

# 立法會 *Legislative Council*

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## **Paper for the House Committee meeting on 19 March 2004**

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

### **Proposed amendments to Rule 23 (Late Membership of Committees) of House Rules**

#### **Purpose**

This paper invites the House Committee (HC) to endorse the proposed amendments to Rule 23 (Late Membership of Committees) of the House Rules (HR) proposed by the Committee on Rules of Procedure (CRoP).

#### **Background**

2. At its first meeting held on 25 March 2003, the Subcommittee on Public Revenue Protection (Revenue) Order 2003 made under section 2 of the Public Revenue Protection Ordinance (Cap. 120) considered the requests for late membership from three members in accordance with Rule 23(b) of HR. While the Subcommittee decided to deal with the applications after the election of the Subcommittee chairman, members pointed out that Rule 23(b) of HR was unclear as to whether such applications should be dealt with before or after the election of the chairman. It was suggested that CRoP should review the rule to remove any ambiguity.

#### **Relevant procedural provisions**

3. While the Rules of Procedure do not have any provisions governing late membership of committees, Rule 23 of HR provides that:

“(a) It is for the chairman of a Bills Committee, 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 of the chairman and deputy chairman.
- (c) Any Member whose application is turned down under (a) or (b) may put the case to the House Committee for a decision.”

### **Background to current procedural provisions**

4. The current version of Rule 23 of HR had gone through three revision exercises, two in 1999 and one in 2001. The original version before the revisions provided that it was for the chairman of a committee to decide whether to accept late membership on grounds of indisposition or absence from Hong Kong. Amendments to the original version were first made in March 1999 to put in place provisions which were substantially the same as those set out in paragraph 3 above.

5. In proposing the amendments to the original version of the Rule to HC on 19 March 1999, the CRoP’s paper stated that:

- “(a) 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.
- (b) 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.”

The two subsequent revision exercises made textual improvements to the previously revised versions of the Rule but did not change the substance thereof.

### **CRoP’s recommendation**

6. In keeping with the aim of preventing manipulation of the election of the chairmen and deputy chairmen of committees, CRoP recommends that Rule 23 of HR be revised to expressly provide that applications for late membership of committees and all matters relating to applications for committee membership should be considered **after** the election of the chairmen and deputy chairmen, if any, of the committees concerned. Amendments to the Rule to give effect to the recommendation are in the **Appendix**. Under the revised Rule, applications for late membership of committees, which include the raising of questions relating to the signification of committee membership after the time when Members should signify their membership, will be considered after the election of the chairmen and deputy chairmen, if any, of the committees concerned (proposed Rule 23(a) refers). Members who fail to be admitted to these committees under the revised Rule may put the case to the House Committee for decision (proposed Rule 23(e) refers).

7. CRoP has also considered whether HR should contain provisions regarding the delivery of applications for membership of committees and the handling of disputes arising from the delivery of such applications after the due day for applications. As the closing times for applications for membership of a Panel and for a Bills Committee and a subcommittee of HC are set at noon on Saturday and midnight on a working day respectively, there is concern about

how Members can check whether their applications for membership of committees have been delivered to the Secretariat before the closing times.

8. To facilitate Members' checking as to whether their applications for membership of committees have been received and processed by the Secretariat, the Secretariat has put in place the following additional administrative arrangement. Under the arrangement, the clerk to the committee concerned will provide, by fax and e-mail, all Legislative Council Members with:

- (a) a preliminary membership list at:
  - (i) noon on the due day for applications if the due day is a weekday; and
  - (ii) noon on the working day immediately preceding the due day for applications if the due day is a Saturday; and
- (b) an updated membership list as soon as practicable after the due day for applications.

Any disputes arising from the delivery of such applications will be regarded as the raising of questions relating to the signification of committee membership under proposed Rule 23(a), which will be dealt with in the manner described in paragraph 6 above.

9. CRoP is of the view that the above administrative arrangement and proposed Rule 23(a) can address the concern relating to the delivery of Members' applications for committee membership to the Secretariat and the handling of disputes arising from the delivery. CRoP therefore does not consider it necessary to make provisions in HR relating to the delivery of such applications.

### **Advice sought**

10. Members are invited to endorse the amendments to Rule 23 of HR and note CRoP's view that it is not necessary to make provisions in HR relating to the delivery of applications for membership of committees.

Legislative Council Secretariat  
17 March 2004

## Proposed amendments to Rule 23 of the House Rules

### ~~23. Late Membership of Committees~~

- ~~(a) It is for the chairman of a Bills Committee, 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 of the chairman and deputy chairman.~~
- ~~(c) Any Member whose application is turned down under (a) or (b) may put the case to the House Committee for a decision.~~

### 23. Application for Late Membership

- (a) An application for late membership of a Bills Committee, Panel, subcommittee under a Bills Committee or Panel, or subcommittee on subsidiary legislation (the relevant committee) shall be considered in accordance with this rule after the election of the chairman and deputy chairman, if any, of the relevant committee. The raising of questions which relate to the signification of membership of a relevant committee, after the time when a Member should signify his membership, shall be deemed to be an application for late membership.
- (b) If the ground for application for late membership is indisposition, or absence from Hong Kong, during the time when a Member should signify his membership, it is for the chairman of the relevant committee to decide whether such application should be accepted.
- (c) If the ground for application for late membership is other than that referred to in (b), it is for the relevant committee to decide whether such application should be accepted and such application shall only be accepted if there exist sufficient grounds for doing so.
- (d) A Member who is admitted as a member of the relevant committee under this rule may not seek a re-election of the chairman or deputy chairman of that committee by reason only of his admission.
- (e) Any Member who has failed to be admitted as a member of the relevant committee under this rule may put the case to the House Committee for decision.

#### Legend :

Texts proposed to be added are shown in *italic*

Texts proposed to be deleted are shown with deletion lines