

立法會

Legislative Council

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Paper for the House Committee meeting on 4 June 2004

Committee on Rules of Procedure

Proposed amendments to House Rules regarding special forum for presentation of platforms and answering of questions by Members nominated for the office of President

Purpose

This paper invites Members to endorse the proposed amendments to the House Rules (HR), to provide for the holding of and the rules for a special forum for presentation of platforms and answering of questions by Members nominated for the office of President of the Legislative Council (LegCo).

Background

2. The first meeting of LegCo in the current term was held on 4 October 2000, when Members took their oaths and elected the President. At the beginning of the proceedings for electing the President, a Member enquired whether, at that stage, the two Members being nominated might be allowed to state their platforms and to take questions from Members. The Member Presiding stated that as there was no provision in the election procedure for candidates to speak or express their views, it was not appropriate to invite the two candidates to speak. The matter was henceforth put on the list of outstanding business for the Committee on Rules of Procedure (CRoP).

Arrangement in the first term of LegCo

3. In considering the matter, CRoP has made reference to the arrangements in this respect in the first term of LegCo. As agreed by the Members-elect of the first term of LegCo at a briefing session before the term commenced, a two-hour election forum for the candidates for the office of President was held on 29 June 1998, before the election held at the first Council

meeting on 2 July 1998. The forum was held as an open meeting. Each candidate addressed the Members-elect who attended the forum for up to five minutes and thereafter answered questions asked by Members-elect.

Practice and procedure in other legislatures

4. CROp has also examined the procedures for electing the Speakers of the House of Commons in the United Kingdom (UK), the House of Commons in Canada, the House of Representatives in Australia and the Parliament of Singapore, with special regard to whether a debate or question-and-answer (Q&A) session is held before votes are cast.

Debate

5. Regarding the holding of a debate for the election of the Speaker, the practice and procedure of the above four legislatures are:

- (a) Australia is the only legislature among the four legislatures studied that provides for a debate to take place before proceeding to elect a Speaker. Each Member of the House of Representatives of Australia is allowed to speak for no more than five minutes during the debate. Usually, only the proposers and seconders speak during the debate;
- (b) the Standing Orders of both Canada and Singapore expressly prohibit a debate to take place;
- (c) a motion to elect a candidate to the office of Speaker used to be debatable in both Canada and UK. In Canada, no debate before the ballot is allowed because the election of a Speaker is preliminary to the convening of the House and there is concern that debate and questions of privilege could delay or impede the election of the Speaker, and could be used for dilatory reasons;
- (d) in UK, the procedures practised from 1972 to 2001 provided that, after the motion for the election to the office of Speaker of the first candidate was moved, the motions of any further candidates were to be moved in the form of amendments to the original motion. Amendments were proposed, seconded and voted on one at a time in the order decided by the Member presiding. Debate was allowed during the election. After the election of the Speaker in 2000 which had 12 candidates for the Speakership, the Procedure Committee of the House of Commons conducted a review on the election mechanism. Its recommendations, including the use of secret ballot for electing the Speaker, were agreed to by the House of Commons on 22 March 2001. The new procedures for the election have subsequently been specified in the Standing Orders.

Under the new procedure, if two or more Members are nominated, the Member presiding will invite each of the candidates to address the House in turn, in an order determined by lot. The Standing Orders specify that after the motion of proposing a Member to take the Chair is moved, the Member presiding “shall put forthwith the question”. In other words, there is no opportunity to debate the question and no amendment can be moved; and

- (e) to enable new Members at the beginning of a new Parliament to receive information on the candidates for Speakership, the Houses of Commons in both UK and Canada allow the candidates to address the House before the holding of a ballot.

Q&A session

6. Regarding the holding of a Q&A session, the practice of the four legislatures is:

- (a) the Standing Orders of all the four legislatures do not have provisions for a Q&A session at which Members of the Parliament may pose questions to the candidates for Speakership; and
- (b) in UK and Canada, informal meetings which took place outside the Chamber were sometimes organized in past elections of the Speaker during which the candidates for Speakership addressed Members of Parliament and Members put questions to them. However, these informal meetings are not regularly held and have not developed into a convention.

Manifestoes and hustings

7. In its review of the election mechanism, the Procedure Committee of the UK House of Commons had considered the desirability of manifestoes and hustings in the election of the Speaker. Members who were in support of manifestoes and hustings considered that:

- (a) hustings meetings were helpful as they enabled new Members at the beginning of a new Parliament to receive information on the candidates for Speakership; and
- (b) it would be helpful to Members for each candidate to indicate at least in broad terms the principles which would guide their tenure of the office - for instance in relation to modernization of the House.

8. Members who did not support manifestoes and hustings pointed out that:

- (a) the Speaker was the impartial servant of the House, and was not in a position to deliver on detailed policy commitments given during the course of an election campaign. Hustings could introduce an element of competitiveness which could lead candidates into statements and undertakings which could compromise their independence in the Chair if chosen;
- (b) whilst the Speaker had some power of initiative, all matters of procedure were questions for Members as a whole to determine. The Speaker's duty was to uphold impartially the decisions of the House whose servant he/she was; and
- (c) the same arguments applied to a manifesto, which was the written equivalent of a hustings speech.

9. Taking the above views into account, the Procedure Committee pointed out that in a multi-candidate election, some degree of campaigning was inevitable and, indeed, healthy, but that this should be constrained within strict limits. It did not consider that a long, formal campaign would be of benefit to the House, or likely to enhance its reputation with the public. It concluded that "We see no formal role within the new procedure for manifestoes or hustings, but equally we do not recommend that they be formally prohibited." To address the need of new Members at the start of a Parliament to receive information on the candidates, it recommended that, at a suitable interval after nominations had closed, each candidate should have the opportunity to address the House in support of his or her candidature.

Recommendation

10. Having regard to:

- (a) the arrangement in the first term of LegCo;
- (b) the fact that, in the four overseas legislatures studied, it is not a common practice to hold a debate or Q&A session at a formal meeting of the House for Members to put questions to the candidates for Speakership. In UK and Canada, the need of new Members to receive information about the candidates is met by allowing the candidates to address the House before a ballot is held and by informal meetings held outside the Chamber for candidates to address Members and answer their questions; and

- (c) the argument that conducting the procedure for presenting platforms and answering questions by candidates for the Presidency at a Council meeting may have the undesirable consequence of compromising the impartiality of the Presidency and hence the integrity of the Council, as noted by the Procedure Committee of the UK House of Commons,

CRoP recommends that there should be a special forum which is not a Council meeting for the presentation of platforms and answering of questions by the candidates for the office of President. The special forum may take the form of the one held in 1998. The procedure for the holding of, and the rules for, the forum should be provided in HR.

11. The proposed amendments to HR to provide for the forum are in the **Appendix**. The procedure for the conduct of the forum, which is set out in the proposed Appendix I to HR, prescribes:

- (a) that the forum shall be an open forum which should last for not more than two hours;
- (b) the method for determining the presiding Member for the forum; and
- (c) the rules for the presentation of platforms and answering of questions by the candidates for the presidency.

Advice sought

12. Members are invited to endorse CRoP's recommendation in paragraph 10 above and the proposed amendments to HR in the Appendix.

Legislative Council Secretariat

1 June 2004

Proposed amendments to House Rules

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1A. Election of the President of the Legislative Council

- (a) The President of the Legislative Council is to be elected by and from among the Members.
- (b) If, in the course of the term of the Legislative Council, the President resigns from office but remains a Member of the Council, a re-election of the President shall be conducted not later than at the third meeting of the Council following the receipt of the resignation. The incumbent President shall determine the day of the election and shall preside at the election unless his resignation from the office of President has already come into effect, in which case the President's Deputy shall determine the day of the election and shall preside at the election. If the President's Deputy is being nominated for the office of President, then the Member present who has the longest continuous service in the Council shall preside at the election of the President.
- (c) If, in the course of the term of the Legislative Council, the President ceases to be a Member of the Council, a re-election of the President shall be conducted at a meeting of the Council by order of the President's Deputy. The re-election shall be held as soon as practicable but in any case not later than at the third meeting of the Council following the assumption of office by the Member filling the vacancy arising from the President's ceasing to be a Member of the Council. The President's Deputy present shall preside at the election. If the President's Deputy is being nominated for the office of President, then the Member present who has the longest continuous service in the Council shall preside at the election of the President.
- (d) The procedure for the election of the President is set out in the Schedule to the Rules of Procedure.
- (e) Prior to the meeting for the election of the President of the Council, a candidate for the presidency shall present his platform and answer questions from Members at a special forum which is not a Council meeting. The procedure for the conduct of the forum is set out in [Appendix I](#).

1B. Procedure for Electing a Member to Preside at a Council meeting

In the absence of the President and the President's Deputy from a Council meeting, or when in their opinion they are unable to act, the Members present shall, in accordance with the procedure set out in [Appendix IA](#), elect among themselves a Member to preside at that meeting.

**Procedure for the Special Forum for Presentation of Platform and
Answering of Questions by Candidate for the Office of President
of the Legislative Council**

The special forum shall be an open forum which should last for not more than two hours.

Presiding Member

2. The Member present who has the longest continuous service in the Council as determined in accordance with Rule 1A of the Rules of Procedure shall preside at the special forum.

3. If the Member who has the longest continuous service under paragraph 2 above is being nominated for the office of President, the Member who is next in the order of precedence of Members and who is not being nominated for the office shall be the presiding Member.

Presentation of platform by candidate and answering of questions from Members

4. Upon assuming the chair, the presiding Member shall invite each candidate to speak for up to 5 minutes. Where there are more than one candidate, the order of speaking shall be according to the order in the list of valid nominations for the office of President issued by the Clerk to the Council.

5. After all candidates have spoken, the presiding Member shall invite the Members present who wish to put questions to the candidates to signify their wish.

6. The order for asking questions shall be decided by the presiding Member.

7. A Member called upon by the presiding Member may put a question for answer by one or more candidates.

8. The contents of speeches made and questions asked at the special forum are subject to the following:

- (a) it shall be out of order to use offensive and insulting language about Members of the Council;
- (b) a Member shall not impute improper motives to another Member;
- (c) questions put to a candidate shall be concise and to the point; and
- (d) only one question shall be asked by a Member at a time.

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Appendix IA
(rule 1B)

**Procedure for the
election of Member to preside at a Council Meeting
in the absence of the President of the Legislative Council
and the President's Deputy**

When both the President of the Legislative Council and the President's Deputy are unable to preside at a Council meeting, or part of a Council meeting, the procedure for the election of a Member to preside at the meeting shall be as follows.

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Legend:

Texts proposed to be added are shown in *italic*.