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**Paper for the House Committee meeting
on 19 March 1999**

Committee on Rules of Procedure

**Consultation paper on
Arrangements for implementing the provisions
under Article 79(7) of the Basic Law**

Purpose

This paper seeks members' views on proposals of the Committee on Rules of Procedure (the Committee) on the arrangements for implementing the provisions under Article 79(7) of the Basic Law.

Broad principles

2. Under Article 79(7) of the Basic Law, a Member may be censured and hence disqualified from office for misbehaviour or breach of oath by a vote of two-thirds of the Members of the Legislative Council present. In considering the arrangements for implementing this provision in the Basic Law, members of the Committee have agreed that the following principles should be adopted:

- (a) It will be for the Council of the day to make a decision on the kind of behaviour which would be regarded as a "misbehaviour" or "breach of oath" leading to the disqualification of a Member from office under the Article. It is, therefore, not necessary for the scope of behaviour to be pre-determined or for a Code of Conduct to be drawn up for the purpose of Article 79(7);
- (b) In view of the seriousness of the matter, any proceedings on Article 79(7) would only be triggered off upon the moving of a motion in the Council under the said Article, and this mechanism should be kept separate from that for handling a complaint against a Member which may lead to a lesser form

of punishment. Frivolous allegations should be discouraged;

- (c) A motion moved under Article 79(7) will not be debated or voted upon before the matter which is the subject of the motion has been investigated. If it is decided by the Council that no investigation is required, the motion will not be proceeded with; and
- (d) The investigation process should be fair to both the Member moving the motion and the Member under complaint; the committee given the responsibility to investigate the matter should only be required to establish the facts and give views on the behaviours under allegation. The decision on whether the Member should be disqualified under Article 79(7) should be made by Members of the Council in accordance with the requirement of the Basic Law.

Process in implementing Article 79(7)

Moving of a motion under Article 79(7)

3. For the moving of a motion under Article 79(7), the Committee considers it necessary for a more stringent requirement to be laid down so as to deter frivolous allegations against Members. The Committee has suggested that the motion should be sponsored by three other Members of the Council apart from the mover of the motion. This requirement is similar to the arrangement in the former Legislative Council before July 1995 when a motion moved by non-Government Members of the Council required the signature of no less than four Members. The Committee considers that the requirement for a total of four Members to initiate the motion is appropriate, as it would deter abuse of the mechanism, and at the same time would not bar minority Members of the Council from initiating action under Article 79(7).

4. As for other procedures, the Committee considers that the normal rules governing the giving of notice and the debate of a motion in Part G (Motions) and Part H (Rules of Speaking) of the Rules of Procedure should apply. However, to avoid ambiguity over the intention of the motion, the Committee proposes that the wording of the motion should be prescribed in the Rules of Procedure. Particulars of the reasons or circumstances to support the censure proposed in the motion should be given in a schedule attached to, and which forms part of, the motion. The motion is not subject to amendment.

5. The Committee is aware of the restrictions on the handling of the motion once it is moved, and has examined the possibility of referring the matter to a committee immediately upon the receipt of the notice of the motion. However, to avoid abuse of the mechanism, it is suggested that the motion should be moved before any formal proceedings are taken on the matter.

6. The debate on the motion, once moved, will stand adjourned in accordance with the proposed Rules of Procedure and be referred to an investigation committee to be appointed by the President. Any Member who disagrees with the referral may move without notice that no investigation is required. If this motion of not referring the matter to an investigation committee is agreed to by the Council, the original motion will not be proceeded with. The reason for not proceeding with the original motion is to ensure that no motion for the censure of a Member under Article 79(7) is debated without an investigation into the allegation being undertaken. The provision to dispense with the investigation is to allow the Council an opportunity to dispose of frivolous allegations.

Formation of investigation committee

7. The Committee is unanimous in the establishment of ad hoc investigation committees. An investigation committee will be formed on a case-by-case basis, and the scope of its investigation will be confined to the particulars set out in the schedule of the motion. Members are aware of the difficulty that may arise in reaching agreement on the membership if the identity of the Member being accused is known. However, unlike other jurisdictions in which major parties have controlling influence in the parliament and there are well established practices to deal with disciplinary matters, it would not be easy for Members in the Hong Kong Legislature in the present setting to agree on the membership of a standing committee responsible for investigating into the conduct of individual Members. The failure of the Committee on Members' Interests of the former Legislative Council in 1995 and 1996 to expand its terms of reference to carry out formal investigation relating to Members' misconduct was illustrative of Members' thinking in this respect.

8. Notwithstanding the ad hoc nature of the membership of the investigation committee, the Committee considers it necessary to stipulate the manner in which the committee is formed and the way it conducts its business. The Committee has recommended that the investigation committee should have seven members, including a chairman and a deputy chairman, after considering the size of other committees in the Council with an enquiry function and the need for achieving good attendance of members throughout the course of the investigation. The size of the investigation committee should, however, be subject to periodic review to allow for a fair representation of different political groups or interests in the Council.

9. To encourage maximum participation in meetings of the investigation committee, the quorum should be five members including the chairman or the member presiding at the meeting. Furthermore, as the task of an investigation committee is an extremely important one with serious implications, the Committee suggests that when an investigation committee draws up its practice and procedure, provision should be made for the chairman to adjourn a meeting whenever there is no quorum; it will not be necessary for the chairman to wait until his attention is drawn to the absence of a quorum, as is the case with meetings of the Council and other committees.

10. In line with the usual practice of the appointment of members of other standing or select committees, the chairman, deputy chairman and members of an investigation committee should be appointed by the President who will take into account the recommendations of the House Committee. To avoid conflict of interest, the Members moving and sponsoring the motion and the Member being accused of misbehaviour or breach of oath should not be appointed to the investigation committee. The investigation committee will be dissolved upon completion of its work, i.e. after the tabling of its report in the Council. However, if further matters arising from the motion have to be considered, the investigation committee could be revived. Such an arrangement accords with the practice for select committees in the United Kingdom.

Investigation process

11. The functions of an investigation committee are to establish the facts of the case and to give its views on whether the facts established constitute grounds for censure. The scope of investigation is confined to that given in the schedule of the motion. In the absence of definitions for “misbehaviour” and “breach of oath” within the context of Article 79(7), it may also be necessary for the investigation committee to give its view in this respect having regard to, among other things, the circumstances of individual cases and the standard of behaviour expected of a Member by the community. However, the decision on whether the Member should be censured, hence disqualified from office, should rest with the Council, by a two-third majority vote of the Members of the Council present.

12. The Committee is aware that in other jurisdictions as well as local professional bodies, preliminary investigation is usually conducted to establish whether there is a prima facie case before undertaking a full investigation. As the process of and the publicity attracted by preliminary investigations are no different from that of a full investigation, the Committee considers that once the motion is referred to an investigation committee, full investigation should be undertaken immediately.

13. As for the proceedings of the investigation, reference has been made to the procedural steps adopted by overseas legislatures, as shown in **Appendix I**. The following arrangements are highlighted for Members’ reference:

- (a) The committee responsible for carrying out the investigation calls for papers and records, and summons witnesses to testify. In most jurisdictions, the Member who is the subject of the complaint is informed of the allegation and may be invited to make submissions and appear before the committee;
- (b) With the exception of the United Kingdom, where the Member who is the subject of the complaint is normally not allowed to be represented by counsel, other legislatures allow witnesses to be accompanied by counsel or adviser. In the United States, witnesses may be accompanied by counsel;

in Australia, witnesses may be accompanied by counsel or adviser, and witnesses are permitted to consult freely with their advisers; and the Canadian Parliament allows the Member concerned the right to be heard through counsel, although this has rarely occurred; and

- (c) Deliberations on matters of privilege are usually conducted in private. In the United Kingdom, the taking of evidence is carried out in private unless the committee resolves to do so in public. In Australia, although it had been the norm for the committee to take evidence in camera, a decision was made in 1987 for evidence to be taken in public. In the United States, meetings of the Committee on Standards of Official Conduct and the subcommittees are held in camera, except for hearings of the Adjudicatory Subcommittee and sanction hearings which are open to the public unless determined otherwise. In Canada, hearings are conducted in public while internal deliberations are held in camera.

14. Having regard to the need to maintain fairness in the investigation process, the Committee considers it appropriate for hearings to be conducted in camera. Upon an election made by the Member being accused at the beginning of the investigation that hearings should be open to the public, the hearings shall be conducted in public throughout the entire investigation. However, the committee may decide on sufficient reason, upon application by a witness other than the Member who is the subject of the motion under Rule 49B(1A), to conduct any session(s) or any part thereof in camera. Internal deliberations shall always be held in camera. Irrespective of whether hearings are conducted in public or in camera, the transcript of evidence should as far as possible be published in full and form part of the report of the investigation committee.

15. The Committee considers that the investigation committee should, by resolution of the Council, have the power to summon persons to testify or give evidence and to call for papers and documents. To allow flexibility, the investigation committee may have the power to determine its own procedure, but any arrangements which do not usually apply to other committees should be provided in the Rules of Procedure. Other related procedures, for example, those provided in Rules 80 (Attendance of Witness) and 81 (Premature Publication of Evidence), should continue to apply. As for voting, the Committee considers that, with the exception of the motion moved under Article 79(7), all other motions moved in relation to the motion should be decided in accordance with the Rules in Part J (Voting) of the Rules of Procedure.

Proceedings following completion of investigation

16. Upon completion of the investigation process, the investigation committee should table its report in the Council. As the report contains the investigation committee's views on which of the facts in the motion are established and whether the facts established constitute grounds for the censure, there is no need for a separate

motion to endorse the report. The report only serves as a reference for Members to decide whether the Member concerned should be disqualified from office under Article 79(7).

17. To ensure that the debate on the motion will be resumed without delay, the Committee considers that it should be written into the Rules of Procedure that debate on the motion will be resumed automatically upon the tabling of the committee's report in the Council, irrespective of the findings of the Committee. The debate should take place at the earliest meeting of the Council at which normal business is transacted next following the tabling of the investigation committee's report.

18. During the resumed debate, all Members including the Member being accused may speak on the motion. The Member being accused should be allowed to speak more than once, if the Member so requests, as in the case of a motion moved under Article 79(6). As to whether the Member being accused has the right to vote, present rules already provide that any Member with a direct pecuniary interest should not vote; but if he does vote, there is a mechanism to disallow his vote. The Committee is of the view that the Member being accused has a direct pecuniary interest, but there is no need to make any special provision in this respect.

19. After Members have voted on the motion and if the motion is passed by two-thirds of the Members present, the President shall immediately declare the Member disqualified from office.

Procedural rules

20. Procedural rules for implementing the provisions in Article 79(7), as well as proposed amendments to current rules, have been prepared on the basis of the procedure proposed in the preceding paragraphs and they are attached in **Appendix II**.

21. Subject to any comments which Members may have, the Chairman of the Committee, Mrs Selina CHOW LIANG Shuk-ye, will move a motion at the Council meeting on 21 April 1999 for the Rules of Procedure to be amended as proposed. The motion will also cover proposed amendments relating to other issues considered by the Committee.

Advice sought

22. Members are invited to give views on the fore-going and the proposed amendments to the Rules of Procedure as contained in **Appendix II** to Ms Pauline NG, Assistant Secretary General 1, (at tel no. 2869 9220/fax no. 28696794) or Mrs Vivian KAM, Chief Assistant Secretary (1)5, (at tel no. 2869 9244/fax no. 2869 6794) on or

before **27 March 1999**.

Legislative Council Secretariat

12 March 1999

**Proceedings adopted by Overseas Legislatures
for dealing with Cases of Misconduct**

UK	Australia	Canada	USA
<p>(a) A Member raising a complaint gives written notice to the Speaker who decides whether the matter should be accorded precedence. If precedence is allowed, the Member is entitled to table a motion for the following day calling attention to the matter, and either proposing that it be referred to the Committee on Standards and Privileges or making some other appropriate proposition. The motion usually takes the form of “That the matter of the complaint be referred to the Committee on Standards and Privileges”. If it is negatived, it would be the end of the matter. Alternatively, a Member or member of the public can raise complaint to the Commissioner for Standards, who conducts investigation, reports the facts and conclusions on whether there is a prima facie case to the Committee.</p>	<p>(a) A Member may rise to speak upon a matter of privilege, and shall be prepared to move, without notice, a motion declaring that a contempt or breach of privilege has been committed, or referring the matter to the Committee of Privileges. Speaker decides whether prima facie case has been made out in order to justify precedence over other business.</p>	<p>(a) A Member raising a question of privilege must give notice to the Speaker at least one hour prior to raising the question, and the complaint must conclude with a motion providing the House with an opportunity to take some action. The Speaker decides if a prima facie case can be established to justify precedence to be accorded to the moving of the motion.</p>	<p>(a) House may, by resolution, refer a complaint case to Committee on Standards of Official Conduct for investigation. Alternatively, a Member (or an individual with a certification from a Member) may also lodge a complaint direct to the Committee. The Chairman of the Committee and Ranking Minority Member shall determine whether the information meets the requirements of the Committee’s rules for what constitutes a complaint. If so, the complaint will be placed on the Committee’s agenda.</p>

UK	Australia	Canada	USA
<p>(b) Committee on Standards and Privileges calls for explanation from the Member concerned, hears evidence from persons, and calls for papers and records. If the Member being accused is a member of the Committee, he is replaced by another Member from the same party through a motion moved in the House. The Member being accused is not allowed to be represented by counsel. Evidence is taken in private unless resolution is passed to admit strangers, and the Committee always deliberates in private. Committee may appoint sub-committees to assist its work.</p>	<p>(b) Committee invites written submissions from witnesses and may invite persons to appear before it. A witness can be accompanied by an adviser or lawyer when giving evidence. Witnesses are permitted to consult freely with their advisers when giving evidence, but advisers are not permitted to make submissions themselves or question other witnesses. Where relevant, written submissions from one party may be published to another. Evidence is taken in public unless witness requests otherwise.</p>	<p>(b) Matter is normally referred to the Standing Committee on Procedure and House Affairs which hears witnesses and calls for papers. Member being accused is allowed to make statement after he has heard the accusation; and he also has the right to be heard through counsel although this has rarely occurred. Hearings of the Committee are conducted in public, while deliberations are held in camera.</p>	<p>(b) Committee on Standards of Official Conduct meets in camera and considers complaint. It may form an Investigative Subcommittee, which takes testimony from respondent and witnesses who may be represented by counsel. All proceedings are conducted in camera unless decided otherwise by the Committee by an affirmative vote of the majority of its members. Subcommittee decides whether to adopt a Statement of Alleged Violation. If no Statement is adopted, Subcommittee reports findings and conclusions to Committee which in turn reports to the House. If a Statement is adopted, the Chairman shall designate Committee members who did not serve on the Investigative Subcommittee to serve on an Adjudicatory Subcommittee, which considers the Statement and holds open hearings unless determined otherwise. Respondent may be represented by counsel. Subcommittee reports findings to Committee.</p>

UK	Australia	Canada	USA
<p>(c) Committee reports to the House. It usually publishes the transcript of evidence in full. If it finds the allegations unfounded, no further action is taken. If serious breach is committed, it may recommend a penalty. Any Committee report which recommends a punishment for a Member or amendment to the rules would need to be approved by the House. The motion to approve the Committee's report is amendable. A Member who is criticized in a report would be given the opportunity to speak in his own defence at the start of the debate, but it is thought inappropriate for him to vote at the end of it. The Member being accused could ask another Member to speak for him.</p>	<p>(c) Committee reports to House with recommendation on action to be taken. The minutes of proceedings of the Committee are tabled with its report. Motion is moved on the Committee's report and action to be taken. Any motion proposed is subject to amendment.</p>	<p>(c) Committee reports findings together with recommendations to the House; the evidence is also published. A motion is moved to adopt the report if further action, such as punishment, is recommended.</p>	<p>(c) For counts in the Statement which have been proved, Committee holds hearing to receive oral/written submissions by counsel for the Committee and counsel for the respondent and determines sanctions to be recommended to the House. Committee reports findings with recommendations to House.</p>
<p>(d) House makes final decision.</p>	<p>(d) House makes final decision.</p>	<p>(d) House makes final decision.</p>	<p>(d) House makes final decision.</p>

**Procedural rules for implementing provisions under
Article 79(7) of the Basic Law**

30. Manner of Giving Notice of Motions and Amendments

(1) Notice of a motion or an amendment shall be given by delivering a copy of the motion or amendment in writing to the office of the Clerk. Subject to Article 73(9) of the Basic Law, the notice shall be signed by the Member wishing to move the motion or amendment, and such other Members who introduce the motion or amendment jointly with the mover of the motion or amendment.

(1A) Notice of a motion moved under Rule 49B(1A) shall be signed by the Member wishing to move the motion and 3 other Members.

(2) A notice of an amendment to a motion shall be in Chinese if the motion is in Chinese and in English if the motion is in English.

(3) A notice of a motion or an amendment shall be submitted to the President, who shall direct –

- (a) that it be printed in the terms in which it was handed in; or
- (b) that it be printed with such alterations as he may direct; or
- (c) that it be returned to the Member who signed it, as being in his opinion out of order.

40. Adjournment of Debate or of Proceedings of a Committee of the Whole Council

(1) A Member who has risen to speak on a question in the Council may move without notice that the debate be now adjourned. Thereupon the President shall propose the question on that motion.

(2) When a motion that the debate be now adjourned has been agreed to, the debate on the question then before the Council shall stand adjourned and the Council shall proceed to the next item of business.

(3) When a motion that the debate be now adjourned has been negatived, the debate on the question then before the Council shall be continued and no further motion that the debate be now adjourned shall be moved during

that debate except by a designated public officer.

(4) When the Council is in committee a Member may move without notice that further proceedings of the committee be now adjourned. Thereupon the Chairman shall propose the question on that motion. If the motion is agreed to, the Council shall resume; but if the motion is negatived, the committee shall continue its proceedings.

(5) It shall not be in order to move an amendment to a motion under the provisions of this Rule.

(6) Except as otherwise provided in subrule (6A), a debate adjourned under the provisions of subrule (2) may be resumed at a subsequent meeting of the Council provided that the Member or public officer who moved the motion for that debate, or in the case of a debate on a bill, the Member or public officer in charge of the bill, shall give notice in writing to the Clerk of his intention to resume the debate not less than 5 clear days before the day on which the debate is to be resumed:

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

(6A) A debate adjourned under the provisions of Rule 49B(2A) (Disqualification of Member from Office) shall be resumed at the earliest meeting of the Council at which normal business is transacted following the tabling of the report of the investigation committee.

(7) Proceedings of a committee of the whole Council adjourned under the provisions of subrule (4) may be resumed at a subsequent meeting of the committee provided that the Member or public officer in charge of the bill to which the adjourned proceedings relate shall give notice in writing to the Clerk of his intention to resume the proceedings not less than 5 clear days before the day on which the proceedings are to be resumed:

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

(8) The provisions of subrules (1), (2), (3), (4) and (5) shall apply to any debate or proceedings resumed under the provisions of subrules (6) and (7).

46. Decision on Motions

(1) Except as otherwise provided in Rules 49B (Disqualification of Member from Office) and 66 (Bills Returned for Reconsideration) and Articles 52(2), 73(9) (in respect of a motion of impeachment) and 159 of the Basic Law, the passage of all motions before the Council or a committee of the whole Council shall, subject to subrule (2), require a majority vote of the Members

present. (*L.N. 311 of 1998*)

(2) The passage of a motion (other than a motion moved under any of the excepted Rules or Articles of the Basic Law referred to in subrule (1)) or bill introduced by a Member, or an amendment introduced by a Member to any motion or bill, shall require a majority vote of each of the following two groups of Members present - (*L.N. 311 of 1998*)

- (a) Members returned by functional constituencies (Group I); and
- (b) Members returned by geographical constituencies through direct elections and by the Election Committee (Group II).

(3) Any motion not passed shall be deemed to be decided in the negative. (*L.N. 311 of 1998*)

47. Decision of Council and Committee of the Whole Council

(1) Except where subrule (2) applies, when the President or Chairman puts a question to the Council or to the committee of the whole Council for its decision -

- (a) the President or Chairman shall first call upon those Members who are in favour of the question to raise their hands, and shall then call upon those who are against the question to raise their hands;
- (b) the President or Chairman shall then, according to his judgment, state whether or not he thinks the required majority of the Members present are in favour of the question and, subject to any challenges to his statement being dealt with under paragraph (c) below, he shall declare the question to have been so decided; (*L.N. 311 of 1998*)
- (c) if a Member challenges the statement of the President or Chairman by claiming a division, then the President or Chairman shall order the Council or the committee, as the case may be, to proceed to a division; and, subject to Rule 49 (4) to (7) (Divisions), the division shall be held forthwith immediately after a division bell has been rung for three minutes.

(2) Other than in relation to a motion moved under Rule 49B (Disqualification of Member from Office) or 66 (Bills Returned for |

Reconsideration) or Article 52(2), 73(9) (in respect of a motion of impeachment) or 159 of the Basic Law, when the President or Chairman puts a question to the Council or to a committee of the whole Council for its decision in relation to a motion or bill introduced by a Member, or an amendment introduced by a Member to any motion or bill - (*L.N. 311 of 1998*)

- (a) the President or Chairman shall first call upon Members who are in favour of the question to raise their hands, and shall then call upon those who are against the question to raise their hands;
- (b) the President or Chairman shall then, according to his judgment, state whether or not he thinks that a majority of each of the two groups of Members present, referred to in Rule 46(2) (Decision on Motions), are in favour of the question; subject to any challenge to his statement being dealt with under paragraph (c), he shall declare the question to have been so decided; (*L.N. 311 of 1998*)
- (c) if a Member challenges the statement of the President or Chairman by claiming a division, then the President or Chairman shall order Members to proceed to a division; and, subject to Rule 49(4) to (7) (Divisions), the division shall be held forthwith immediately after a division bell has been rung for three minutes.

PART JA

PROCEDURES FOR PARTICULAR MOTIONS

49A. Application of this Part

In any matter not provided for in this Part, the Rules in other Parts shall apply as appropriate.

(L.N. 311 of 1998)

49B. Disqualification of Member from Office

(1) A motion to relieve a Member of his duties as a Member under Article 79(6) of the Basic Law shall be moved in the following form:

“That whereas (name of Member) was convicted on (date) in (court) in

(place) of a criminal offence(s) and was sentenced on (date) by (court) to imprisonment for one month or more (as particularized in the Schedule to this motion), this Council relieves (name of Member) of his/her duties as a Member of the Legislative Council.”.

(1A) A motion to censure a Member under Article 79(7) of the Basic Law shall be moved in the following form:

“That this Council, in accordance with Article 79(7) of the Basic Law, censures (name of Member) for misbehaviour/breach of oath under Article 104 of the Basic Law/misbehaviour and breach of oath under Article 104 of the Basic Law (details as particularized in the Schedule to this motion).

(2) No amendment may be moved to a motion moved under subrule (1) or (1A).

(2A) Upon the moving of a motion under subrule (1A), debate shall be adjourned and the matter stated in the motion shall be referred to an investigation committee unless the Council, on a motion which may be moved without notice by any Member, otherwise orders. If the latter motion is agreed to by the Council, no further action shall be taken on the motion moved under subrule (1A).

(3) The passage of a motion moved under subrule (1) or (1A) shall require a two-thirds majority vote of the Members present.

(4) Where the Council has decided to relieve a Member of his duties or to censure a Member, the President shall declare forthwith that the Member is no longer qualified for his office.

(L.N. 311 of 1998)

73A. Investigation Committee

(1) An investigation committee required to be established under Rule 49B(2A) (Disqualification of Member from Office) shall consist of a chairman, a deputy chairman and 5 members who shall be Members appointed by the President in accordance with an election procedure determined by the House Committee. The mover of the motion under Rule 49B(1A), the Members jointly signing the motion, and the Member who is the subject of the motion shall not be appointed to the committee.

(2) The committee shall be responsible for establishing the facts stated in the motion moved under Rule 49B(1A) (Disqualification of Member from Office), and giving its views on whether the facts as established constitute grounds for the censure.

(3) The quorum for the committee shall be 5 members including the chairman. |

(4) Subject to subrule(5), all meetings of an investigation committee shall be held in camera.

(5) (a) Upon an election made by the Member who is the subject of the motion under Rule 49B(1A) (Disqualification of Member from Office), meetings at which a witness or witnesses appear shall be held in public, provided that such election is made before the first of such meetings.

(b) Notwithstanding an election made under paragraph (a), the committee may decide on sufficient reason, upon application made by a witness other than the Member who is the subject of the motion under Rule 49B(1A), to hold any meeting or any part thereof in camera.

(6) In the event of the temporary absence of the chairman and deputy chairman the committee may elect a chairman to act during such absence.

(7) The clerk to the committee appointed under Rule 6(7) (Duties of the Clerk) shall attend meetings of the committee and shall keep the minutes of proceedings of the committee.

(8) Divisions in an investigation committee shall be taken by the clerk to the committee who shall ask each member of the committee separately how he wishes to vote and record the votes accordingly.

(9) Neither the chairman nor any other member presiding shall vote, unless the votes of the other members are equally divided in which case he shall have a casting vote.

(10) (a) A member of an investigation committee may bring a report for the committee's consideration. When all the reports have been brought up the chairman shall propose the reports in order until one is accepted as a basis for discussion, beginning with his own report and proceeding with the remainder in the order in which they were brought up. The question to be proposed by the chairman on a report shall be that the chairman's (or Mr.'s) report be read a second time paragraph by paragraph. When this question has been agreed to, it shall not be proposed on further reports but portions thereof may be offered as amendments to the report under consideration if they are relevant to it.

(b) The committee shall then go through the report paragraph by paragraph and when concluded, the chairman shall put the

question that this report be the report of the committee to the Council.

(11) The minutes of proceedings of the committee shall record all proceedings on consideration of a report with a note of divisions, if divisions were taken in the committee, showing the names of members voting in the division or declining to vote.

(12) An investigation committee shall, as soon as it has completed investigation of the matter referred to it, report to the Council thereon and the committee shall be dissolved accordingly. The investigation committee may be revived to deal with any further matters arising therefrom by resolution of the Council.

(13) Subject to these Rules of Procedure, the practice and procedure of the investigation committee shall be determined by the committee.

80. Attendance of Witness

- (a) Any standing committee may summon, as required when exercising its powers and functions, persons concerned to testify or give evidence;
- (b) the House Committee or a Bills Committee, Panel, select committee(s) or investigation committee(s), where so authorised by the Legislative Council, may summon, as required when exercising the committee's powers and functions, persons concerned to testify or give evidence,

but the Chief Executive may decide, in the light of security and vital public interests, whether Government officials or other personnel in charge of Government affairs should testify or give evidence before the Legislative Council or its committees.

81. Premature Publication of Evidence

(1) The evidence taken before a committee under Rule 80 (Attendance of Witness) and documents presented to the committee shall not, except in the case of meetings of the committee held in public, be published by a member of the committee or by any other person before the committee has presented its report to the Council.

(2) Any member of the committee who fails to comply with subrule (1) may be admonished or reprimanded by the Council on a motion to that effect.

