

立法會 *Legislative Council*

LC Paper No. CROP 31/08-09

Ref: CB(3)/CROP/3/48

Paper for the House Committee meeting on 23 January 2009

Committee on Rules of Procedure

Proposed amendments to Rule 80 of the Rules of Procedure on attendance of witness

Purpose

This paper invites the House Committee (“HC”) to endorse the amendments proposed by the Committee on Rules of Procedure (“CRoP”) to Rule 80 of the Rules of Procedure (“RoP 80”) on attendance of witness.

Background

2. The Legislative Council or a standing committee of the Council may order any person to attend before it and to give evidence or to produce any paper, book, record or document in his possession or under his control. This is provided in section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382). The Finance Committee (RoP 71(1)), Public Accounts Committee (RoP 72(1)) and Committee on Members' Interests (RoP 73(1)) are the only standing committees.

3. As for other committees of the Council, such as HC, a Panel, a Bills Committee, a select committee or a subcommittee of any committee, it may exercise such powers, if it is so authorized by a resolution of the Council (sections 2 and 9(2) of the Ordinance refer).

4. The texts of sections 2 and 9 of the Ordinance are in **Appendix I** for Members' easy reference.

Present situation

5. RoP 80 is intended to reflect the provisions of section 9 of the Ordinance. It stipulates that the powers conferred by section 9(1) may be exercised by a standing committee and, if so authorized by the Council, and the powers may also be exercised by HC, a Panel, a Bills Committee, a select committee or an investigation committee. However, there is discrepancy between RoP 80 and section 9 of the Ordinance in that there is no mention in RoP 80 that a subcommittee of the Council is among these other non-standing committees which may exercise those powers if so authorized by the Council.

CRoP's recommendation

6. The matter was studied by CRoP at its meeting on 5 January 2009. CRoP noted that the present wording of RoP 80 would not affect the Council's power to authorize a committee not mentioned in the rule to exercise the powers conferred by section 9 of the Ordinance so long as the committee has been covered by the Ordinance. However, to address the discrepancy explained in paragraph 5 above, CRoP recommends that the rule be amended. The proposed amendments to RoP 80 are in **Appendix II**.

Advice sought

7. Members are invited to endorse the proposed amendments to RoP 80 in **Appendix II**. Subject to HC's endorsement, the proposed amendments to RoP 80 will be presented to the Council for approval on 11 February 2009.

Legislative Council Secretariat
19 January 2009

第 382 章

立法會 (權力及特權) 條例

本條例旨在公布和界定立法會與其議員及人員、行政長官與行政長官就有關立法會會議及其委員會會議的出席而指定的公職人員的某些權力、特權及豁免權；確保立法會內言論自由；就進入立法會會議廳範圍及在其內的行為等事作出規限；對於在立法會或其委員會的會議程序中作證事訂定條文，並就此等程序及有關事項訂定罪行；以及為其他附帶或相關的目的訂定條文。

(由 1994 年第 11 號第 2 條修訂；由 2000 年第 71 號第 3 條修訂)

[1985 年 7 月 26 日] 1985 年第 215 號法律公告

第 I 部

導言

1. 簡稱

本條例可引稱為《立法會 (權力及特權) 條例》。

(由 2000 年第 71 號第 3 條修訂)

2. 釋義

(1) 在本條例中，除文意另有所指外——

“立法會人員”(officer of the Council) 指秘書或根據主席的命令在會議廳範圍內行事的任何其他人員或人士，包括在會議廳範圍內當值的任何警務人員；(由 2000 年第 71 號第 3 條修訂)

“主席”(President) 指立法會主席，包括正在主持立法會會議時的其他立法會議員；(由 2000 年第 71 號第 3 條修訂)

CHAPTER 382

LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES)

To declare and define certain powers, privileges and immunities of the Legislative Council and of the members and officers thereof and of the Chief Executive and public officers designated by him in relation to attendance at sittings of the Legislative Council and committees thereof; to secure freedom of speech in the Legislative Council; to make provision for regulating admittance to and conduct within the precincts of the Chamber of the Legislative Council; to provide for the giving of evidence in proceedings before the Legislative Council or committees thereof, and for offences in respect of such proceedings and related matters; and for purposes incidental to or connected therewith.

(Amended 11 of 1994 s. 2; 71 of 2000 s. 3)

[26 July 1985] L.N. 215 of 1985

PART I

PRELIMINARY

1. Short title

This Ordinance may be cited as the Legislative Council (Powers and Privileges) Ordinance.

2. Interpretation

(1) In this Ordinance, except where the context otherwise requires—
“Chamber”(會議廳) means the Chamber in which the proceedings of the Council are conducted, and any galleries and places therein provided for members of the public and representatives of the press, television and radio, and includes any lobbies, offices or precincts used exclusively in connexion with the proceedings of the Council;

“Clerk”(秘書) means the Clerk to the Legislative Council or any person acting as his deputy; (Replaced 11 of 1994 s. 3)

“委員會”(committee)指——

- (a) 立法會的任何常設委員會、專責委員會或其他委員會；(由 2000 年第 71 號第 3 條修訂；由 2002 年第 23 號第 126 條修訂)
- (b) (a) 段所提述的任何委員會的小組委員會；(由 1994 年第 11 號第 3 條代替)

“秘書”(Clerk)指立法會秘書或任何以其代理身分行事的人；(由 1994 年第 11 號第 3 條代替。由 2000 年第 71 號第 3 條修訂)

“會議廳”(Chamber)指立法會進行會議程序的會議廳，以及其內為公眾人士與報界、電視台及電台的代表而提供的任何旁聽席及地方，包括為與立法會會議程序有關的用途而專用的任何大堂、辦事處或其他範圍；(由 2000 年第 71 號第 3 條修訂)

“會議廳範圍”(precincts of the Chamber)指會議廳及立法會辦事處及毗鄰的旁聽席以及供公眾人士與報界、電視台及電台的代表使用或用以容納他們的地方，而除主席根據第 (2) 款作出例外規定者外，在立法會或任何委員會舉行會議當日全部時間，此詞亦包括會議廳所座落的整座建築物，以及為立法會而使用或提供的任何與該建築物毗鄰或屬於它的前院、庭院、花園、圍場或空地；(由 1994 年第 11 號第 3 條修訂；由 2000 年第 71 號第 3 條修訂)

“議事規則”(Rules of Procedure)指當其時有效的立法會議事規則；(由 2000 年第 71 號第 3 條增補)

“議事錄”(journals)指立法會會議紀要或立法會表決及會議程序的正式紀錄；(由 2000 年第 71 號第 3 條修訂；由 2002 年第 23 號第 126 條修訂)

“議員”(member)指立法會議員。(由 2000 年第 71 號第 3 條修訂)

(1A) 就第 (1) 款中“委員會”的定義而言，凡對立法會任何其他委員會的提述，須解釋為包括一個純粹由議員組成的事務委員會，而該定義 (b) 段亦須據此解釋和具有效力。(由 1994 年第 11 號第 3 條增補。由 2000 年第 71 號第 3 條修訂；由 2002 年第 23 號第 126 條修訂)

(2) 主席可藉憲報公告，命令將第 (1) 款“會議廳範圍”定義內所提述的建築物、前院、庭院、花園、圍場或空地的任何部分，不包括在該定義內；此舉可以為一般目的，或為某一特定目的，可以是臨時性，亦可以是永久性的。

(由 2000 年第 71 號第 3 條修訂)

“committee”(委員會)means—

- (a) a standing or select committee or any other committee of the Council;
- (b) a subcommittee of any committee referred to in paragraph (a);
(Replaced 11 of 1994 s. 3)

“Council” means the Legislative Council;

“journals”(議事錄) means the minutes of the Council or the official record of the votes and proceedings thereof;

“member”(議員) means a member of the Council;

“officer of the Council”(立法會人員) means the Clerk or any other officer or person acting within the precincts of the Chamber under the orders of the President and includes any police officer on duty within the precincts of the Chamber; (Amended 71 of 2000 s. 3)

“precincts of the Chamber”(會議廳範圍) means the Chamber and offices of the Council and any adjacent galleries and places provided for the use or accommodation of members of the public and representatives of the press, television and radio, and subject to any exceptions made by the President under subsection (2) includes, during the whole of any day the Council or a committee is sitting, the entire building in which the Chamber is situated and any forecourt, yard, garden, enclosure or open space adjoining or appertaining to such building and used or provided for the purposes of the Council; (Amended 11 of 1994 s. 3)

“President”(主席) means the President of the Council, and includes any other member of the Council when presiding at a sitting of the Council;

“Rules of Procedure”(議事規則) means the Rules of Procedure of the Council for the time being in force. (Added 71 of 2000 s. 3)

(1A) For the purposes of the definition of “committee” in subsection (1) the reference to any other committee of the Council shall be construed as including a panel consisting only of members and paragraph (b) of that definition shall be construed and have effect accordingly. (Added 11 of 1994 s. 3)

(2) The President may, by notice published in the Gazette, order that any part of a building, forecourt, yard, garden, enclosure or open space referred to in the definition in subsection (1) of “precincts of the Chamber” shall be excluded from that definition, either generally or for a specific purpose and either temporarily or permanently.

(Amended 71 of 2000 s. 3)

- (2) 第 (1) 款所提述的人士及情況為——
- (a) 行政長官在出席立法會或委員會會議時；及
 - (b) 由行政長官為立法會或任何委員會會議的出席而指定的公職人員，在獲如此指定和出席任何該等會議時。 (由 2000 年第 71 號第 3 條修訂)
(由 1994 年第 11 號第 5 條增補)

第 III 部

證據

9. 命令證人列席的權力

(1) 除第 13 及 14 條另有規定外，立法會或其常設委員會可命令任何人到立法會或該委員會席前，作證或出示其所管有或控制的任何文據、簿冊、紀錄或文件。

(2) 第 (1) 款授予常設委員會的權力，可由任何其他委員會行使，但該委員會須為立法會藉決議特別授權就決議中指明的任何事項或問題而行使上述權力者。

(由 2000 年第 71 號第 3 條修訂；由 2002 年第 23 號第 126 條修訂)

10. 以傳票通知列席

(1) 凡任何人被合法地命令在立法會或任何委員會席前作證或出示文件，須由秘書以按照主席的指示親自簽發的傳票通知該人。

(2) 根據第 (1) 款發給任何人的每份傳票，須述明該人的姓名及須列席的時間地點，以及該人須出示的指定文件 (如有的話)；該傳票須送達該人，送達的方式是將一份傳票交付該人，或將一份傳票留交該人在香港的慣常或最後為人所知的居住地方的一名成年人。

(3) 根據本條發出的傳票，可由立法會人員、警務人員或任何公職人員送達。

(由 2000 年第 71 號第 3 條修訂)

11. 可訊問經宣誓的證人

(1) 立法會或任何委員會可就與立法會或該委員會的研訊主題有關的事實、事項及事物，規定予以核實或以口頭訊問證人的方式予以確定，並可安排此等證人在宣誓後接受訊問。

- (2) The persons and circumstances referred to in subsection (1) are—
- (a) the Chief Executive when present at a sitting of the Council or a committee; and
 - (b) any public officer designated by the Chief Executive for the purpose of attending sittings of the Council or any committee, while so designated and attending any such sitting. (Amended 71 of 2000 s. 3)

(Added 11 of 1994 s. 5)

PART III

EVIDENCE

9. Power to order attendance of witnesses

(1) The Council or a standing committee thereof may, subject to sections 13 and 14, order any person to attend before the Council or before such committee and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.

(2) The powers conferred by subsection (1) on a standing committee may be exercised by any other committee which is specially authorized by a resolution of the Council to exercise such powers in respect of any matter or question specified in the resolution.

10. Attendance to be notified by summons

(1) Where any person is lawfully ordered to attend to give evidence or to produce documents before the Council or a committee, he shall be notified by a summons issued under the hand of the Clerk by direction of the President.

(2) In every summons issued to any person under subsection (1) there shall be stated the name of that person and the time when and the place where he is required to attend and the particular documents (if any) he is required to produce, and the summons shall be served on him either by delivering to him a copy thereof or by leaving a copy thereof at his usual or last known place of abode in Hong Kong with some adult person.

(3) A summons issued under this section may be served by an officer of the Council or by a police officer or any public officer.

11. Witnesses may be examined on oath

(1) The Council or a committee may require that any facts, matters and things relating to the subject of inquiry before the Council or such committee be verified or otherwise ascertained by the oral examination of witnesses, and may cause any such witnesses to be examined upon oath.

Proposed amendments to Rule 80 of the Rules of Procedure

80. Attendance of Witness

- (a) Any standing committee may summon, as required when exercising its powers and functions, persons concerned to testify or give evidence; *and*
- (b) the House Committee or a Bills Committee, Panel, select committee~~(s) or~~, investigation committee~~(s)~~ *or any other committee*, where so authorised by the Legislative Council, may summon, as required when exercising the committee's powers and functions, persons concerned to testify or give evidence,
(*L.N. 107 of 1999*)

but the Chief Executive may decide, in the light of security and vital public interests, whether Government officials or other personnel in charge of Government affairs should testify or give evidence before the Legislative Council or its committees.

Legend:

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

Texts proposed to be deleted are shown with deletion lines.