

# 立法會

## *Legislative Council*

LC Paper No. CB(2) 2651/02-03

Ref: CB2/H/1

### **Paper for House Committee Meeting on 27 June 2003**

#### **Rules on Order in Council and Committees**

#### **Purpose of paper**

Hon Michael MAK wrote to the Chairman of the House Committee on 18 June 2003 complaining about the abuse of power by Hon LAU Kong-wah, Chairman of the Panel on Security, at the joint meeting of the Panel on Administration of Justice and Legal Services and Panel on Security on 17 June 2003.

2. As Mr MAK's letter raises the issue of order of Members at meetings of the Council and committees, this paper details the relevant rules for Members' reference.

#### **Joint meeting of Panel on Administration of Justice and Legal Services and Panel on Security on 17 June 2003**

3. The joint meeting of the Panel on Administration of Justice and Legal Services and Panel on Security referred to in Mr MAK's letter was held to discuss the categorization of views of organizations and individuals on specific proposals to implement Article 23 of the Basic Law. Hon LAU Kong-wah was elected to chair the meeting. Representatives of the Administration, including the Secretary for Security, also attended the meeting.

4. The verbatim record of the relevant part of the joint meeting is in Appendix I.

#### **Relevant rules**

##### Order of Members at Panel meetings

5. Rule 41(4) and (5) of the Rules of Procedure provides that -

**"41. Contents of Speeches**

- (4) It shall be out of order to use offensive and insulting language about Members of the Council.
- (5) A Member shall not impute improper motives to another Member."

6. Members are invited to note that -

- (a) under Rule 43 of the Rules of Procedure, Rules 36 to 42 in Part H of the Rules of Procedure "shall apply to the proceedings in a committee unless the chairman of the committee orders otherwise"; and
- (b) Rule 10(2) of the Rules of Procedure provides that "These Rules of Procedure except Rules 1 (Oath or Affirmation), 3 (Presiding in Council and in Committee of the Whole Council), 8 (Attendance of the Chief Executive), 17 (Quorum), 20 (Presentation of Petitions), the Rules in Part J (Voting) and Rule 71(2) and (8) (Finance Committee), shall apply, in relation to the item of business in respect of which a public officer attends a meeting, to that public officer as they apply to a Member: Provided that Rule 39 (Interruptions) shall apply to a public officer only in relation to the item of business in respect of which he attends a meeting". In practice, this provision has been the basis for the application of the Rules of Procedure to public officers attending meetings of the Council and its committees.

7. Rule 77(15) of the Rules of Procedure provides that -

**"77. Panels**

- (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)."

8. It is noted, however, that since there are no specific rules on the issues before the joint Panel meeting at the material time, it should be for the chair to decide on the point of order raised, subject to any contrary views of the majority of the members of the two Panels.

Order of Members at meetings of the Council, standing committees and select committees

9. As regards the order of Members at meetings of the Council, standing committees and select committees, Rules 44 and 45 of the Rules of Procedure are relevant. They provide that -

**"44. Decision of Chair Final**

The President in Council, the Chairman in a committee of the whole Council or the chairman of any standing or select committee shall be responsible for the observance of the rules of order in the Council and committee respectively. His decision on a point of order shall be final.

**45. Order in Council and Committee**

- (1) The President, the Chairman of a committee of the whole Council or the chairman of any standing or select committee, after having called the attention of the Council or the committee to the conduct of a Member who persists in irrelevance or tedious repetition of his own or other Members' arguments in the debate, may direct him to discontinue his speech.
- (2) The President, the Chairman of a committee of the whole Council or the chairman of any standing or select committee shall order a Member whose conduct is grossly disorderly to withdraw immediately from the Council or the committee for the remainder of that meeting; and the Clerk or clerks of any committees shall act on orders received by him from the Chair to ensure compliance with this order."

10. Standing committees of the Council refer to -

- (a) the Finance Committee (Rule 71(1) of the Rules of Procedure);
- (b) the Public Accounts Committee (Rule 72(1) of the Rules of Procedure); and
- (c) the Committee on Members' Interests (Rule 73(1) of the Rules of Procedure).

Details of Rules 71(1), 72(1) and 73(1) of the Rules of Procedure are in Appendix II for Members' easy reference.

Consideration by Committee on Rules of Procedure to extend Rules 44 and 45 to other committees

11. Members may wish to note that the Committee on Rules of Procedure (CRoP) had previously, at its meeting on 27 April 1999, considered whether Rules 44 and 45 should be extended to other committees of the Council, such as the House Committee, Panels, Bills Committees and the subcommittees of these committees, as it might be necessary for the chairmen of these other committees to give effect to the rules of order of the Council and to maintain order at meetings of these committees.

12. Having regard to the practices in overseas legislatures and the fact that the existing arrangement had been working well, CRoP decided that it was not necessary to extend Rules 44 and 45 to other committees of the Council and their subcommittees.

13. CRoP's decision was detailed in paragraphs 4.2 to 4.5 of its progress report for the period from May 1999 to June 2000, which was tabled in Council on 21 June 2000. The relevant extract from the progress report is in Appendix III.

**Members' advice**

14. Members are invited to note this paper.

Legislative Council Secretariat

25 June 2003

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(逐字紀錄本由立法會秘書處擬備，只供議員參考用)  
(The verbatim record is prepared by  
the Legislative Council Secretariat for Members' reference only)

2003 年 6 月 17 日  
司法及法律事務委員會和保安事務委員會聯席會議有關部分逐字紀錄本  
Verbatim record of the relevant part of  
the joint meeting of the Panel on Administration of  
Justice and Legal Services and Panel on Security on 17 June 2003

劉江華議員： 麥國風議員。

麥國風議員： 今日就是 2003 年國王的新衣的最新版。局長做了兩個角色，做裁縫公司，又做騙子。偷天換日，完完全全將有些理據來蒙閉市民。數人頭又不夠人多，上街又不夠人多，我不知政府怎樣可以說相信市民大眾是支持立法，立法會裏面 .....

陳鑑林議員： 主席，我想你應該要請局長先回應，因為他說局長是騙子。

保安局局長： 他這樣說，有冒犯性。他是不對的，主席。已經有議員「爆粗」，我已覺得很難聽，現在又要聽這樣的說話。

麥國風議員： 不是，是寓言，寓言而已。

劉江華議員： 你舉了手，我以為你是想回應。

保安局局長： 我想問主席你的裁決，有人說局長是騙子，算不算冒犯性。

麥國風議員： 只是寓言，我說是寓言，一個寓言。

劉江華議員： 好了，麥國風議員你讓我講，好嗎？

我相信大多數或全部議員都不希望在議會裏有任何冒犯性的字眼，這是議會裏不容許的。如果是形容任何人，不只是局長，任何人出席會議用騙子這兩個字，都是不適當的。麥國風議員請你收回這兩個字。

麥國風議員： 我所說的是個寓言 .....

劉江華議員： 麥國風議員請你收回這兩個字。

麥國風議員： 如果不收回又怎樣？

劉江華議員： 那麼你不可以出席這個會議，對不起。

(麥國風議員離席)

**Extract from the Rules of Procedure**

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**71. Finance Committee**

(1) There shall be a standing committee, to be called the Finance Committee, the members of which shall be all the Members other than the President.

X X X X X X X X

**72. Public Accounts Committee**

(1) There shall be a standing committee, to be called the Public Accounts Committee, to consider reports of the Director of Audit –

- (a) on the accounts of the Government;
- (b) on such other accounts required to be laid before the Council as the committee may think fit; and
- (c) on any matter incidental to the performance of his duties or the exercise of his powers as the committee may think fit.

X X X X X X X X

**73. Committee on Members' Interests**

(1) There shall be a standing committee to be called the Committee on Members' Interests –

- (a) to examine the arrangements made for the compilation, maintenance and accessibility of the Register of Members' Interests;
- (b) to consider any proposals made by Members or others as to the form and contents of the Register;

- (c) to consider and investigate any complaint made in relation to the registration and declaration of Members' interests or any complaint of a failure to do so;
- (d) to consider matters of ethics in relation to the conduct of Members in their capacity as such, and to give advice and issue guidelines on such matters;
- (e) to report to the Council and make recommendations, including a recommendation as to a sanction under Rule 85 (Sanctions relating to Interests).

X X X X X X X X

**Extract from the Progress Report of the Committee on Rules  
of Procedure for the period from May 1999 to June 2000**

X            X            X            X            X            X            X            X

**Extension of rules of order to committees**

4.2            The Committee notes that rules relating to the observance of rules of order and the maintenance of order during Council and committee proceedings are provided in Part I (Rules of Order) of the Rules of Procedure, i.e., Rules 44 (Decision of Chair Final) and 45 (Order in Council and Committee). These rules provide for the President, the Chairman of a committee of the whole Council or the chairman of any standing or select committee to:

- (a) be responsible for the observance of the rules of order, and his decision on a point of order shall be final (Rule 44);
- (b) after having called the attention of the Council or the committee to the conduct of a Member who persists in irrelevance or tedious repetition of his own or other Members' arguments in the debate, direct him to discontinue his speech (Rule 45(1)); and
- (c) order a Member whose conduct is grossly disorderly to withdraw immediately from the Council or the committee for the remainder of that meeting (Rule 45(2)).

4.3            The above rules are applicable to meetings of the Council, committee of the whole Council, standing committees and select committees, but not to other committees of the Council, such as the House Committee, the Committee on Rules of Procedure, bills committees, panels, and subcommittees of these committees. As it may be necessary for the chairmen of these other committees and subcommittees to give effect to the rules of order of the Council and to maintain order at meetings of these committees, the Committee studied whether the current Rules of Order should be extended to these committees and subcommittees.

4.4            The Committee notes that in legislatures in UK, Australia, Canada and the United States of America, the chairman of a committee normally has the power to maintain order and decorum, but his decision is subject to appeal to the committee or the House. The decision for the withdrawal of a Member, however, rests invariably with the House.



4.5 Having regard to the practices in overseas legislatures and the fact that the existing arrangement has been working well, the Committee does not see the need to extend the Rules of Order to other committees of the Council and their subcommittees.

X X X X X X X X