

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**

**2008 年 10 月至 2009 年 6 月的工作進度報告  
Progress Report for the period  
October 2008 to June 2009**

**2009 年 7 月 8 日  
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## 1. Introduction

1.1 The Committee on Rules of Procedure (“the Committee”) is a committee of the Legislative Council 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 TAM Yiu-chung, the Deputy Chairman Hon Margaret NG and 10 other members, appointed by the President in accordance with the recommendations of the House Committee. The membership list is in **Appendix I**.

1.3 This report covers the period from October 2008 to June 2009, during which a total of six meetings were held to study a range of subjects under the following categories:

- (a) procedural arrangements for implementation of Article 73(9) of the Basic Law on impeachment of the Chief Executive
- (b) review of the procedural arrangements relating to Council meetings;
- (c) review of the procedures of the committees of the Council; and
- (d) fine-tuning of provisions and expressions used in the Rules of Procedure.

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

## **2. Procedural arrangements for implementation of Article 73(9) of the Basic Law on impeachment of the Chief Executive**

2.1 One of the tasks of the Committee is the identification of specific provisions in the Basic Law (“BL”) for which procedural arrangements will have to be provided for their implementation. In the Third Legislative Council, the Committee agreed that given the important nature of the impeachment of the Chief Executive (“CE”), procedural arrangements should be drawn up for implementing Article 73(9) of BL on such impeachment. As there are outstanding issues to be dealt with regarding the procedural arrangements by the end of the Third Legislative Council, the subject has been taken up by the Committee of the current Legislative Council.

2.2 BL 73(9) provides:

“如立法會全體議員的四分之一聯合動議，指控行政長官有嚴重違法或瀆職行為而不辭職，經立法會通過進行調查，立法會可委托終審法院首席法官負責組成獨立的調查委員會，並擔任主席。調查委員會負責進行調查，並向立法會提出報告。如該調查委員會認為有足夠證據構成上述指控，立法會以全體議員三分之二多數通過，可提出彈劾案，報請中央人民政府決定”。

(English translation)

“If a motion initiated jointly by one-fourth of all the members of the Legislative Council charges the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign, the Council may, after passing a motion for investigation, give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee. The committee shall be responsible for carrying out the investigation and reporting its findings to the Council. If the committee considers the evidence sufficient to substantiate such charges, the Council may pass a motion of impeachment by a two-thirds majority of all its members and report it to the Central People’s Government for decision”.

2.3 The procedural arrangements for implementing BL 73(9) were first discussed by the Committee of the Third Legislative Council in December 2006. Consultations with Members and the Administration were conducted on a number of initial suggestions on the procedural steps in implementing the Article in the Rules of Procedure, but the exercise was not completed during the term of the Third Legislative Council.

2.4 In the current session, the Committee reviewed the initial suggestions of the Committee of the Third Legislative Council and response of Members and the Administration, and proposed a more streamlined approach and formulated some preliminary views on the procedural arrangements.

2.5 The Committee considers that BL 73(9) comprises the following three stages and five key steps:

<p><b>Stage I:</b> Initiation of the impeachment procedure and motion for investigation</p>	<p>Step 1: Not less than one-fourth of all Legislative Council Members jointly signing a notice of a motion for investigation, which contains charges against CE of serious breach of law or dereliction of duty, to give a mandate to the Chief Justice of the Court of Final Appeal (“CJ”) to form and chair an independent investigation committee (“IC”) to investigate the charges.</p> <p style="text-align: center;">(if CE does not resign) ↓</p>
<p><b>Stage II:</b> Investigation of charges</p>	<p>Step 2: Motion for investigation debated in Council and if the motion is passed by a majority vote of each of the Group I and Group II Legislative Council Members present, the Legislative Council may give a mandate to CJ to investigate the charges.</p> <p style="text-align: center;">(IC completes its investigation) ↓</p>
	<p>Step 3: IC reports its findings to the Legislative Council.</p> <p style="text-align: center;">(if IC considers evidence sufficient to substantiate charges) ↓</p>

<b>Stage III:</b> Motion of impeachment	Step 4: Motion of impeachment may be moved in the Legislative Council.  (if passed by a vote of two-thirds majority of all Legislative Council Members)  ↓
	Step 5: The resolution should be reported to the Central People's Government for decision.
General remark: The above procedure should be terminated if CE resigns from or ceases to hold office at any time, or if a motion for investigation or a motion of impeachment is not passed by Legislative Council.	

2.6 In the course of deliberating the procedural arrangements, members of the Committee noticed that there could be variations even within the confine of BL 73(9). The Committee therefore considered it necessary to consult Members on the preliminary views of the Committee, in particular the following:

- (a) the Members who have signed the notice of the motion for investigation should designate among themselves another Member as the mover in the event that the designated Member cannot continue to act as such;
- (b) the number of Members who have signed the notice should not be less than one fourth of all the Members at all times;
- (c) no replacement of Members from among those who have signed the notice will be allowed;
- (d) if the number of Members who have signed the notice has dropped below one fourth of all the Members, a fresh notice will be required; and
- (e) the notice of the motion of impeachment should either be moved by any Members who have signed the notice of the relevant motion for investigation or by the Chairman of the House Committee.

2.7 Members of the Committee, after consulting Members of their respective political parties or groupings on the preliminary views, will report the outcome of the consultation to the Committee at its meeting on 6 July 2009. The Committee will continue its deliberation in the next session.

### **3. Review of the procedural arrangements relating to Council meetings**

3.1 In the 2008-2009 session, the Committee has examined a number of procedural arrangements relating to meetings of the Council, including:

- (a) order in Council and committee;
- (b) notice periods for motions to amend, or extend the scrutiny period of, subsidiary legislation and instruments which are not subsidiary legislation;
- (c) mode of debate on the Motion of Thanks;
- (d) quorum requirement after suspension of a Council meeting; and
- (e) proposed procedure to facilitate debates in Council on subsidiary legislation subject to negative vetting but to which no amendment has been proposed.

#### **Order in Council and committee**

3.2 The study on order in Council was conducted in response to the concern that there is a lack of penalty to deter repeated or persistent disorderly conduct in the present Rules of Procedure. In studying the issue, the Committee has drawn reference from the relevant rules and practices of four legislatures, namely the House of Commons of the United Kingdom (“UK”) Parliament, the House of Commons of the Parliament of Canada, the House of Representatives of the Parliament of Australia and the Legislative Yuan of Taiwan.

#### **Rules governing disorderly conduct**

3.3 The Committee notes that in the Australian Parliament, the term “disorderly conduct” is clearly defined in their Standing Orders (“SO”). As regards the UK and Canadian Parliaments where the term “disorderly conduct” is not defined in specific rules, it is for the Speaker to determine whether the conduct or behaviour of a Member constitutes an act of disorderly conduct and to impose sanctions in accordance with the relevant SO. In these three legislatures, the sanctions which may be imposed range

from withdrawal of words, apology, leaving the House to naming and suspension. The period of suspension is commensurate with the number of times the relevant rules are breached by a particular Member. Usually, the greater the number of times the rules are breached, the longer the duration of suspension.

3.4 In the Legislative Council, the rules relating to general and specific conduct of Members at meetings, i.e. the “Dos” and “Don’ts” prescribed in Rules 41 and 42 of the Rules of Procedure and Rule 45(1) which provides the Chair with the authority to direct a member to discontinue his speech under the prescribed circumstances. Under Rule 45(2), the President or the chairman of a standing committee or select committee may order a Member whose conduct is grossly disorderly to withdraw immediately from the Council or the committee for the remainder of that meeting. It is therefore for the President or the chairman concerned to determine whether any breach of the above rules, or any other conduct of a Member, constitutes grossly disorderly conduct and as he deems fit, to order the Member concerned to withdraw from the Council or the committee. Rule 44 further provides that the decision on a point of order made by the President or the chairman concerned was final. However, the Rules of Procedure do not provide any specific sanctions against Members who have breached such rules. The sanctions provided in the Rules of Procedure, i.e. admonishment, reprimand or suspension under Rule 85, may only be imposed against Members’ failure to comply with the rules relating to interests, operating expenses or operating funds.

3.5 The Committee agrees that while Members enjoy freedom of speech and expression, such freedom is not without bounds. They should treat other Members and public officers with courtesy and civility in the legislature which is and also expected by the public to be an esteemed institution. After deliberation, the Committee considers it not necessary to introduce any new arrangements to deal with Members’ disorderly conduct in Council, as the number of such incidents is not so large as to warrant changes to the current arrangements and the President does not have difficulties in maintaining the order of Council meetings in accordance with the Rules of Procedure.

#### Use of offensive and insulting or unparliamentary expressions

3.6 The Committee notes that in the UK and Canadian Parliaments as well as the state legislatures of Australia, a list of unparliamentary expressions with details of the context in which they were used is available. Expressions on the list, which is not exhaustive, may be deleted having

regard to cultural changes and developments in society. In the case of the Legislative Council, precedents of expressions, which have been ruled by the President to be offensive and insulting about Members or public officers attending the relevant Council meetings or unparliamentary in the context in which they were used, are kept for the President's reference, and also recorded verbatim in the Hansard.

3.7 The Committee also notes that whether an expression is offensive and insulting or unparliamentary depends on the context in which it is used. The mere utterance of an unparliamentary expression does not constitute a breach of Rules of Procedure as disorderly conduct. However, if the Member, after using such an expression and being ordered by the President to withdraw the expression or give an apology, refuses to obey the order of the President, such behaviour will constitute grossly disorderly conduct under Rule 45(2). In such circumstances, the President may exercise his power to order the immediate withdrawal of the Member from the Council for the remainder of the meeting.

3.8 The Committee agrees that a list of precedents of expressions being ruled as offensive and insulting or unparliamentary be kept for reference by the President. The Committee also suggests that such list, once finalized, should be provided to committee chairmen for their ready reference as well as made available to the public. The list should be updated as and when relevant new rulings are made by the President or the committee chairmen concerned. Members who consider that any expressions should be removed may refer the matter to the Committee for consideration.

3.9 As decided by the Committee, a list of expressions which have been ruled to be offensive and insulting about Members or public officers attending the relevant meeting<sup>1</sup> or unparliamentary in the context in which they were used has been compiled and issued to all committee clerks for making it available for reference by the committee chairmen.

3.10 Committee chairmen will be invited to note that whether an expression is offensive and insulting or unparliamentary depends on the context in which it is used, and the committee chairman concerned may order the Member using such an expression to withdraw or stop using the expression. As far as the standing committees (the Finance Committee, Public Accounts Committee and Committee on Members' Interests ("CMI"))

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<sup>1</sup> By virtue of Rule 10(2) of the Rules of Procedure, the scope of prohibition against the use of offensive and insulting language about Members under Rule 41(4) is expanded to cover the use of such language about public officers attending the meeting concerned for the relevant item of business.

and a select committee are concerned, the chairman has the power under Rule 45(2) to order a Member whose conduct is grossly disorderly to withdraw immediately from the committee for the remainder of the meeting. The mere utterance of the expression at a meeting of the committee concerned does not constitute grossly disorderly conduct. However, if the Member refuses to withdraw or stop using the expression after he was so ordered, such conduct may be regarded by the chairman concerned to be grossly disorderly. In such circumstances, the chairman concerned may order withdrawal of the Member under Rule 45(2).

3.11 In respect of a committee other than a standing committee or select committee, i.e. the House Committee, a Panel, Bills Committee and Subcommittee, if the Member refuses to withdraw or stop using the expression after he was so ordered, the chairman concerned does not have the power to order withdrawal of the Member under Rule 45(2) and may adopt the following approaches –

- (i) remind the Member that his conduct is inappropriate;
- (ii) persuade the Member to withdraw or stop using the expression;
- (iii) suspend the meeting to let the controversy die down, if necessary; and/or
- (iv) seek the view of the committee concerned on how the controversy should be dealt with.

3.12 The list will also be incorporated into the Handbooks for Chairmen of Panels, Bills Committees and subcommittees on subsidiary legislation/other instruments, which are available on the Legislative Council website for public information, as well as the relevant manuals for servicing these committees.

Whether the power of the President and the chairman of a standing or select committee relating to rules of order should be extended to chairmen of other committees

3.13 The Committee notes that Rules 44 and 45 of the Rules of Procedure are only applicable to the Council, a committee of the whole Council, a standing committee and a select committee, but not to other committees of the Council, such as the House Committee, Panels, Bills Committees and subcommittees. These two rules refer to the finality of

decisions made by the President or the chairman of any standing committee or select committee on a point of order, as well as his authority to order Members who persist in irrelevance or tedious repetition to stop speaking and to order immediate withdrawal of Members whose conduct is grossly disorderly. There is a suggestion from members that these two rules should be extended to cover other committees of the Council. In this regard, members of the Committee have consulted Members of their respective political parties or groupings on the suggestion.

3.14 Findings of the consultation with Members on extending Rules 44 and 45 to cover other committees of the Council show that some Members consider it reasonable for the chairmen of other committees to be given the same power to maintain order at committee meeting, while others consider it unnecessary to do so. There are also Members who have no views on the proposed change or have not yet taken a view on the matter.

3.15 As Members have divergent views on the proposed extension of rules, the Committee agreed that the matter should not be dealt with for the time being.

### **Notice periods for motions to amend, or extend the scrutiny period of, subsidiary legislation and instruments which are not subsidiary legislation**

3.16 The Committee was invited to deal with a discrepancy in the provisions of the Rules of Procedure that the notice periods for motions to amend or extend the scrutiny period of subsidiary legislation which is subject to a scrutiny mechanism very similar to section 34 of the Interpretation and General Clauses Ordinance (Cap.1) were inconsistent with those for subsidiary legislation and other instruments.

3.17 Section 34 of the Interpretation and General Clauses Ordinance (Cap.1) provides that all subsidiary legislation, which includes any rule, regulation, order and other instrument made under any Ordinance and having legislative effect, is to be tabled at the next Council meeting after the publication in the Gazette of that subsidiary legislation. The Council may amend an item of subsidiary legislation by a resolution passed at a Council meeting held not later than 28 days after the meeting at which it was tabled. The Council may also extend the scrutiny period by 21 days, or to the Council meeting immediately following the 21<sup>st</sup> day, if there is no Council meeting on the 21<sup>st</sup> day.

3.18 Under current Rule 29 of the Rules of Procedure, Members may give notice to amend or extend the scrutiny period of:

- (a) subsidiary legislation which is subject to section 34 of Cap. 1;
- (b) subsidiary legislation which is subject to a scrutiny mechanism, very similar to section 34 of Cap. 1, as provided in their respective Ordinances<sup>2</sup>; and
- (c) instruments which are not subsidiary legislation but subject to a scrutiny mechanism, very similar to section 34 of Cap. 1, as provided in their respective Ordinances<sup>3</sup>.

3.19 The Committee noted that while the notice period for a motion to amend or extend the scrutiny period of either 3.18(a) and (c) above would have to be given no less than five clear days or three clear days respectively, the notice of a motion to amend or extend the scrutiny period of 3.18(b) above was to be given no less than 12 clear days before the relevant Council meeting. In order to rectify the discrepancy, the Committee proposed that Rule 29 be amended, so that the notice periods for motions to amend, or extend the scrutiny period of, subsidiary legislation and instruments which are not subsidiary legislation are the same, i.e. no less than five clear days for notice of amendment and no less than three clear days for notice of extension of scrutiny period. The Committee also proposed that consequential amendments be made to other relevant provisions in the Rules of Procedure and House Rules.

3.20 The Administration had been consulted and made no comment on the Committee's recommendation to rectify the discrepancy.

3.21 The proposed amendments to the Rules of Procedure which had the support of the House Committee were approved by the Council on 10 June 2009. Consequential amendments to the House Rules, which had been endorsed by the House Committee, were made accordingly.

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<sup>2</sup> Examples of such subsidiary legislation are orders made under section 6F of the Import and Export Ordinance (Cap. 60) or under section 3 of the Fugitive Offenders Ordinance (Cap. 503).

<sup>3</sup> Examples of such instruments are technical memoranda made under section 37B of the Air Pollution Control Ordinance (Cap. 311) and codes of practice made under section 69 of the Sex Discrimination Ordinance (Cap. 480).

### **Mode of debate on the Motion of Thanks**

3.22 The Committee was invited to review the current “3-day-5-session” mode of debate on the Motion of Thanks, with the entire debate spread out in five sessions (each covering a group of policy areas) and the final session focusing on “Governance”. The review arose from the concern that during the 3-day debate in 2007, 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. As a result, the President had to remind Members from time to time to confine their speeches to the specified policy areas.

3.23 The Committee of the Third Legislative Council was of the view that the President might exercise discretion, as the President deemed fit, to allow Members to speak on subjects which did not fall under the specified policy areas of the respective session. In the debate in October 2008, requests were made by some Members and the President had allowed flexibility if it was considered by Members that they could not strictly confine their speeches to the policy areas for that session.

3.24 In reviewing the matter, the Committee of the current Legislative Council has considered a suggestion of increasing the number of sessions to six, with a view to including a general debate on cross-bureaux policy areas, preferably to be held on the first day of the 3-day debate, so as to allow Members to speak on various aspects of the Policy Address in one speech or on subjects which straddle policy areas of various sessions.

3.25 The Administration’s view is that the current arrangement enables a structured and focused debate whereby relevant public officers can immediately respond to Members’ views on their policy areas at the end of each debate session. If Members are free to speak on any aspect in the proposed general debate session, it may have the unintended effect of removing the very benefits designed by having policy area-specific sessions. It will also be more difficult to arrange suitable public officers to respond to Members’ views.

3.26 As for the concern that certain subjects may cut across different policy areas, the Administration considers that the current arrangement whereby the debate sessions are grouped under the themes of the Policy Agenda for the year should have addressed, to a large extent, issues straddling the portfolios of different bureaux. For areas which fall outside those themes, the Administration considers that they can be addressed by

other means. For instance, the Administration may consider re-arranging the order of the debate sessions with, say, putting the sessions currently attended by the Chief Secretary for Administration (“CS”) and the Financial Secretary (“FS”) towards the end, so that any issue not otherwise addressed by relevant public officers in earlier sessions can still be raised and responded by either CS or FS.

3.27 Having taken into account the Administration’s views, the Committee agrees that no change will be made to the current arrangement for debating the Motion of Thanks. It will be for the President to exercise discretion, as he deems fit, to accede to Members’ requests to speak on subjects which do not fall under the specified policy areas of the respective session.

### **Quorum requirement after suspension of a Council meeting**

3.28 Rule 17(2) of the Rules of Procedure provides that if the attention of the President is drawn to the fact that a quorum is not present, the President should direct the Members to be summoned. There is, however, no requirement in the Rules of Procedure that the number of Members present should be counted to ensure that a quorum is present upon resumption of a meeting after suspension. While it was the practice of the former President to count such number each time when a Council meeting resumed after suspension, there is no such practice among committees of the Council. The Committee has therefore examined whether the practice of the President of the Third Legislative Council should continue to be adopted in the Fourth Legislative Council.

3.29 The Committee has noted that there are divergent views on the issue. On the one hand, if the President chooses not to count the Council when a Council meeting resumes after suspension, the attendance of Members at Council meetings might drop to a very low level and project a negative image of the Council. On the other hand, it will be up to the President to decide whether to follow the previous practice. Members’ attendance might not be affected as a result, given that Members’ performance of their duties is subject to public scrutiny. After deliberation, the Committee considers that as the current requirement in Rule 17(2) does not have any problems, there is no need for the President to follow the practice in the Third Legislative Council.

**Proposed procedure to facilitate debates in Council on subsidiary legislation subject to negative vetting but to which no amendment has been proposed**

3.30 The Committee of the Third Legislative Council had discussed this subject and examined a proposed procedure for debating subsidiary legislation subject to negative vetting but to which no amendment has been proposed. However, as the Committee considered that the proposed procedure was rather complicated and might not be an improvement to the existing arrangements, the former Committee decided to shelve the matter.

3.31 At the invitation of the House Committee, the Committee of the current Legislative Council has commenced a study on the subject. In the course of the study, the Committee notes that Australia is the only jurisdiction which has provided some arrangements for its delegated legislation (similar to subsidiary legislation in Hong Kong) to be debated in the House in a designated time slot. In making reference to the practices of the Senate of the Australian Parliament, the Committee has put forward a proposal to provide for a procedure to facilitate debates in Council on subsidiary legislation subject to negative vetting but to which no amendment has been proposed, which consists of the following:

- (a) the Chairman of the House Committee presents a report to the Council to provide a brief account of the scrutiny work undertaken for each batch of subsidiary legislation at the Council meeting immediately before the expiry of the scrutiny period or extended scrutiny period of the subsidiary legislation concerned;
- (b) a Member may move a motion, at the meeting at which a report of the House Committee on subsidiary legislation is tabled, to take note of the report provided that notice of such motion has been given not less than two clear days before the day of the Council meeting concerned or with the leave of the President;
- (c) the wording of the motion should be in a prescribed form: “That this Council takes note of Report No. \_\_\_ of the House Committee on the scrutiny of subsidiary legislation”. No amendment to the motion should be allowed;
- (d) the motion should be placed under “Members’ Motions” in the order of business of a Council meeting. The debate on

such motion should take place immediately before the debates on Members' motions not intended to have legislative effect but after any other Members' motions;

- (e) the scope of the debate on the motion covers any items of the subsidiary legislation included in the report. However, if a debate on a motion to amend an item of subsidiary legislation has already been held in the Council, Members should refrain from speaking on the same subsidiary legislation at the debate on the motion to take note of the House Committee's report on subsidiary legislation unless the scope is different;
- (f) the speaking time limit for the debate is seven minutes for each Member; and
- (g) public officer(s) concerned should attend the debate to respond to Members' views.

3.32 To facilitate the Committee to further discuss the matter at its meeting on 6 July 2009, the Administration has been invited to give views on the proposal and members of the Committee have also consulted Members of their respective political parties or groupings on the proposal. The Committee will continue its deliberation in the next session.

#### **4. Review of the procedures of the committees of the Council**

4.1 Apart from examining the order in committee in the context of order in Council as explained in pages 5 to 9, the Committee has also studied a number of issues relating to the procedures of committees of the Council in the 2008-2009 session, which include:

- (a) whether more than one deputy chairman can be elected by a joint subcommittee;
- (b) unauthorized disclosure of information relating to the internal deliberations and draft reports of committees of the Council; and
- (c) indication of choice of candidate in the election of the chairman and deputy chairman of committees.

#### **Whether more than one deputy chairman could be elected by a joint subcommittee**

4.2 In response to the referral of the Joint Subcommittee to Monitor the Implementation of West Kowloon Cultural District Project, the Committee has considered whether a joint subcommittee should be allowed to have more than one deputy chairman.

4.3 The Committee notes that the Rules of Procedure do not provide for a committee, including a joint subcommittee appointed by two Panels, to elect more than one deputy chairman, and no committee of this Council has ever elected more than one deputy chairman. As the referral of the Joint Subcommittee is only an isolated case, and the Committee cannot find a good reason to agree to the proposed arrangement of electing two deputy chairmen for a joint subcommittee, the Committee concludes that there is no need for it to follow up the matter.

#### **Unauthorized disclosure of information relating to the internal deliberations and draft reports of committees of the Council**

4.4 The study on this matter arose from incidents of unauthorized disclosure of information relating to the internal deliberations and draft

reports of committees of the Council in recent years, and unidentified source of the leak in most cases. In October 2004, April 2005 and March 2006 respectively, the committees concerned (i.e. the Select Committee to Inquire into the Handling of the Severe Acute Respiratory Syndrome Outbreak by the Government and the Hospital Authority, the Committee on Members' Interest and the Public Accounts Committee) invited the Committee to consider whether clearer and more stringent provisions on such unauthorized disclosure should be made in the Council's rules.

4.5 The issue was discussed by the Committee in the Third Legislative Council. The Committee considered that 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. The Secretariat has been requested to further examine the issue and propose a comprehensive mechanism for handling cases of such disclosures for consideration by the Committee in the current Legislative Council. The Committee notes that the Secretariat is drawing up the mechanism which will be presented to the Committee for consideration in the next session.

#### **Indication of choice of candidate in the election of the chairman and deputy chairman of committees**

4.6 The issue of how the choice of candidate should be indicated in the election of the chairman and deputy chairman of committees was raised arising from the present requirement in the House Rules that Members should put down on the ballot paper in legible form the name of the candidate of their choice.

4.7 The Committee notes that given that such elections are to be conducted by secret ballot according to House Rules, the names of candidates handwritten by Members on the ballot papers as required under the House Rules may easily be recognised by other persons. The secrecy of votes cast is therefore not well protected. Given that a chop with a '✓' was used in the elections of the President as well as Chairman and Deputy Chairman of the Finance Committee held in October 2008 and such way of indication of choice worked well, there was a suggestion that such way of indication of choice should be adopted for the election of the chairman and deputy chairman of committees, so as to reduce the possibility of the identity of the Member who cast the vote from being revealed. The Committee has asked the Secretariat to study overseas practice in this regard and report the findings of the study to the Committee for consideration once ready.

## **5. Fine-tuning of provisions and expressions used in the Rules of Procedure**

5.1 In the 2008-2009 session, the Committee has fine-tuned the provisions of Rule 80 and the wording of the Chinese text of Rule 73(1)(d).

### **Rule 80 on attendance of witness**

5.2 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, Public Accounts Committee and CMI are the only standing committees.

5.3 As for other committees of the Council, such as the House Committee, a Panel, a Bills Committee, a select committee or a subcommittee of any committee, they may exercise such powers, if they are so authorized by a resolution of the Council. This is provided in sections 2 and 9(2) of the Ordinance.

5.4 Rule 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 the House Committee, a Panel, a Bills Committee, a select committee or an investigation committee. However, there is discrepancy between Rule 80 and section 9 of the Ordinance in that there is no mention in Rule 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.

5.5 The matter was studied by the Committee at its meeting on 5 January 2009. The Committee noted that the present wording of Rule 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 Ordinance covered that type of committee. However, in order to address the discrepancy, the Committee recommended that the rule be amended.

5.6 The Committee's proposed amendments to Rule 80 had the support of the House Committee and were approved by the Council on 11 February 2009.

### **Chinese text of Rule 73(1)(d) on the functions of the CMI**

5.7 One of the functions of the CMI, as provided in Rule 73(1)(d), is to "consider matters of ethics in relation to the conduct of Members in their capacity as such, and to give advice and issue guidelines on such matters". CMI was concerned that the Chinese version of the term "ethics", i.e. "道德標準", was misleading as the guidelines it issued only cover matters relating to "standards of conduct (操守標準)" and not "moral standards (道德標準)". CMI proposed that the Chinese version of the term "ethics" in both RoP 73(1)(d) and the Advisory Guidelines should be changed from "道德標準" to "操守標準".

5.8 After studying the matter, the Committee supported the proposed amendment to Rule 73(1)(d). The proposed amendment also had the support of the House Committee and was approved by the Council on 10 June 2009.

## **6. Acknowledgement**

6.1 Members of the Committee wish to record their appreciation of the views of Members of the Council and their support for the work of the Committee.

**Membership list of Committee on Rules of Procedure**

<b>Chairman</b>	Hon TAM Yiu-chung, GBS, JP
<b>Deputy Chairman</b>	Dr Hon Margaret NG
<b>Members</b>	Hon Albert HO Chun-yan Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP Hon Emily LAU Wai-hing, JP Hon Tommy CHUENG Yu-yan, SBS, JP Hon Ronny TONG Ka-wah, SC Dr Hon Priscilla LEUNG Mei-fun Hon WONG Yuk-man Hon IP Wai-ming, MH Hon IP Kwok-him, GBS, JP Hon Mrs Regina IP LAU Suk-ye, GBS, JP  (Total : 12 Members)
<b>Clerk</b>	Mr Colin CHUI
<b>Legal Adviser</b>	Mr Jimmy MA, JP

## Committee on Rules of Procedure

List of issues studied during the period  
from October 2008 to June 2009

Item	Issue	Reference	Progress/Remarks
1	To draw up proposed procedural arrangements relating to the implementation of Article 73(9) of the Basic Law on impeachment of the Chief Executive	Article 73(9) of the Basic Law	The Committee will discuss the outcome of consultation with Members on the proposed procedural arrangements at its meeting on 6 July 2009. The Committee will continue its deliberation in the next session.
2	To review the current rules regarding order in Council and committee	Rules 41, 42, 44 and 45 of Rules of Procedure	<p>The Committee has agreed that:</p> <ul style="list-style-type: none"> <li>(a) it is not necessary to introduce a new arrangement to deal with Members' disorderly conduct in Council and committee;</li> <li>(b) a list of offensive and insulting or unparliamentary expressions will be provided to the chairmen of committees for reference and made available to the public; and</li> <li>(c) no change is proposed to Rules 44 and 45 of the Rules of Procedure to extend the power of the President and chairmen of standing committees and select committees to the chairmen of other committees.</li> </ul>

Item	Issue	Reference	Progress/Remarks
3	To review the notice periods for motions to amend, or extend the scrutiny period of, subsidiary legislation which is subject to a scrutiny mechanism very similar to section 34 of the Interpretation and General Clauses Ordinance (Cap.1)	Rules 21(5), 29 and 49(6) of Rules of Procedure and House Rule 2	<p>The House Committee supported the Committee's proposed amendments to Rules 21(5), 29 and 49(6) and endorsed its amendments to House Rule 2.</p> <p>The amendments to the Rules of Procedure were approved by the Council on 10 June 2009.</p> <p>The relevant House Rule was amended accordingly.</p>
4	To review the current arrangements for the debate on the Motion of Thanks	Rule 13 of Rules of Procedure	Following the discussion with the Administration, the Committee agrees that the current arrangements for debating the Motion of Thanks should remain unchanged.
5	To consider whether the number of Members present should be counted to ensure that a quorum is present upon resumption of a Council meeting after suspension	Rule 17(2) of Rules of Procedure	The Committee considers that there is no need for the President to follow the practice of the former President to do such counting.
6	To consider the provision of a standing arrangement to facilitate debates in Council on subsidiary legislation subject to negative vetting but to which no amendment has been proposed	--	The Committee will further consider the issue at its meeting on 6 July 2009. The Committee will continue its deliberation in the next session.
7	To consider whether a joint subcommittee should be allowed to have more than one deputy chairman	--	The Committee concludes that there is no need to follow up the matter, as it cannot find a good reason to agree to the proposed arrangement of electing two deputy chairmen for a joint subcommittee.

Item	Issue	Reference	Progress/Remarks
8	To consider whether clearer and more stringent provisions on unauthorized disclosure of information relating to the internal deliberations and draft report of committee of the Council should be made in the Council rules	Rule 81 of Rules of Procedure	A mechanism for handling cases of such disclosure will be presented to the Committee for consideration in the next session.
9	To consider the indication of choice of candidate in the election of the chairman and deputy chairman of committees	House Rule 20(d) and Appendix IV to House Rules	The Committee has asked the Secretariat to study overseas practice in this regard and present the findings to the Committee for consideration once ready.
10	To rectify the discrepancy between Rule 80 of the Rules of Procedure and section 9 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) on attendance of witness	Rule 80 of Rules of Procedure	The proposed amendments to Rule 80, which had the support of the House Committee, were approved by the Council on 11 February 2009.
11	To refine the wording of the Chinese text of Rule 73(1)(d) of the Rule of Procedure on the functions of the Committee of Members' Interests	Rule 73(1)(d) of Rules of Procedure	The proposed amendment to Rule 73(1)(d), which had the support of the House Committee, was approved by the Council on 10 June 2009.