene	Food safety, environmental hygiene, agriculture and fisheries	• Food and Health Bureau
11.	Financial Affairs	Financial and finance matters	Financial Services and the Treasury Bureau
12.	Education	Education matters	Education Bureau
13.	Development	• Lands, buildings and planning matters, works and water supply and Public Works Programme	Development Bureau
		• Development-related heritage conservation (to be transferred from HA Panel)	Development Bureau
14.	Welfare Services	Welfare and rehabilitation services mattersPoverty	Labour and Welfare Bureau
		Social enterprise	Home Affairs Bureau
		• Women welfare (to be transferred from HA Panel)	• Labour and Welfare Bureau
		• Family Council (newly added)	Home Affairs Bureau
15.	Information Technology and Broadcasting	 Information technology, telecommunications, broadcasting and film services Creative industry 	Commerce and Economic Development Bureau

<u>Panel</u>	Policy Area	<u>Corresponding</u> <u>Bureau/Office</u>
16. Economic Development	 Economic infrastructure and services, postal and weather information services, consumer protection, competition policy and tourism Air and sea transport facilities and services 	Commerce and Economic Development Bureau Transport and Housing Bureau
	Energy supply and safety	Environment Bureau
17. Health Services	Medical and health services matters	Food and Health Bureau
18. Environmental Affairs	 Environmental matters (including those on energy) (newly added) Conservation Sustainable development 	Environment Bureau