

**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**

**2011年7月至2012年7月的工作進度報告
Progress Report for the period
July 2011 to July 2012**

**2012年7月11日
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CONTENTS

Chapter		Page
1.	Introduction	1
2.	Review of the procedural arrangements relating to Council meetings	2
—	Provision of slots for moving motions with no legislative effect for debate at Council meetings in the Fifth Legislative Council	2
—	Provision of slots for asking questions at Council meetings in the Fifth Legislative Council	4
—	Rules governing amendments to bills and rules relating to speaking at Committee stage	6
—	Order in Council and committee meetings	7
3.	Review of the procedures of committees of the Council	11
—	Procedure for amending published reports of committees of the Legislative Council	11
—	Handling of minutes of closed meetings of committees which had been dissolved	12
4.	Amendments to the requirements of registration of Members' interests in Rule 83 of the Rules of Procedure	14
5.	Procedural arrangements for the implementation of Article 73(9) of the Basic Law on impeachment of the Chief Executive	16
6.	Acknowledgement	19

Appendix

- I. Membership list**
- II. List of issues studied by the Committee on Rules of Procedure during the period from July 2011 to July 2012**
- III. Summary of views expressed at the meeting on 19 June 2012**

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 2011 to July 2012, during which seven meetings were held to study a range of subjects that may be grouped under the following categories:

- (a) review of the procedural arrangements relating to Council meetings;
- (b) review of the procedures of the committees of the Council;
- (c) review of the requirements of registration of Members' interests in Rule 83 of the Rules of Procedure; and
- (d) procedural arrangements for the implementation of Article 73(9) of the Basic Law on impeachment of the Chief Executive.

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

2. Review of the procedural arrangements relating to Council meetings

2.1 In the report period, the Committee examined a number of procedural arrangements relating to meetings of the Council, including:

- (a) provision of slots for moving motions with no legislative effect for debate at Council meetings in the Fifth Legislative Council;
- (b) provision of slots for asking questions at Council meetings in the Fifth Legislative Council;
- (c) rules governing amendments to bills and rules relating to speaking at Committee stage; and
- (d) order in Council and committee meetings.

Provision of slots for moving motions with no legislative effect for debate at Council meetings in the Fifth Legislative Council

2.2 Under rule 13(a) of the House Rules, normally not more than two debates initiated by Members may be held at each regular Council meeting, and each Member is normally allocated only one slot for moving a motion debate or proposing one adjournment debate in a session under rule 14(a) of the House Rules.

2.3 With the increase in the number of Members in the Fifth Legislative Council from 60 to 70, the Committee notes that Members will have a lower chance of being allocated one debate slot in a session if the arrangement of allowing only two debates to be initiated by Members at each regular Council meeting remains unchanged (i.e. 54 debate slots for 59 Members). The Committee is however concerned that if the number of debate slots is increased from, say, two to three for each regular meeting, such meetings will be longer and may last for more than one day.

2.4 The Committee conducted a consultation exercise in November 2011 on the provision of debate slots with no legislative effect for

debate at Council meetings in the Fifth Legislative Council. In the consultation exercise, Members were asked to give their views on whether the number of motion debate slots for each regular Council meeting should remain unchanged at two or should be increased in the Fifth Legislative Council; and should the slots be maintained at two, whether the allocation of these slots should be counted on a four-year term basis.

2.5 The outcome of the consultation revealed that the majority of Members preferred that the number of motion debate slots for each regular Council meeting should be maintained at two and such slots should be allocated on a term basis (about 216 slots shared by 69 Members in a four-year term).

2.6 To facilitate the allocation of debate slot to be counted on a term rather than on a session basis, the House Committee agrees, on the recommendation of the Committee, that the following changes be made to the allocation of debate slots for implementation in the Fifth Legislative Council:

- (a) slots will be allocated in accordance with the following descending order of priority:
 - (i) a Member who has not been allocated a debate slot in the term and has been unsuccessful for the highest number of times in the previous two or more applications;
 - (ii) a Member who has not been allocated a debate slot in the term;
 - (iii) a Member who has been allocated the fewest number of debate slot(s) in the term and has been unsuccessful for the highest number of times in the previous two or more applications; and
 - (iv) a Member who has been allocated the fewest number of debate slot(s) in the term;
- (b) if the number of Members who are of equal priority for

allocation exceeds the number of slot(s) available for allocation, a ballot will be conducted by the House Committee Chairman for determining the allocation of the debate slot(s); and

- (c) where a Member who has been unsuccessful in his application for a debate slot for a Council meeting, he may use the debate slot allocated to another Member for that meeting, if a request for transfer of the slot is made and agreed to by that other Member 12 clear days before the date of that meeting, and he must not previously been allocated four or more debate slots in a term.

2.7 The House Committee approved the amendments to the relevant provisions of the House Rules at its meeting on 22 June 2012 in order to implement the changes in paragraph 2.6 above in the Fifth Legislative Council.

Provision of slots for asking questions at Council meetings in the Fifth Legislative Council

2.8 Under the Rules of Procedure, Members may address questions at Council meetings to the Government on the work of the Government, either seeking information on such matter or asking for official action with regard to it.

2.9 With the exception of urgent questions, not more than 20 questions of which notice has been given may be asked at any one meeting. Where there will be a debate on a motion not intended to have legislative effect at a meeting, no more than six oral questions may be asked at that meeting and where there will be no debate on a motion not intended to have legislative effect at a meeting, no more than 10 oral questions may be asked at that meeting. The registration of questions and allocation of question slots are subject to a registration and allocation system.

2.10 At present, each Member may be able to ask on average about three oral questions and eight written questions in a session. With the increase of 10 more Members in the Fifth Legislative Council, the

average number of oral questions a Member may be able to ask in a session will be reduced from three to two while that of written question slots will be reduced from eight to seven if the number of questions as allowed for each meeting by the Rules of Procedure remains unchanged.

2.11 The Committee conducted a consultation exercise in August 2011 to seek Members' views on the provisions of slots for asking questions at Council meetings in the Fifth Legislative Council. The majority of Members indicated that the average number of oral and written question slots available to a Member in a session should remain to be three and eight respectively.

2.12 With a view to maintaining the average number of oral and written questions that a Member may be able to ask in the Fifth Legislative Council, the Committee proposes that the number of oral question slots that may be asked at each Council meeting should be increased from six to seven and that of the written questions should be increased from 14 to 16.

2.13 The Committee notes that as a result of the proposed increase in oral question slots, it is expected that the total time to be used for asking oral questions in a Council meeting will also be increased from two hours to two and a half hours. The Committee also notes that, for each oral question, the President intends to allow at least four other Members to ask supplementary questions in addition to the Member who asks the main question. Taking into account these considerations, the Committee proposes that:

- (a) the time used for each oral question at each meeting, including the time for supplementary questions (and follow-up questions), should be limited to 22 minutes; and
- (b) the duration for a Member to ask a main question should not be more than three minutes and that for a public officer to give a main reply should not be more than seven minutes; and the duration for a Member to ask a supplementary question (or follow-up question) should not be more than one minute.

2.14 All Members were consulted on the proposals in February 2012. The findings of the consultation indicate that the majority of Members agree to the proposals.

2.15 The Administration has been informed of the Committee's proposals. The Administration has mainly commented that whether public officers can meet the requirement to limit the main reply to seven minutes is premised upon the content and length of the main question. If a question is lengthy or raises a wide range of matters, there can be practical difficulty for the public officer concerned to provide a comprehensive reply within seven minutes.

2.16 To implement the proposal to provide additional question slots for implementation with effect from the Fifth Legislative Council, notice has been given by the Chairman of the Committee to move a motion at a Council meeting to amend the Rules of Procedure. The proposed amendments to the Rules of Procedure and to the House Rules have already been approved by the House Committee at its meeting on 25 May 2012. At this meeting, the House Committee also approved the proposed amendments to the House Rules to set time limits on oral questions for immediate implementation.

Rules governing amendments to bills and rules relating to speaking at Committee stage

2.17 The need for conducting a study on the handling of voluminous amendments to bills in selected overseas legislatures arose from the incidents of two Members giving notice to move more than 1 300 Committee stage amendments to the Legislative Council (Amendment) Bill 2012 and five Members giving notice to move more than 1 700 Committee stage amendments to the Copyright (Amendment) Bill 2011.

2.18 The Committee notes that in all of the overseas legislatures studied, i.e. the House of Commons of the Parliament of the United Kingdom, the House of Commons of the Parliament of Canada, the House of Representatives of the Parliament of Australia and the House of Representatives of the Parliament of New Zealand, the Speakers are

empowered by their respective Standing Orders to select amendments proposed by Members to bills at Committee stage. Further, all of these Parliaments and the United States Senate allow the curtailment of debate on bills at Committee stage through the moving of a closure motion, or cloture as it is called in the United States Senate. The passage of such a motion would ensure the end of debate, either immediately as in the case of the House of Commons in the Parliament of the United Kingdom or for a further 30-hour debate as in the United States Senate. The closure motion is always decided through a vote, and both the House of Commons of the Parliament of the United Kingdom and United States Senate require more than a simple majority in order to pass such a motion. All of these legislatures also have mechanisms to set time limits for the scrutiny of bills during their various stages of consideration. Discussions between the various political parties are often required to reach agreements on the time limits.

2.19 At the request of the House Committee, the Committee held a meeting on 19 June 2012 to follow up matters relating to the invocation of Rule 92 of the Rules of Procedure by the President to end the joint debate at the Committee stage of the Legislative Council (Amendment) Bill 2012. The President and all other Members were invited to attend the meeting. A summary of the views expressed by Members at the meeting is in **Appendix III**.

Order in Council and committee meetings

Bringing into the Chamber and conference rooms by Members objects which may pose a threat to the safety of other Members or public officers attending Council and committee meetings

2.20 Following the occurrence of several incidents in January and February 2011 involving some Members throwing objects at public officers during meetings of the Council and committees, the Committee studied the relevant rules and practices of the House of Commons of the Parliament of the United Kingdom, the House of Commons of the Parliament of Canada, the House of Representatives of the Parliament of Australia, the House of Representatives of the Parliament of New Zealand, as well as the Legislative Yuan of Taiwan. The Committee

notes that in all these five legislatures, only the Legislative Yuan of Taiwan expressly bans dangerous objects to be brought into the chamber. In the other four legislatures, objects which may pose danger are not allowed in the chamber as a matter of convention established through rulings made by Speakers over the years.

2.21 During the Chief Executive's Question and Answer Session on 13 October 2011, an inflated balloon was released in the Chamber by a Member. In view of the professional advice from the Architectural Services Department that the release of an inflated balloon to the ceiling of the Chamber may pose safety risk, the President directed the Secretary General to issue a circular to all Members reminding them not to bring inflated balloons into the Chamber during meetings. The relevant circular was issued to all Members on 2 November 2011.

2.22 As the lighting design and devices in other conference rooms of the Legislative Council Complex are similar to those in the Chamber and the release of an inflated balloon to the ceiling of these rooms may pose similar safety risks, the Committee considers that it is necessary to advise chairmen of committees not to allow inflated balloons to be brought into conference rooms during meetings. The Chairman wrote a letter to all chairmen of committees advising them not to allow inflated balloons to be brought into conference rooms during meetings and informing them that it is the practice in some legislatures, such as Australia, Taiwan and the United Kingdom, that certain objects, such as inflammable objects, sticks and rods, could not be brought into meeting venues. The relevant letter was issued to all chairmen of committees on 23 November 2011.

2.23 The Committee concludes that it will further discuss whether suitable provisions should be made in the Rules of Procedure or the House Rules of the Council to prohibit objects which may pose a safety threat to persons attending meetings in the Chamber and conference rooms, and will consult Members in this regard.

Sanctions against Members for repeated or persistent disorderly conduct at Council meetings

2.24 The Rules of Procedure do not provide any specific sanctions

against Members for behaving in a grossly disorderly manner at Council and committee meetings. Suspension, as provided under Rule 85 of the Rules of Procedure, is a sanction relating to interests, operating expenses or operating funds, and not disorderly conduct. Nevertheless, Rule 45(2) of the Rules of Procedure empowers the President, the Chairman of a committee of the whole Council or the chairman of any committee to order a Member whose conduct is grossly disorderly to withdraw immediately from the Council or the committee for the remainder of that meeting.

2.25 In view of the incidents of Members behaving in a disorderly manner at Council and committee meetings in May and June 2011, the Committee instructed the Secretariat to further look into the practices in overseas legislature on dealing with violent acts, such as throwing of objects, committed by Members at sittings of the Parliament or committee meetings.

2.26 In this review, the Committee studied the relevant practices and rules of the Parliaments of the United Kingdom, Canada, Australia, New Zealand, South Korea and India as well as the Legislative Yuan of Taiwan. The Committee notes that while all the selected overseas legislatures have rules empowering the President/Speaker to deal with disorderly conduct of Members during proceedings, they do not have rules which expressly ban the act of throwing of objects by Members at sittings. Further, in Taiwan, South Korea and India, specific misbehaviours are referred to in their Standing Orders as violent acts or disorderly conduct and the offending Members may be subject to suspension from the service of the legislature. The Committee generally agrees to continue to study whether there should be sanctions on Members for repeated or persistent disorderly conduct at Council and committee meetings.

2.27 The Committee considered a proposal to amend Rule 45(2) of the Rules of Procedure by Hon IP Kwok-him which seeks to ban a Member, who had been ordered by the President to withdraw from a Council meeting for behaving in a grossly disorderly manner at the meeting under Rule 45(2) of RoP on two occasions, from attending the following Council meeting if a motion to sanction such is passed through the moving of a motion by the President.

2.28 The Committee voted in favour of Mr IP's proposal to amend Rule 45(2) of the Rules of Procedure. The Secretariat was requested to follow up the matter, including drafting the proposed amendments to the Rules of Procedure, for consideration by the Committee in the next Legislative Council term.

3. Review of the procedures of committees of the Council

3.1 In the report period, the Committee studied the following issues relating to the procedures of committees of the Council:

- (a) procedure for amending published reports of committees of the Legislative Council; and
- (b) handling of minutes of closed meetings of committees which had been dissolved.

Procedure for amending published reports of committees of the Legislative Council

3.2 Following a request made by a member of the public to remove her submission from the report published by the Select Committee to inquire into the handling of the Severe Acute Respiratory Syndrome outbreak by the Government and the Hospital Authority, which had been dissolved, the Committee considered whether there was a need to establish procedures for amending published reports of committees.

3.3 The Committee notes that the practice of the House of Commons of the Parliament of the United Kingdom, the House of Commons of the Parliament of Canada, the House of Representatives of the Parliament of Australia and the House of Representatives of the Parliament of New Zealand do not allow amendments to be made to published reports of committees which had been dissolved.

3.4 The Committee considers that there is no need to establish a procedure for amending a report published by a committee which had been dissolved. However if a submission received by a committee contained a submission from a third party, the committee clerk should ascertain with the individual/organization which sent his/its submission to the committee whether consent had been obtained from that third party to have its submission made public.

Handling of minutes of closed meetings of committees which had

been dissolved

3.5 It is the established practice of the committee clerks to circulate the draft minutes to committee members for comments and confirmation, even if the committee had been dissolved (e.g. in the case of a select committee), after the report of the committee had been presented to the Council. As there might be circumstances in the future that some minutes of such closed meetings of committees could not be confirmed prior to the expiry of the relevant legislative term and members of the committee might no longer be Members of the Legislative Council, the Committee studied how overseas legislatures dealt with such a situation.

3.6 The Committee notes that the minutes of the closed meetings of the committees set up to study a specific subject(s) in some overseas legislatures, i.e. the House of Commons of the Parliament of the United Kingdom, the House of Commons of the Parliament of Canada, the House of Representatives of the Parliament of Australia and the House of Representatives of the Parliament of New Zealand, are very brief, which primarily recorded decisions taken by the committees and not any details of the deliberations, as these committees would prepare a detailed report after completion of work. Hence, in some of these legislatures, these minutes may be confirmed by the chair, the clerk or not confirmed at all.

3.7 The Committee further notes that in the Legislative Council, the present arrangement in respect of the draft minutes of open meetings of committees, such as Panels and Bills Committees is that the committee clerk would forward the draft minutes to the chairman of the committee for comments after the expiry of the relevant legislative term. The minutes would deem to be confirmed after receiving clearance from the chairman of the committee.

3.8 After deliberations, the Committee concludes that the minutes on the internal deliberations of committees should continue to principally record decisions taken by the committee and not any details of the deliberations so as to enable such minutes to be prepared within a shorter period of time. Following the expiry of the relevant legislative term, the unconfirmed minutes on the internal deliberations

of committees should be cleared with the Member who was the chairman of the committee concerned.

4. Amendments to the requirements of registration of Members' interests in Rule 83 of the Rules of Procedure

4.1 Under Rule 83 of the Rules of Procedure, Members are required to furnish to the Clerk to the Legislative Council, in such form as may be approved by the President, particulars of their registrable interests not later than the first meeting of each term and within 14 days of any changes to their registrable interests. The categories of registrable interests are set out in Rule 83(5)¹. Members are also required to provide particulars of their registrable interests in a Registration Form on Members' Interests approved by the President.

4.2 The Committee on Members' Interests proposes that the following changes be made to the registration of Members' interests to enhance transparency and accountability:

- (a) the nature of work to which the remuneration relates should be provided under "directorships", "remunerated employment, offices, etc." and "clients";
- (b) the estimated amount/value of the sponsorship received by Members or their spouses arising out of the membership of the Council should be provided under "overseas visits";
- (c) more details on the location and usage of the land or property owned by Members (except for self-occupation) should be provided under "land and property". For instance, if a Member owns a residential property in the Central district on Hong Kong Island for rental purpose, such information should be provided; and
- (d) a new category of "remunerated membership of boards, committees or other organizations", for instance,

¹ The eight categories of registrable interests are set out in Rule 83(5). These are: (a) remunerated directorships of companies; (b) remunerated employments, offices, trades, professions or vocations; (c) names of clients to whom Members provide services which arise out of or are related to their membership of the Council; (d) election donations and financial sponsorships; (e) overseas visits; (f) payments, benefits and advantages received from Government or organization of a place outside Hong Kong or from any person who is not a Hong Kong permanent resident; (g) land and property; and (h) shareholdings.

membership of statutory bodies and non-governmental organizations for which an honorarium is payable, should be added.

4.3 The Committee on Members' Interests also proposes that Members be required to provide dates of changes to their registrable interests of "directorships", "remunerated employment, offices, etc.", "clients", "shareholdings" and "land and property" in the Registration Form on Members Interests, so as to better enable the public to monitor whether the requirement to furnish to the Clerk to the Legislative Council within 14 days particular of any change in the above registrable interests is complied with by Members.

4.4 Further, to put beyond doubt that Members are not only required to comply with Rule 83(5) of the Rules of Procedure but also to provide the particulars as required in the Registration Form on Members' Interests, the Committee on Members' Interests proposes making the Registration Form a part of the Rules of Procedure. Changes to the Registration Form to make it more user-friendly and informative have also been proposed.

4.5 The Committee notes that to effect the proposed changes, it is necessary to amend Rule 83(1), (2), (3) and (5) of the Rules of Procedure and to make consequential amendments to Rule 4(1) of and the Schedule of the Rules of Procedure.

4.6 After studying the matter, the Committee supported the proposed changes and the proposed amendments to the Rules of Procedure. The proposed changes and the proposed amendments to the Rules of Procedure also had the support of the House Committee at its meeting on 22 June 2012. A motion will be moved by the Chairman of the Committee on Members' Interests at the Council meeting of 11 July 2012 to amend the Rules of Procedure.

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

5.1 Article 73(9) of the Basic Law 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”.

5.2 After reviewing the initial proposal of the Committee of the Third Legislative Council, the Committee of the Fourth Legislative Council agreed on a revised proposal using a streamlined, five-step approach comprises three stages. Under the proposed mechanism, a motion for investigation would be moved and debated in Council if not less than one-fourth of all Legislative Council Members jointly sign and give notice of such a motion. If the motion is passed, the Legislative Council may give a mandate to the Chief Justice who will

form and chair an independent investigation committee. Upon the completion of the investigation and its submission of a report to the Legislative Council, a motion of impeachment may be moved if the investigation committee considers that the evidence was sufficient to substantiate the charges. If the motion of impeachment is passed by a two-thirds majority of all Legislative Council Members, it should be reported to the Central People's Government for decision. The proposed mechanism was described in detail in the Committee's progress report in the 2009-2010 session.

5.3 The Administration was concerned about the procedure for notifying the Chief Executive upon the triggering off of the impeachment procedure and whether the normal requisite notice period for motions would apply to the motion for investigation. As directed by the Committee, the Secretariat had on several occasions requested the Administration to elaborate further on what it considers to be an "adequate" and "reasonable" period of time for the Chief Executive to consider a motion for investigation and to decide whether or not to resign.

5.4 In view of the developments and the public's interest in the exercise of power by Members under Article 73(9) of the Basic Law in February 2012, Dr Hon Margaret NG, Deputy Chairman of the Committee, requested the Committee to resume discussion on the procedural arrangements for the implementation of Article 73(9) of the Basic Law which was held on 20 March 2012.

5.5 In its latest letter to the Committee dated 19 March 2012, the Director of Administration has replied that the Administration is still studying the matters and will revert to the Committee as soon as it is in a position to do so.

5.6 During the course of its deliberations, some members of the Committee consider that in view of the serious nature and consequences of the impeachment of the Chief Executive, it is not unreasonable to set a notice period for a motion for investigation longer than the 12 clear days notice period for other motions, so as to allow more time for the Chief Executive to consider the motion for investigation and to decide whether or not to resign. Concerns have also been raised about certain issues in the present proposed procedural

arrangements relating to the implementation of Article 73(9) of the Basic Law. For instance, while the investigation committee to be formed and chaired by the Chief Justice of the Court of Final Appeal (after the passing of the motion for investigation) will be responsible for carrying out the investigation and reporting its findings to the Council, it is unclear how the investigation committee will conduct its investigation. It is also unclear what constitutes "serious breach of law" and "dereliction of duty" referred to in the context of Article 73(9) of the Basic Law.

5.7 Given the important nature of the impeachment of the Chief Executive and the constitutional duty of the Legislative Council under Article 73(9) of the Basic Law, the Committee agrees that more thoughts should be given to formulating the procedural arrangements for the implementation of the Article. The Committee further agrees that the matter should be followed up by the Committee of the Fifth Legislative Council as a priority, so as to prevent problems in the eventuality that a motion under the Article is initiated. The Secretariat was requested to study and collate relevant information on the procedure for the impeachment of the head of state in other jurisdictions to facilitate the Committee in further considering the matter in the next legislative term.

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.

Appendix I**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
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, JP
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yea, GBS, JP

(Total : 12 Members)

Clerk Miss Mary SO

Legal Adviser Mr Jimmy MA, JP

Appendix II**Committee on Rules of Procedure****List of issues studied during the period from July 2011 to July 2012**

Item	Issue	Relevant rule(s)	Progress/remarks
1	Provision of slots for moving motions with no legislative effect in the Fifth Legislative Council	Rules 13 and 14 of the House Rules	The Committee's proposal to amend the House Rules was supported by the House Committee at its meeting on 22 June 2012 for implementation in the Fifth Legislative Council.
2	Provision of slots for asking questions at Council meetings in the Fifth Legislative Council	Rules 23 and 24 of the Rules of Procedure Rules 7, 8 and 9 of the House Rules	The Committee's proposals to increase the number of question slots in the Fifth Legislative Council and to limit the time used for each oral question were supported by the House Committee at its meeting on 25 May 2012. On recommendation by the Committee, the proposed amendments to the House Rules have taken immediate effect. Notice had been given by the Chairman of the Committee to move a motion at a Council meeting to amend Rule 23 of the Rules of Procedure to provide additional slots for asking questions at Council meetings, which will take effect in the Fifth Legislative Council.
3	Order in Council and committee meetings	Rule 45 of the Rules of Procedure	The Committee supports a proposal to amend Rule 45(2) of the Rules of Procedure by Hon IP Kwok-him which seeks to ban a Member, who had been ordered by the President to withdraw from a Council meeting for behaving in a grossly disorderly manner at the meeting under Rule 45(2) of the Rules of Procedure on two occasions, from attending the

Item	Issue	Relevant rule(s)	Progress/remarks
			<p>following Council meeting if a motion to sanction such is passed through the moving of a motion by the President.</p> <p>The Secretariat was requested to draft the proposed amendments to the Rules of Procedure for consideration by the Committee in the next Legislative Council term.</p>
4	Rules governing amendments to bills and rules relating to speaking at Committee stage	Rules 38, 57 and 92 of the Rules of Procedure Article 72 of the Basic Law	<p>The Secretariat was requested to conduct the following studies for follow up by the Committee in the next legislative term: (a) review Rules 38 and 57(4) of the Rules of Procedure to deal with filibuster; (b) review the application of Rule 92 of the Rules of Procedure; and (c) examine the relationship between the power to invoke Rule 92 of the Rules of Procedure by the President to curtail a debate and the constitutional powers and functions of the President to preside over the meetings of the Council under Article 72 of the Basic Law. The Secretariat was also requested to prepare a detailed background paper to facilitate discussion of the Committee.</p>
5	Procedure for amending published reports of committees of the Legislative Council	--	<p>The Committee considers that there is no need to establish a procedure for amending a report published by a committee which had been dissolved. However if a submission received by a committee contained a submission from a third party, the committee clerk should ascertain with the individual/ organization which sent his/its submission to the committee whether consent had been obtained from that third party to have its submission made public.</p>

Item	Issue	Relevant rule(s)	Progress/remarks
6	Procedure for handling minutes of closed meetings of committees which had been dissolved	--	The Committee considers that the minutes on the internal deliberations of committees should continue to principally record decisions taken by the committee and not any details of the deliberations so as to enable such minutes to be prepared within a shorter period of time. Following the expiry of the relevant legislative term, the unconfirmed minutes on the internal deliberations of committees should be cleared with the Member who was the chairman of the committee concerned.
7	Amendments to the registration requirements in Rule 83 proposed by the Committee on Members' Interests to enhance transparency and accountability	Rule 83 of the Rules of Procedure	The Committee generally supports the proposal of the Committee on Members' Interests to amend Rule 83(1), (2), (3) and (5) of the Rules of Procedure, and to make consequential amendments to Rule 4(1) of and the Schedule of the Rules of Procedure. The proposed changes to the Rules of Procedure had the support of the House Committee at its meeting on 22 June 2012. A motion will be moved by the Chairman of the Committee on Members' Interests at the Council meeting of 11 July 2012 to amend the Rules of Procedure.
8	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 considers that the matter should be followed up by the Fifth Legislative Council as a priority. The Secretariat was requested to study and collate relevant information on the procedure for the impeachment of the head of state in other jurisdictions to facilitate the Committee in further considering the matter in the next term.

立法會
Legislative Council

LC Paper No. CROP 59/11-12

Ref: CB(3)/CROP/3/71

Committee on Rules of Procedure

**Current rules governing amendments to bills and rules
relating to speaking at Committee stage**

Summary of views expressed at the meeting on 19 June 2012

Purpose

This paper summarizes the views expressed on the current rules governing amendments to bills and rules relating to speaking at Committee stage of a bill at the meeting of the Committee on Rules of Procedure ("CRoP") held on 19 June 2012.

Background

2. At the meeting on 18 May 2012, the House Committee ("HC") requested CRoP to follow up matters relating to the invocation of Rule 92 of the Rules of Procedure ("RoP") by the President to close the joint debate at the Committee stage of the Legislative Council (Amendment) Bill 2012 ("the ruling"). HC members also requested the Secretariat to consult the President on an appropriate forum for Members to exchange views with the President on the ruling. Dr Margaret NG also wrote a letter to the Chairman of CRoP dated 7 June 2012 in which Dr NG requested CRoP to discuss the ruling.

3. At its meeting held on 12 June 2012, CRoP agreed to hold a meeting on 19 June 2012 to discuss current rules governing amendments to bills and rules relating to speaking at Committee stage and to invite the President and all other Members to attend the meeting. Hon Emily LAU expressed the view of Members belonging to the Democratic Party that the 19 June 2012 meeting should be held in public, so as to avoid any misunderstanding over what was discussed at the meeting. Other members however held a different view. They considered that it was an occasion when all Members had the opportunity to have a dialogue with the President on the way he handled the numerous

amendments and the way he closed the joint debate. It would not be appropriate for such matters to be discussed openly. After discussion, CRoP agreed that the meeting should be held in camera. To address Ms LAU's concern, members agreed that a summary of the discussions of the meeting setting out the main points raised at the meeting could be prepared and made public.

4. A total of 15 Members including 10 CRoP members attended the meeting on 19 June 2012. The attendance list is attached at the **Annex**. For the purpose of this meeting, the Secretariat prepared the following papers for Members' reference:

- (a) Information note on handling of Committee Stage amendments proposed by Members to bills;
- (b) Information on the powers of the Speakers of selected overseas legislatures to decide on the practice and procedure to follow in matters not provided for in their rules or Standing Orders; and
- (c) Information note on rules and practices on curtailment of debate on bills at Committee stage in selected overseas legislatures.

The Secretariat also re-circulated the following:

- (a) The President's ruling on closing the joint debate at the Committee stage of the Legislative Council (Amendment) Bill 2012 issued on 22 May 2012;
- (b) Paper entitled "The application of Rule 92 of the Rules of Procedure of the Legislative Council" prepared by the Legal Service Division for the House Committee issued on 24 May 2012; and
- (c) Paper considered at the CRoP meeting on 8 May 2012 entitled "Handling of voluminous amendments to bills in selected overseas parliaments".

Summary of views

Admissibility of the over 1 300 amendments proposed by Members to the Legislative Council (Amendment) Bill 2012

5. The President pointed out that he was aware that questions had been raised on why he had admitted over 1 300 Committee Stage amendments

("CSAs") proposed by Hon WONG Yuk-man and Hon Albert CHAN who had openly claimed that these amendments were proposed for the purpose of filibustering. There was also the impression that the filibuster would not have taken place had he rejected the proposed CSAs. He explained to Members that when he considered the admissibility of CSAs, he needed to have regard to RoP 57(4) and (6), the views of the Administration and the Members concerned, if it had been pointed out to him that any of the proposed amendments were not in compliance with the relevant Rules. In this particular case, the Administration raised no objection to the proposed CSAs. However, he did study each and every of the proposed CSAs and had thorough discussions with the Secretary General ("SG"), the Legal Adviser ("LA") and other Secretariat staff who assisted him to consider the subject from all angles. He noted that although the over 1 300 CSAs proposed by two Members, taken together, could be regarded as frivolous or meaningless and therefore should not be admitted for moving at Council meeting under RoP 57(4)(d), each of these CSAs taken individually might serve a particular purpose as explained by the Members proposing the CSAs. Hence, unless and until rules were provided in RoP to apply the restriction against a frivolous or meaningless amendment under RoP 57(4)(d) also to a series of amendments to a bill, there was no option but to allow these CSAs to be moved at the Council meeting of 2 May 2012. Second, there was no procedure in RoP to deal with filibuster, albeit the two Members had made it very clear that the purpose of their proposing such a large number of CSAs was to prolong the proceedings of the Committee stage of the Legislative Council (Amendment) Bill 2012. In the end, he had come to the conclusion that these CSAs were admissible under RoP.

6. Some Members accepted that the President did have difficulty ruling the 1 300-odd proposed CSAs out of order in view of the present limitation in RoP 57(4)(d), while some Members considered that there was a need to review the rule to enable RoP 57(4)(d) also apply to a series of amendments which when taken together might unnecessarily prolong the proceedings of the Council.

The President's decision to invoke RoP 92 to close the joint debate

7. Regarding the President's invocation of RoP 92 to close the joint debate at the Committee Stage of the Legislative Council (Amendment) Bill 2012, the President informed Members that he was aware of Members' concern over the extent of his power under RoP 92 and the way he exercised it on 17 May 2012. He pointed out that when he allowed the 1 300-odd CSAs to be moved, he was aware of the implications of the numerous CSAs on the proceedings of the Council. That was the reason for his referral of SG's letter to HC at its meeting on 27 April 2012 regarding the arrangements for processing the large number of CSAs proposed to the Legislative Council (Amendment) Bill 2012 and also to the Copyright (Amendment) Bill 2011.

8. The President said that after the joint debate had become protracted and the three Members had kept repeating their arguments, he sought the advice of LA and SG on whether he had the power to close the debate. The advice he received was that one of the functions of the President provided under Article 72 of the Basic Law ("BL 72") was to preside over meetings which involved ensuring the efficient conduct of business. His attention was also drawn to RoP 92 which required him to refer to practices in other legislatures in the event that specific rules were not provided in RoP to deal with the situation. The President consulted Sir Malcolm JACK, former Clerk to the House of Commons of the Parliament of the United Kingdom, who considered that the ultimate decision on how to deal with the situation rest with the President who had the duty to protect the legislature as an institution. On the basis of the advice given to him, the President was convinced that he had the power to conduct the meeting of the committee of the whole Council in a manner which ensured the efficient conduct of business and was consistent with the general principles of protecting Members' rights to speak in the Council.

9. After seeing that the joint debate had lasted for over 33 hours and there was still no end to the protracted debate due to the filibustering by a few Members, the President considered that the debate should not continue indefinitely and an end to it must be put at an appropriate juncture of the Council meeting. The President pointed out that even if Dr Hon Philip WONG had not raised a point of order to conclude the debate at 4:30 am on 17 May 2012, he would have done so himself later in the day based on his assessment of the situation that the joint debate no longer served the proper objective of a debate. The President explained that there was no question of him "colluding" with anyone to close the joint debate as it was his own decision to do so. He had hoped that he was the one to decide when the debate should be closed but he knew that once the information which he had asked SG to withhold was passed to Dr Hon Philip WONG, he had to prepare to put an end to the debate upon the Member's request.

10. A Member expressed the view that while BL72 set out the powers and functions of the President, for the President to rely on this Article as the basis for invoking RoP 92 to deal with matters not provided for in RoP might not be appropriate in all circumstances. For instance, if a proposal to provide for the curtailment of debate in RoP had been negated by the Council, it would not be appropriate for the President to invoke RoP 92 to curtail a debate on a future occasion. The exercising of the powers and functions by the President to preside meetings should be as prescribed in RoP.

11. Some Members were of the view that the President should have consulted Members before deciding to invoke RoP 92 to close the joint debate at the Committee stage of the Legislative Council (Amendment) Bill 2012. The fact that this had not been done had set a dangerous precedent for the

Council. Instead of using RoP 92 to ensure the efficient conduct of business of the Council, these Members pointed out that there were other provisions in RoP which could be used by the President to achieve the same end, such as RoP 45(1). The President was urged not to exercise his power under RoP 92 lightly, until Members had reached a consensus on how the power could be exercised in a manner without undermining free expression of views by Members at the Committee stage of bills.

12. Some Members were however of the view that it was necessary for the President to stop the joint debate at the Committee stage of the Legislative Council (Amendment) Bill 2012 to ensure efficient conduct of business of the Council. If this was not done, the same filibustering tactics might be used by some Members on bills they did not support in future.

13. The President responded that that he would only apply RoP 92 to curtail a protracted debate under very special circumstances to ensure efficient conduct of business of the Council. In his decision to invoke RoP 92 to close the joint debate at the Committee stage of the Legislative Council (Amendment) Bill 2012, he was satisfied that the debate had developed to a point that in his opinion was not serving the proper objective of a debate. He pointed out that in respect of the ruling, the debate had already been conducted for 33.5 hours, most of the time speeches were made by the same three Members, and these three Members persisted in irrelevance or tedious repetition of their own or other Members' arguments in their speeches. Should similar situation arise in future, Members would be consulted where it was feasible to do so under the prevailing circumstances, before deciding whether or not to invoke RoP 92.

Consultation with Members at the private meeting with Members in the morning of 17 May 2012

14. Members noted that the President had intended to obtain views from Members before he closed the joint debate in the early morning of 17 May 2012, hence he suspended the Council meeting to have a private meeting with Members in his office. Some Members expressed dissatisfaction at subsequent reports by the media that they had agreed at this private meeting with the actions taken by the President in closing the joint debate. They also noted that the President said that no objection was heard at the private meeting but in fact they did object to the President's use of RoP 92 to close the debate.

15. The President clarified that when he said that no objection was heard from the 30 Members (who came from various political parties and affiliations in the Council) at the private meeting, he only referred to his subsequent suggestion of having the three-hour debating time for the two Members and the Secretary for Constitutional and Mainland Affairs who had proposed the amendments to round up their speeches before closing the joint debate. He

confirmed that he did hear different views from Members attending the private meeting, including views from quite a number of Members against the use of RoP 92 to close the debate, and also strong views from other Members that immediate action ought to be taken to end the filibuster.

Measures to deal with filibuster

16. To deal with filibuster, a Member suggested that consideration could be given to adopting in the Legislative Council the practices in the House of Commons of the Parliament of Canada of allowing the Speaker to select and group amendments to bills that could be moved in the House. The Member expressed the view that she would not support the introduction of any measure, such as closure motion or allocation of time motion, as practised in some overseas Parliaments, to curtail a debate unless and until there was real cooperation between the majority and the minority in the Council about the running of Council business and the interests of the minority would not be suppressed by the majority in the Council.

17. A Member considered that allowing Members to speak more than once on a question in the committee of whole Council under RoP 38(1)(a) needed to be reviewed to avoid filibustering.

18. To strike a proper balance in safeguarding the rights and interests of the majority and the minority in the Council, a Member suggested that consideration could be given to applying the restriction against a frivolous or meaningless amendment under RoP 57(4)(d) also to a series of amendments to a bill.

19. While agreeing that a procedure should be put in place to deal with filibuster, a Member emphasized that amendments to RoP on rules relating to speaking at Committee stage such as the introduction of closure motions and amendments to regulate the order of the Council, such as display of objects and use of unparliamentary language, should be considered as a package.

20. The President explained that it was not possible for him to use RoP 45(1) to prevent a debate from becoming a protracted one. This was because he had to first listen to the Member's speech before he could determine whether the Member had breached RoP 45(1) for persisting in irrelevance or tedious repetition of arguments in the debate. Even if that could be so determined, and even if he had ordered the Member to discontinue his speech, the Member could cease to continue his speech but the Member could still change his arguments in his speech and continued.

21. The President considered that the suggestion of extending the restriction against a frivolous or meaningless amendment under

RoP 57(4)(d) also to a series of amendments to a bill was worth pursuing.

22. The President opined that the crux of the problem lay with RoP 38 which stipulated that Members could speak more than once on a question at the Committee of the whole Council. In his view, the reason why Members were allowed to speak more than once on a question at the committee of the whole Council was to serve the objective of facilitating a proper debate. However, this objective was not made clear in the Rule and could be abused for the purpose of filibustering. He suggested that CRoP should review RoP 38 to avoid such abuse while enabling Members to speak more than once to facilitate having a proper debate.

Way forward

23. The Secretariat was requested to conduct the following studies for follow up by CRoP in the next legislative term:

- (a) review RoP 38 and 57(4) to deal with filibuster;
- (b) review the application of RoP 92; and
- (c) examine the relationship between the power to invoke RoP 92 by the President to curtail a debate and the constitutional powers and functions of the President to preside over the meetings of the Council under BL72.

The Secretariat was also requested to prepare a detailed background paper to facilitate discussion of CRoP.

Council Business Division 3
Legislative Council Secretariat
5 July 2012

**Committee on Rules of Procedure
Meeting on 19 June 2012
Attendance list**

- Members present** : Hon TAM Yiu-chung, GBS, JP (Chairman)
Dr Hon Margaret NG (Deputy Chairman)
Hon LEE Cheuk-yan
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, JP
Hon Albert HO Chun-yan
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
- Non-Committee members** : Hon Jasper TSANG Yok-sing, GBS, JP (President)
Dr Hon Philip WONG Yu-hong, GBS
Hon Abraham SHEK Lai-him, SBS, JP
Hon CHAN Kin-por, BBS, JP
Hon Paul TSE Wai-chun, JP