

立法會
Legislative Council

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**Subcommittee on Preparatory Work in relation to
the Establishment of an Investigation Committee under Rule 49B(2A)
(Disqualification of Member from Office) of the Rules of Procedure**

Meeting on 23 October 2009

**Procedure for the election of Members
for appointment to the investigation committee
to be established upon the moving of a censure motion**

Purpose

This paper invites members to consider and propose to the House Committee a procedure for the election of Members for appointment by the President to the investigation committee to be established under Rule 49B(2A) of the Rules of Procedure upon the moving of a censure motion under Rule 49B(1A).

Background

2. Under Rule 73A(1), all members of an investigation committee required to be established under Rule 49B(2A) (Disqualification of Member from Office) shall be Members appointed by the President in accordance with an election procedure determined by the House Committee. The rule also provides that an investigation committee shall comprise a chairman, deputy chairman and five members, and that the mover of the censure motion, the three Members jointly signing the notice of the motion, as well as the Member who is the subject of the motion shall not be appointed to the investigation committee.

Proposal

3. The procedure proposed for the election of Members for appointment to the investigation committee is set out in paragraphs 4 to 11 below for members' consideration. The proposed arrangements mainly follow those adopted for the election of Members for appointment to the Public Accounts Committee ("PAC"), the Committee on Members' Interests ("CMI"), and the Committee on Rules of Procedure ("CRoP"), members of which are also appointed by the President in accordance with an election procedure

determined by the House Committee¹. Where appropriate, the relevant arrangements of the election procedure adopted for select committees and The Legislative Council Commission ("the Commission")² are also highlighted for members' reference.

Election and nomination of Members for election

4. It is proposed that the election of Members for appointment to the investigation committee be held at a House Committee meeting, and that nominations are to be made orally at the meeting, as for PAC, CMI, CRoP and select committees. A valid nomination is one made orally by a Member, seconded by at least one other Member who should not be the Member being nominated, and accepted by the Member being nominated.

5. Alternatively, if members consider that nominations should be made in writing and in advance, reference may be made to the procedure for election of members of the Commission, under which nominations are invited in writing at least seven clear days before the House Committee meeting at which the election is held; and a nomination is considered valid only if it is made in a nomination form delivered to the Secretariat at least three clear days before the election date, and with the signatures of the proposer, at least one seconder, and the nominee Member signifying his consent to the nomination. In cases where the number of nominations received by the deadline is less than the maximum number of members that may be elected, further nominations may be made orally at the House Committee meeting at which the election is held.

Voting on the nominations

6. If there are only seven valid nominations for election, the Chairman of the House Committee may forthwith declare the Members duly elected. Where there are more than seven valid nominations, it is proposed that an election be held by a show of hands, as for PAC, CMI, CRoP and select committees. Under this procedure, Members may vote as many times as the number of places i.e. seven times, and the nominees who get the highest numbers of votes will be declared elected.

7. On the other hand, if members consider that voting should be made by secret ballot, reference may be drawn to the procedure adopted for election of members of the Commission. If this procedure is adopted, a Member may vote for a maximum of seven nominees for appointment to the investigation committee and no more. The votes are counted in accordance with the simple or relative majority system of election (i.e. first-past-the-post system of election), and the nominees who get the highest numbers of votes will be declared elected.

¹ The relevant rules are 72(3), 73(2) and 74(2) of the Rules of Procedure.

² The procedure for election of members of the Commission is provided in a resolution of the Council passed on 8 July 1998.

Resolving tied votes

8. It is proposed that where a nominee would have been elected but for there being one or more other nominees having been given the same number of votes (i.e. "tied votes"), a separate poll be taken in respect of that nominee and such other nominee(s) in accordance with the election system (show of hands or secret ballot) the House Committee has selected, until all the remaining place(s) is/are filled. This procedure is also adopted for PAC, CMI and CRoP.

9. Members may also wish to consider resolving tied votes by lots drawn by the Chairman of the House Committee, which is the procedure adopted for select committees.

Election of chairman and deputy chairman

10. It is proposed that the House Committee meeting be suspended for 10 minutes immediately after the election of the seven members, so that the nominees may elect the chairman and deputy chairman by and amongst themselves, and that the procedure for election of chairman and deputy chairman should follow that for election of chairmen and deputy chairmen of the House Committee, Panels, Bills Committees and subcommittees (Appendix IV of the House Rules). The House Committee will then be asked to endorse the election results upon resumption of the meeting. This practice is adopted for PAC, CMI, CRoP as well as select committees and in line with the general practice that the chairman and deputy chairman of a committee are elected by and amongst members of the committee concerned.

11. However, as the election procedure for members (including the chairman and deputy chairman) of an investigation committee is to be determined by the House Committee, alternative ways of electing the chairman and deputy chairman of the investigation committee may be considered e.g. the chairman and deputy chairman being elected from amongst the seven nominees by members of the House Committee after they have been elected.

Advice sought

12. Members are invited to consider the procedural arrangements proposed in paragraphs 4 to 11 above for the election of Members for appointment to the investigation committee to be established upon the moving of a censure motion.

Legislative Council Secretariat

22 October 2009