

**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**

**2009 年 7 月至 2010 年 6 月的工作進度報告  
Progress Report for the period  
July 2009 to June 2010**

**2010 年 7 月 14 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 Dr 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 July 2009 to June 2010, during which a total of five meetings were held to study a range of subjects that may be grouped under the following categories:

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

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

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

### 2.1 Article 73(9) of BL 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”.

2.2 After reviewing the initial proposal of the Committee of the Third Legislative Council, the Committee of the Fourth Legislative Council proposed a more streamlined approach and formulated some preliminary views on the procedural arrangements for implementing Article 73(9) of BL on impeachment of CE.

2.3 The major difference between the two proposals is that under the initial proposal, there is an initiating motion<sup>1</sup> to trigger off the impeachment procedure, and the notice for moving a motion for investigation<sup>2</sup> may only be given after the initiating motion has been tabled in Council. Under the revised proposal, there is no initiating motion and the impeachment procedure will be triggered off once the notice of a motion for investigation is given. Members of the Committee of the Fourth Legislative Council consider that there is no need to have an initiating motion, as the substance of such a motion is the same as a motion for investigation and hence there is no need to separate the motion into an initiating motion and a motion for investigation.

2.4 The revised proposal using the streamlined, five-step approach comprises three stages, as follows:

<p><b>Stage I:</b> Initiation of impeachment procedure and motion for investigation</p>	<p>Step 1: Not less than one-fourth of all Legislative Council Members jointly sign and give 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. 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>

<sup>1</sup> An initiating motion, which only exists under the initial proposal formulated by the Committee of the Third Legislative Council, seeks to charge CE with serious breach of law or dereliction of duty. Such a motion has to be initiated jointly by one-fourth of all the Members. Upon receipt of such a motion, the Clerk to the Legislative Council should send a certified true copy of the motion to CE and arrange for it to be tabled in Council at its next meeting. Upon being tabled, the motion will not proceed to any further proceedings, i.e. it will not be debated or voted upon by the Council, and will merely be made a pre-condition for the moving of a motion for investigation.

<sup>2</sup> A motion for investigation seeks to give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee to investigate the charges against CE.

<b>Stage II:</b> Investigation of charges	Step 3: IC reports its findings to the Legislative Council.  (if IC considers evidence sufficient to substantiate charges) ↓
<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.
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 the Legislative Council.	

2.5 Members of various political parties or groupings were consulted on the revised proposal, and they generally agreed to it. The Administration was also consulted on the revised proposal. The Administration was concerned about the procedure for notifying CE upon the triggering off of the impeachment procedure and whether the normal requisite notice period for motions would apply to the motion for investigation. The matters were further discussed by the Committee and its views had been referred to the Administration for its further comment. As the Administration requires more time to conduct research into the matter, it has yet to provide a substantive reply to the Committee.

2.6 The Committee also requested the Secretariat to study and collate relevant information on the procedure for the impeachment of the head of state in other jurisdictions to facilitate its consideration of the matter. The Committee will continue its deliberations when the Administration's reply is received.

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

3.1 In the 2009-2010 session, the Committee examined a number of procedural arrangements relating to meetings of the Council, including:

- (a) quorum of the Council;
- (b) proposed procedure for holding debates in Council on subsidiary legislation and other instruments tabled in Council to which no amendment has been proposed;
- (c) refusal by Members to comply with withdrawal orders of the President; and
- (d) display of signs and messages by Members during Council meetings.

#### **Quorum of the Council**

3.2 Following the resignation of five Members which took effect on 29 January 2010, there was widespread concern about the meaning of “全體議員” (“all its members”) in Article 75 of BL. The Article provides that the quorum for the meeting of the Legislative Council shall be not less than one half of all its members.

3.3 In response to a member’s request, the Committee studied the issues relating to the meaning of “全體議員” and the quorum of the Council. The Committee notes that Rule 17(1) of the Rules of Procedure, which reproduces the quorum provision in Article 75 of BL, provides that the quorum of the Council shall be not less than one half of all its Members. According to Article 72(1) of BL, the President shall preside over Council meetings; hence there was a need for the President to apply his interpretation of the quorum provision for the purpose of conducting Council meetings after the resignation of the five Members. After taking into account the advice given by the Legal Adviser of the Secretariat and that given by an outside counsel, Mr Anthony Francis Neoh, SC, as well as the practices of other legislatures, the President decided to continue to use 30 Members as the quorum of the Council, as 30 Members is “not less than one half of all its members” irrespective of whether “all its members” should be taken to mean



60 or less than 60. The President announced his decision at the Council meeting on 3 February 2010.

3.4 The Committee supports the decision of the President. Some members of the Committee consider that given the requirement in Article 75 of BL, if the quorum of the Council is set at a number which is less than one half of all its members, there is a possibility of the Council having to face legal challenges against the legality and constitutionality of its procedures and decisions during the relevant period. As such, the quorum should be set at a “safe” level, i.e. 30 Members.

3.5 The Committee notes that since the term “全體議員” appears in a number of provisions in BL (such as Articles 67 and 73(9) as well as Article 7 of Annex I and Article III of Annex II), the interpretation of “全體議員” given for the purpose of ascertaining the number of Members required to form a quorum in the context of Article 75 may be regarded as also applicable to other BL provisions which contain the same term “全體議員”. The Committee considers that the interpretation of the quorum provision warrants careful deliberation. One should not only rely on the literal meaning of the term and the context in which it is used. It is of the utmost importance to ascertain the legislative intent of the provisions in the first instance.

3.6 In the course of its study, the Committee made reference to the relevant rules and practices of other legislatures. Research findings reveal that among the legislatures studied, most of them do not have the quorum reduced by vacancies in the membership of their House, namely the Parliaments of the United Kingdom (“UK”), Australia, Canada, Singapore, Japan, Scotland and South Africa. An exception is the House of Representatives of the United States, which only counts those Members sworn and living and whose membership has not been terminated by resignation or by action of the House. If the membership of the House has been reduced by specific reasons such as death or disqualification, the quorum will be reduced accordingly.

3.7 The Committee also studied available papers and reports of the Drafting Committee for the Basic Law and the Basic Law Consultative Committee to ascertain if those documents would shed light on the interpretation of the term “全體議員”. No relevant discussion by these two committees could be found.

3.8 The Committee also referred to the advice given to the President by the Legal Adviser and Mr Neoh. As the Committee considers it important to also take into account the Administration's views before a well-considered decision on the matter can be made, the Administration was invited to provide its views on the quorum of the Council, particularly whether the term “全體議員” in Article 75 of BL should mean the full membership of 60 or the total number of Members in office. The advice of the Legal Adviser and that of Mr Neoh was forwarded to the Administration to enable it to take account of their views when formulating its own views on the issue.

3.9 The Administration provided its consolidated views to the Committee. The Administration considers that the term “全體議員” or a term to the same effect in BL refers to the entire authorized membership of the Council, even if the offices of some Members have become vacant for a period of time. Hence, given that the current number of authorized Members of the Council is 60, a quorum of the Council for the purpose of Article 75 should be 30 Members, even if a number of Members have ceased to hold office and their offices are vacant for a period of time. The Administration points out that BL does not distinguish between “seats” and “Members”. Yet, BL draws a distinction between “全體議員” and “the members of the Legislative Council present”, which can be illustrated by a number of BL provisions such as Article 79(6), 79(7) and Article II of Annex II. If the legislative intent is to refer to something other than the entire authorized membership of the Council, BL will have said so.

3.10 As the views of the Committee on the matter are in line with the decision of the President and the views of the Administration, the Committee considers that there is no need to study the matter any further.

### **Proposed procedure for holding debates in Council on subsidiary legislation and other instruments tabled in Council to which no amendment has been proposed**

3.11 At the invitation of the House Committee, the Committee commenced a study in the 2008-2009 session on providing a standing arrangement to enable Members to speak on subsidiary legislation or other instruments tabled in Council to which no amendment has been proposed. The Committee notes that, in the absence of a procedure for implementing this standing arrangement, a Member may speak on an item of subsidiary legislation or instrument tabled in Council to which no amendment has been

proposed in the form of:

- (a) an address under Rule 21(5) of the Rules of Procedure, which is however subject to subrule (6) stipulating that no debate may arise on the address<sup>3</sup>; and
- (b) a motion debate not intended to have legislative effect or an adjournment debate under Rule 16(4) of the Rules of Procedure (subject to the allocation of a debate slot, or agreement of the House Committee under Rule 14(j) of the House Rules<sup>4</sup>, or agreement of the House Committee under Rule 13(a) of the House Rules, to recommend to the President for allowing more than two debates to be held at the same Council meeting).

3.12 After deliberation, the Committee agrees that there should be a standing arrangement to enable Members to speak on subsidiary legislation or other instruments tabled in Council to which no amendment has been proposed and a procedure for holding such debates should be provided in the Rules of Procedure.

3.13 In the course of the study, the Committee notes that Australia is the only jurisdiction which has provided an arrangement for its delegated legislation (similar to subsidiary legislation in Hong Kong) to be debated in the House in a designated time slot. After making reference to the practices of the Senate of the Australian Parliament, the Committee proposes that the Chairman of the House Committee should present a report on the subsidiary legislation and other instruments considered by the House Committee (“House Committee Report”) to the Council at its meeting immediately before the expiry of the scrutiny period or extended scrutiny period of such subsidiary legislation and instruments, irrespective of whether or not subcommittees have been appointed to study them. A Member who wishes to speak at a debate in Council on any item of subsidiary legislation or instrument included in a House Committee Report should notify the House Committee of his intention to do so. Upon receipt of such notification, the

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<sup>3</sup> Rule 2 of the House Rules requires a Member, who seeks the President’s permission to address the Council under Rule 21(3), (4A) or (5) of the Rules of Procedure on a paper or subsidiary legislation tabled in the Council, or a Bills Committee report on a bill which is to be withdrawn at the resumption of the second reading debate, to provide an advance copy of the intended address to enable the President to decide whether the address may provoke a debate, which is not permitted under Rule 21(6) of the Rules of Procedure.

<sup>4</sup> Under Rule 14(j) of the House Rules, Members may, with the agreement of the House Committee, be given priority in debating subsidiary legislation which is urgent, important and topical.

Chairman of the House Committee will give notice of a motion to take note of the House Committee Report in relation to that subsidiary legislation or instrument. The motion will then be debated in Council at the meeting at which the relevant House Committee Report will be tabled. The Committee considers that as the primary objective of the proposed procedure is to facilitate Members to express views on subsidiary legislation and instruments included in a House Committee Report, requests by Members for holding debates on such House Committee Reports should not require the consent of the House Committee.

3.14 The Committee agrees that if a motion to take note of a House Committee Report covers more than one item of subsidiary legislation or instrument, it will be for the House Committee to decide if the debate on the motion should be divided into separate sessions, with each session focusing on one or more items of subsidiary legislation or instruments which are related. The arrangement is to facilitate a structured and focused debate as well as the attendance of public officers concerned to respond to the views expressed by Members during the debate.

3.15 The Committee also proposes that the wording of a motion to take note of a House Committee Report should be in a prescribed form, and no amendment to the motion should be allowed. Moreover, the motion should not be put to vote and the Council should proceed to the next item of business on the Agenda after the debate on the motion has come to a close.

3.16 As regards the speaking time limit for a motion to take note of a House Committee Report, the Committee has discussed three options: whether it should be five minutes, seven minutes or 15 minutes. Given that the subject matter relates to subsidiary legislation or instruments which have legislative effect and not many Members are expected to speak at such debates, the Committee considers it appropriate to set the speaking time limit for each Member for such debates at 15 minutes, or 15 minutes at each debate session, which is in line with that for the debate on the Second Reading of a bill or a proposed resolution with legislative effect.

3.17 If a subcommittee has been formed to scrutinize an item of subsidiary legislation or instrument which is subsequently debated in Council under a motion to take note of the relevant House Committee Report, the chairman of the subcommittee may speak at the commencement of the debate or the respective session, if he so wishes.

3.18 The Committee also agrees that if there is a motion to amend an item of subsidiary legislation or instrument, no motion to take note of the

House Committee Report on such subsidiary legislation or instrument should be moved. This is to avoid having the same item of subsidiary legislation or instrument to be debated twice in Council.

3.19 The Committee notes that there are items of subsidiary legislation which are not required to be tabled in Council and not subject to amendment by the Council<sup>5</sup>. The proposed procedure will not cover such items of subsidiary legislation. If Members wish to hold a debate on any such item of subsidiary legislation, the existing arrangements for holding Members' debates not intended to have legislative effect or debates on adjournment motions under Rule 16(4) of the Rules of Procedure may be used.

3.20 Detailed procedural arrangements for holding debates in Council on subsidiary legislation and other instruments tabled in Council to which no amendment has been proposed are set out in **Appendix III**.

3.21 The Administration had been consulted and agreed to the proposed procedure.

3.22 The amendments to the Rules of Procedure to give effect to the proposed procedure had the support of the House Committee and were approved by the Council on 2 December 2009. The relevant provisions of the House Rules were also amended accordingly.

### **Refusal by Members to comply with withdrawal orders of the President**

3.23 In response to the President's letter to the Chairman of the Committee about the incidents in which some Members refused to comply with his withdrawal orders made under Rule 45(2) of the Rules of Procedure at the Council meetings on 14 and 15 October 2009, the Committee discussed whether the Rules of Procedure should be amended to deal with situations of Members refusing to comply with the President's withdrawal orders and, if members consider that the Rules of Procedure need not be amended, whether other actions should be taken to address such situations.

3.24 The Committee notes that under the existing practice, where the President orders a Member whose conduct is grossly disorderly to withdraw

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<sup>5</sup> Examples of such items of subsidiary legislation are regulations made under the United Nations Sanctions Ordinance (Cap. 537), Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Amendment of Schedule 1) Notice 2009, Western Harbour Crossing Ordinance (Amendment of Schedule 1) Notice 2009 and Volunteer and Naval Volunteer Pensions Ordinance (Amendment of Schedules) Order 2009.

from the Council, the Clerk to the Legislative Council will normally approach the Member and ask the Member to leave the Chamber. If the Member refuses to comply with the withdrawal order, the President may have to suspend the meeting to allow the Clerk to persuade the Member to leave the Chamber. If the Member insists on staying in the Chamber, security staff will have to physically remove the Member. At the CE's Question and Answer Session held on 15 October 2009, as a Member refused to comply with the President's withdrawal order, security staff had to physically remove him from the Chamber, and one of them was injured in the process of removing the Member. The Committee suggests that to prevent security staff or Members from sustaining injury in the process of removing Members, proper training should be provided to enhance the competence and professionalism of security staff in handling cases of disorderly conduct of Members. On the other hand, Members should behave in a rational manner.

3.25 In studying the matter, reference was drawn to the relevant rules and practices of other legislatures. The Committee notes that in the Parliaments of UK, Canada and Australia, the Speaker has the power to order a Member whose conduct is grossly disorderly to withdraw from the House. In the UK Parliament, if a Member insists on staying in the Chamber after being ordered by the Speaker to withdraw, the Speaker may order the Serjeant-at-Arms to remove the Member. The Serjeant-at-Arms will then approach the Member to ascertain if he will comply with the order. If the Member refuses to comply, the Serjeant-at-Arms will give order to the doorkeepers to remove the Member. The Speaker may also name the Member and a motion for suspending his service may be moved immediately. If a naming motion is agreed to, the Member will be suspended from the service of the House and his salary will be forfeited during the period of suspension.

3.26 Some members of the Committee have reservations about the Council following the rules of the legislatures selected for study, in particular the rules relating to suspension of service and forfeiture of salary, as these legislatures are elected by universal suffrage which is not the case in Hong Kong. Some members consider that even if the Rules of Procedure is amended, the current situation may not improve. After discussion, members agree that to improve the situation, the first and foremost task is to enhance the competence and professionalism of security staff, so that they can provide more effective support in maintaining order and security in the Chamber. The Committee understands that the issue of security manpower will be considered by The Legislative Council Commission in the near future. In the meantime, the Secretariat was requested to collate more

information on the relevant rules and practices of other legislatures to serve as a reference by the Committee.

3.27 The Committee agrees that when the information is available and depending on the progress of the review of the staffing complement and training needs of security staff, the issue can be further discussed by the Committee. The Committee also agrees that before the issue is further dealt with by the Committee, the President should continue to suspend a Council meeting whenever the situation is “out of control”.

### **Display of signs and messages by Members during Council meetings**

3.28 The need for conducting a study on the display of signs and messages by Members in the Chamber during Council meetings arose from the incident of over 20 Members displaying placards throughout the Council meeting on 14 October 2009 when CE delivered his Policy Address. Thirty-two Members jointly wrote to the President expressing their concern. In his reply, the President states that the display of placards by Members is an issue that will inevitably give rise to controversy among Members. If any change is to be made to the regulatory standards, it must have the support of the majority of Members in order for corresponding amendments to be made to the Rules of Procedure.

3.29 The Committee notes that the Committee of the Third Legislative Council conducted a study on a similar issue of displaying signs and messages, including those on clothing. After deliberations, it was agreed that there was no need to expressly provide in the Rules of Procedure that Members are not allowed to display any sign or message, including that on clothing, at Council meetings. It was also considered that the President’s rulings in this regard would gradually develop into conventions and practices. Moreover, if a Member displays a sign or message the content of which is extremely improper, the President could regard the Member as behaving in a grossly disorderly manner and could deal with the situation in accordance with Rule 45(2) of the Rules of Procedure.

3.30 The Committee also notes that as compared with the First, Second and Third Legislative Council, the number of incidents of Members displaying signs and messages at Council meetings has increased considerably in the Fourth Legislative Council. The duration of such display has also become longer. The Committee understands that it is the practice of the Council that if the display of placards by Members disturbs the proceedings of meetings or obstructs other Members or public officers

attending the meetings, the President will ask the Members concerned to put away the placards.

3.31 The Committee decided that given the controversial nature of the issue, the views of all Members should be sought on whether the current regulatory standards in relation to the display of signs and messages by Members during Council meetings should be changed and, if so, whether and how the Rules of Procedure should be amended. The relevant rules and practices of other legislatures considered by the Committee should be provided to all Members for their reference. The Committee will continue its deliberations in the next session when the outcome of the consultation is available.



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

4.1 The Committee also studied a number of issues relating to the procedures of committees of the Council in the 2009-2010 session, which include:

- (a) indication of choice of nominee in the election of the chairman and deputy chairman of a committee;
- (b) issues relating to notices and agendas of committee meetings;
- (c) display of placards by members of the public attending committee meetings;
- (d) procedure for amending published reports of committees of the Legislative Council; and
- (e) curtailing of debate in committee proceedings.

### **Indication of choice of nominee in the election of the chairman and deputy chairman of a committee**

4.2 The procedures for the election of the chairmen and deputy chairmen of the House Committee, Panels, Bills Committees and subcommittees are provided in Appendix IV to the House Rules. The procedures stipulate that a member who wishes to vote has to put down in legible form the name of the nominee of his choice on a ballot paper. In response to the suggestion of a member, the Committee studied whether the choice of nominee should be indicated by marking on a ballot paper using a chop with a “✓”, instead of writing the name of the nominee on the ballot paper, as handwriting may easily be recognized and thus the secrecy of the votes cast is not well protected.

4.3 The Committee notes that as the procedures for the election of the President as well as the Chairman and Deputy Chairman of the Finance Committee (“FC”) set out in the Schedule to the Rules of Procedure and in the FC Procedure respectively are silent on how Members should indicate their vote on a ballot paper, the use of a chop instead of the handwritten name of the nominee was adopted for those elections held in October 2008. Given that the arrangement has worked well and may reduce the possibility

of the identity of a Member who cast the vote from being revealed, the Committee recommends that the procedures for the election of the chairmen and deputy chairmen of the House Committee, Panels, Bill Committees and subcommittees in Appendix IV to the House Rules be amended so that the same arrangement may be adopted for these elections.

4.4 The election procedures in Appendix IV to the House Rules were amended to this effect upon the endorsement of the proposed amendments by the House Committee at its meeting on 26 February 2010.

### **Issues relating to notices and agendas of committee meetings**

4.5 The Committee was invited by the House Committee to study the issues relating to notices and agendas of committee meetings, following the dissatisfaction expressed by some members of the House Committee that while a notice of meeting was given in respect of a special meeting of a Panel for a briefing to be conducted by the Administration, Panel members were not informed of the subject matter of the briefing.

4.6 The Committee notes that although there is no provision in the Rules of Procedure requiring that the agenda for a committee meeting must be issued together with the notice of that meeting, it has always been the practice for the clerk to a committee to issue the agenda together with the notice of meeting. Moreover, while the Rules of Procedure do not specifically provide what information should be included in a notice of meeting, it is the practice for the date, time and place of a meeting to be stated in the notice, while the discussion items and other relevant details are provided in the agenda. A revised agenda will be issued if changes are made to the one issued earlier. These arrangements have all along been working well. The incident in respect of the special Panel meeting referred to in the preceding paragraph is only an isolated one.

4.7 The Committee notes that in that particular incident, the Administration has expressed difficulty in disclosing the details of the discussion item for reasons due to confidentiality considerations. The Committee therefore examined the relevant rules and practices of the Parliaments of UK, Canada and Australia, as well as the practices of a number of local corporations in the public and private sectors to see how far the subject matters of the meetings are made known to the attendees beforehand. The Committee observed from the findings that although there are varying practices relating to the issuance of notices and agendas of meetings among the Parliaments and corporations studied, the underlying

principle of the relevant rules and practices is to enable the members concerned to plan their schedules and prepare for the meetings. The Committee considers that it is only reasonable to expect the Administration to at least provide the subject matter to be discussed so that the clerk concerned may include it in the notice of meeting for members' information

4.8 To prevent recurrence of incidents similar to that of the special Panel meeting concerned, the Committee proposes that clerks to committees should issue the agenda for a meeting together with the notice of that meeting. In the situation where the Administration indicates difficulties in providing the details of a discussion item, the chairman of the committee concerned should request the Administration to provide the nature and scope of the subject matter to be discussed for inclusion in the notice of meeting. As soon as the details of the item are available, the clerk should include them in the agenda. The agenda should be issued to committee members within a reasonable time before the meeting, so as to allow time for members to prepare for the meeting. If details of a discussion item are only made available to members shortly before the meeting, the relevant item should be regarded as a briefing by the Administration and another meeting should be scheduled as soon as practicable to facilitate more in-depth discussion to take place on the item.

4.9 As suggested by the Committee, the practice/proposed arrangements set out in paragraph 4.8 above have been included in the Handbooks for Chairmen of Panels, Bills Committees and subcommittees on subsidiary legislation/other instruments for reference by Members as well as the relevant manual for servicing these committees for reference by clerks.

### **Display of placards by members of the public attending committee meetings**

4.10 The issue was discussed in response to the concern raised by a member of the Committee that some deputations, who attended a meeting at the invitation of a Panel, continued to display placards on their desks after completing their oral representation to the Panel at the meeting. The Member suggests that if the current Rules of Procedure have no provision to enable the chairmen of committees to handle situations of this kind, the Committee should review whether rules should be provided in the Rules of Procedure for this purpose.

4.11 The Committee notes that under Rule 87 of the Rules of Procedure, the President, Chairman of a committee of the whole Council or chairman of

a committee or subcommittee may order the removal from a meeting of any member of the press or member of the public who behaves, or who appears likely to behave, in a disorderly manner. In accordance with that rule, if the chairman of a committee considers that the display of a placard by a representative of a deputation (who should be regarded as a member of the public) at a meeting is inappropriate, he may order the representative to put away the placard. If the representative refuses to comply with his order, the chairman may regard such act as disorderly behaviour and can order the removal of the representative from the meeting.

4.12 As there is an existing rule which governs disorderly behaviour of members of the public (including deputations) at committee meetings, the Committee considers that there is no need to follow up the issue.

### **Procedure for amending published reports of committees of the Legislative Council**

4.13 The Committee notes that at present there is no procedure in the Rules of Procedure to enable amendments to be made to the report of a committee, such as a select committee, after it has been dissolved. The Committee was invited to consider the need for establishing such a procedure in the light of a request made by a member of the public to remove her submission from the report published by a select committee which has been dissolved. The submission was received by the select committee concerned in the course of its inquiry and subsequently formed part of the report of the select committee.

4.14 The Committee agrees to consider the issue, as there may be other circumstances in the future which call for the amendment of reports published by committees of the Council which have been dissolved. Some members of the Committee consider that there should be clear guidelines for handling matters in relation to reports published by committees which have been dissolved. The Secretariat will conduct a study of the issues and collate relevant information, including the rules and practices of other legislatures in this regard, to facilitate consideration of the matter by the Committee in the next session.

**Curtailing of debate in committee proceedings**

4.15 A member of the Committee has expressed concern about the proceedings of the FC meetings held in December 2009 and January 2010 to consider the funding proposals of the Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link. At that meeting, some members raised a large number of questions and moved some 20 motions to try to filibuster the proceedings. As a result, FC took 26 hours to complete scrutiny of the funding proposals. The member suggests that the Committee should review the Rules of Procedure and other related rules to empower the chairmen of all committees to stop members from asking irrelevant or repetitive questions and to immediately put an item to vote if the situation so warrants, as what happened at the FC meetings can also happen at other committee meetings.

4.16 The Committee considers that the curtailing of a debate to force a vote is a complex matter. A research should be conducted on the relevant issues. The Committee will discuss the subject when the Secretariat has studied and collated the relevant information.

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

5.1 In the 2009-2010 session, the Committee fine-tuned the provisions of Rule 49(4) and the English text of Rule 49(6) of the Rules of Procedure.

### **Rule 49(4) and (6) regarding arrangement for shortening the duration of the division bell**

5.2 In response to the suggestion of a member of the Committee for FC to consider shortening the duration of the division bell from two minutes to one minute, a review of the rules on the shortening of the duration of the division bell was conducted. After the review, the Committee notes that since the proposed arrangement, if adopted, will only require amendments to the FC Procedure, the matter has then been referred to FC for follow up.

#### Rule 49(4)

5.3 In reviewing the relevant rules, the Committee notices that the effect of Rule 49(4) of the Rules of Procedure in relation to proceedings on bills is at variance with the original proposal made in 1996 and the actual practice. This rule, as presently worded, only covers divisions on amendments. It does not cover other proceedings on bills in a committee of the whole Council, i.e. the Committee stage, such as questions to move that particular clauses stand part of the bill. The original proposal and the actual practice are that the shortening of the duration of the division bell applies to divisions on amendments as well as other provisions of a bill. If the arrangement stipulated in Rule 49(4) is to be adopted, it may create confusion to Members. The Committee therefore recommends that this rule be amended to accurately reflect the original proposal and the actual practice.

#### Rule 49(6)

5.4 The Committee also notices that there is an inconsistency between the Chinese and English texts of Rule 49(6) of the Rules of Procedure in that the English text does not reflect the actual practice. In the English text of the rule, the motion to be moved to shorten the duration of the division bell from three minutes to one minute (“one-minute motion”) is required to be moved immediately after the President has declared the result

of the first division, whereas there is no such requirement in the Chinese text of the rule. In actual practice and as stipulated in the Chinese text of the rule, the one-minute motion may be moved after the President has declared the result of a division and not necessarily after the first division. The Committee therefore recommends that the English text of Rule 49(6) be amended to remove the inconsistency.

5.5 The proposed amendments to the Chinese and English texts of Rule 49(4) and to the English text of Rule 49(6) had the support of the House Committee and were approved by the Council on 30 June 2010.

## **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**

**Committee on Rules of Procedure**

**Chairman** Hon TAM Yiu-chung, GBS, JP

**Deputy Chairman** Dr Hon Margaret NG

**Members**  
Hon Albert HO Chun-yan  
Hon LEE Cheuk-yan (*since 26 February 2010*)  
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Dr Hon Priscilla LEUNG Mei-fun  
Hon WONG Yuk-man (*up to 28 January 2010*)  
Hon IP Wai-ming, MH  
Hon IP Kwok-him, GBS, JP  
Hon Mrs Regina IP LAU Suk-yeet, GBS, JP  
(Total : 12 Members)

**Clerk** Ms Dora WAI

**Legal Adviser** Mr Jimmy MA, JP

Committee on Rules of Procedure

List of issues studied during the period  
from July 2009 to June 2010

Item	Issue	Reference	Progress/Remarks
1	To draw up proposed procedural arrangements for the implementation of Article 73(9) of the Basic Law on impeachment of the Chief Executive	Article 73(9) of Basic Law	The Committee's views were referred to the Administration for its further comment. The Committee will continue its deliberations when the Administration's reply is received.
2	To study the issues relating to the meaning of “全體議員” (“all its members”) in Article 75 of the Basic Law and the quorum of the Council	Rule 17(1) of the Rules of Procedure  Articles 49, 52, 67, 73, 75 and 159 of, as well as Annex I and Annex II to, Basic Law	As the views of the Committee on the quorum of the Council is in line with the decision of the President and the views of the Administration, the Committee considers that there is no need to further study the matter.
3	To consider providing a standing arrangement to enable Members to speak on subsidiary legislation or other instruments tabled in Council to which no amendment has been proposed	--	The amendments to the Rules of Procedure to give effect to the proposed procedure had the support of the House Committee and were approved by the Council on 2 December 2009. The relevant provisions of the House Rules were also amended accordingly.

<b>Item</b>	<b>Issue</b>	<b>Reference</b>	<b>Progress/Remarks</b>
4	To consider whether the Rules of Procedure should be amended to deal with situations of Members refusing to comply with the President's withdrawal orders made under Rule 45(2) of the Rules of Procedure	Rule 45(2) of Rules of Procedure	The Committee has asked the Secretariat to collate more information on the relevant rules and practices of other legislatures. Once the information is available and depending on the progress of the review of the staffing complement and training needs of security staff, the issue can be further discussed by the Committee.
5	To consider whether the current regulatory standards in relation to the display of signs and messages by Members during Council meetings should be changed and, if so, whether and how the Rules of Procedure should be amended	Rule 45(2) of Rules of Procedure	A consultation with all Members will be conducted on this matter. The Committee will continue its deliberations in the next session when the outcome of consultation is available.
6	To consider the indication of choice of nominee in the election of the chairman and deputy chairman of a committee	Appendix IV to House Rules	The election procedures in Appendix IV to the House Rules were amended to implement the proposal upon endorsement of the proposed amendments by the House Committee on 26 February 2010.
7	To study the issues relating to notices and agendas of committee meetings	Rules 71(6), 72(6), 73(3), 74(3), 75(14), 76(5) and 77(11) of Rules of Procedure  Rule 24(c) of House Rules	The Committee has completed the study. Pursuant to the Committee's suggestion, the practice/proposed arrangements have been included in the Handbooks for Chairmen of Panels, Bills Committees and subcommittees on subsidiary legislation/other instruments for reference by Members as well as the relevant manual for servicing these committees for reference by clerks.

<b>Item</b>	<b>Issue</b>	<b>Reference</b>	<b>Progress/Remarks</b>
8	To consider whether rules should be provided in the Rules of Procedure to deal with the display of placards by members of the public attending committee meetings	Rule 87 of Rules of Procedure	As there is an existing rule, i.e. Rule 87 of the Rules of Procedure, which governs disorderly behaviour of members of the public (including deputations) at committee meetings, the Committee considers that there is no need to follow up the issue.
9	To consider the need for establishing a procedure in the Rules of Procedure to enable amendments be made to the report of a committee after it has been dissolved	--	The Secretariat will conduct a study of the issues and collate relevant information, including the rules and practices of other legislatures in this regard, to facilitate consideration of the matter by the Committee in the next session.
10	To consider issues relating to curtailing of debate in committee proceedings	--	A research will be conducted on the relevant issues. The Committee will discuss the subject when the Secretariat has studied and collated the relevant information.
11	<p>To refine:</p> <ul style="list-style-type: none"> <li>- Rule 49(4) of the Rules of Procedure to accurately reflect the original proposal and the actual practice; and</li> <li>- the English text of Rule 49(6) to remove an inconsistency between the Chinese and English texts of the rule</li> </ul>	Rule 49(4) and (6) of Rules of Procedure	The proposed amendments to the Chinese and English texts of Rule 49(4) and to the English text of Rule 49(6) had the support of the House Committee and were approved by the Council on 30 June 2010.

**Procedural arrangements for holding debates in Council  
on subsidiary legislation and other instruments tabled in Council  
to which no amendment has been proposed**

Notifying the House Committee of the intention to speak at a debate in Council  
on an item of subsidiary legislation or instrument included in a report of the  
House Committee on such subsidiary legislation or instrument (“House  
Committee Report”)

- (a) a Member who wishes to speak at a debate in Council on any item of subsidiary legislation or instrument included in a House Committee Report should notify the House Committee of his intention to do so. Such a notification should be conveyed to the Clerk to the House Committee<sup>1</sup> before the deadline for proposing agenda items for the last House Committee meeting before the Council meeting at which the House Committee Report is tabled;
- (b) if there is no House Committee meeting on the Friday immediately before the Council meeting at which a House Committee Report is tabled, the notification should be conveyed to the Clerk to the House Committee not later than six clear days before that Council meeting;
- (c) upon receipt of such notification and with the agreement of the Chairman of the House Committee, the Clerk to the House Committee would arrange to include the notification on the agenda of the relevant House Committee meeting or to circulate the notification to members of the House Committee, as the case may be;
- (d) the notice periods in (a) and (b) above serve to notify members of the House Committee of the holding of a debate on subsidiary legislation or instruments at a specific Council meeting and provide sufficient time for the House Committee to decide how the debate will be divided into sessions if more than one item or a group of items of subsidiary legislation or instruments are covered. This early alert arrangement would enable both Members and public officers to prepare for the debate;
- (e) the Chairman of the House Committee will give notice of a motion to take note of the House Committee Report in relation to the item(s) of subsidiary legislation or instrument(s). The notice period is two clear days before the relevant Council meeting;

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<sup>1</sup> According to Rule 20(f) of the House Rules, the deadline for proposing agenda items for a meeting is normally 5:00 pm on the Tuesday before the meeting.

- (f) if there is a motion to amend an item of subsidiary legislation or instrument, no motion to take note of such subsidiary legislation or instrument will be moved;
- (g) motions to take note of a House Committee Report as well as other Government and Members' motions on subsidiary legislation and other instruments made under an Ordinance will be placed under new adjoining items of business on the Agenda, after dealing with Government bills and Government motions other than those on such subsidiary legislation and instruments;

#### Wording of motion

- (h) the wording of a motion to take note of a House Committee Report will be in a prescribed form. No amendment to the motion will be allowed;

#### Mode of debate, speaking time limit and speaking order

- (i) the debate on the motion will start immediately after the mover has moved and spoken on the motion, and the mover will not have the right of reply;
- (j) if a subcommittee has been formed to scrutinize an item of subsidiary legislation or instrument which is subsequently debated in Council under a motion to take note of the relevant House Committee Report, the chairman of the subcommittee may speak at the commencement of the debate or the respective session, if he so wishes;
- (k) the speaking time limit for each Member, including the mover of the motion, is 15 minutes, or 15 minutes at each session of the debate;
- (l) each Member may only speak once in the debate or in each session of the debate;
- (m) no Member may speak on the subsidiary legislation or instrument(s) after the public officer(s) concerned has responded in the debate or the relevant session of the debate;
- (n) a motion to take note of a House Committee Report will not be put to vote and the Council will proceed to the next item of business on the Agenda after the debate has come to a close; and
- (o) if there is no debate on a motion to take note of a House Committee Report in relation to an item of subsidiary legislation or instrument, a Member may, with the President's consent, speak on that subsidiary legislation or instrument under Rule 21(5) of the Rules of Procedure.