

# 立法會 *Legislative Council*

LC Paper No. CROP 41/02-03

Ref: CB(3)/CROP/3

## **Paper for the House Committee meeting on 11 April 2003**

### **Committee on Rules of Procedure**

#### **Resumption of Second Reading debate on bills**

#### **Purpose**

This paper invites the House Committee (HC) to endorse the system of consultation required under Rule 54(5) of the Rules of Procedure, as recommended by the Committee on Rules of Procedure (CRoP), and the proposed amendment to Rule 54(5).

#### **Background**

2. On 24 June 2002, the Secretary for Security gave 12 clear days' notice under Rule 54(5) to resume the Second Reading debate on the United Nations (Anti-Terrorism Measures) Bill at the Council meeting commencing on 10 July 2002. That meeting was the last one in the 2001-02 session. At the time the notice was given, the Bills Committee concerned had not concluded its scrutiny of the Bill and had not yet reported the outcome of its scrutiny to HC which would meet on 28 June 2002. In response to a Member's query, the President ruled that the Secretary's notice should not be regarded as not valid. However, noting that the mode of operating Rule 54(5) had not been entirely in accord with the terms of the subrule, the President asked the Clerk to the Legislative Council (LegCo) to invite CRoP to consider whether or not the subrule should be amended to clearly give effect to the practice which Members had long accepted.

#### **Rule 54(5) of the Rules of Procedure**

3. Rule 54(5) was first made in 1998 by LegCo of the Hong Kong Special Administrative Region. It was modelled on the same provisions in the Standing Orders of the previous Legislative Council. The subrule provides that:

“When a debate (on the Second Reading of a bill) has been adjourned under subrule (4), it may be resumed on notice by the Member or public officer in charge of the bill, given by him in writing delivered to the office of the Clerk, after consultation with the chairman of the House Committee, subject to the following -

- (a) subject to paragraphs (b) and (c), resumption of debate shall not take place earlier than 9 clear days after the meeting of House Committee at which the bill was considered in preparation for resumption of debate;
- (b) if at the meeting of House Committee to consider the bill in preparation for resumption of debate the committee recommends a period longer than 9 clear days before resumption then resumption shall not take place earlier than 12 clear days after that meeting;
- (c) if at the meeting of House Committee to consider the bill in preparation for resumption of debate the committee recommends that the second reading debate be resumed at the next meeting of the Council then resumption may take place at that meeting with the permission of the President provided that due notice has been given under paragraph (e);
- (d) subject to paragraph (e), notice of resumption of debate shall be given by the Member or public officer in charge of the bill not less than 12 clear days before the day on which the debate is to be resumed;
- (e) where resumption of debate is to take place 9 clear days or less after the meeting of House Committee at which the bill was considered in preparation for resumption, then notice of resumption of debate shall be given no later than 2 clear days after that meeting;

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

#### **Mode of operating Rule 54(5)**

4. The mechanism for resuming the Second Reading debate on a bill revolves around HC’s consideration of the bill after the debate has been adjourned. Where HC decides that a Bills Committee is not required to scrutinize the bill and the debate may resume, the practice has been that the clerk to HC conveys HC’s decision to the public officer or Member in charge of the bill. When the public officer or Member concerned has decided on a date for resumption, notice is then given to the Clerk to LegCo, whereupon the clerk to HC consults the chairman of HC. Upon signification by the chairman of HC that he/she has been consulted, the Clerk to LegCo promulgates the notice of resumption to Members of the Council.

5. In the case of a bill for which a Bills Committee has been set up, HC’s further consideration of the bill takes place when it considers, at a HC meeting, the Bills Committee’s report on the bill. The report usually contains also the Bills Committee’s recommendation on the date to resume the debate. Where HC does not raise any objection, the clerk to HC advises the public officer or Member concerned, and sets off the resumption mechanism under the subrule.

6. The mode of operating Rule 54(5) described above has been effective in ensuring the timely giving of notice of resumption after the relevant HC meeting, although it does not strictly follow the terms of Rule 54(5) which also may pose difficulties where there are public holidays other than Sundays occurring between the relevant HC meeting and the Council meeting at which the debate is proposed to resume. The problem is particularly pronounced during the period approaching the end of a LegCo session, when examination of bills is usually concluded at a very late stage and the Bills Committees concerned may not be able to make timely reports to HC. In the above circumstances, in order to prevent the resumption of debates on bills from being delayed unnecessarily, it has been the practice of the clerks to Bills Committees to advise the Bills Committees and the public officers concerned to give the longest possible resumption notice stipulated in Rule 54(5), i.e. 12 clear days, pending HC's consideration of the Bills Committee's report at a later meeting.

### **CRoP's recommendation**

7. CRoP notes that the existing mode of operating Rule 54(5) does not strictly follow the terms of the subrule and considers that the subrule should be complied with strictly. That is, the public officer or Member in charge a bill, rather than the clerk to HC, should consult the chairman of HC on the date of the resumption.

8. After discussions with the Administration, CRoP recommends that the following system of consultation on resumption of Second Reading debate required under Rule 54(5) be adopted.

#### Resumption notices given under Rule 54(5)(e)

9. The three steps for the consultation on resumption of Second Reading debate under this scenario should be:

Step 1: The public officer in charge of the bill shall issue the letter of consultation regarding the resumption of Second Reading debate to the HC chairman **no less than 12 clear days** before the date on which the debate is to resume.

Step 2: The HC chairman shall signify in writing the fact that she has been consulted in accordance with Rule 54(5) **no less than eight clear days** before the date on which the debate is to resume.

Step 3: The public officer in charge of the bill shall give the resumption notice in accordance with the notice requirement under **Rule 54(5)(e)**, i.e. **no less than seven clear days** before the date on which the debate is to resume.

10. The respective critical dates for carrying out the consultation on the resumption of Second Reading debate on bills in respect of the remaining Council meetings in the current session are set out in Appendix I. In respect of a bill scheduled for resumption of Second Reading debate at those Council meetings marked with an asterisk (\*), the Administration will advance the timing of issuing the consultation letter to the HC chairman, in the light of the intervening public holidays/Council breaks falling within the consultation period. Correspondingly, the HC chairman will advance the date of giving signification after the relevant HC meeting in those cases.

#### Bills that do not require scrutiny by Bills Committees

11. For bills that do not require scrutiny by Bills Committees, the consultation between the Administration and the HC chairman should be deemed to have taken place at the relevant HC meeting, when HC decides that it is not necessary to form a Bills Committee. A letter of consultation will not be necessary in those cases. Under such circumstances, the HC chairman will give her signification **no later than one clear day** after the relevant HC meeting, so that the public officer may issue the notice of resumption.

#### Resumption notice given under Rule 54(5)(d)

12. In exceptional circumstances where the examination of a bill is concluded at a very late stage and the Administration needs to resume the Second Reading debate of the bill urgently at a certain Council meeting, the public officer concerned will give the resumption notice by the deadline stipulated in Rule 54(5)(d), i.e. 12 clear days prior to the relevant Council meeting. The three steps for the consultation on resumption of Second Reading debate under this scenario should be:

- Step 1: The public officer in charge of the bill shall issue the letter of consultation regarding the resumption of Second Reading debate to the HC chairman **no less than 15 clear days** before the date on which the debate is to resume.
- Step 2: The HC chairman shall signify in writing the fact that she has been consulted in accordance with Rule 54(5) **no less than 13 clear days** before the date on which the debate is to resume.
- Step 3: The public officer in charge of the bill shall give the resumption notice in accordance with the notice requirement under **Rule 54(5)(d)**, i.e. **no less than 12 clear days** before the date on which the debate is to resume.

In these cases, the public officer concerned will also contact the HC chairman after the issuance of the letter of consultation and consult her verbally, prior to giving the resumption notice.

### Proposed amendment to Rule 54(5)

13. CRoP considers that there should be some institutional safeguards to cater for the special circumstance in which the HC chairman is not available for consultation. It therefore recommends that Rule 54(5) should be amended to the effect that the Administration may in that circumstance consult the deputy chairman of HC. The proposed amendment to Rule 54(5) is in **Appendix II**.

### Standard form for notice of resumption of Second Reading debate

14. The new form, in **Appendix III**, should be used for giving the resumption notice upon the commencement of the new consultation arrangements.

### Members' bills

15. The above system of consultation will also apply to bills presented by Members.

### Timing of implementation

16. Subject to HC's agreement to the above mechanism, the new arrangements should take effect in a month's time and should apply to those bills for which the consultation process should be initiated on or after 10 May 2003 under the new arrangements, i.e. bills which will resume Second Reading debate at or after the Council meeting on 28 May 2003.

### **The HC chairman's view on the proposed system of consultation**

17. The HC chairman has been consulted on the proposed system of consultation set out above. She has stressed that, for those Council meetings marked with an asterisk (\*) in Appendix I and for the urgent cases mentioned in paragraph 12 above, if she is asked by the Administration to give signification that she has been consulted prior to report of the Bills Committee concerned to HC, she will respond that the Bills Committee concerned has not reported to HC, and Members may have views about the date of resumption on Second Reading debate on the bill in question.

18. CRoP has noted the HC chairman's view and has impressed upon the Administration that while the consultation under Rule 54(5) should be carried out according to the various deadlines set out in Appendix I, the public officer in charge of a bill, when determining the date of resumption of Second Reading debate, should discuss with the Bills Committee concerned and take into account the latter's view. In particular, the dates for Bills Committees to report to HC given in the timetable should not be construed as dictating when a Bills Committee is ready to report to HC.

## **Advice sought**

19. Members are invited to endorse the system of consultation required under Rule 54(5) set out in paragraphs 9 to 16, including the timing of implementation (mentioned in paragraph 16) and the proposed amendment to Rule 54(5) (in Appendix II).

Legislative Council Secretariat  
9 April 2003

**Critical dates for the carrying out of consultation  
in respect of notices for resumption of Second Reading debates  
issued under Rule 54(5)**

	<b>Date of resumption of 2<sup>nd</sup> Reading debate</b>	<b>Deadline for giving notice of resumption</b>	<b>Date for HC chairman to give her signification</b>		<b>Date for Bills Committee to report to HC</b>		<b>Date of issuance of consultation letter to HC chairman</b>
*	30.4.03 (Wed)	11.4.03 (Fri)	29.3.03	(Sat)	28.3.03	(Fri)	25.3.03 (Tue)
*	7.5.03 (Wed)	17.4.03 (Thu)	12.4.03	(Sat)	11.4.03	(Fri)	8.4.03 (Tue)
*	14.5.03 (Wed)	26.4.03 (Sat)	26.4.03	(Sat)	25.4.03	(Fri)	22.4.03 (Tue)
	21.5.03 (Wed)	12.5.03 (Mon)	10.5.03	(Sat)	9.5.03	(Fri)	5.5.03 (Mon)
	28.5.03 (Wed)	19.5.03 (Mon)	17.5.03	(Sat)	16.5.03	(Fri)	13.5.03 (Tue)
*	11.6.03 (Wed)	26.5.03 (Mon)	24.5.03	(Sat)	23.5.03	(Fri)	20.5.03 (Tue)
	18.6.03 (Wed)	9.6.03 (Mon)	7.6.03	(Sat)	6.6.03	(Fri)	2.6.03 (Mon)
	25.6.03 (Wed)	16.6.03 (Mon)	14.6.03	(Sat)	13.6.03	(Fri)	10.6.03 (Tue)
*	2.7.03 (Wed)	16.6.03 (Mon)	14.6.03	(Sat)	13.6.03	(Fri)	10.6.03 (Tue)
*	9.7.03 (Wed)	23.6.03 (Mon)	21.6.03	(Sat)	20.6.03	(Fri)	17.6.03 (Tue)

**Proposed amendment to Rule 54(5) of the Rules of Procedure**

**54. Second Reading**

\* \* \* \*

(5) When a debate has been adjourned under subrule (4), it may be resumed on notice by the Member or public officer in charge of the bill, given by him in writing delivered to the office of the Clerk, after consultation with the chairman of the House Committee, subject to the following –

- (a) subject to paragraphs (b) and (c), resumption of debate shall not take place earlier than 9 clear days after the meeting of House Committee at which the bill was considered in preparation for resumption of debate;
- (b) if at the meeting of House Committee to consider the bill in preparation for resumption of debate the committee recommends a period longer than 9 clear days before resumption then resumption shall not take place earlier than 12 clear days after that meeting;
- (c) if at the meeting of House Committee to consider the bill in preparation for resumption of debate the committee recommends that the second reading debate be resumed at the next meeting of the Council then resumption may take place at that meeting with the permission of the President provided that due notice has been given under paragraph (e);
- (d) subject to paragraph (e), notice of resumption of debate shall be given by the Member or public officer in charge of the bill not less than 12 clear days before the day on which the debate is to be resumed;
- (e) where resumption of debate is to take place 9 clear days or less after the meeting of House Committee at which the bill was considered in preparation for resumption, then notice of resumption of debate shall be given no later than 2 clear days after that meeting:

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

(5A) In subrule (5), “the chairman of the House Committee” shall mean “the deputy chairman of the House Committee” if the former is not available for consultation because of his absence from Hong Kong or of other reasons when the Member or public officer in charge of the bill seeks to consult him.

Legend :

Texts proposed to be added are underlined.



致：立法會秘書 (傳真號碼：2810 1691)  
To：Clerk to the Legislative Council (Fax No.：2810 1691)

立法會  
**LEGISLATIVE COUNCIL**

恢復二讀辯論預告  
**NOTICE OF RESUMPTION OF SECOND READING DEBATE**

謹按照《議事規則》第 54(5)條作出預告，本人擬在\_\_\_\_\_年  
\_\_\_\_\_月\_\_\_\_\_日舉行的立法會會議，就下列法案恢復二讀辯論：

In accordance with Rule 54(5) of the Rules of Procedure, I hereby give notice to resume the Second Reading debate on the following bill at the Legislative Council meeting of \_\_\_\_\_:

(中文名稱) \_\_\_\_\_

(English title) \_\_\_\_\_

2. 本人已按照《議事規則》第 54(5)條，就該法案恢復二讀辯論一事與內務委員會主席磋商。

In accordance with Rule 54(5) of the Rules of Procedure, I have consulted the Chairman of the House Committee on the resumption of Second Reading debate on the bill.

簽署

Signature: \_\_\_\_\_

姓名

Name: \_\_\_\_\_

# 職位名稱

Post title: \_\_\_\_\_

日期

Date: \_\_\_\_\_

# 獲委派官員須填寫職位名稱，議員無須填寫。

# Designated public officers, but not Members, are required to state their post titles.