香港特別行政區 立法會 議事規則委員會

Committee on Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

2006-2007 年度會期工作進度報告 (2006年7月13日至2007年7月11日)

Progress Report for the 2006-2007 session (13 July 2006 to 11 July 2007)

2007年7月11日 11 July 2007

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1. Introduction

- 1.1 CRoP is a committee of LegCo established under Rule 74 of the Rules of Procedure (RoP) of the Council. The functions of CRoP are to review RoP of the Council and the committee system, propose to the Council any amendments or changes as are considered necessary, and examine matters of practice and procedure relating to the Council referred by the Council or its committees or the President, or raised by its own members.
- 1.2 CRoP consists of 12 members, including the Chairman, Hon Jasper TSANG Yok-sing, the Deputy Chairman, Hon Margaret NG, and 10 other members. They were appointed by the President in accordance with the recommendations of the House Committee (HC). The membership list is in **Appendix I**.
- 1.3 This report covers the period from 13 July 2006 to 11 July 2007, during which a total of seven CRoP meetings were held to study various issues mainly relating to:
 - (a) the procedural arrangements of the Council; and
 - (b) the procedures and working mechanism of committees of the Council.

A complete list of the issues studied by CRoP in the current session up to 11 July 2007 is in **Appendix II**.

2. Issues relating to the procedural arrangements of the Council

Issues examined

- 2.1 In the report period, CRoP examined a number of procedural issues, which included:
 - (a) arrangements for asking questions on urgent matters of public importance at Council meetings;
 - (b) proposed procedural arrangements relating to the implementation of BL 73(9) on impeachment of CE;
 - (c) speaking order of designated public officers during motion debates initiated by Members;
 - (d) valedictory arrangements; and
 - (e) attire for Council meetings.

<u>Arrangements for asking questions on urgent matters of public importance at</u> Council meetings

- 2.2 In response to Hon Martin LEE's request, CRoP reviewed the current notice requirement for questions. Mr LEE was concerned that the notice period for questions was too long, thus creating difficulties for Members to raise urgent or topical issues in a timely manner.
- 2.3 CRoP noted that given the existing manpower and the tight time-frame for processing questions, it would pose great difficulties to the LegCo Secretariat if the relevant notice period was shortened. Besides, the Administration would also have less time to prepare the replies to the questions.
- 2.4 CRoP proposed the following alternative arrangements:
 - (a) replacing the existing system for raising questions at Council meetings with a new roster system under which Principal Officials (POs) took turns to answer Members' questions at each Council meeting. Members would not be

required to give notice to ask questions; and

- (b) shortening the notice period for oral questions from the existing requirement of seven clear days to one clear day. Under this arrangement, Members would be required to provide only the broad topics of the questions. The existing arrangements for written questions would remain unchanged.
- 2.5 The Administration's view was sought on the alternative arrangements proposed by CRoP. The Administration considered that the proposed roster system would not address the need to provide a mechanism for LegCo to raise questions on urgent issues at short notice. With the roster fixed in advance, the attending public officer could only address questions falling within his policy purview. Shortening the notice period for oral question to one clear day would give rise to considerable practical difficulties. The responding public officers would not be able to collate relevant detailed information and prepare themselves for a proper exchange. Moreover, if only the broad topic of the intended questions was given, the Administration would not be able to ascertain the exact concerns that Members might have and therefore could not designate the most appropriate public officer(s) to reply to the questions.
- 2.6 CRoP noted that at present, there were various channels for Members to raise urgent questions or issues, including:
 - (a) the relevant Panel or other committee holding a special meeting to discuss the issue;
 - (b) raising a question at a Council meeting without notice under RoP 24(4), if the President was satisfied that the question was of an urgent character and related to a matter of public importance; and
 - (c) moving a motion without notice for the adjournment of the Council under RoP 16(2) for debating an issue between two items of business, if the President was satisfied that the adjournment was for the purpose of discussing a specific issue of urgent public importance.

CRoP considered that the existing arrangements for asking questions should be maintained.

Proposed procedural arrangements relating to the implementation of BL 73(9) on impeachment of CE

2.7 When the Subcommittee on Application of Certain Provisions of the Prevention of Bribery Ordinance to the Chief Executive under the Panel on Constitutional Affairs deliberated the appropriate statutory framework of bribery prevention applicable to CE, it discussed the impeachment process under BL 73(9) as well as the need for introducing a new section in the Prevention of Bribery Ordinance (POBO) to enable the Secretary for Justice to refer to LegCo a report of CE suspected to have committed a POBO offence for possible follow-up by LegCo under BL 73(9). The Subcommittee requested CRoP to accord priority to study the procedural arrangements relating to the implementation of BL 73(9).

2.8 BL 73(9) provided that:

"如立法會全體議員的四分之一聯合動議,指控行政長官有嚴重違法或瀆職行爲而不辭職,經立法會通過進行調查,立法會可委托終審法院首席法官負責組成獨立的調查委員會,並擔任主席。調查委員會負責進行調查,並向立法會提出報告。如該調查委員會認爲有足夠證據構成上述指控,立法會以全體議員三分之二多數通過,可提出彈劾案,報請中央人民政府決定"。

(English translation)

"If a motion initiated jointly by one-fourth of all the members of the Legislative Council charges the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign, the Council may, after passing a motion for investigation, give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee. The committee shall be responsible for carrying out the investigation and reporting its findings to the Council. If the committee considers the evidence sufficient to substantiate such charges, the Council may pass a motion of impeachment by a two-thirds majority of all its members and report it to the Central People's Government for decision".

- 2.9 CRoP considered that specific rules to deal with the implementation of BL 73(9) should be provided in RoP, given the important nature of the impeachment of CE. General rules governing motions, rules of speaking, etc should apply where appropriate.
- 2.10 CRoP deliberated various issues relating to the impeachment procedural arrangements, including how the impeachment procedure should be initiated, whether the motion for investigation and motion of impeachment should be in a prescribed form, and what rules should govern the debates on the motions in relation to matters such as contents of speeches, speaking time limits, etc. The Administration's view on the proposed procedural arrangements was being sought. CRoP would continue deliberation on the matter upon receiving the Administration's view.

Speaking order of designated public officers during motion debates initiated by Members

- 2.11 Under the current arrangement, a designated public officer attending a motion debate initiated by a Member was called upon by the President to speak towards the end of the debate to respond to Members' views expressed during the debate. At Hon Martin LEE's request, CRoP reviewed the current arrangement.
- 2.12 CRoP considered that a designated public officer attending a motion debate initiated by a Member should speak twice during the debate, i.e. in the early part of the debate to state or explain the Administration's stance on the motion and the amendment(s), if any, and towards the end of the debate to respond to Members' views expressed during the debate, so that the debate would be more focused and meaningful.
- 2.13 CRoP was aware that if designated public officers were willing to speak twice during motion debates, there was no need to amend RoP to make the proposed speaking order a standing arrangement, as under RoP 38(8), designated public officers might speak a second time during debates on Members' motions. In fact, on behalf of Members, the HC chairman had put forward a similar proposal to the Chief Secretary for Administration (CS) in November 1998 and April 1999. CS responded on both occasions that the Administration did not see the need for changing the speaking arrangement of public officers in motion debates, as it considered that the established practice had worked well and best served the purpose. However, CRoP noted that designated public officers had only on very rare occasions spoken twice during debates on Member's motions in the past. CRoP considered that the relevant provision in RoP, i.e. RoP 33, should be amended to enable the President to call upon designated public officers to speak both in the early part and towards the end of motion debates initiated by Members, except for the debate on CE's Policy Address under RoP 13.
- 2.14 The Administration had been consulted on the proposed amendments to RoP 33. The views expressed by the Administration are summarized below:
 - (a) the present RoP already provided the flexibility for designated public officers attending a motion debate to speak more than once. It therefore did not see a practical need for the proposed amendments to RoP;

- (b) the proposed speaking arrangement was at variance with the general principle reflected in RoP that the President was to call upon any person to speak, only if that person had given notice to transact business at LegCo or if that person indicated his intention to speak; and
- (c) the proposed amendments to RoP 33 might cover other types of debates that could be initiated by Members, including debates on various motions concerning Members' bills (RoP 54(3), 55(1)(a), 61 and 63(1), etc). The Administration suggested that the proposed speaking order should only apply to debates on motions not intended to have legislative effect, but exceptions be made for the debate on CE's Policy Address under RoP 13 and adjournment motions moved under RoP 16(4).
- After considering the Administration's views, CRoP agreed that, in addition to the debate on CE's Policy Address, adjournment debate under RoP 16(4) should also be excluded. As regards the debates on motions moved under RoP 54(3), 55(1)(a), 61 and 63(1), CRoP considered that they should be covered.
- 2.16 CRoP noted that even if RoP was amended to the above effect, the contents of the speeches of designated public officers would still be beyond the control of Members. Moreover, when a designated public officer was called upon by the President under the amended RoP, he had the discretion to decide whether to speak or indicate that he did not wish to speak. However, CRoP hoped that designated public officers concerned would speak when called upon by the President.
- 2.17 The proposed amendments to RoP 33 were endorsed by HC on 29 June 2007. HC also supported-seeking the President's leave to dispense with the requisite notice for the proposed resolution to amend RoP 33 to be moved by the chairman of CRoP at the Council meeting of 11 July 2007.

Valedictory arrangements

2.18 In the last LegCo, HC considered a Member's suggestion that the HC chairman should move a motion at a Council meeting, on behalf of Members, to bid farewell to the then CS on her retirement. Noting that it had not been a practice of LegCo to move a "valedictory motion" to bid farewell to a designated public officer on his retirement, nor was there any

provision in RoP for Members to make valedictory speeches on the retirement of a designated public officer, HC invited CRoP to study whether there was a need to put in place valedictory arrangements.

- 2.19 CRoP noted that before 1 July 1997, there were occasions on which valedictory speeches were made at Council sittings to bid farewell to Official Members of the Council (who retired from office or made their last appearance as a Member of LegCo), Unofficial Members, as well as the Clerk to the Council. In July 1991, a separate provision for "valedictory speeches" was added to the Standing Orders of the Council. However, in 1995, that provision was deleted from the Standing Orders, as there was no longer any Official Member in the Council starting from the 1995-1997 term. Since the 1995-1997 term, a valedictory motion was moved at the last Council meeting of each LegCo term. On each occasion, the motion was moved by the HC chairman on behalf of Members, as HC supported the moving of the motion.
- 2.20 In studying the matter, CRoP made reference to the practices in overseas legislatures for making valedictory speeches to bid farewell to Members or senior government officials who left their service in the legislature or the government. The four legislatures studied were the House of Commons of the United Kingdom Parliament, the House of Representatives of the United States Congress, the House of Representatives of the Australian Parliament, and the House of Commons of the Canadian Parliament.
- 2.21 CRoP considered that although there was no specific provision for valedictory speeches in the existing RoP, Members could make use of a debate on a motion with no legislative effect or an adjournment debate to bid farewell to a Member or designated public officer. CRoP did not consider that there was a need to provide for valedictory arrangements in RoP.

Attire for Council meetings

- 2.22 Hon Martin LEE considered that Members should take the lead not to wear suits and ties at Council meetings in the summer months and that POs should be requested to follow suit, so that the air-conditioning in the LegCo Building could be adjusted to a temperature of 25.5°C to save energy. He requested CRoP to consider amending RoP to allow Members not to wear suits at Council meetings in the summer months.
- 2.23 CRoP had, in fact, studied the subject matter at the request of the

President in late 2004. In that review, CRoP agreed that attire other than suits and ties should not necessarily be regarded as improper.

2.24 CRoP noted that at present, RoP did not specify that Members or POs attending Council meetings should wear suits. Even T-shirts and sweat shirts were no longer regarded as improper attire for Council meetings under RoP 42(a). In order not to infringe on the freedom of Members or POs to decide whether or not to wear suits and ties at Council meetings, CRoP considered that it was not appropriate to amend RoP to require Members not to wear suits at Council meetings in the summer months.

3. Issues relating to the procedures and working mechanism of committees of the Council

Issues examined

- 3.1 In the report period, CRoP examined a number of issues relating to the procedures and working mechanism of committees of the Council, which included:
 - (a) Handbook for Chairmen of Subcommittees on Subsidiary Legislation/Other Instruments;
 - (b) appointment, operation and servicing of subcommittees; and
 - (c) impact of the re-organization of the Government Secretariat on the work of LegCo Panels.

<u>Handbook for Chairmen of Subcommittees on Subsidiary Legislation/Other</u> Instruments

- 3.2 CRoP's previous Progress Report for 1 July 2005 to 12 July 2006 stated that the LegCo Secretariat had completed preparing the draft Handbook for Chairmen of Subcommittees on Subsidiary Legislation/Other Instruments and would circulate it to all Members for comments.
- 3.3 After consulting all Members on the Handbook, it was presented to and endorsed by HC on 10 November 2006.

Appointment, operation and servicing of subcommittees

- 3.4 At HC's invitation, CRoP studied the appointment, operation and servicing of subcommittees under HC and Panels on policy issues or Council business other than subsidiary legislation, other instruments and senior judicial appointments (referred to as "subcommittees" below).
- 3.5 The following recommendations, put forward by CRoP, were endorsed by HC on 2 March 2007:

- (a) any subcommittee formed could operate immediately as long as the total number did not exceed eight. When the number reached eight, any new subcommittee formed would be put on a waiting list, and HC would act as the clearing house for the activation of subcommittees on the list;
- (b) when eight subcommittees were already in operation and the total number of Bills Committees (BCs) was less than 16, HC might activate any subcommittee(s) on the waiting list. In considering whether or not to activate a subcommittee on the waiting list, HC would take into account the following:
 - (i) the Administration's legislative timetable;
 - (ii) the number of subcommittees on subsidiary legislation in operation;
 - (iii) the legislative proposals (bills and subsidiary legislation) which had been considered by Panels and the likelihood of formation of BCs/subcommittees on subsidiary legislation for these legislative proposals; and
 - (iv) the availability of resources in the Secretariat;
- (c) in the event that the number of subcommittees activated exceeded eight and the number of BCs subsequently reached 16, the Secretariat would continue to provide service to the subcommittees concerned, but no more subcommittee should be activated until the number of subcommittees in operation fell below eight; and
- (d) a time-frame of 12 months would be set for the completion of a subcommittee's task. Where it was necessary for a subcommittee to operate beyond this time-frame, the subcommittee should report to HC, after obtaining the endorsement of the relevant Panel if appropriate, and give justifications for its work to continue.
- 3.6 The proposed amendments to the House Rules to implement the above new arrangements were endorsed by HC on 20 April 2007.

<u>Impact of the re-organization of the Government Secretariat on the work of LegCo Panels</u>

- 3.7 CRoP reviewed the distribution of work of LegCo Panels in the light of the re-organization of the Government Secretariat. CRoP noted that it had been the practice to define the scope of work of Panels by matching it as far as possible with the distribution of responsibilities of their corresponding Directors of Bureau. However, there were occasions where no change was proposed to the terms of reference of Panels after the duties of Directors of Bureau had been reshuffled. Therefore, the reshuffling of policy areas among Directors of Bureau did not necessarily mean that the policy areas of Panels must be changed. Moreover, in determining the terms of reference of a Panel and the scope of its policy areas, consideration was also given to the span and diversity of the responsibilities of its corresponding Policy Bureau.
- 3.8 CRoP found that a complete re-alignment of the policy areas of Panels based on the new schedule of responsibilities of the Directors of Bureau would lead to significant changes to the Panel structure and membership composition. Such changes would make it difficult for individual Panels to monitor and follow up on specific policy issues in the last session of the current term. CRoP suggested that the status quo be maintained with suitable modifications to the current Panel structure. As such, the current policy portfolios of Panels would be suitably modified to take into account the new policy areas and new names of Policy Bureaux. The new policy areas (namely, "poverty", "social enterprise", "creative industry" and "sustainable development") would be placed under those Panels which already had them covered by their respective terms of reference. CRoP also suggested that the Panel on Planning, Lands and Works and Panel on Economic Services be renamed as Panel on Development and Panel on Economic Development respectively to match with the names of their corresponding Policy Bureaux. The titles of the corresponding Policy Bureaux would also be changed to reflect the new titles of those Bureaux.
- 3.9 CRoP identified seven policy areas which did not fall directly within the portfolio of a particular Panel. The policy areas involved were "women", "human rights, data protection and press freedom", "development-related heritage conservation", "social enterprise", "air and sea transport facilities and services", "energy supply and safety" and "sustainable development". CRoP recommended that where a policy area straddled across the portfolios of more than one Panel, the Panel which had been monitoring that specific policy area should continue to serve as

coordinator for matters relating to that policy area for the remainder of the current term.

- 3.10 CRoP also recommended that a review should be conducted towards the end of the 2007-2008 session to examine the Panel structure and the placement of the seven policy areas which did not fall directly within the portfolio of one Panel, with a view to proposing a Panel structure for the next term.
- 3.11 The Administration had been consulted on the matter. In its reply, the Administration expressed support for CRoP's proposal to conduct a review of the Panel structure towards the end of the 2007-2008 session. However, as four Policy Bureaux would be reporting concurrently to three Panels and a few other Bureaux reporting to two Panels under the latest distribution of work among Policy Bureaux, the Administration appealed to CRoP and HC for their understanding in case individual Bureaux ran into capacity constraints and could not respond as best as they should to the concurrent wishes of the various Panels. The proposed modifications to the Panel structure, which have incorporated the Administration's suggestions, are in **Appendix III**.
- 3.12 The proposed modifications were endorsed by HC on 6 July 2007. HC also supported seeking the President's leave to dispense with the requisite notice for the proposed resolution to give effect to the proposed modifications to be moved by the HC chairman at the Council meeting of 11 July 2007. The proposed resolution, if passed, would take effect in the 2007-2008 session.

4. Acknowledgement

- 4.1 CRoP wishes to record its appreciation of the views of Members of the Council and their support for the work of the Committee.
- 4.2 CRoP also wishes to recognize the effective support provided by the LegCo Secretariat.

Membership list of Committee on Rules of Procedure

Chairman Hon Jasper TSANG Yok-sing, GBS, JP

Deputy Chairman Hon Margaret NG

Members Hon James TIEN Pei-chun, GBS, JP

Hon Martin LEE Chu-ming, SC, JP

Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP

Hon Emily LAU Wai-hing, JP Hon LI Fung-ying, BBS, JP

Hon Daniel LAM Wai-keung, SBS, JP

Hon MA Lik, GBS, JP

Hon Ronny TONG Ka-wah, SC

Prof Hon Patrick LAU Sau-shing, SBS, JP

Hon KWONG Chi-kin

(Total: 12 Members)

Clerk Ms Miranda HON Lut-fo

Legal Adviser Mr Jimmy MA, JP

Committee on Rules of Procedure

List of issues studied during the 2006-2007 Legislative Council Session

(as at 11 July 2007)

Item	Issue	Reference	Progress/Remarks
1	Arrangements for asking questions on urgent matters of public importance at Council meetings	Rules 16 and 24 of Rules of Procedure (RoP); Rules 5 and 10 of the House Rules (HR)	CRoP decided that the existing arrangements for asking questions should be maintained.
2	Proposed procedural arrangements relating to the implementation of Article 73(9) of the Basic Law (BL) on impeachment of the Chief Executive	BL 73(9)	The Administration's view on the proposed procedural arrangements was being sought.
3	Speaking order of designated public officers during motion debates initiated by Members	RoP 33	The proposed amendments to RoP 33 were endorsed by HC on 29 June 2007. A proposed resolution to amend RoP 33 would be moved by the chairman of CRoP at the Council meeting of 11 July 2007.
4	Valedictory arrangements		CRoP decided that there was no need to provide for valedictory arrangements in RoP.
5	Attire for Council meetings	RoP 42(a)	CRoP considered that it was not appropriate to amend RoP to require Members not to wear suits at Council meetings in the summer months.

Item	Issue	Reference	Progress/Remarks
6	Handbook for Chairmen of Subcommittees on Subsidiary Legislation/Other Instruments	_	The Handbook was endorsed by the House Committee (HC) on 10 November 2006.
7	Appointment, operation and servicing of subcommittees	HR 20(j) and (k), 22(s), (t) and (u), 25(a) and 26 (a), (b), (c), (d), (e) and (f)	The recommendations concerning the appointment, operation and servicing of subcommittees were endorsed by HC on 2 March 2007, and the proposed amendments to HR to implement the new arrangements were endorsed by HC on 20 April 2007.
8	Impact of the re-organization of the Government Secretariat on the work of Legislative Council Panels		The proposed modifications to the Panel structure were endorsed by HC on 6 July 2007. A proposed resolution to give effect to the proposed modifications would be moved by the HC chairman at the Council meeting of 11 July 2007.

Legislative Council Secretariat 11 July 2007

Proposed modifications to the Panel structure based on the present mode of operation

	<u>Panel</u>	Policy Area	Corresponding Bureau/Office	
1.	Manpower	 Labour Manpower planning Vocational training	Labour and Welfare Bureau	
		Vocational education and qualifications framework	Education Bureau	
2.	Commerce and Industry	Commerce, industry, business and services promotion, innovation and technology, intellectual property protection and inward investment promotion	Commerce and Economic Development Bureau	
3.	Public Service	Civil service and Government-funded public bodies, and other public service matters	Civil Service Bureau Financial Services and the Treasury Bureau	
4.	Administration of Justice and Legal Services	Matters relating to the administration of justice and legal services	 Judiciary Department of Justice Administration Wing of the Chief Secretary for Administration's Office 	
		Legal aid	Home Affairs Bureau	

	<u>Panel</u>	Policy Area	Corresponding Bureau/Office
5.	Home Affairs	District, community and rural matters, civic education, building management, youth matters, the provision of leisure and cultural services, development of arts and culture, public entertainment, sport and recreation	Home Affairs Bureau
		△ Women (note 1)	Labour and Welfare Bureau
		△ Human rights, data protection and press freedom (note 1)	Constitutional and Mainland Affairs Bureau
		△ Development-related heritage conservation (note 1)	Development Bureau
6.	Transport	Transport matters	Transport and Housing Bureau
7.	Housing	Private and public housing matters	Transport and Housing Bureau
8.	Security	Security, public order, public safety, nationality and immigration matters	Security Bureau
		Corruption-related matters	Independent Commission Against Corruption

<u>Panel</u>		Policy Area	Corresponding Bureau/Office
9.	Constitutional Affairs	Matters relating to implementation of the Joint Declaration and the Basic Law, relations between the Hong Kong Special Administrative Region Government and the Central People's Government and other Mainland authorities, electoral matters and district organizations	Constitutional and Mainland Affairs Bureau
10.	Food Safety and Environmental Hygiene	Food safety, environmental hygiene, agriculture and fisheries	Food and Health Bureau
11.	Financial Affairs	Financial and finance matters	Financial Services and the Treasury Bureau
12.	Education	Education matters	Education Bureau
13.	Planning, Lands and Works (To be renamed as Panel on Development)	Lands, buildings and planning matters, works and water supply and Public Works Programme	Development Bureau
14.	Welfare Services	 Welfare and rehabilitation services matters Poverty (new policy) △ Social enterprise (new policy)^(note 1) 	Labour and Welfare Bureau Home Affairs Bureau
		(note 2)	- Home Minns Bureau
15.	Information Technology and Broadcasting	 Information technology, telecommunications, broadcasting and film services Creative industry (<i>new policy</i>) 	Commerce and Economic Development Bureau

<u>Panel</u>	Policy Area	Corresponding Bureau/Office
16. Economic Services (To be renamed as Panel on Economic Development)	Economic infrastructure and services, postal and weather information services, consumer protection, competition policy and tourism	Commerce and Economic Development Bureau
r ,	 △ Air and sea transport facilities and services (note 1) △ Energy supply and safety (note 1) 	Transport and Housing BureauEnvironment Bureau
17. Health Services	Medical and health services matters	Food and Health Bureau
18. Environmental Affairs	 Environmental and conservation matters △ Sustainable development (new policy) (note 1) 	Environment Bureau

- Note 1: "△" represents the seven policy areas which do not fall directly within the portfolio of a particular Panel. The placement of these policy areas will be subject to review in the light of the experience in the 2007-2008 session.
- **Note 2**: "Social enterprise" is currently dealt with in conjunction with "Poverty" by the Legislative Council.