

# **立法會**

## ***Legislative Council***

LC Paper No. CROP 16/16-17

Ref: CB(4)/CROP/3/89

### **Paper for the House Committee meeting on 16 December 2016**

#### **Minor amendments to the Rules of Procedure and House Rules**

##### **Purpose**

This paper seeks views of the House Committee on some minor amendments to the Rules of Procedure ("RoP") and House Rules ("HR"), as well as a consequential amendment to the Handbook for Chairmen of Panels ("the Handbook") as supported by the Committee on Rules of Procedure ("CRoP").

##### **Amendments supported by CRoP**

2. At its meeting on 6 December 2016, CRoP considered and supported certain minor amendments to RoP and HR, as well as the Handbook. Details of these amendments are set out in paragraphs 3 to 8 below.

##### Referencing to the Basic Law

3. The current format adopted for the Chinese version of RoP in referring to Articles of the Basic Law ("BL") is that the number of the relevant Article is quoted in Chinese numerals, followed by the number of subparagraphs in brackets in Chinese numerals. This format is different from that adopted for the Chinese version of most recently drafted Hong Kong laws. For example, a reference to Article 73(9) of BL in RoP 46(1) is expressed as "《基本法》第七十三(九)條", while in section 31AA(2) and sections 31AB(1) to (4) of the Chinese version of the Prevention of Bribery Ordinance (Cap. 201), reference to the same Article is expressed as "《基本法》第七十三條第(九)項".

4. As it is sometimes necessary to quote Rules of RoP in the same document as the text of specific ordinances, it is desirable to align the way that Basic Law is referenced in the RoP with that of Hong Kong laws. Accordingly, it is **recommended** that amendments be made to the Chinese version of the following five Rules in RoP where subparagraphs of Articles of the Basic Law are referenced:

- (a) RoP 30(1), which specifies the manner by which the notice of a motion or an amendment should be given, refers to Article 73(9) of the Basic Law;
- (b) RoP 46(1), which provides that, subject to certain exceptions, the passage of all motions before the Council or a committee of the whole Council requires a majority vote of the Members present, refers to Articles 52(2) and 73(9) of the Basic Law;
- (c) RoP 47(2), which prescribes the voting procedure for a motion or bill introduced by a Member or an amendment thereto, refers to Articles 52(2) and 73(9) of the Basic Law;
- (d) RoP 49B(1) and (1A), which prescribe motions related to disqualification of Members from office, refer to Articles 79(6) and 79(7) of the Basic Law respectively; and
- (e) RoP 93(c), which gives the interpretation of "designated public officer" in RoP, refers to Article 62(6) of the Basic Law.

It is also **proposed** that the word "鑑" in RoP 49B(1) and (1A) should be revised to read "鑒" for the sake of consistency with official documents of the Legislature. The marked up version showing the proposed amendments to the above five Rules is set out in **Appendix I**.

#### Textual amendments to RoP 6(5A)(a), RoP 89(1) and RoP 90(1)

5. The English version of RoP 6(5A)(a) states that "The Clerk ***shall conduct*** the review referred to in paragraph (b) of the Policy on Access to the Legislature's Documents and Records in Schedule 2 within 25 years of the existence of the document or record as to whether access should be made available at an earlier time, and ***to conduct*** a further review of the document or record, if not already made available for public access, at least once every four years from the last review." It is **recommended** that the word "to conduct" as highlighted should be amended to read "shall conduct". It is also **recommended** to amend the Chinese version of RoP

89(1) and RoP 90(1) regarding their references to the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to maintain accuracy of the text.

6. The marked up version of RoP 6(5A)(a), RoP 89(1) and RoP 90(1) showing the proposed amendments are in **Appendix II**.

Maximum number of subcommittees on policy issues that may be in operation under House Rules

7. Under HR 26(a), the maximum number of subcommittees on policy issues that may be in operation at any one time is eight. With additional resources being allocated to the Secretariat since 2013, the House Committee endorsed the Secretariat's proposal to utilize such resources to service up to 10 subcommittees on policy issues instead of eight at any one time. This arrangement took effect from 1 April 2014. A technical amendment to replace the word "eight" with "10" in HR 26(a) is **recommended**.

8. The marked up version of HR 26(a) showing the proposed amendment is in **Appendix III**. The proposed consequential amendments to paragraph 6.5 of the Handbook are in **Appendix IV**.

**Advice sought**

9. Members are invited to consider the proposed amendments to RoP as set out in paragraphs 4 and 5 above. Subject to the views of the House Committee, the Chairman of CROP will move a motion at a Council meeting to amend the relevant rules. The wording of the motion is in **Appendix V**. Members are also invited to approve the proposed amendments to HR and the Handbook as set out in paragraph 7 above.

**Proposed amendments to Rule 30, Rule 46, Rule 47, Rule 49B and Rule 93 of the Rules of Procedure**

**30. 議案及修正案的預告方式**

(1) 議員就議案或修正案作出預告，須將該議案或修正案以書面送達立法會秘書辦事處。在符合《基本法》第七十三~~(九)~~條第~~(九)~~項的規定下，擬動議議案或修正案的議員須在該預告上簽署，與議案或修正案動議人聯合提出議案或修正案的其他議員，須在該預告上聯署。

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**46. 就議案作出決定**

(1) 除本議事規則第 49B 條(取消議員的資格)及第 66 條(發回重議的法案)，以及《基本法》第五十二~~(二)~~條第~~(二)~~項、第七十三~~(九)~~條第~~(九)~~項(關乎彈劾案的部分)、第一百五十九條、附件一及附件二另有規定外，所有提交立法會或全體委員會表決的議案，在符合第(2)款的規定下，均須獲得出席會議的議員的過半數票，方為通過。

(1998 年第 311 號法律公告；1999 年第 107 號法律公告；2005 年第 235 號法律公告)

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**47. 立法會及全體委員會的表決**

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(2) 除與根據本議事規則第 49B 條(取消議員的資格)或第 66 條(發回重議的法案)或《基本法》第五十二~~(二)~~條第~~(二)~~項、第七十三~~(九)~~條第~~(九)~~項(關乎彈劾案的部分)或第一百五十九條動議的議案有關者外，立法會主席或全體委員會主席將議員提出的議案或法案，或議員對任何議案或法案提出的修正案的待決議題交由立法會或全體委員會表決時 —— (1998 年第 311 號法律公告；1999 年第 107 號法律公告)

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## 49B. 取消議員的資格

(1) 根據《基本法》第七十九~~(六)~~條~~第(六)項~~動議解除議員的立法會議員職務的議案，格式如下：

"~~鑑鑒~~於(議員姓名)於(日期)在(地方)(法庭)被判犯有刑事罪行，並於(日期)被(法庭)判處監禁一個月以上(有關詳情一如本議案附表所述)，本會解除(議員姓名)的立法會議員職務。"。

(1A) 根據《基本法》第七十九~~(七)~~條~~第(七)項~~動議譴責議員的議案，格式如下：

"~~鑑鑒~~於(議員姓名)行為不檢／違反《基本法》第一百零四條所規定的誓言／行為不檢及違反《基本法》第一百零四條所規定的誓言(有關詳情一如本議案附表所述)，本會根據《基本法》第七十九~~(七)~~條~~第(七)項~~對其作出譴責。"。  
(1999 年第 107 號法律公告)

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## 93. 釋義

(c) "獲委派官員"指根據《基本法》第六十二~~(六)~~條~~第(六)項~~獲香港特別行政區政府委派的官員；

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### Legend:

Texts proposed to be added are shown in *italics*

Texts proposed to be deleted are shown with deletion lines

**Proposed amendments to Rule 6(5A)(a), 89(1) and 90(1)  
of the Rules of Procedure**

**6. Duties of the Clerk**

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- (5A) (a) The Clerk shall conduct the review referred to in paragraph (b) of the Policy on Access to the Legislature's Documents and Records in Schedule 2 within 25 years of the existence of the document or record as to whether access should be made available at an earlier time, and ~~to~~ *shall* conduct a further review of the document or record, if not already made available for public access, at least once every four years from the last review.

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**89. 就議員出席民事法律程序擔任證人一事取得許可的程序**

(1) 為取得根據《立法局~~會~~(權力及特權)條例》(第 382 章)第 6(2)條所需的立法會許可，以要求某議員在立法會舉行會議當天出席民事法律程序為證人，要求該議員在該天出席的法律程序當事人不得遲於該日之前 21 天向立法會秘書書面陳述其請求及說明要求該議員在該天出席的理由。

**90. 就立法會會議程序提供證據一事取得許可的程序**

(1) 為取得根據《立法局~~會~~(權力及特權)條例》(第 382 章)第 7 條所需的立法會許可，以就會議紀要、作證紀錄或提交立法會、委員會或小組委員會會議席上省覽的任何文件的內容，或就立法會、委員會或小組委員會的任何會議或審查程序，在立法會以外的地方提供證據，要求該許可的人須向立法會秘書書面陳述其請求及說明其理由，並須提供立法會秘書在個別情況下按立法會主席的指示所進一步要求的資料。

Legend:

Texts proposed to be added are shown in *italics*

Texts proposed to be deleted are shown with deletion lines

## Appendix III

### Proposed amendments to rule 26(a) of House Rules

#### 26. Activation and Operation of Subcommittees

- (a) Subject to (b) and (e), the maximum number of subcommittees appointed by the House Committee for purposes set out in rule 20(j)(ii) and subcommittees appointed by Panels for purposes set out in rule 22(s) or (t) that may be in operation at any one time is ~~eight~~*10*.

#### Legend:

Texts proposed to be added are shown in *italics*

Texts proposed to be deleted are shown with deletion lines

### Proposed amendments to paragraph 6.5 of the Handbook for Chairmen of Panels

#### Activation of subcommittees

6.5 The maximum number of subcommittees under the House Committee and Panels on policy issues or Council business (other than subsidiary legislation, other instruments made under an Ordinance, draft of subsidiary legislation or such instruments, and proposed endorsement of the appointment or removal of senior judges) that may be in operation at any one time is ~~eight~~*10*. Where the number has reached ~~eight~~*10*, a queuing system will automatically be activated with a waiting list formed. The order of subcommittees on the waiting list is in the order of their appointment. [*HR 22(u)(iv), 26(a) and (b)*]

#### Legend:

Texts proposed to be added are shown in *italics*

Texts proposed to be deleted are shown with deletion lines



**Basic Law of the Hong Kong Special Administrative Region of the  
People's Republic of China**

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**Resolution**

(Under Article 75 of the Basic Law of the Hong Kong Special  
Administrative Region of the People's Republic of China)

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**Rules of Procedure of the Legislative Council of the  
Hong Kong Special Administrative Region**

**Resolved** that the Rules of Procedure of the Legislative Council of the  
Hong Kong Special Administrative Region be amended as set out in the  
Schedule.

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## **Schedule**

### **Amendments to Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region**

#### **1. Rule 6 amended (duties of the Clerk)**

In Rule 6(5A)(a), in the English text—

**Repeal**

“to conduct”

**Substitute**

“shall conduct”.

#### **2. Rule 30 amended (manner of giving notice of motions and amendments)**

In Rule 30(1), in the Chinese text—

**Repeal**

“《基本法》第七十三(九)條”

**Substitute**

“《基本法》第七十三條第(九)項”.

#### **3. Rule 46 amended (decision on motions)**

In Rule 46(1), in the Chinese text—

**Repeal**

“《基本法》第五十二(二)條、第七十三(九)條”

**Substitute**

“《基本法》第五十二條第(二)項、第七十三條第(九)項”.

**4. Rule 47 amended (decision of Council and committee of the whole Council)**

In Rule 47(2), in the Chinese text—

**Repeal**

“《基本法》第五十二(二)條、第七十三(九)條”

**Substitute**

“《基本法》第五十二條第(二)項、第七十三條第(九)項”。

**5. Rule 49B amended (disqualification of Member from office)**

(1) In Rule 49B(1), in the Chinese text—

**Repeal**

“《基本法》第七十九(六)條”

**Substitute**

“《基本法》第七十九條第(六)項”。

(2) In Rule 49B(1), in the Chinese text—

**Repeal**

“鑑”

**Substitute**

“鑒”。

(3) In Rule 49B(1A), in the Chinese text—

**Repeal**

“《基本法》第七十九(七)條”

**Substitute**

“《基本法》第七十九條第(七)項”。

(4) In Rule 49B(1A), in the Chinese text—

**Repeal**

“鑑”

**Substitute**

“鑒”。

**6. Rule 89 amended (procedure for obtaining leave for Member to attend as witness in civil proceedings)**

In Rule 89(1), in the Chinese text—

**Repeal**

“《立法局(權力及特權)條例》”

**Substitute**

“《立法會(權力及特權)條例》”.

**7. Rule 90 amended (procedure for obtaining leave to give evidence of Council proceedings)**

In Rule 90(1), in the Chinese text—

**Repeal**

“《立法局(權力及特權)條例》”

**Substitute**

“《立法會(權力及特權)條例》”.

**8. Rule 93 amended (interpretation)**

In Rule 93(c), in the Chinese text—

**Repeal**

“《基本法》第六十二(六)條”

**Substitute**

“《基本法》第六十二條第(六)項”.