

香港特別行政區立法會議事規則委員會
2010年11月至2011年6月的工作進度報告的節錄

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2. 檢討與立法會會議有關的程序安排

對議員在立法會會議上屢次或不斷作出不檢點行為作出處分

2.17 根據《議事規則》，議員：

- (a) 應就討論中的題目發言，而不應提出與該題目無關的事宜（《議事規則》第 41(1)條）；
- (b) 不應對其他議員使用冒犯性及侮辱性言詞（《議事規則》第 41(4)條）；
- (c) 不應意指另一議員有不正當動機（《議事規則》第 41(5)條）；
- (d) 出席立法會會議時，應在衣飾及舉止上保持莊重（《議事規則》第 42(a)條）；
- (e) 在立法會會議進行中，如無必要，不應橫越立法會會場（《議事規則》第 42(b)條）；
- (f) 在立法會會議進行中，不應閱讀與立法會事務無關的報章及其他文件（《議事規則》第 42(c)條）；
- (g) 在另一名議員發言時，應保持肅靜，且不應作不適當的插言（《議事規則》第 42(d)條）；及
- (h) 不應在辯論中不斷提出無關的事宜，或冗贅煩厭地重提本身或其他議員的論點（《議事規則》第 45(1)條）。

2.18 《議事規則》並無就議員違反上文第 2.17 段所述規則訂明任何特定處分。《議事規則》第 85 條¹所訂的暫停職務，是與個人利益、工作開支或營運資金有關的處分，並非對行為不檢的處分。儘管如此，《議事規則》第 45(2)條賦權立法會主席命令行為極不檢點的議員立即退席，不得繼續參與立法會或委員會的該次會議。

2.19 在以往的事例中，對於違反上述規則的行為(或議員的任何其他行為)是否構成行為極不檢點，是由立法會主席決定，並在其認為適當的情況下，命令有關議員退席。在以往的事例中所涉及各類不檢點行為載述於下：

- (a) 拒絕停止展示標誌及標語；
- (b) 在會議上投擲物件；
- (c) 橫越立法會會場，並試圖抓取一名官員的演詞；
- (d) 在無必要的情況下橫越立法會會場，並拒絕返回座位；
- (e) 在並非其發言的時間內高聲說話，並拒絕坐下及停止說話；
- (f) 拒絕撤回冒犯性及侮辱性言詞；
- (g) 拒絕撤回對立法會主席的指控；
- (h) 拒絕停止就不相關的事宜發言；
- (i) 不遵照就口頭質詢提出補充質詢的規則；及
- (j) 拒絕停止評論財委會主席的裁決。

¹ 《議事規則》第 85 條訂明，任何議員如不遵從規則第 83 條(個人利益的登記)、第 83A 條(個人金錢利益的披露)、第 83AA 條(申請發還工作開支或申請預支營運資金)或第 84(1)或(1A)條(在有直接金錢利益的情況下表決或退席)，可由立法會藉訓誡或譴責，或暫停職務或權利的議案加以處分。

2.20 由於有關注意意見認為，《議事規則》內未有就阻止議員在立法會會議上屢次或不斷作出不檢點的行為訂明處分，議事規則委員會遂於對上兩個年度的立法會會期內就立法會會議中的秩序問題作出多次研究。議事規則委員會經商議後察悉，對於是否需要修訂《議事規則》或訂立任何新安排以處理議員在立法會屢次作出不檢點行為的情況，委員彼此之間未能達成共識。一般來說，委員認為《議事規則》第 45(2)條已賦予立法會主席權力，可命令行為極不檢點的議員立即退席，這已足以處理有關情況。如擬對議員作任何進一步處分，須予以審慎考慮，確保不會抵觸《基本法》。

2.21 在某些海外立法機關，如有議員在會議上屢次或不斷作出極不檢點行為，其主席／議長獲賦權把該等議員暫停職務而無須為此動議議案，一如若干地方的國會所採取的做法。應部分委員的要求，議事規則委員會要求秘書處就這些海外立法機關的相關規則和做法作進一步研究。

2.22 上述進一步研究涵蓋德國、印度及南非三國的國會，在該等國會中，若有議員嚴重破壞秩序，主席／議長均有權命令該議員退席，不得繼續參與該次會議，並把在會議上屢次破壞秩序的議員暫停職務一段期間，而且無需通過議案，停職處分便可生效。據悉，雖然主席／議長可命令議員暫停職務一段期間，但停職處分亦受某種形式的上訴機制所約束，例如被停職的議員可提交反對書，而反對書會列入下次會議的議程讓下議院在無需辯論的情況下作出決定；或隨時就終止停職議員的停職期而動議議案。至於南非的情況，被停職的議員可向議長提交歉疚書。若議長接納該歉疚書，他可解除有關議員的停職期，然後通知國民議會。獲議長接納的歉疚書須在會議過程紀錄中記錄在案。

2.23 經進一步商議，委員普遍仍認為並無必要修訂《議事規則》，針對議員在立法會的不檢點行為作出處分。

2.24 然而，在2011年5月及6月發生若干涉及部分議員於立法會會議及委員會會議上作出不檢點行為的事件後，立法會主席要求議事規則委員會再考慮此事。議事規則委員會將會在其2011年7月的會議上研究在選定海外立法機關中，針對議員在國會或委員會的會議上作出暴力行為(尤其是投擲物件)所採取的相關規則及做法。

3. 檢討立法會轄下委員會的程序

3.1 在 2010-2011 年度會期，議事規則委員會亦曾研究以下與立法會轄下委員會的程序有關的事宜：

- (a) 委員會會議中的秩序；及
- (b) 委員會的其他程序。

委員會會議中的秩序

3.2 議事規則委員會對上一次是在 2004 年研究應否將《議事規則》第 44 及 45 條延伸至立法會其他委員會的問題。第 44 條是指立法會主席或任何常設委員會或專責委員會的主席在規程問題上所作的決定為最終決定，而 45(1)條訂明立法會主席或該等委員會的主席有權命令不斷提出無關的事宜或冗贅煩厭地重提某論點的議員不得繼續發言。第 45(2)條則賦權立法會主席或任何常設委員會或專責委員會的主席可命令行為極不檢點的議員立即退席。檢討所得結論認為無須將該等規則延伸至其他委員會，因為這些委員會的主席獲賦予的權力，足以使他們能處理在會議上出現的爭議。其後在 2009 年，因應將該兩條規則延伸至其他委員會的建議，議事規則委員會曾向議員進行諮詢。諮詢結果顯示，議員對將該兩條規則延伸至其他委員會的建議有不同意見。議事規則委員會同意暫時不處理該項事宜。

3.3 最近在某些委員會的會議進行期間發生數宗涉及部分議員行為不檢的事件後，應上文第 2.12 段所述立法會主席提出的要求，議事規則委員會曾討論，有何方法確保委員會運作暢順。大部分委員認為，鑒於議員在委員會會議中行為不檢的情況越來越頻密，現時就議員在委員會會議中行為不檢所採取的處理方法，再不能確保委員會暢順運作。部分委員指出，若議員不理會委員會主席的警告而繼續作出不檢點行為，有關的主席雖可暫停會議，但此舉會對委員會的工作造成極大干擾。會議恢復進行後，若有關議員繼續作出不檢點的行為，主席可能別無他選而需再次暫停會議，讓該名議員冷靜下來。議事規則委員會大部分委員支持將《議事規則》第 44 及 45 條延伸至涵蓋立法會轄下所有委員會。

3.4 然而，議事規則委員會副主席吳靄儀議員認為，若賦權其他委員會的主席以行為不檢為理由命令議員退席，可能會導致更多衝突和對抗，而這情況將不利於該等委員會的暢順運作。議事規則委員會備悉吳議員的意見。

3.5 內務委員會在 2011 年 4 月 15 日的會議上討論議事規則委員會就延伸《議事規則》第 44 及 45 條的適用範圍所提出的建議。由於有部分議員表示反對將第 45(1)條延伸至涵蓋所有委員會的主席，議事規則委員會主席於 2011 年 5 月 11 日的立法會會議上遂分別動議兩項議案，一項修訂第 44 及 45(2)條，另一項則修訂第 45(1)條。第一項議案得到立法會通過，第二項則被立法會否決。

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議事規則委員會

在 2010 年 11 月至 2011 年 6 月期間研究的事項一覽表

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項目	事項	相關規則	進展／備註
2	對議員在立法會會議上屢次或不斷作出不檢點行為作出處分	《議事規則》第 44 及 45 條	議事規則委員會認為，並無需要修訂《議事規則》，針對議員在立法會會議上的不檢點行為作出處分。議事規則委員會將會在其 2011 年 7 月的會議上進一步研究選定海外立法機關針對議員在國會或委員會的會議上作出暴力行為（尤其是投擲物件）所採取的相關規則及做法。
5	委員會會議中的秩序	《議事規則》第 44 及 45 條	內務委員會在 2011 年 4 月 15 日審議議事規則委員會就《議事規則》第 44 及 45 條提出的修訂建議。立法會在 2011 年 5 月 11 日的立法會會議上通過修訂第 44 及 45(2) 條。已對該等條文作出相應修訂。

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**Extract of the Committee on Rules of Procedure of
the Legislative Council of the Hong Kong Special Administrative Region
Progress Report for the period November 2010 to June 2011**

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2. Review of the procedural arrangements relating to Council meetings

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

2.17 Under the Rules of Procedure, Members:

- (a) should speak on the subject under discussion and should not introduce irrelevant matter (Rule 41(1));
- (b) should not use offensive and insulting language about other Members (Rule 41(4));
- (c) should not impute improper motives to another Member (Rule 41(5));
- (d) should attend a Council meeting in proper attire and with decorum (Rule 42(a));
- (e) should not cross the floor of the Council unnecessarily during a Council meeting (Rule 42(b)); other instruments tabled in Council to which no amendment has been proposed and a procedure for holding such debates should be provided in the Rules of Procedure.
- (f) should not read newspapers and other documents during a Council meeting which are not related to the business of the Council (Rule 42(c));
- (g) should be silent and should not make unseemly interruptions while another Member is speaking (Rule 42(d)); and
- (h) should not persist in irrelevance or tedious repetition of their own or other Members' arguments in a debate (Rule 45(1)).

2.18 The Rules of Procedure do not provide any specific sanctions against Members who have breached the rules cited in paragraph 2.17 above. Suspension, as provided under Rule 85¹, is a sanction relating to interests, operating expenses or operating funds, and not disorderly conduct. Nevertheless, Rule 45(2) of the Rules of Procedure empowers the President to order a Member whose conduct is grossly disorderly to withdraw immediately from the Council for the remainder of that meeting.

2.19 In past cases, it was the President to determine whether any breach of the above rules (or any other conduct of a Member) constitutes grossly disorderly conduct and, as the President deems fit, to order the Member concerned to withdraw from the Council. Listed below are the types of disorderly conduct in question:

- (a) refusal to stop displaying signs and messages;
- (b) throwing objects at meetings;
- (c) crossing the floor of the Council and attempting to grab the speech of a public officer;
- (d) crossing the floor of the Council unnecessarily and refusal to return to seat;
- (e) speaking aloud when it was not the Member's turn to speak and refusal to sit down and stop speaking;
- (f) refusal to withdraw offensive and insulting language;
- (g) refusal to withdraw accusations against the President;
- (h) refusal to stop speaking on irrelevant matter;
- (i) not observing the rules of asking supplementary questions to oral questions; and
- (j) refusal to stop making comments on a ruling made by the Chairman of the Finance Committee.

¹ Under Rule 85 of RoP, any Member who fails to comply with Rule 83 (Registration of Interests), 83A (Personal Pecuniary Interest to be Disclosed), 83AA (Claims for Reimbursement of Operating Expenses or Applications for Advance of Operating Funds) or 84(1) or (1A) (Voting or Withdrawal in case of Direct Pecuniary Interest) may be admonished, reprimanded or suspended by the Council

2.20 In response to the concern that there was a lack of sanction under the Rules of Procedure to deter repeated or persistent disorderly conduct of Members at Council meetings, the Committee conducted a number of studies on issues relating to order in Council in the last two legislative sessions. After deliberations, the Committee noted that there was no consensus view among members on whether there was a need to amend the Rules of Procedure or introduce any new arrangements to deal with Members' repeated disorderly conduct in Council. Generally speaking, members considered that the power given to the President under Rule 45(2) of the Rules of Procedure to order a Member whose conduct is grossly disorderly to withdraw immediately from the Council was adequate to deal with the situation. Any further sanctions against Members would have to be considered carefully to ensure no contravention with the Basic Law.

2.21 In response to the request of some members, the Committee requested the Secretariat to conduct a further study on the rules and practices of overseas legislatures which give their President/Speaker the authority to suspend the service of a Member for repeated or persistent grossly disorderly conduct at sittings, without the need of moving a motion to that effect, as practised in a number of Parliaments.

2.22 This further study covered the Parliaments of Germany, India and South Africa, where the President/Speaker has the authority to order a Member to leave the chamber for serious breach of order(s) for the remainder of the sitting and to suspend the service of a Member for repeated breaches of order(s) at sittings up to a certain period, without the need for a motion to be passed before the suspension can take effect. It was noted that although the President/Speaker may order suspension of service for a certain period, such suspension is subject to some form of an appeal mechanism, such as an objection lodged by the Member concerned to be placed on the agenda of the next sitting for a decision by the House without debate, or a motion to be moved at any time that the suspension of a Member be terminated. In the case of South Africa, the Member who has been suspended may submit a written expression of regret to the Speaker. If the Speaker approves such an expression of regret, he may discharge the suspension and inform the National Assembly accordingly. An expression of regret approved by the Speaker is recorded in the minutes of proceedings.

2.23 After further deliberations, members remained generally of the view that it would not be necessary to amend the Rules of Procedure to impose sanctions to deal with Members' disorderly conduct in Council.

2.24 Nevertheless, following a number of incidents occurring in May and June 2011 which involved some Members behaving in a disorderly manner at Council and committee meetings, the President requested the Committee to further consider the subject. The Committee will study the relevant rules and practices of selected overseas legislatures dealing with violent acts, in particular the throwing of objects, committed by Members during sittings of the Parliament or committee meetings, at its meeting in July 2011.

3. Review of the procedures of committees of the Council

3.1 The Committee also studied the following issues relating to the procedures of committees of the Council in the 2010-2011 session:

- (a) order at committee meetings; and
- (b) other procedures for committees.

Order at committee meetings

3.2 The issue of whether Rules 44 and 45 of the Rules of Procedure should be extended to cover other committees of the Council was last studied by the Committee in 2004. Rule 44 referred to the finality of decisions made by the President or the chairman of any standing committee or select committee on a point of order, while Rule 45(1) empowered the President or such chairman to order Members who persist in irrelevance or tedious repetition to stop speaking. Rule 45(2) empowered the President or the chairman of any standing committee or select committee to order immediate withdrawal of Members whose conduct is grossly disorderly. The review concluded that it was not necessary to extend the rules to other committees, as the power given to the chairmen of these committees was adequate for them to deal with disputes at meetings. Subsequently in 2009, in response to a suggestion to extend these rules to other committees, consultation with Members was conducted by the Committee. The outcome of the consultation indicated that Members had divergent views on the proposed extension of rules. The Committee agreed that the matter should not be dealt with for the time being.

3.3 Following recent incidents involving some Members behaving in a disorderly manner at committee meetings and upon the President's request referred to in paragraph 2.12 above, the Committee discussed ways of ensuring the smooth operation of committees. The majority of the members considered that the present approach of handling disorderly conduct of Members at committee meetings could no longer ensure the smooth operation of the

committees, due to increasing frequency of disorderly conduct of Members at committee meetings. Some members pointed out that although the chairman concerned might suspend a meeting if a Member continued to act in a disorderly manner despite the chairman's warnings, such suspension was highly disruptive to the work of the committee. If, upon resumption of the meeting, the Member continued to act in a disorderly manner, the chairman might have no alternative but to suspend the meeting again to let the Member calm down. Most members of the Committee supported that Rules 44 and 45 of the Rules of Procedure should be extended to cover all committees of the Council.

3.4 Dr Hon Margaret NG, Deputy Chairman of the Committee, was however of the view that to empower the chairmen of other committees to order withdrawal of a Member from a meeting on the ground of disorderly conduct might lead to more conflicts and confrontations, which would not be conducive to the smooth operation of these committees. Dr NG's view was noted.

3.5 The Committee's recommendation to extend Rules 44 and 45 was discussed at the House Committee meeting on 15 April 2011. In response to objection expressed by some Members about extending Rules 45(1) to the chairmen of all committees, two separate motions, the first to amend Rules 44 and 45(2), and the second one to amend Rule 45(1), were moved at the Council meeting of 11 May 2011. The first motion was approved by the Council, while the second motion was negated by the Council.

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Appendix II

Committee on Rules of Procedure

List of issues studied during the period from November 2010 to June 2011

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Item	Issue	Relevant rule(s)	Progress/remarks
2	Sanctions against Members for repeated or persistent disorderly conduct at Council meetings	Rules 44 and 45 of the Rules of Procedure	The Committee is of the view that it is not necessary to amend the Rules of Procedure to impose sanctions to deal with Members' disorderly conduct at Council meetings. The Committee will further study at its meeting in July 2011 the relevant rules and practices of selected overseas legislatures dealing with violent acts, in particular the throwing of objects, committed by Members during sittings of the Parliament or committee meetings.
5	Order at committee meetings	Rules 44 and 45 of the Rules of Procedure	The recommendations by the Committee on the amendments to Rules 44 and 45 of the Rules of Procedure were considered by the House Committee on 15 April 2011. The Council approved the amendments to Rules 44 and 45(2) at the meeting of 11 May 2011 and the relevant provisions were amended accordingly.

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