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

Committee on Rules of Procedure

**Report on Acceptance of late membership
for Bills Committees and Panels**

Purpose

This paper reports on the deliberations of the Committee on Rules of Procedure on the procedural arrangements for the acceptance of late membership for Bills Committees and Panels.

Background

2. At the House Committee meeting on 26 February 1999, members approved the request of two members to join a bills committee after expiry of the deadline. Some members were, however, of the view that rules on late membership of committees were over-restrictive and the House Committee decided to refer the matter to the Committee on Rules of Procedure for further study.

3. At the House Committee meeting on 12 March 1999 when members considered the subject of late membership for the Panel on Financial Affairs, members noted that the Committee on Rules of Procedure had already deliberated on the matter. In response to the request of the House Committee, a report is prepared to summarize the deliberations and views of the Committee on Rules of Procedure in this respect.

Relevant Provisions

4. Provisions regarding membership of Bills Committees and Panels are contained in the Rules of Procedure and in the House Rules. According to Rule 77(4) (Panels) of the Rules of Procedure, the members of a Panel shall be those Members who signify membership in accordance with procedural rules decided by the House

Committee. No provision for the signification of membership for Bills Committees is given in the Rules of Procedure.

5. Detailed arrangements for joining Bills Committees and Panels are given in the House Rules, which are determined by the House Committee:

- (a) Rule 21 (Bills Committees) of the House Rules provides that Members who wish to join a Bills Committee shall either raise their hands at the House Committee meeting at which the bill is allocated, or submit a return to the Secretariat by the deadline;
- (b) Rule 22 (Panels) specifies that Members wishing to join a Panel should submit a return to the Secretariat before the deadline set before the first meeting of the Panel in the session, and those who join the Council after the start of a legislative session should signify membership within one month of his becoming a Member of the Council; and
- (c) Rule 23 (Late Membership of Committees) provides that it is for the chairman of a committee to decide whether to accept late membership on grounds of indisposition or absence from Hong Kong.

Relevant extracts of these rules are in **Appendix I**.

Deliberations of the Committee on Rules of Procedure

6. The Committee on Rules of Procedure has noted that current rules only allow the chairman of a committee to decide whether to accept late membership on grounds of indisposition or absence from Hong Kong, and no other guidelines have been provided to enable acceptance of late membership on grounds other than indisposition or absence from Hong Kong or by a body other than the chairman of a committee. The restriction over the acceptance of late membership appears to aim at preventing manipulation of the election of the chairmen and deputy chairmen of committees. As there is no intention to bar any Member who genuinely wishes to join a committee but was not able to do so for reasons beyond his control, hence depriving him of the opportunity to discharge his duties in scrutinizing legislative proposals or monitoring Government policies and issues of major concern, the Committee on Rules of Procedure considers a need for providing flexibility in the mechanism for consideration of late membership.

7. As far as the Rules of Procedure is concerned, the Committee on Rules of Procedure considers that provisions regarding the authority to determine the manner and timing of the signification of membership for Bills Committees should be spelt out in the Rules of Procedure, as has already been provided in Rule 77(4) (Panels) in respect of membership for Panels. In this connection, a motion to amend the Rules of

Procedure to this effect will be required, as marked-up in **Appendix II**.

8. The Committee on Rules of Procedure also suggests that while the chairman of a committee should continue to decide on the acceptance of late membership on grounds of indisposition or absence from Hong Kong, the committee concerned may decide whether late membership should be accepted on other grounds. In order to uphold the continuity of the relevant committee and avoid frequent changes in membership, the committee should only accept applications for late membership upon sufficient reasons being provided. If a committee decides to accept an application for late membership, no re-election of the chairman or deputy chairman should be allowed on the ground the Member who joins the committee after the membership deadline was not on the committee at the time when the election took place. The Committee on Rules of Procedure further suggests that opportunity be taken to amend House Rule 23 to set out clearly that the rule applies to a Bills Committee, Panel, subcommittee under a Bills Committee or Panel, or subcommittee on subsidiary legislation. The same arrangements should also apply to subcommittees of the Finance Committee.

9. As the House Rules and the procedures of the Finance Committee and its subcommittees are determined by the House Committee and the Finance Committee respectively, the Committee on Rules of Procedure invites these committees to take note of the suggestions as outlined in paragraph 8 above. To facilitate consideration, a marked-up copy of House Rule 23 is at **Appendix III**.

Advice sought

10. Members are invited to take note of the deliberations of the Committee on Rules of Procedure as set out above.

Legislative Council Secretariat

17 March 1999

Extract from the Rules of Procedure and the House Rules

Rules of Procedure

77. Panels

(1) There shall be such number of committees, to be called Panels, as the House Committee considers appropriate and as the Council may approve.

(2) The terms of reference of a Panel shall be recommended by the House Committee and approved by the Council.

(3) A Panel shall monitor and examine, to the extent it considers necessary, policy matters referred to it by a member of the Panel or by the House Committee.

(4) **The members of a Panel shall be those Members (other than the President) who signify membership in accordance with procedural rules (which shall provide only for the manner and timing of such signification) decided by the House Committee.**

(5) The chairman of a Panel shall be elected by the Panel from among its members. The Panel may also elect a deputy chairman. In the event of the temporary absence of the chairman or any deputy chairman the Panel may elect a chairman to act during such absence. The chairman and deputy chairman of a Panel shall hold office until the election of the chairman and deputy chairman of the Panel in the session next following that for which they were elected.

(6) A Member who is the chairman or deputy chairman of a Government advisory body in respect of matters which a Panel considers to be directly related to the terms of reference of the Panel shall not be the chairman or deputy chairman of the Panel.

(7) A Member shall not be chairman or deputy chairman of more than one Panel at the same time.

(8) A Panel shall consist of not less than 6 members including the chairman. The quorum of a Panel shall be 3 members including the chairman, or one third of the members including the chairman (a fraction of the whole number being disregarded), whichever is the greater.

(9) A Panel may, if it considers appropriate, appoint subcommittees to study

specific issues and to report to the Panel.

(10) A Panel or its subcommittee may, if it considers appropriate, meet jointly with any other Panel or its subcommittee for the purpose of considering any matter of common interest to the Panels. The quorum of a joint meeting shall be one third of the members of all the relevant panels or subcommittees including the chairman (a fraction of the whole number being disregarded). All matters for decision at a joint meeting shall be decided by a majority of the members voting. The chairman shall, if the votes be equally divided, have a casting vote in addition to his original vote.

(11) A Panel shall meet at the time and the place determined by the chairman of the Panel. Written notice of the place, day and time of every meeting shall be given to the members at least 3 days before the day of the meeting but shorter notice may be given in any case where the chairman so directs.

(12) Meetings shall be held in public unless the chairman otherwise orders in accordance with any decision of the Panel.

(13) All matters for the decision of a Panel shall be decided by a majority of the members voting. The chairman or any other member presiding shall, if the votes be equally divided, have a casting vote in addition to his original vote. Such voting shall not be binding on any Member, whether in Council, in a committee of the whole Council or in the House Committee.

(14) A Panel may make such reports as it considers appropriate to the Council provided that there shall be at least one report during a session and where requested by the House Committee or on its own motion, make a report in writing to the House Committee on a particular matter.

(15) Subject to these Rules of Procedure, the practice and procedure of a Panel or its subcommittee shall be determined by that Panel. In any such determination, a Panel shall take into account any guidelines provided under Rule 75(8) (House Committee).

House Rule

21. Bills Committees

- (a) The maximum number of Bills Committees and subcommittees on subsidiary legislation should be limited to 16 at any one time. A slot under the quota is specifically designated for a subcommittee studying subsidiary legislation. While the maximum number of active Bills Committees is 15, there may be more than one subcommittee in action, if warranted. When more than 15 Bills Committees are formed, a queuing system will automatically be activated.

- (b) A Bills Committee shall consist of not less than three members including the chairman. **Members may join a Bills Committee by a show of hands at the House Committee meeting at which a bill is allocated to that Bills Committee, or by submission of returns to the Secretariat by the deadline set by the clerk to the Bills Committee. Except in special circumstances, such a deadline shall normally be one clear day before the day of the first meeting of the Bills Committee.**
- (c) The clerk to the Bills Committee shall be responsible for calling the first meeting of the Bills Committee, and shall preside at the beginning of that meeting for the purpose of electing the presiding Member for the election of the chairman of the Bills Committee.
- (d) The chairman of a Bills Committee shall be elected by the committee from among its members. The committee may also elect a deputy chairman. Tenure of chairmanship and deputy chairmanship should be for the life of the Bills Committee. The procedure for election of presiding Member, chairman and deputy chairman as provided in rule 20(d) above shall also apply to Bills Committees. A member who nominates an absent member for an office shall state that the absent member's acceptance of the nomination has been secured.
- (e) The order of Bills Committees on the waiting list is in the order of the introduction of the relevant bills into the Council. In acceding to a request of the Administration for priority activation of a Bills Committee on a Government bill, the order of the Bills Committees on Member's bills should not be affected as a result. Similarly, should a Member's bill be dealt with ahead of other bills, the order of Government bills should not be altered. The decision on whether a bill is urgent rests with the House Committee.
- (f) Where a Bills Committee decides to hold in abeyance the consideration of a bill (such decision may be invited by circulation and signified in writing), it should notify the House Committee which will decide whether the next Bills Committee in the queue should be activated. A Bills Committee held in abeyance will not normally be reactivated until a vacant slot arises to accommodate its reactivation.
- (g) The scrutiny of a bill should be conducted quickly and, whenever possible, be completed within three months of its commencement. Should there be the need for a Bills Committee to work beyond this period, the chairman should report to the House Committee for an extension of the period.
- (h) The following guidelines in the processing of bills should be followed -

- (i) whenever feasible, committees should meet frequently;
 - (ii) members of a committee should try to attend all meetings and stay through each meeting;
 - (iii) reopening of discussion on issues on which there has been full deliberation should not be allowed;
 - (iv) chairmen should monitor closely the progress of bills under their consideration. Should there be the need to hold a bill in abeyance, a report should be made to the House Committee;
 - (v) when the scrutiny of a bill has reached the report stage, and upon the recommendation of the Legal Adviser and the committee concerned, the House Committee may decide to vacate the slot for examination of the next bill in the queue.
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- (i) A Bills Committee shall, as soon as it has completed consideration of the bill allocated to it, notify the House Committee and shall advise the committee in writing of the Bills Committee's deliberations and where appropriate, the majority and minority views, and whether or not the Bills Committee supports the bill. The Bills Committee shall then further report to the Council.
 - (j) The chairman or any member of a Bills Committee, when reporting to the Council on the work of the Bills Committee, shall address the Council at the resumption of the second reading debate on the bill. With the permission of the President, the chairman or the member reporting may be the first Member to speak at the debate, and his speech will not be subject to the 15-minute time restriction.
 - (k) Where a Bills Committee determines that a written report shall be laid on the table of the Council, the report shall be presented at the same meeting at which the resumption of the second reading debate on the bill takes place. The chairman or any member of the Bills Committee presenting the report shall address the Council thereon at the commencement of the debate.
 - (l) In the situation where there is no indication that the second reading debate on a bill will resume within a reasonable time after completion of the Bills Committee's work, the chairman or any member representing the Bills Committee shall, if the Bills Committee so determines, table a written report in the Council and seek the President's permission to address the Council thereon under Rule 21(3) of the Rules of Procedure.

- (m) A Bills Committee will be dissolved as soon as the bill it has considered passes through the Council, or when the House Committee so decides.

22. Panels

- (a) The number, names and terms of reference of Panels shall be recommended by the House Committee for the approval of the Council.
- (b) A Panel shall consist of not less than six members including the chairman. **Members may join a Panel by submission of returns to the Secretariat before the deadline set before the first meeting of the Panel in the session of the Council. Panel membership lasts until the Panels are dissolved upon the dissolution of the Council.**
- (c) **A Member who does not wish to remain as member of the Panel may resign from the Panel.**
- (d) **A Member who joins the Council after the start of the legislative session should signify membership for the Panels of his choice within one month of the date at which he is declared elected as Member of the Council.**
- (e) The Secretariat is responsible for calling the first meeting of the Panel during the session of the Council, for the purpose of electing the chairman of the Panel. All other subsequent meetings will be called by the chairman in office.
- (f) The chairman and the deputy chairman of a Panel shall be elected from among its members and shall hold office until the election of the chairman and deputy chairman of the Panel in the session next following that for which they were elected. The procedure for election of presiding Member, chairman and deputy chairman as provided in rule 20(d) above shall also apply to Panels. A member who nominates an absent member for an office shall state that the absent member's acceptance of the nomination has been secured.
- (g) Election of chairman and deputy chairman of a Panel should normally take place at the first meeting of the Panel in the session.
- (h) A Member who is the chairman or deputy chairman of a Government advisory body in respect of matters which a Panel considers to be directly related to the terms of reference of the Panel shall not be the chairman or deputy chairman of the Panel.

- (i) A Member shall not be chairman or deputy chairman of more than one Panel at the same time.
- (j) In the event of the temporary absence of the chairman and deputy chairman, the Panel may elect a chairman to act during such absence.
- (k) When a Panel sits jointly with any other Panel for the purpose of considering any matter of common interest, the Panels shall decide which chairman should chair that meeting.
- (l) If the chairmen of two Panels cannot agree on how an issue straddling the work of the Panels should be handled, the chairman or, in his absence, the deputy chairman of the House Committee should be consulted on whether one of the Panels should take up the issue, or whether the Panels should hold a joint meeting.
- (m) If more than two Panels meet jointly on a subject of common interest, and if it is necessary, the chairman or, in his absence, the deputy chairman of the House Committee may be consulted as to whether the Panel having a prominent interest in the subject matter should convene a meeting with members of other interested Panels invited to attend, or whether informal briefings for all interested Members should be held. If the latter option is adopted, a convenor should be elected by and from among those Members present, and Members should be reminded at the beginning of the briefings that they are not covered by the Legislative Council (Powers and Privileges) Ordinance at such briefings as if they are covered at meetings of the Panels.
- (n) For the calculation of quorum, a Member who is member of both Panels at a joint meeting should be counted as one member of the joint meeting. The quorum will be one-third of the membership of the joint meeting including the chairman (a fraction of the whole number being disregarded) i.e. each Member will be counted only once in terms of membership and quorum.
- (o) For joint Panel meetings, voting should be done by simple majority of the members present at the joint meeting. Dissenting views expressed by members of different Panels should be recorded.
- (p) All Panels will be dissolved upon dissolution of the Council.

- (q) The relevant Panel should be consulted first before a major and/or potentially controversial legislative or financial proposal is introduced into the Council or the Finance Committee. In the event that the relevant Panel has not been consulted, the House Committee or Finance Committee shall decide whether to refer the proposal to the relevant Panel for consideration.
- (r) Panels should not normally deal with individual cases handled under the Redress System of the Council except in respect of the policy issues arising therefrom.
- (s) A Panel may form subcommittees to study specific issues and report to the Panel. Members of the subcommittees shall consist of members of that Panel.
- (t) Should any Panel consider it necessary to undertake any activities outside Hong Kong under the name of the Panel of the Council, the prior permission of the House Committee shall be sought. The decision of the House Committee shall be referred to The Legislative Council Commission for reference.
- (u) A Panel shall make at least one report on its work to the Council in the session. If a particular matter is referred to a Panel for study, or a Panel is authorized to summon persons concerned to testify or give evidence, the Panel shall make a report to the Council after it has completed its consideration. The method of tabling a report in the Council is provided in rule 2. A Panel may as required seek the views of the House Committee on a particular matter, or inform the House Committee of the contents of its study report.

23. Late Membership of Committees

It is for the chairman of a committee to decide whether to accept late membership on grounds of indisposition or absence from Hong Kong.

Proposed amendment to Rule 76 of the Rules of Procedure

76. Bills Committees

(1) There shall be such number of committees, to be called Bills Committees, as the House Committee considers appropriate.

(1A) The members of a Bills Committee shall be those Members (other than the President) who signify membership in accordance with procedural rules (which shall provide only for the manner and timing of such signification) decided by the House Committee.

(2) The chairman of a Bills Committee shall be elected by the committee from among its members. The committee may also elect a deputy chairman. In the event of the temporary absence of the chairman or any deputy chairman, the committee may elect a chairman to act during such absence.

(3) A Bills Committee shall consist of not less than 3 members including the chairman. The quorum of a Bills Committee shall be 3 members including the chairman, or one third of the members including the chairman (a fraction of the whole number being disregarded), whichever is the greater.

(4) A Bills Committee may appoint subcommittees for the purpose of assisting the committee in the performance of its functions.

(5) A Bills Committee shall meet at the time and the place determined by the chairman. Written notice of the place, day and time of every meeting shall be given to the members at least 3 days before the day of the meeting but shorter notice may be given in any case where the chairman so directs.

(6) Meetings shall be held in public unless the chairman otherwise orders in accordance with any decision of the committee.

(7) A Bills Committee shall consider the general merits and principles, and the detailed provisions, of the bill allocated to it; and may also consider any amendments relevant to the bill.

(8) All matters for the decision of a Bills Committee shall be decided by a majority of the members voting. The chairman or any other member presiding shall, if the votes be equally divided, have a casting vote in addition to his original vote.

(9) A Bills Committee shall, as soon as it has completed consideration of the bill allocated to it, notify the House Committee and shall advise the committee in writing of its deliberations and then report further to the Council.

(10) The deliberations of a Bills Committee on a bill may be discussed by the House Committee for the purposes of informing Members in preparation for resumption of the second reading debate on the bill in Council. Such deliberations shall not be binding on any Member, whether in Council, in a committee of the whole Council or in the House Committee.

(11) Subject to these Rules of Procedure, the practice and procedure of a Bills Committee and its subcommittees shall be determined by that Bills Committee. In any such determination, a Bills Committee shall take into account any guidelines provided under Rule 75(8) (House Committee).

Proposed amendment to House Rule 23

23. Late Membership of Committees

- (a) It is for the chairman of a Bills eCommittee, Panel, subcommittee under a Bills Committee or Panel, or subcommittee on subsidiary legislation to decide whether to accept late membership on grounds of indisposition or absence from Hong Kong.
- (b) A request for late membership on grounds other than those specified in (a) shall be put to the relevant committee. The committee shall accept such applications only when sufficient grounds have been provided. Any Member joining the committee after the election of the chairman and deputy chairman has taken place cannot seek a re-election on the ground that he was not on the committee at the time of the election.
- (c) Any Member whose application is turned down under (a) or (b) may put the case to the House Committee for a decision.