

立法會

Legislative Council

LC Paper No. CROP 3/05-06

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**Paper for the House Committee meeting
on 7 October 2005**

Committee on Rules of Procedure

Voting rights of chairmen of committees/subcommittees

Purpose

The Committee on Rules of Procedure (CRoP) invites the House Committee (HC) to endorse its recommendations and proposed amendments to the Rules of Procedure (RoP) regarding the voting rights of the chairmen of the committees/subcommittees of the Council.

Background

2. HC requested CRoP to consider whether the chairman of a subcommittee formed under HC, a Bills Committee (BC) or a Panel should have both an original vote (cast at the same time as other members of the subcommittee) and a casting vote (to be exercised in a tie). Both RoP and the House Rules are silent on the voting rights of the chairman of such a subcommittee.

3. Currently, the voting rights of chairmen of the various committees of the Council vary, as provided in RoP:

Provision of RoP	Committee	Original vote	Casting vote
71(8)	Finance Committee (FC)	No	Yes
72(7)	Public Accounts Committee (PAC)	No	Yes
73(5)	Committee on Members' Interests (CMI)	Not specified in RoP	Yes
73A(9)	Investigation Committee (IC)	No	Yes
74(5)	CRoP	Not specified in RoP	Yes
75(16)	HC	No	Yes
76(8)	BC	Yes	Yes
77(13)	Panel	Yes	Yes
79(6)	Select Committee (SC)	No	Yes

4. In considering the matter, CRoP decided:
- (a) to study whether the current voting rights of committee chairmen should be rationalized and, if so, how these should be rationalized; and
 - (b) in the light of the outcome of the above study, to consider what recommendations should be made on the voting rights of the chairmen of subcommittees.
5. CRoP also studied whether, if CRoP recommended that the chairmen of the above committees/subcommittees should have a casting vote, these chairmen should be required to follow the parliamentary convention of other legislatures such as the House of Commons of the United Kingdom (UK) Parliament. In UK, the Speaker's exercise of the casting vote follows three principles:
- (a) to provide an opportunity for further discussion, where this is possible, e.g. on the Question that a bill be read a second time, the chair would vote Aye, to enable the House of Commons to give further consideration to the bill at its later stages;
 - (b) when no further discussion is possible, decisions should not be taken except by a majority, e.g. on the Question that a bill be read the third time, the chair would vote No, because there is no further opportunity for consideration by the House of Commons, and a majority has not been obtained; and
 - (c) a casting vote on an amendment to a bill/motion should leave the bill/motion in its existing form. The chair would therefore vote against the amendment.
6. In this Council, the relevant procedures of FC, the Establishment Subcommittee and the Public Works Subcommittee already provide that the respective chairmen shall not exercise the casting vote in such a way as to produce a majority vote in favour of the question before the committee/subcommittee.

Consultation with Members

7. To assist it in considering the above issues, CRoP decided to consult all Members on:
- (a) whether the chairmen of the committees/subcommittees mentioned in paragraphs 2 and 3 above should only have an original vote, or only a casting vote, or both; and
 - (b) whether the chairmen of the above committees/subcommittees (if CRoP recommended a casting vote for these chairmen) should be required to exercise the casting vote according to the UK parliamentary convention mentioned in paragraph 5 above.

Consultation results

8. 56 Members responded to the questionnaires issued by the Secretariat in this regard. Their views are summarized as follows:

- (a) the majority, i.e. over 50%, of the Members who responded consider that the chairmen of FC, PAC, HC, IC, SC, CMI, and CRoP, and of HC's subcommittees other than those on subsidiary legislation should have a casting vote but not an original vote;
- (b) an absolute majority of Members consider that the chairmen of these committees/subcommittees should exercise the casting vote according to the UK parliamentary convention;
- (c) the majority of Members consider that the chairmen of BCs, Panels, and their subcommittees, and of HC's subcommittees on subsidiary legislation should have only one vote, irrespective of whether it is an original vote or a casting vote; and
- (d) regarding whether the chairmen's only one vote should be an original vote which is to be exercised according to their own will, or a casting vote which is to be exercised according to the UK parliamentary convention, Members' views are equally divided. 28 Members support giving an original vote to the chairmen and the other 28 support giving them a casting vote.

The details of the views received are in **Appendix I**.

CRoP's recommendations

9. In the light of the above results, CRoP recommends that:

- (a) the chairmen of FC, PAC, HC, IC, SC, CMI, and CRoP and of HC's subcommittees other than those on subsidiary legislation should have a casting vote but not an original vote. The casting vote should be exercised according to the UK parliamentary convention. The relevant proposed amendments to RoP should be presented to HC for endorsement and then to the Council for approval as soon as possible;
- (b) the chairmen of BCs, Panels, and their subcommittees, and of HC's subcommittees on subsidiary legislation should have only one vote. Although Members of the Council have not reached a majority view on whether the one vote of the chairmen of these committees/subcommittees should be an original vote or a casting vote, CRoP recommends that, given the principle that the chairman of a committee has the same voting rights as other committee members

unless RoP expressly provide to the contrary, these chairmen should have an original vote. In addition:

- (i) RoP should specifically provide that the chairmen's original votes should be cast at the same time as other committee members and, if a chairman does not cast his/her vote at the same time as other members, he/she will be regarded as having given up his/her right to vote on that occasion; and
 - (ii) the relevant proposed amendments to RoP in **Appendix II** should be presented to HC for endorsement. HC's support should also be sought for the chairman of CRoP to seek the President's waiver of the notice for moving the relevant proposed resolution at the Council meeting to be held on 19 October 2005; and
- (c) pending the Council's approval of the amendments to RoP, the voting rights of the chairmen of CMI and CRoP, and of HC's subcommittees on subsidiary legislation, HC's subcommittees other than those on subsidiary legislation, and the subcommittees of BCs and Panels, which are not clearly specified in the existing RoP, should be as recommended by CRoP in the interim.

10. A summary of the voting rights of the chairmen of the committees/subcommittees under the existing RoP and those as recommended by CRoP is given in **Appendix III**.

Advice sought

11. Members are invited to endorse CRoP's recommendations in paragraph 9 above and the proposed amendments to RoP in Appendix II.

Legislative Council Secretariat
6 October 2005

Committee on Rules of Procedure

Members' views on
the voting rights of chairmen of committees/subcommittees

Committee	Current voting rights of the chairman of the committee specified below		Members' views					
	Original vote	Casting vote	(A) The chairman should have both an original vote and a casting vote	(B) The chairman should have an original vote but not a casting vote	(C) The chairman should have a casting vote but not an original vote	(D) The chairman should have no original vote or casting vote	(E) The chairman should exercise the casting vote:	
							not according to his/her own will, but by reference to the convention of the House of Commons of the United Kingdom Parliament, i.e. providing an opportunity for further discussion; when no further discussion is possible, decision should not be taken except by a majority; and leaving a bill/motion in its existing form rather than having it amended	according to his / her own will
Finance Committee	No	Yes	Dr Hon Philip WONG Hon LI	Hon Timothy FOK Hon CHIM Pui-chung	<u>DAB</u> ¹ <u>LP</u> ² <u>DP</u> ³	—	<u>DAB</u> ¹ <u>LP</u> ² <u>DP</u> ³	Dr Hon Philip WONG
Public Accounts Committee	No	Yes	Fung-ying Hon Daniel LAM Hon TAM Heung-man		<u>Art 45</u> ⁴ <u>HKFTU</u> ⁵ <u>HKCTU/ NWSC</u> ⁶ <u>The Alliance</u> ⁷		<u>Art 45</u> ⁴ <u>HKFTU</u> ⁵ <u>HKCTU/ NWSC</u> ⁶ <u>The Alliance</u> ⁷	
House Committee (HC)	No	Yes			Dr Hon David LI Hon Emily LAU Hon Albert CHAN Hon Frederick FUNG Hon Fernando CHEUNG Hon Albert CHENG		Dr Hon David LI Hon Emily LAU Hon LI Fung-ying Hon Albert CHAN Hon Frederick FUNG Hon Daniel LAM Hon Fernando CHEUNG Hon Albert CHENG Hon TAM Heung-man	
			(4 Members)	(2 Members)	(50 Members)		(53 Members)	(1 Member)

Committee	Current voting rights of the chairman of the committee specified below		Members' views					
	Original vote	Casting vote	(A) The chairman should have both an original vote and a casting vote	(B) The chairman should have an original vote but not a casting vote	(C) The chairman should have a casting vote but not an original vote	(D) The chairman should have no original vote or casting vote	(E) The chairman should exercise the casting vote:	
							not according to his/her own will, but by reference to the convention of the House of Commons of the United Kingdom Parliament, i.e. providing an opportunity for further discussion; when no further discussion is possible, decision should not be taken except by a majority; and leaving a bill/motion in its existing form rather than having it amended	according to his / her own will
Investigation Committee	No	Yes	Dr Hon Philip WONG Hon LI Fung-ying Hon Daniel LAM Hon TAM Heung-man	LP ² Hon Timothy FOK Hon CHIM Pui-chung	DAB ¹ DP ³ Art 45 ⁴ HKFTU ⁵ HKCTU/ NWSC ⁶ The Alliance ⁷	—	DAB ¹ DP ³ Art 45 ⁴ HKFTU ⁵ HKCTU/ NWSC ⁶ The Alliance ⁷ Dr Hon David LI Hon Emily LAU Hon Albert CHAN Hon Frederick FUNG Hon Fernando CHEUNG Hon Albert CHENG	Dr Hon Philip WONG
Select Committee	No	Yes	(4 Members)	(12 Members)	(40 Members)		(43 Members)	(1 Member)
Committee on Members' Interests	Not specified in the Rules of Procedure (RoP)	Yes	DAB ¹ Dr Hon Philip WONG Hon LI Fung-ying Hon Daniel LAM Hon TAM Heung-man	LP ² Hon Timothy FOK Hon CHIM Pui-chung	DP ³ Art 45 ⁴ HKFTU ⁵ HKCTU/ NWSC ⁶ The Alliance ⁷	—	DAB ¹ DP ³ Art 45 ⁴ HKFTU ⁵ HKCTU/ NWSC ⁶ The Alliance ⁷ Dr Hon David LI Hon Emily LAU Hon Albert CHAN Hon Frederick FUNG Hon Fernando CHEUNG Hon Albert CHENG	Dr Hon Philip WONG
Committee on Rules of Procedure	Not specified in RoP	Yes						
HC's subcommittee other than that on subsidiary legislation (Note)	Not specified in RoP	Not specified in RoP	(14 Members)	(12 Members)	(30 Members)		(43 Members)	(1 Member)

Committee	Current voting rights of the chairman of the committee specified below		Members' views			
	Original vote	Casting vote	(A) The chairman should have two votes (i.e. both an original vote and a casting vote)	(B) The chairman should only have one vote (irrespective of whether it is an original vote or a casting vote)	(C) <u>If the chairman has only one vote,</u> it should be an original vote which is to be exercised according to his/her own will	(C) it should be a casting vote which is to be exercised not according to his/her will, but according to the convention of the House of Commons of the United Kingdom Parliament, i.e. providing an opportunity for further discussion; when no further discussion is possible, decision should not be taken except by a majority; and leaving a bill/motion in its existing form rather than having it amended
Bills Committee (BC)	Yes	Yes	<u>DAB</u> ¹ Dr Hon David LI Dr Hon Philip WONG	<u>LP</u> ² <u>DP</u> ³ <u>Art 45</u> ⁴ <u>HKFTU</u> ⁵ <u>HKCTU / NWSC</u> ⁶ <u>The Alliance</u> ⁷ Hon Emily LAU Hon Albert CHAN Hon Frederick FUNG Hon Fernando CHEUNG Hon CHIM Pui-chung Hon Albert CHENG Hon TAM Heung-man	<u>DAB</u> ¹ <u>LP</u> ² <u>Art 45</u> ⁴ Dr Hon Philip WONG Hon Timothy FOK Hon Daniel LAM Hon CHIM Pui-chung	<u>DP</u> ³ <u>HKFTU</u> ⁵ <u>HKCTU / NWSC</u> ⁶ <u>The Alliance</u> ⁷ Dr Hon David LI Hon Emily LAU Hon LI Fung-ying Hon Albert CHAN Hon Frederick FUNG Hon Fernando CHEUNG Hon Albert CHENG Hon TAM Heung-man
Panel	Yes	Yes	Hon Timothy FOK Hon LI Fung-ying Hon Daniel LAM (15 Members)	 (41 Members)	 (28 Members)	 (28 Members)
Subcommittee of BC	Not specified in RoP	Not specified in RoP	<u>DAB</u> ¹ Dr Hon David LI Dr Hon Philip WONG Hon LI Fung-ying Hon Daniel LAM	<u>LP</u> ² <u>DP</u> ³ <u>Art 45</u> ⁴ <u>HKFTU</u> ⁵ <u>HKCTU / NWSC</u> ⁶ <u>The Alliance</u> ⁷ Hon Emily LAU Hon Timothy FOK Hon Albert CHAN Hon Frederick FUNG Hon Fernando CHEUNG Hon CHIM Pui-chung Hon Albert CHENG Hon TAM Heung-man	<u>DAB</u> ¹ <u>LP</u> ² <u>Art 45</u> ⁴ Dr Hon Philip WONG Hon Timothy FOK Hon Daniel LAM Hon CHIM Pui-chung	<u>DP</u> ³ <u>HKFTU</u> ⁵ <u>HKCTU / NWSC</u> ⁶ <u>The Alliance</u> ⁷ Dr Hon David LI Hon Emily LAU Hon LI Fung-ying Hon Albert CHAN Hon Frederick FUNG Hon Fernando CHEUNG Hon Albert CHENG Hon TAM Heung-man
Subcommittee of Panel	Not specified in RoP	Not specified in RoP	Hon LI Fung-ying Hon Daniel LAM	 (14 Members)	 (28 Members)	 (28 Members)
HC's subcommittee on subsidiary legislation	Not specified in RoP	Not specified in RoP		 (42 Members)	 (28 Members)	 (28 Members)

DAB¹

Democratic Alliance
for the Betterment and
Progress of
Hong Kong:

Hon CHAN
Kam-lam
Hon WONG
Yung-kan
Hon Jasper TSANG
Yok-sing
Hon LAU Kong-wah
Hon CHOY So-yuk
Hon TAM Yiu-chung
Hon LI Kwok-ying
Hon MA Lik
Hon CHEUNG
Hok-ming
Hon WONG
Ting-kwong

(10 Members)

LP²Liberal Party:

Hon James TIEN
Pei-chun
Hon Mrs Selina
CHOW LIANG
Shuk-ye
Hon Mrs Sophie
LEUNG LAU
Yau-fun
Hon Howard
YOUNG
Hon LAU Wong-fat
Hon Miriam LAU
Kin-ye
Hon Tommy
CHEUNG Yu-yan
Hon Vincent FANG
Kang
Hon Jeffrey LAM
Kin-fung
Hon Andrew LEUNG
Kwan-yuen

(10 Members)

DP³Democratic Party:

Hon Albert HO
Hon Martin LEE
Hon Fred LI
Hon James TO
Hon CHEUNG
Man-kwong
Hon SIN Chung-kai
Dr Hon YEUNG Sum
Hon Andrew
CHENG
Hon LEE Wing-tat

(9 Members)

Art 45⁴Article 45 Concern
Group:

Hon Margaret NG
Hon Audrey EU
Hon Alan LEONG
Hon Ronny TONG

(4 Members)

HKFTU⁵

The Hong Kong
Federation of
Trade Unions:

Hon CHAN
Yuen-han
Hon Kwong Chi-kin
Hon Wong
Kwok-hing

(3 Members)

HKCTU / NWSC⁶

Hong Kong
Confederation of
Trade Unions /
Neighbourhood and
Worker's
Service Centre:

Hon LEE Cheuk-yan
Hon LAU Chin-shek
Hon LEUNG
Yiu-chung

(3 Members)

The Alliance⁷:

Ir Dr Hon Raymond
HO
Dr Hon LUI
Ming-wah
Hon Bernard CHAN
Hon Abraham SHEK
Hon Patrick LAU

(5 Members)

The following
Members have
not given any
view:

Hon Mrs Rita FAN
Dr Hon Joseph LEE
Kok-long
Hon LEUNG
Kwok-hung
Dr Hon KWOK
Ka-ki

(4 Members)

(Note) Currently there are five such subcommittees, which are:

- Parliamentary Liaison Subcommittee;
- Subcommittee on Members' Remuneration and Operating Expenses Reimbursement;
- Subcommittee to Study the Subject of Combating Poverty;
- Subcommittee to Study Issues Relating to the Provision of Boarding Places, Senior Secondary Education and Employment Opportunities for Children with Special Educational Needs; and
- Subcommittee on West Kowloon Cultural District Development.

**Proposed amendments to the Rules of Procedure regarding
the voting rights of the chairmen of Panels, Bills Committees,
their subcommittees and
House Committee's subcommittees on subsidiary legislation**

75. House Committee

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

(2) The chairman and deputy chairman of the committee shall be elected by the committee from among its members and shall hold office until the chairman and deputy chairman of the committee for the next session are respectively elected in that next session or, in case that election is held before that next session commences, until that commencement. In the event of the temporary absence of the chairman and deputy chairman, the committee may elect a chairman to act during such absence. ~~Notwithstanding the provision in subrule (16), the chairman or the member presiding, as the case may be, shall have his original vote in addition to his casting vote in such elections.—~~
(L.N. 126 of 2002)

* * * *

(10) The committee shall decide the manner of consideration of any subsidiary legislation which is subject to the provisions of sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1).

(11) The committee may consider, in such manner as it thinks fit, any other item relating to the business of the Council.

(12) The committee may appoint subcommittees for the purpose of assisting the committee in the performance of its functions under subrules (10) and (11).

(12A) 20 members, including the chairman, shall form a quorum of the committee. All matters for the decision of the committee or its subcommittees shall be decided by a majority of the members voting.

(12B) The chairman of, or any other member presiding at, the committee or its subcommittees (other than those appointed under subrule (12) for the purpose of assisting the committee in the consideration of subsidiary legislation referred to in subrule (10)) shall not vote, unless the votes of the other members are equally divided in which case he shall have a casting vote.

(12C) The chairman of, or any other member presiding at, a subcommittee appointed under subrule (12) for the purpose of assisting the committee in the consideration of subsidiary legislation referred to in subrule (10) shall have an original vote but not a casting vote.

(12D) *If the chairman or the member presiding wishes to exercise his original vote on a matter before a subcommittee referred to in subrule (12C), the vote shall only be exercised at the same time as other members of the subcommittee exercise their votes; otherwise, he shall be regarded as having given up his right to vote on the relevant matter.*

(12E) *Notwithstanding the provisions in subrules (12B) and (12C), the chairman or the member presiding, as the case may be, shall have both an original vote and a casting vote in the election of the chairman or deputy chairman of the committee or its subcommittees.*

* * * *

~~(16) 20 members, including the chairman, shall form a quorum. All matters for the decision of the committee shall be decided by a majority of the members voting. The chairman or any other member presiding shall not vote, unless the votes of the other members are equally divided in which case he shall have a casting vote.~~

(17) Where the chairman so orders, any matter for the decision of the committee may be considered by circulation of papers to the members of the committee and each member may signify his approval in writing submitted to the chairman. If a majority of the members so signify before the expiry of the period specified by the chairman for the purpose, and if upon expiry of that period no member has (in writing submitted to the chairman) signified disapproval of the matter or requested that the matter be referred for decision at a meeting of the committee, it shall be deemed to be approved by the committee.

(17) Subject to these Rules of Procedure, the practice and procedure of the committee and its subcommittees shall be determined by the committee.

76. Bills Committees

* * * *

(2) The chairman of a Bills Committee shall be elected by the committee from among its members. The committee may also elect a deputy chairman. In the event of the temporary absence of the chairman or any deputy chairman, the committee may elect a chairman to act during such absence.

* * * *

(8) All matters for the decision of a Bills Committee *or its subcommittees* shall be decided by a majority of the members voting. The chairman or any other member presiding shall, ~~if the votes be equally divided, have a casting vote in addition to his original vote.~~ *have an original vote but not a casting vote.*

(8A) *If the chairman or the member presiding wishes to exercise his original vote on a matter before a Bills Committee or its subcommittees, the vote shall only be exercised at the same time as other members of the Bills Committee or its subcommittees exercise their votes; otherwise, he shall be regarded as having given up his right to vote on the relevant matter.*

(8B) *Notwithstanding the provision in subrule (8), the chairman or the member presiding, as the case may be, shall have a casting vote in addition to his original vote in the election of the chairman or deputy chairman of a Bills Committee or its subcommittees.*

* * * *

77. Panels

(1) There shall be such number of committees, to be called Panels, as the House Committee considers appropriate and as the Council may approve.

* * * *

(5) The chairman of a Panel shall be elected by the Panel from among its members. The Panel may also elect a deputy chairman. In the event of the temporary absence of the chairman or any deputy chairman the Panel may elect a chairman to act during such absence. The chairman and deputy chairman of a Panel shall hold office until the election of the chairman and deputy chairman of the Panel in the session next following that for which they were elected.

* * * *

(9) A Panel may, if it considers appropriate, appoint subcommittees to study specific issues and to report to the Panel.

(9A) Two or more Panels may, if they consider appropriate, appoint joint subcommittees to study any matter of common interest to the relevant Panels and to report to the Panels. *(Note)*

(10) A Panel or its subcommittee may, if it considers appropriate, meet jointly with any other Panel or its subcommittee for the purpose of considering any matter of common interest to the Panels. The quorum of a joint meeting shall be one third of the members of all the relevant panels or subcommittees including the chairman (a fraction of the whole number being disregarded). ~~All matters for decision at a joint meeting shall be decided by a majority of the members voting. The chairman shall, if the votes be equally divided, have a casting vote in addition to his original vote.~~

* * * *

(13) All matters for the decision of a Panel, *a subcommittee appointed under subrule (9) or a joint subcommittee appointed under subrule (9A)*, and all matters for decision at a joint meeting referred to in subrule (10) shall be decided by a majority of the members voting. The chairman or any other member presiding shall, ~~if the votes be equally divided, have a casting vote in addition to his original vote.~~ *have an original vote but not a casting vote.* Such voting shall not be binding on any Member, whether in Council, in a committee of the whole Council or in the House Committee.

(13A) *If the chairman or the member presiding wishes to exercise his original vote on a matter before a Panel, a subcommittee, a joint subcommittee or a joint meeting referred to in subrule (13), the vote shall only be exercised at the same time as other members of the Panel, subcommittee, joint subcommittee or joint meeting exercise their votes; otherwise, he shall be regarded as having given up his right to vote on the relevant matter.*

(13B) *Notwithstanding the provision in subrule (13), the chairman of, or the member presiding at, a Panel, a subcommittee appointed under subrule (9), a joint subcommittee appointed under subrule (9A) or a joint meeting referred to in subrule (10), as the case may be, shall have a casting vote in addition to his original vote in the election of its chairman or deputy chairman.*

* * * *

Legend:

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

Texts proposed to be deleted are shown with deletion lines.

(Note) The proposed Rule 77(9A) of the Rules of Procedure, which concerns the formation of joint subcommittees under two or more Panels, was endorsed by the House Committee on 8 July 2005 and will be presented to the Council for approval on 19 October 2005.

**Current and proposed
voting rights of chairmen of committees/subcommittees**

Committee	Current voting rights of the chairman of the committee/subcommittee		Proposed voting rights of the chairman of the committee/subcommittee	
	Original vote	Casting vote	Original vote	Casting vote (to be exercised according to the UK parliamentary convention)
Finance Committee	No	Yes	No	Yes
Public Accounts Committee	No	Yes	No	Yes
House Committee (HC)	No	Yes	No	Yes
Investigation Committee	No	Yes	No	Yes
Select Committee	No	Yes	No	Yes
Committee on Members' Interests	Not specified in the Rules of Procedure (RoP)	Yes	No	Yes
Committee on Rules of Procedure	Not specified in RoP	Yes	No	Yes
HC's subcommittee other than that on subsidiary legislation	Not specified in RoP	Not specified in RoP	No	Yes
Bills Committee (BC)	Yes	Yes	Yes	No
Panel	Yes	Yes	Yes	No
Subcommittee of BC	Not specified in RoP	Not specified in RoP	Yes	No
Subcommittee of Panel	Not specified in RoP	Not specified in RoP	Yes	No
HC's subcommittee on subsidiary legislation	Not specified in RoP	Not specified in RoP	Yes	No