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**Paper for the House Committee meeting  
on 17 March 2000**

**Committee on Rules of Procedure**

**Further review of Rule 38 and related rules  
in the Rules of Procedure**

**Purpose**

This paper reports on the views of the Committee on Rules of Procedure after its further review of the current speaking arrangements in the Rules of Procedure, in particular Rule 38, in respect of motion debates.

**Background**

2. The House Committee noted the preliminary views of the Committee on Rules of Procedure (the Committee) on the further review of Rule 38 at its meeting 17 December 1999, as set out in LC Paper No. CB(1)610/99-00. In gist, the Committee appreciates that some Members may wish to provide a certain degree of flexibility for the President to allow Members who have not yet spoken in a motion debate to speak after the mover of the motion has made his reply so as to respond to the new points given in the reply. However, this process will pose practical difficulties to the President and may upset the smooth running of Council business especially when there is disagreement over the question of what these "new points" are. Besides, it would only be fair that the mover of the motion should be allowed to make a further reply after such Members have spoken. The Committee considers that this will lead to another round of debate and is therefore an undesirable arrangement.

3. The Committee finds that the fundamental issue to be addressed is how far the purposes or the scope of the two speeches made by the mover of a motion, namely the speeches he made when moving the motion and in his reply, can be specified in the Rules of Procedure. A further study has then been conducted to make reference to the procedures and practices in other jurisdictions and examine how far procedural rules can be laid down for the purpose.

## **Rules on content of speeches**

4. The Committee notes that there is common understanding among Members that in moving a motion, the mover should explain the reasons for moving the motion at his opening speech so as to enable other Members to debate the motion meaningfully and with focus. The reply given by the mover at the end of the debate should aim at responding to the points made by other Members and the designated public officer in the debate, following which the debate will close. There is, however, no provision in the Rules of Procedure to give effect to this common understanding which may be regarded as an established practice.

5. In the Rules of Procedure, there are provisions to regulate the scope or content of speeches, as follows:

- (a) The mover of a motion, in moving the motion, shall make such remarks as he may wish (Rule 33(1)); a similar provision is provided for the mover of an amendment to the motion (Rule 34(1));
- (b) A Member shall restrict his observations to the subject under discussion and shall not introduce matter irrelevant to that subject ( Rule 41(1)); and
- (c) The President, after having called the attention of the Council to the conduct of a Member who persists in irrelevance or tedious repetition of his own or other Members' arguments in the debate, may direct him to discontinue his speech (Rule 45(1)).

6. In the United Kingdom, Canada and Australia, there is the common requirement that the Speaker, after having called the attention of the House to the conduct of a Member who persists in irrelevance, or tedious repetition either of his own arguments or of the arguments used by other Members in debate, may direct him to discontinue his speech. As regards how the mover of a motion should conduct his speeches in moving a motion or when making a reply, the Committee only finds the following provisions:

- (a) Standing Order No. 67 of the House of Representatives in Australia provides that a reply shall be allowed to a Member who has moved a substantive motion, and the reply shall be confined to matters raised during the debate; and
- (b) In Australia and Canada, it is provided in their Standing Orders that in all cases the reply of the mover of the original motion closes the debate.

## **The Committee's views**

7. The Committee notes that it is not a common practice to lay down rules to restrict the "scope" of Members' speeches. The only reference which the Committee could make is in Erskine May (22<sup>nd</sup> Edition) which states that a Member called to move a motion "speaks to the motion". Under the present Rules of Procedure, although the President may direct a Member who persists in irrelevance to discontinue his speech, Members may make such remarks as they may wish in any debate so long as Rule 41 (Contents of Speeches) is complied with. The Committee has considered whether it is appropriate to require that the mover of a motion, in moving the motion, "shall" give reasons for moving the motion. After deliberation, it has come to the view that since a Member should not be compelled to speak in a debate, it would not be appropriate to put down any requirement governing the speech of the mover of the motion. It will also serve no purpose if the Rule is written in such a way that the mover of the motion "may" give reasons for moving the motion.

8. The Committee concludes that the only area which could be improved is the content of the reply. Members agree that it is appropriate to make express provisions in the Rules of Procedure that *the reply of the mover of a motion shall be confined to matters raised during the debate and that the reply closes the debate*. The procedural arrangements in this respect should also be refined to ensure that no other Member shall be allowed to speak after the mover of the motion has been called upon to make his reply at the end of the debate. In other words, even in the event that there is no reply, the debate shall be regarded to have come to a close.

### Proposed amendments to rules relating to speaking arrangements

#### *Rules 33 and 34*

9. The Committee proposes *to add the new Rule 33(3A) and amend Rule 33(4)* as follows:

(3A) When no more Member indicates his intention to speak in a debate in the Council, the President shall call upon the mover of the motion to speak in reply. The reply, if so made, shall be confined to matters raised during the debate.

(4) After the mover of a motion has made his reply, or in the event that there is no reply, the debate comes to a close. The President shall forthwith put the question on the motion, or on the motion as amended, to the Council for its decision.

10. The Committee also recommends that suitable remarks could be made in the script for the President to remind Members that after the mover has made his reply, or in the event that there is no reply, the debate comes to a close and no other Member may speak.

11. The Committee notes that the concept of the mover of a motion having the right of reply does not apply to a committee of the whole Council. It therefore considers that reference to reply should only be confined to proceedings of the Council. In the circumstances, the Committee proposes *to add the new Rule 33(5)* to provide for the proceedings of a committee of the whole Council, as follows:

(5) When no or no more Member indicates his intention to speak in a committee of the whole Council, the Chairman shall forthwith put the question on the motion, or on the motion as amended, to the committee of the whole Council for its decision.

12. The Committee also recommends that certain subrules currently placed under Rule 38 but are related to the manner of speaking at debates be moved to Rules 33 and 34, so that Rule 38 will be confined to procedural matters on "Occasions when a Member may Speak more than once".

13. All the proposed amendments to Rules 33 and 34 are provided in **Appendices 1 and 2** respectively.

### *Rule 38*

14. Apart from the recommendations set out in paragraph 12 above, the Committee also recommends to incorporate in Rule 38 the earlier view of the Committee that designated public officers should be encouraged to speak both at the start and at the end of a debate. *New subrules (1)(f) and (8)* are proposed to provide that a designated public officer may speak a second time upon a Member's motion. With the addition of these new subrules, the original subrules (1)(e) and (7) which provide that a designated public officer may speak a second time upon a motion "That this Council thanks the Chief Executive for his address" will be redundant. The Committee therefore proposes that the *original subrules (1)(e) and (7) be deleted from Rule 38*.

15. In considering the amendments to be made to Rule 38, the Committee takes the opportunity to improve the drafting of subrule (1) to make it clear that a Member may not speak more than once on a question, except on a number of specified occasions or with the leave of the President. It proposes that *the first part of subrule (1) be amended and that a new subrule (1)(g) be added to Rule 38*.

16. All the proposed amendments to Rule 38 are provided in **Appendix 3**.

Other proposed amendments to the Rules of Procedure

17. In the light of Members' views expressed at an earlier House Committee meeting that should changes be proposed to the speaking arrangements in motion debates, amendments should be made to the Rules of Procedure as soon as possible, the Committee recommends that a motion be moved at the Council meeting on 5 April 2000 to amend the Rules of Procedure as set out above. The Committee also takes the opportunity to put forward its proposed amendments to Rule 13 in respect of the decision of the House Committee on 9 July 1999 on the notice requirements for a motion for an address of thanks to the Chief Executive (CE) for his Policy Address:

- (a) the notice requirement for questions, i.e. 7 clear days, be adopted for the Motion of Thanks; and
- (b) the standard 5 clear days' notice requirement for an amendment to a motion, be adopted for an amendment to the Motion of Thanks.

18. All the proposed amendments to Rule 13 are provided in **Appendix 4**. The proposed amendments include providing the President with a discretionary power to dispense with the notice requirements in line with Rule 29(1) and (6) which govern notices for motions and amendments to motions generally.

19. The Committee also proposes to make a consequential amendment to Rule 37(1)(a) (Recommendations of House Committee as to Time of Speaking), as set out in **Appendix 5**.

**Advice sought**

20. Members are invited to note the proposed amendments to the Rules of Procedure set out in Appendices 1 to 5.

21. Subject to any views which Members may have, Hon Mrs Selina CHOW, Chairman of the Committee on Rules of Procedure, will move a motion at the Council meeting on 5 April 2000 for the Rules of Procedure to be amended as proposed.

**Proposed amendments to Rule 33 of the Rules of Procedure**

**33. Manner of Debating Motions**

(1) A Member called upon by the President or Chairman to move a motion shall rise in his place and in moving the motion shall make such remarks as he may wish.

(2) When a motion has been moved, the President or Chairman shall propose the question thereon to the Council or the committee of the whole Council; debate may then take place on that question.

(3) Amendments of which notice has been given or dispensed with in accordance with Rule 29(6)(a) or (b) (Notice of Motions and Amendments) may be moved to a motion at any time after the question has been proposed on the motion by the President or Chairman and after all the amendments have been disposed of the President or Chairman shall again propose the question on the motion, or shall propose the question on the motion as amended, as the case may require, and a further debate may take place.

(3A) When no more Member indicates his intention to speak in a debate in the Council, the President shall call upon the mover of the motion to speak in reply. The reply, if so made, shall be confined to matters raised during the debate.

(4) When no more Members wish to speak After the mover of a motion has made his reply, or in the event that there is no reply, the debate comes to a close. The President or Chairman shall forthwith put the question on the motion, or on the motion as amended, to the Council or to the committee of the whole Council for its decision.

(5) When no or no more Member indicates his intention to speak in a committee of the whole Council, the Chairman shall forthwith put the question on the motion, or on the motion as amended, to the committee of the whole Council for its decision.

(6) No Member may speak on the question after it has been put to the Council or a committee of the whole Council for decision by the President or Chairman.

**Proposed amendments to Rule 34 of the Rules of Procedure**

**34. Manner of Debating Amendments to Motions**

(1) A Member called upon by the President or Chairman to move an amendment to a motion shall rise in his place and after making such remarks as he may wish to make shall move the amendment.

(2) An amendment to a motion shall take one of the following forms –

(a) To leave out one or more words of the motion.

(b) To insert or add one or more words in the motion or at the end of the motion.

(c) To leave out one or more words of the motion and to insert or add one or more words instead.

(3) When an amendment has been moved the President or Chairman shall thereupon propose the question that the amendment be made; and a debate may then take place on that question.

(4) The President or Chairman may allow a joint debate on a motion and its amendments.

(5) When two or more amendments are proposed to be moved to the same motion the President or Chairman shall call on the movers in the order in which their amendments relate to the text of the motion, or in cases of doubt in the order decided by the President or Chairman.

(5A) In the Council the mover of an amendment shall not have the right of reply.

(6) When no or no more Members wish indicates his intention to speak the President or Chairman shall put the question that the amendment be made to the Council or the committee of the whole Council for its decision.

(7) No Member may speak on the question after it has been put to the Council or a committee of the whole Council for decision by the President or Chairman.

**Proposed amendments to Rule 38 of the Rules of Procedure**

**38. Occasions when a Member may Speak more than once**

(1) ~~Save with the leave of the President, a~~ A Member may not speak more than once on a question, except –

- (a) in committee of the whole Council; or
- (b) as provided in subrule (2); or
- (c) in explanation as provided in subrule (3); or
- (d) in the case of the mover of a motion, in reply ~~as provided in subrule (4) at the end of the debate on the motion;~~ or
- ~~(e) upon a motion “That this Council thanks the Chief Executive for his address” as provided in subrule (7).~~
- (f) upon a Member's motion as provided in subrule (8); or
- (g) with the leave of the President.

(2) A Member who has spoken under Rule 54(7) (Second Reading) may speak a second time during the same debate.

(3) A Member who has spoken on a question may again be heard to explain some part of his speech which has been misunderstood, but when speaking he shall not introduce new matter.

~~—(4)— In the Council the mover of a motion may reply after all other Members present have had an opportunity of speaking and before the question is put; but the mover of an amendment shall not have the right of reply.~~

(5) A Member who has spoken on a question may speak again on an amendment moved to that question, and on a motion that the debate now be adjourned moved during the debate on that question.

~~—(6)— No Member may speak on a question after it has been put to the Council or a committee of the whole Council for decision by the President or Chairman.~~

~~—(7)— A designated public officer who has spoken on a motion “That this Council thanks the Chief Executive for his address” may speak a second time upon that motion in reply to any matter raised during the debate on the motion.~~

(8) A designated public officer may speak a second time upon a Member's motion.

**Proposed amendments to Rule 13 of the Rules of Procedure**

**13. The Chief Executive's Policy Address**

(1A) The Chief Executive shall deliver a Policy Address to the Council, if he so wishes, at the first meeting of a session. *(L.N. 107 of 1999)*

(1) At a meeting not less than 14 days after the Chief Executive has presented a Policy Address to the Council, a motion may be moved ~~without notice~~ for an address of thanks to the Chief Executive for his address. The motion shall not be moved unless notice of it has been given not less than 7 clear days before the day on which the motion is to be considered by the Council:

Provided that the President may in his discretion dispense with such notice.

(2) A motion under subrule (1) shall be moved in the following form:

“That this Council thanks the Chief Executive for his address.”

(3) Amendments may be moved to the motion described in subrule (2) only by way of adding words at the end of the motion ~~and may be moved without notice.~~

(4) No amendment shall be moved to the motion described in subrule (2) unless –

(a) notice of the amendment has been given not later than 5 clear days before the day on which the motion is to be considered by the Council; or

(b) the President gives leave to dispense with notice of the amendment.

**Proposed amendments to Rule 37 of the Rules of Procedure**

**37. Recommendations of House Committee as to Time of Speaking**

(1) In relation to any motion or amendment to a motion (other than a motion intended to have legislative effect or to which Part JA (Procedures for Particular Motions) applies) to be moved at a meeting of the Council, whether or not the motion or amendment has at the time been placed on the Agenda of the Council, the House Committee may recommend – (*L.N. 311 of 1998*)

- (a) that the mover of the motion should not speak for more than a specified number of minutes (such period to be inclusive of any speech in reply under Rule ~~38(4) (Occasions when a Member may Speak more than once)~~33(3A) (Manner of Debating Motions));
- (b) that the mover of an amendment to the motion should not speak for more than a specified number of minutes; and
- (c) that other Members each should not speak for more than a specified number of minutes.

(2) Where the House Committee so recommends under subrule (1) the Chairman shall cause the President to be notified in writing of the Committee's recommendations.

(3) Any recommendations of the House Committee under subrule (1), if accepted by the President (in which event he shall so inform Members as soon as practicable prior to calling upon the Member to move the motion), shall be binding upon all Members, but not upon designated public officers, and the President shall direct any Member speaking in excess of the recommended specified time to discontinue his speech.