

**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**

**2012 年 10 月至 2013 年 7 月的工作進度報告
Progress Report for the period
October 2012 to July 2013**

**2013 年 7 月 17 日
17 July 2013**

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1. Introduction

1.1 The Committee on Rules of Procedure ("the Committee") is a committee of the Legislative Council established under Rule 74 of the Rules of Procedure of the Council. The functions of the Committee are to review the Rules of Procedure of the Council and the committee system, and to propose to the Council any amendments or changes as are considered necessary. The Committee may 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 The Committee consists of 12 members, including the Chairman Hon TAM Yiu-chung, the Deputy Chairman Hon Alan LEONG and 10 other members, appointed by the President in accordance with the recommendations of the House Committee. The membership list is in **Appendix I**.

1.3 This report covers the period from October 2012 to July 2013, during which four meetings were held to study various issues relating to –

- (a) the procedural arrangements of Council meetings; and
- (b) the procedures of the committees of the Council.

A complete list of the issues studied by the Committee in the current session is in **Appendix II**.

2. Review of the procedural arrangements relating to Council meetings

2.1 In the reporting period, the Committee examined a number of procedural arrangements relating to meetings of the Council, including –

- (a) Addressing questions to the Government at Council meetings
- (b) provision of slots for moving motions not intended to have legislative effect;
- (c) provision of the subject and wording of a proposed motion at the time of application for a debate slot;
- (d) Rules of Procedure and practices on the handling of proposed amendments to bills and discussions in committee of the whole Council; and
- (e) Members' motions on subsidiary legislation not dealt with before expiry of the vetting period due to unfinished preceding business.

Addressing questions to the Government at Council meetings

Provision of additional question slots

2.2 Under Rules 22 and 23 of the Rules of Procedure, Members may address oral or written questions at Council meetings (except the first meeting of a term or a meeting at which the President is elected or the Chief Executive delivers a Policy Address to the Council) to the Government on the work of the Government, either seeking information on such matter or asking for official action with regard to it. Under rule 7(e) of the House Rules, at the Council meetings for debate on the Appropriation Bill and that on the Motion of Thanks, there will be no arrangement for Members to put oral questions to the Government.

2.3 Prior to the Council meeting of 17 April 2013, not more than 20 questions (excluding urgent questions) of which notice had been given

might be asked at a Council meeting. Where there would be a debate on a motion not intended to have legislative effect at a meeting, no more than six oral questions might be asked at that meeting and where there would be no debate on such a motion, no more than 10 oral questions might be asked at that meeting¹.

2.4 In view of the increase of 10 Members in the Fifth Legislative Council, the Committee of the Fourth Legislative Council had conducted two rounds of consultation with Members on the provision of slots for asking questions at Council meetings. Based on the results of the consultation, the Committee of the Fourth Legislative Council proposed and the House Committee endorsed at its meeting on 25 May 2012 that with effect from the Fifth Legislative Council, for each Council meeting at which both oral questions and written questions might be asked –

- (a) the number of oral questions be increased from six to seven; and
- (b) the number of written questions be increased from 14 to 16.

For those Council meetings at which only written questions might be raised, the number of written questions was proposed to be increased from 20 to 23.

2.5 However, the motion to amend Rule 23(2) and (3) of the Rules of Procedure to implement the proposal in the Fifth Legislative Council was not dealt with by the Council before the Fourth Legislative Council stood prorogued on 18 July 2012.

2.6 The Committee of the Fifth Legislative Council has considered the subject. The Committee agrees that for each Council meeting at which both oral questions and written questions may be asked, the number of written questions at a Council meeting should be increased from 14 to 16. However, as members of the Committee have divided views on whether the number of oral questions should be increased from

¹ This arrangement is provided in Rule 23(3) of RoP, but according to the Secretariat's record, there has been no case of 10 oral questions being asked at a Council meeting.

six to seven, the Committee conducted a consultation with all Members of the Legislative Council on the issue. The outcome was that a majority of Members consider that the number of oral questions should be maintained at six at each Council meeting.

2.7 Having regard to the consultation outcome, the Committee has proposed that for each Council meeting at which both oral questions and written questions may be asked –

- (a) the number of oral questions be maintained at six; and
- (b) the number of written questions be increased by two, i.e. from 14 to 16.

The Committee has also proposed that for those Council meetings at which only written questions may be asked, the number of written questions should be increased from 20 to 22.

2.8 The House Committee endorsed the above proposal at its meeting on 8 February 2013 and the relevant proposed amendment to rule 7(b) of the House Rules. The relevant proposed amendment to Rule 23(2) of the Rules of Procedure was passed at the Council meeting of 20 March 2013. The increase in the number of written questions has taken effect since the Council meeting of 17 April 2013.

Rule 23(1) regarding question time

2.9 Previously, Rule 23(1) of the Rules of Procedure provided that "[q]uestions may be asked at any meeting except the first meeting of a term or a meeting at which the President is elected or the Chief Executive addresses the Council on the policies of the Government."

2.10 The Committee notes that in practice, since the First Legislative Council, Members may address questions to the Government at any Council meeting except the first meeting of a term or a meeting at which the President is elected or the Chief Executive delivers a Policy Address to the Council. The Committee therefore considers that Rule 23(1) of the Rules of Procedure should be amended to accurately reflect the practice.

2.11 The Committee's proposal to amend Rule 23(1) of the Rules of Procedure was supported by the House Committee at its meeting on 8 February 2013 and was passed at the Council meeting of 20 March 2013.

Provision of slots for moving motions not intended to have legislative effect

2.12 The arrangements for the provision and allocation of slots for moving motions by Members not intended to have legislative effect are provided under rules 13 and 14 of the House Rules. In the previous terms of the Legislative Council, normally not more than two motion debates initiated by Members might be held at each regular Council meeting, and each Member was normally allocated one slot for moving a motion debate in a session.

2.13 In view of the increase of 10 Members in the Fifth Legislative Council, the Committee of the Fourth Legislative Council had conducted consultation with the Members of the Fourth Legislative Council on the provision of slots for such motion debates. Based on the consultation results, the Committee proposed that the number of motion debate slots for each regular Council meeting in the Fifth Legislative Council should be maintained at two and allocation of these slots to Members should be counted on a term basis, i.e. about 216 slots to be shared by 69 Members in a four-year term. To facilitate the allocation of debate slots to be counted on a term basis, the Committee also proposed the following new arrangements for implementation in the Fifth Legislative Council –

- (a) slots are allocated in accordance with the following descending order of priority:
 - (i) a Member who has not been allocated a debate slot in the term and has been unsuccessful for the highest number of times in the previous two or more applications;
 - (ii) a Member who has not been allocated a debate slot in the term;

- (iii) a Member who has been allocated the fewest number of debate slot(s) in the term and has been unsuccessful for the highest number of times in the previous two or more applications; and
 - (iv) a Member who has been allocated the fewest number of debate slot(s) in the term;
- (b) if the number of Members who are of equal priority for allocation exceeds the number of slot(s) available for allocation, a ballot will be conducted by the Chairman of the House Committee for determining the allocation of the debate slot(s); and
- (c) where a Member who has been unsuccessful in his application for a debate slot for a Council meeting, he may use the debate slot allocated to another Member for that meeting, if a request for transfer of the slot is made and agreed to by that other Member 12 clear days before the date of that meeting, and the Member who makes the request must not have previously been allocated four or more debate slots in a term.

2.14 The above proposed arrangements and the relevant proposed amendments to the House Rules were endorsed by the House Committee at its meeting on 22 June 2012.

2.15 The Committee of the Fifth Legislative Council has considered the subject. The Committee agrees that the number of motion debate slots for each regular Council meeting should be maintained at two, and supports the proposed arrangements for the allocation of slots set out in paragraph 2.13 above. The Committee however notes that the proposed amendments to rule 13(a) and (b) of the House Rules endorsed by the House Committee on 22 June 2012 may have the unintended effect of removing the long-standing requirement that where two or more motion debates are already scheduled to be held at a Council meeting, a Member who wishes to move a motion for an adjournment

debate under Rule 16(4) of the Rules of Procedure² at the Council meeting should first seek the support of the House Committee for such a request. The Committee considers that this requirement should be maintained and the amendments to rule 13 of the House Rules should be suitably revised.

2.16 The revised amendments to rules 13, 14, 14A and 15 of the House Rules proposed by the Committee were endorsed by the House Committee at its meeting on 23 November 2012, and the new arrangements have taken effect since then.

Provision of the subject and wording of a proposed motion at the time of application for a debate slot

2.17 At the request of a Committee member, who raised concern that there had been a couple of cases in the current session that the subject of a motion intended to be moved by a Member appeared to have been copied by another Member who was able to secure an earlier motion debate slot, the Committee has conducted a review of the arrangement regarding the provision of the subject and wording of a proposed motion at the time of application for a debate slot.

2.18 Under Rule 29(1) of the Rules of Procedure, notice of moving a motion not intended to have legislative effect shall be given not less than 12 clear days before the relevant Council meeting, unless such notice is dispensed with by the President. Under rule 14(b) and (c) of the House Rules, an application for a motion debate slot at a particular Council meeting should be submitted with the subject and the wording of the motion to the Secretariat not later than 14 clear days before that meeting. If the subject matter of the proposed motions submitted by Members is substantially the same, the Member who first secures a debate slot has priority to move the subject matter for debate. The practice has been that Members are informed of the subjects of the

² Rule 16(4) of the Rules of Procedure provides that "[a]t the conclusion of all business on the Agenda of the Council a Member may move that this Council do now adjourn, for the purpose of raising any issue concerning public interest, with a view to eliciting a reply from a designated public officer." As provided under Rule 16(5) of the Rules of Procedure, the moving of such a motion is subject to the "7 clear days" notice requirement and the President may in his discretion dispense with such notice.

proposed motions for which applications for debate slots have been received through the circulars issued by the Legislative Council Secretariat to notify Members of the deadline for submission of application for a debate slot at a particular Council meeting.

2.19 The Committee notes that the current arrangement is designed to keep Members informed of the subjects of the motions intended to be moved by other Members, and to facilitate voluntary coordination among Members in their choice of subjects. The provision or otherwise by a Member of the subject and wording of the proposed motion at the time of application for debate slot would not have significant effect on the working procedure of the Legislative Council Secretariat. The Committee also notes that the current arrangement was established as a result of two relevant reviews conducted by the Committee in the 2000-2001 and 2011-2012 legislative sessions. The Committee concludes that there is no need to change the existing arrangement regarding the provision of the subject and wording of a proposed motion at the time of application for a debate slot.

Rules of Procedure and practices on the handling of proposed amendments to bills and discussions in committee of the whole Council

2.20 In the last session of the Fourth Legislative Council, at the request of the House Committee, the Committee discussed the issue of the handling of voluminous amendments to bills and issues relating to the decision of the President to end the joint debate at the Committee stage of the Legislative Council (Amendment) Bill 2012 at the Council meeting of 16 May 2012. During this reporting period, the Committee has continued the study with a view to determining whether and how the Rules of Procedure should be amended to deal with filibustering. In the course of the study, reference has been made to the relevant rules and practices in the House of Commons of the Parliament of the United Kingdom, the House of Commons of the Parliament of Canada, the House of Representatives of the Parliament of Australia, the House of Representatives of the Parliament of New Zealand, and the Senate and the House of Representatives of the United States Congress.

2.21 The Committee notes that in the House of Commons of the

Parliament of the United Kingdom and the House of Commons of the Parliament of Canada, the Speaker has the power to select amendments to a bill and to group amendments or clauses for debate and voting. In all the parliaments of the Commonwealth studied, Members are allowed to speak only once to the same question in most circumstances. However, such restriction is relaxed to a certain extent in the stage of considering a bill in detail. In the United States Senate, a Senator may not speak more than twice on any one question in debate on the same legislative day, but Senators may speak for as long as they wish. In the United States House of Representatives, debates on amendments generally proceed under the five-minute rule, under which a Member proposing an amendment and another Member in opposition are each entitled to five minutes of debate on the amendment.

2.22 The Committee also notes that the respective rules of all the overseas legislatures studied allow curtailment of debate through a closure motion, or cloture as it is called in the United States Senate. The passage of such a motion will ensure the end of debate, either immediately as in the case of the United Kingdom or after a specified period of time, e.g. after a further 30-hour debate in the United States Senate. The closure/cloture motion is always decided through a vote. In Canada, Australia, New Zealand and the United States House of Representatives, a simple majority is required to pass a closure motion, while in the United Kingdom and the United States Senate, more than a simple majority is required for passage of the motion. Apart from the closure/cloture motion, all of the overseas legislatures studied have also established mechanisms for setting time limits for the scrutiny of bills.

2.23 Pursuant to the decision of the Committee, the relevant discussion paper³, which sets out the relevant rules and practices of the Legislative Council and those of the overseas legislatures studied, has been issued in the form of an open document to all Members for reference.

2.24 During its deliberation, the Committee has given consideration to various suggestions made by individual members to deal with filibustering. The Committee has also taken note of certain relevant developments, including the ruling of the Court of Appeal in the case of

³ LC Paper No. CROP 20/12-13

"LEUNG Kwok-hung v The President of the Legislative Council" CACV123/2012 (On appeal from HCAL64/2012) handed down on 1 February 2013, and the filibustering of the Appropriation Bill 2013 by certain Members.

2.25 Members of the Committee generally agree that there is a need to provide specific procedures to deal with filibustering. Since any amendment to the Rules of Procedure could only be passed in the Council with the support of a majority of both groups of Members returned from the geographical and functional constituencies, the Committee agrees that Members of various political parties and groupings would discuss among themselves with a view to arriving at a substantive proposal acceptable to the majority of both groups of Members returned from the geographical and functional constituencies. The Committee would further deliberate the subject as and when members desire.

Members' motions on subsidiary legislation not dealt with before expiry of the vetting period due to unfinished preceding business

2.26 In response to the request of the Subcommittee on the Securities and Futures (Futures Contracts) Notice 2012⁴, the Committee has studied the problem of Members' motions on subsidiary legislation subject to the negative vetting procedure not being able to be dealt with before the expiry of the vetting period due to unfinished preceding business at the relevant Council meeting ("the Problem"). The Committee notes that there have been 10 such cases in the last session of the Fourth Legislative Council and in the 2012-2013 session. In conducting the study, the Committee has considered the details of the "negative vetting procedure" prescribed in section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), the relevant provisions in the Basic Law and the Rules of Procedure governing the order of business at Council meetings, as well as the circumstances

⁴ During its scrutiny of the Securities and Futures (Futures Contracts) Notice 2012, the Subcommittee decided to seek extension of the initial 28-day vetting period of the Notice from 6 June to 27 June 2012. However, the motion to extend the vetting period could not be moved at the Council meetings of 30 May 2012 and 6 June 2012, as the items of business on the agenda which preceded the motion were not completed at these Council meetings.

surrounding the 10 cases.

2.27 The Committee notes that under the negative vetting procedure prescribed in section 34 of Cap. 1, all subsidiary legislation shall be laid on the table of the Legislative Council at the next sitting thereof after the publication in the Gazette of that subsidiary legislation. Notwithstanding that an item of subsidiary legislation may come into operation upon its publication in the Gazette, the Council is empowered to amend it by resolution passed at a Council meeting in accordance with section 34 of Cap. 1. This power to amend is subject to limitations. First is one of substantive law: the Council is only able to amend an item of subsidiary legislation in a manner consistent with the power to make it. Second is time limitation: the resolution to amend the subsidiary legislation has to be passed at a meeting of the Council held not later than the initial 28 days after the meeting at which the subsidiary legislation was so laid. This 28-day period for the Council to exercise the power to amend may be extended by a period of 21 days, or up to the Council meeting immediately following the 21 days if there is no Council meeting on the 21st day. If the initial or extended vetting period straddles two Legislative Council sessions, the expiry of the vetting period will be extended to a meeting in the next session.

2.28 As regards the order of business at Council meetings, the Committee notes that Article 72(2) of the Basic Law provides that the President of the Legislative Council should exercise the power and function "to decide on the agenda, giving priority to government bills for inclusion in the agenda (決定議程，政府提出的議案須優先列入議程)". This power is reflected in Rule 19(1) of the Rules of Procedure without the explicit requirement that the President has to give priority to government bills and motions for inclusion in the Council's agenda. Instead, Rule 19(1) provides that "[a]ll items of business for a meeting of which notice has been given shall be placed on the Agenda for that meeting in the order required by Rule 18 (Order of Business at a Meeting)". It is clear that since the First Legislative Council, the Council has taken the view that in relation to Council businesses on bills and motions, the Government initiated ones should be placed ahead of those of the same category that are initiated by Members.

2.29 The Committee notes that as the Rules of Procedure currently stand, the President does not have the discretion to alter the order of

business specified in Rule 18(1) of the Rules of Procedure in deciding the agenda of a Council meeting.

2.30 The Committee also notes that in all the 10 cases illustrative of the Problem, the deployment of filibustering tactics by certain Members to prolong the proceedings on certain Government bills during the relevant periods was a major factor contributing to the occurrence of the Problem.

2.31 To address the Problem in the contexts of the order of business of Council meetings and the statutory timetable determined under section 34 of Cap. 1, the Committee has considered the following two options –

Option A – Rule 18(1) of the Rules of Procedure is to be amended to the effect that motions on subsidiary legislation and other instruments made under an ordinance (with Government motions taking precedence over Members' motions) shall take precedence over Government bills and Government motions under Rule 18(1)(i) and (j). This may be achieved by moving the existing Rule 18(1)(ja) and (jb) to immediately before Rule 18(1)(i).

Option B – Section 34 of Cap. 1 is to be amended to provide that whilst the Legislative Council's power to amend subsidiary legislation subject to the negative vetting procedure may continue to be subject to a fixed timetable, a mechanism should be provided to enable extension of the fixed timetable by operation of law under certain circumstances. Such a mechanism may be akin to the deeming arrangement currently provided under section 34(3) of Cap. 1 for the extension of a vetting period that straddles two Legislative Council sessions.

2.32 Having regard to their respective implications and limitations, the Committee agrees that Option A should not be pursued, while the Administration's views should be sought on Option B. Upon receipt of the Administration's views, the Committee would consider whether and how the proposal should be taken forward.

3. Review of the procedures of the committees of the Council

3.1 In the reporting period, the Committee has studied the following issues relating to the procedures of committees of the Council –

- (a) proposal for the Committee to study the amendments proposed by a Member to paragraph 37A of the Finance Committee Procedure, paragraph 31A of the Establishment Subcommittee Procedure and paragraph 32A of the Public Works Subcommittee Procedure;
- (b) role of the Member in charge of a bill in the relevant Bills Committee; and
- (c) persons who may draw the attention of the chairman to the absence of a quorum under rule 24(h) of the House Rules.

Proposal for the Committee to study the amendments proposed by a Member to paragraph 37A of the Finance Committee Procedure, paragraph 31A of the Establishment Subcommittee Procedure and paragraph 32A of the Public Works Subcommittee Procedure

3.2 In November 2012, some members of the Committee suggested that the Committee should study the amendments proposed by a Member to paragraph 37A of the Finance Committee Procedure, paragraph 31A of the Establishment Subcommittee Procedure and paragraph 32A of the Public Works Subcommittee Procedure ("the Proposed Amendments"). These provisions provide the procedure for the moving of a motion to express a view on a financial proposal from the Government, when such a proposal is being considered by the Finance Committee or its relevant subcommittee.

3.3 In considering the suggestion, the Committee took into account its terms of reference as set out in Rule 74(1) of the Rules of Procedure, Rule 71(13) of the Rules of Procedure which confers on the Finance Committee the power to determine, subject to the Rules of Procedure, its own practice and procedure and those of its subcommittees, as well as the fact that the Proposed Amendments and related issues were being

dealt with by the Finance Committee. Members expressed different views on whether it was appropriate for the Committee to study the Proposed Amendments, but shared the understanding that the Finance Committee could continue to deal with the Proposed Amendments and needed not wait for the outcome of the Committee's discussion.

3.4 To facilitate the Committee's further consideration of the matter, the Secretariat conducted research on the relevant arrangements in the House of Commons of the United Kingdom. The Committee notes that committees of the House of Commons do not have the power to determine their own procedures. There are however mechanisms in the committee system for liaison and coordination among the chairmen of committees on matters of procedure and committee jurisdiction. Where necessary, a committee may seek the direction of the House through the submission of special reports. In the Legislative Council, a number of committees⁵ are given the power under the Rules of Procedure to determine their own practice and procedure and, if applicable, those of its subcommittees, subject to the Rules of Procedure. The purpose of conferring such power to the committees is to give the committees a suitable degree of flexibility in the conduct of their business.

3.5 The Committee also notes that when the Committee was first established in September 1997 by the former Provisional Legislative Council, the purview of the Committee was meant to cover the practices and procedures of the committees of the Council. However, since its establishment, the Committee has rarely undertaken studies on its own initiative on the practice and procedure of a particular committee, but mainly in response to a request of the committee concerned. Similar to the Procedure Committee of the House of Commons of the United Kingdom, the role of the Committee is advisory; after the Committee has examined a subject matter and come up with relevant proposals, the Committee will put the proposals to the Council or the relevant committee for decision.

3.6 As regards the procedure provided under paragraph 37A of the Finance Committee Procedure, paragraph 31A of the Establishment

⁵ The committees include the Finance Committee, Public Accounts Committee, Committee on Members' Interests, Investigation Committee, Committee on Rules of Procedure, House Committee, Bills Committees and Panels.

Subcommittee Procedure and paragraph 32A of the Public Works Subcommittee Procedure, the Committee notes that a motion that may be moved under these provisions is a subsidiary motion dependent on the agenda item concerned and is not intended to have any substantive effect on the agenda item. The Committee notes that there is no comparable procedure in the House of Commons of the United Kingdom.

3.7 The Committee concludes that it is at liberty to decide whether it should study matters relating to the procedure of other committees of the Legislative Council. In any event, given the advisory role of the Committee, it is ultimately for the Council or the committee concerned to decide whether any proposal of the Committee should be adopted. As regards the Proposed Amendments to the Finance Committee Procedure and the procedures of its subcommittees, the Committee agrees that there is no need for it to further study the matter.

Role of the Member in charge of a bill in the relevant Bills Committee

3.8 Under Article 74 of the Basic Law, bills which do not relate to public expenditure or political structure or the operation of the government may be introduced individually or jointly by Members of Legislative Council. As for Members' bills relating to government policies, written consent of the Chief Executive is required before they can be introduced by Members.

3.9 After a Member's bill has been gazetted, it has to pass through three readings in the Council before it is enacted, same as in the case of government bills. After its Second Reading, a Member's bill will be referred to the House Committee, and the House Committee will decide whether a Bills Committee should be formed to scrutinize the bill.

3.10 During the reporting period, the Committee has studied issues relating to the role of the Member in charge of a bill⁶ in the relevant

⁶ Rule 51(8) of the Rules of Procedure provides that "[a] Member presenting a bill shall be known throughout the subsequent proceedings on the bill as the Member in charge of the bill. In the case of a bill introduced jointly by more than one Member, these Members shall designate among themselves a Member as the Member in charge of the bill at the time of presenting the bill and the Member so designated shall signify himself as such in the notice for presentation".

Bills Committee. The study was conducted in response to the request of the House Committee, as some Members had expressed concern on whether it was appropriate for the Member in charge of a bill to join the Bills Committee which scrutinized that bill at the House Committee meeting on 26 November 2010.

3.11 The Committee notes that a Bills Committee shall consider the general merits and principles, and the detailed provisions, of the bill allocated to it; and may also consider any amendments relevant to the bill. Upon completion of scrutiny of the bill allocated to it, a Bills Committee shall report its deliberations in writing to the House Committee and then report further to the Council. Bills Committees mostly proceed by obtaining information from the Administration (for government bills) or from the Member in charge of the bill and the proponent organization of the bill, if any (for Members' bills), soliciting comments and opinions from parties that may be affected by the bill, and exchange of views among members of the Bills Committee. Members are allowed to join any Bills Committee if they so wish, so long as the relevant procedural rules specified in the House Rules are complied with.

3.12 The Committee further notes that a Member by virtue of his membership in a committee (including a Bills Committee) is entitled to participate fully in the committee's proceedings. Apart from speaking on the matters under deliberation, the Member may move motions, vote and be counted for purposes of a quorum. Restriction on the right of the Member to fully participate in the committee's proceedings only arises when the Member has a pecuniary interest in the matter under consideration by the committee.

3.13 Having regard to the functions of Bills Committees and the past experience of those Bills Committees formed to study Members' bills since the First Legislative Council, the Committee is of the view that the participation of the Member in charge of a bill as a member of the relevant Bills Committee generally would not give rise to conflict of interest or conflict of roles by virtue of the Member's capacity as the "Member in charge". The Committee therefore considers that the existing arrangement whereby the Member in charge of a bill is allowed to join the relevant Bills Committee to serve as a member should continue.

3.14 As to whether the Member in charge of a bill should serve as the chairman or deputy chairman of the relevant Bills Committee, the Committee notes that apart from chairing meetings, the chairman of a Bills Committee is also responsible for presenting the report of the Bills Committee to the House Committee, tabling and speaking on the report of the Bills Committee in Council, as well as moving Committee Stage amendments agreed by the Bills Committee on its behalf. The deputy chairman of a Bill Committee will chair the meeting(s) of the Bills Committee or take up any other responsibility of the chairman, if the chairman is not available or decides that he is unable to perform any such responsibility. Having regard to the role and responsibilities of the chairman and deputy chairman of a Bills Committee, the Committee is of the view that there may be conflict of roles if the Member in charge serves as the chairman or deputy chairman of the relevant Bills Committee. For example, the Member in charge may be or may be perceived as being unable to act in a fair manner in chairing meetings or in steering the Bills Committee's deliberations on opposing views or proposed Committee Stage amendments which he opposes.

3.15 The Committee however notes that notwithstanding the absence of any rule to prohibit the Member in charge of a bill to serve as the chairman or deputy chairman of a Bills Committee, it has been the established practice since the introduction of Bills Committees in 1992 that the Member in charge of a bill had never served nor stood for election as the chairman or deputy chairman of the relevant Bills Committee. The Committee takes the view the practice should continue but there is no need to formalize the practice into a written rule.

3.16 The House Committee has been informed of the deliberations and conclusions of the Committee on the matter vide LC Paper No. CROP 36/12-13.

Persons who may draw the attention of the chairman to the absence of a quorum under rule 24(h) of the House Rules

3.17 In response to the concern raised by some Members, the Committee has studied whether the present construction of rule 24(h) of the House Rules may give rise to the unintended consequence that in

addition to members of a committee, other persons attending or observing a committee may also draw the attention of the committee chairman to the absence of a quorum during a committee meeting, thereby triggering the quorum procedure, i.e. the chairman shall direct members of the committee to be summoned and shall close the meeting if a quorum is not present after 15 minutes have expired.

3.18 The Committee notes that the Rules of Procedure specify the quorum of different types of committees of the Legislative Council, while the House Rules, which provide procedural guidelines to the House Committee, Bills Committees, Panels and their subcommittees, specify when a count should be made to ascertain the presence of a quorum during a committee meeting. Rule 24 of HR provides that –

- (a) unless a quorum is present within 15 minutes of the starting time appointed for the meeting, the meeting will not be held (rule 24(g));
- (b) if the attention of the chairman of a committee is drawn to the fact that a quorum is not present during a meeting, he shall direct the members to be summoned. If after 15 minutes have expired, a quorum is not then present the chairman shall close the meeting without question put (rule 24(h)); and
- (c) when it is necessary to order a division during a meeting of a committee, the chairman of the committee should ensure that a quorum is present before it proceeds with the division (rule 24(k)).

3.19 The Committee notes that the above provisions in the House Rules are modelled on Rule 17 of the Rules of Procedure which deals with quorum of the Council and a committee of the whole Council. No amendment has been made to these provisions in the House Rules since their adoption by the House Committee on 6 July 1998.

3.20 The Committee considers that while it is not specifically stated in rule 24(h) of the House Rules as to who may draw the chairman's attention to the absence of a quorum during a meeting, reading it in conjunction with the other provisions in rule 24 on "Guidelines for the

conduct of meetings", it is logical to infer that the persons intended to be covered in this regard are members of the committee only. If the original intent of the provision was to also cover other persons, it should have been so specified in the rule.

3.21 To enhance the clarity of the rule, the Committee has proposed to amend rule 24(h) of the House Rules to make it clear that only committee members may draw the attention of the chairman to the absence of a quorum during a meeting. The relevant amendment was endorsed by the House Committee at its meeting on 12 July 2013.

4. Acknowledgement

4.1 Members of the Committee wish to record their appreciation of the views of Members of the Council and their support for the work of the Committee.

Appendix I**Membership list****Committee on Rules of Procedure**

Chairman Hon TAM Yiu-chung, GBS, JP

Deputy Chairman Hon Alan LEONG Kah-kit, SC

Members Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon Tommy CHEUNG Yu-yan, SBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon WONG Yuk-man
Hon Dennis KWOK

(Total : 12 Members)

Clerk Ms Anita SIT

Legal Adviser Mr Jimmy MA, JP

Appendix II**Committee on Rules of Procedure****List of issues studied during the period from October 2012 to July 2013**

| Item | Issue | Relevant rule(s) | Progress/remarks |
|-------------|---|---|--|
| 1 | Addressing questions to the Government at Council meetings | Rule 23 of the Rules of Procedure Rule 7(b) of the House Rules | The Committee's proposal to increase the number of written questions and the proposed amendments to Rule 23(1) and (2) of the Rules of Procedure and rule 7(b) of the House Rules were endorsed by the House Committee at its meeting on 8 February 2013 and approved by the Council at the Council meeting of 20 March 2013. The increase in the number of written questions has taken effect since the Council meeting of 17 April 2013. |
| 2 | Provision of slots for moving motions not intended to have legislative effect | Rules 13, 14, 14A and 15 of the House Rules | The Committee's proposed revised amendments to rules 13, 14, 14A and 15 of the House Rules were endorsed by the House Committee at its meeting on 23 November 2012, and the new arrangements for the allocation of motion debate slots has taken effect since then. |
| 3 | Provision of the subject and wording of a proposed motion at the time of application for a debate slot | Rule 14(b) of the House Rules | The Committee has concluded that there is no need to change the existing arrangement regarding the provision of the subject and the wording of a proposed motion at the time of application for a debate slot. |

| Item | Issue | Relevant rule(s) | Progress/remarks |
|------|--|---|--|
| 4 | Rules of Procedure and practices on the handling of proposed amendments to bills and discussions in committee of the whole Council | Article 72(1) of the Basic Law Rules 38, 57 and 92 of the Rules of Procedure | The Committee agrees that Members of various political parties and groupings would discuss among themselves with a view to arriving at a substantive proposal acceptable to the majority of both groups of Members returned from the geographical and functional constituencies. The Committee would further deliberate the subject as and when members desire. |
| 5 | Motions on subsidiary legislation not dealt with before expiry of the vetting period due to unfinished preceding business | Article 72(2) of the Basic Law Rules 18 and 19 of the Rules of Procedure | The Committee agrees to seek the Administration's views on the option of making amendment(s) to section 34 of Cap. 1 to provide that whilst Legislative Council's power to amend subsidiary legislation subject to the negative vetting procedure may continue to be subject to a fixed timetable, a mechanism should be provided to enable extension of the fixed timetable by operation of law under certain circumstances. |
| 6 | Proposal for the Committee to study the amendments proposed by a Member to paragraph 37A of the Finance Committee Procedure, paragraph 31A of the Establishment Subcommittee Procedure and paragraph 32A of the Public Works Subcommittee Procedure | Rules 74(1) and 71(13) of the Rules of Procedure | The Committee considers that it is up to the Committee to decide whether it should study matters relating to the Finance Committee Procedure. In any event, the Committee's role is advisory and it is the Finance Committee which would make decisions on its procedure. As the proposed amendments to the Finance Committee Procedure and the procedures of its subcommittees are being dealt with by the Finance Committee, the Committee considers it preferable to leave it to the Finance Committee to continue to deal with them. |

| Item | Issue | Relevant rule(s) | Progress/remarks |
|-------------|--|---|--|
| 7 | Role of the Member in charge of a bill in the relevant Bills Committee | Rule 76(1A) of the Rules of Procedure Rules 21(c) and 21(d) of the House Rules | <p>The Committee considers that the existing arrangement whereby the Member in charge of a bill is allowed to join the relevant Bills Committee to serve as a member should continue.</p> <p>The Committee also considers that the established practice that the Member in charge of a bill will not serve as the Chairman or Deputy Chairman of the relevant Bills Committee should continue, and there is no need to formalize the practice into a written rule.</p> |
| 8 | Persons who may draw the attention of the chairman to the absence of a quorum | Rule 24(h) of the House Rules | <p>The Committee's proposal to amend rule 24(h) of the House Rules to clarify that during a committee meeting, only members of the committee may draw the attention of the chairman to the absence of a quorum, thereby triggering the quorum procedure under the provision, was endorsed by the House Committee on 12 July 2013.</p> |