

**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**

**2014 年 10 月至 2015 年 6 月的工作進度報告**

**Progress Report for the period  
October 2014 to June 2015**

**2015 年 7 月 8 日  
8 July 2015**

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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 2014 to June 2015, during which four meetings were held to study various issues relating to –

- (a) the procedural arrangements of Council meetings;
- (b) the procedures of the committees of the Council; and
- (c) amendments to Rule 83A of the Rules of Procedure proposed by the Committee on Members' Interests.

1.4 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 During the reporting period, the Committee examined a number of issues relating to meetings of the Council, including –

- (a) procedural options to deal with filibusters;
- (b) procedures on quorum at Council meetings; and
- (c) procedures on debate on the Motion of Thanks in respect of the Chief Executive's Policy Address.

### **Procedural options to deal with filibusters**

2.2 In the 2013-2014 legislative session, the Committee studied various procedural options to deal with filibusters and decided in June 2014 to consult all Members on the following three synthesized proposals relating to the handling of filibusters-

- (a) to provide for time allocation motions, i.e. setting of a timetable for debates at the Committee Stage of a bill; and
- (b) to amend Rule 57(4)(d)<sup>1</sup> of the Rules of Procedure to expressly provide that an amendment or a series of amendments which is in the opinion of the Chairman of the committee of the whole Council frivolous or meaningless may not be moved; and
- (c) to amend the Rules of Procedure to confer on the President the power to select amendments for debate and voting at the Committee stage, with reference to the relevant arrangements of the House of Commons of the United Kingdom and those of the House of Commons of Canada.

Details of these proposals are in **Appendix III**.

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<sup>1</sup> Rule 57(4)(d) of the Rules of Procedure states that “[a]n amendment [relating to bills] which is in the opinion of the Chairman frivolous or meaningless may not be moved”.

2.3 The outcome of the consultation was that an overwhelming majority of Members objected to the proposal in paragraph 2.2(a) above while slightly more than half of all Members expressed support for the proposals in paragraphs 2.2(b) and (c) above. Some Members either were not in support of these proposals or requested to defer the discussion about providing specific rules in the Rules of Procedure to deal with filibusters until the Court of Final Appeal ("CFA") had delivered its judgment<sup>2</sup> on the appeal against the Court of Appeal's refusal to grant leave to apply for judicial review regarding the issue of whether the President had the power to set a time limit on the debate of the proposed Committee Stage amendments to the Legislative Council (Amendment) Bill 2012 ("the Appeal"). In view of the Members' views, the Committee deferred the discussion until CFA handed down the judgment on 30 September 2014<sup>3</sup>.

#### Proposal to provide for time allocation motions

2.4 The Committee resumed its discussion in November 2014. Members of the Committee have divergent views on the proposal of setting of a timetable for debates at Committee Stage of a bill (paragraph 2.2(a) above). While some members do not object to the proposal that the moving of a closure motion or timetabling motion in Council should be subject to a prior affirmative decision of the House Committee made by an "overwhelming majority"<sup>4</sup> of members, other members object to the adoption of an "overwhelming majority" (such as two-thirds of the Members) in the House Committee to close a debate in view of the high threshold and the fact that adopting such an arrangement would be tantamount to transferring the power to end filibusters to Members who launch the filibusters. Some other members however consider that LegCo Members have the constitutional rights to express their opinions

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<sup>2</sup> LEUNG Kwok-hung v The President of the Legislative Council (FACV 1/2014).

<sup>3</sup> The Appeal was heard by CFA on 10 September 2014. CFA orally dismissed the Appeal at the hearing and handed down the judgment on 30 September 2014. CFA held that the President has the power to set limits to and terminate a debate. The existence of the power is inherent in, or incidental to, the power granted by Article 72(1) of the Basic Law to the President to preside over meetings, quite apart from Rule 92 of the Rules of Procedure. Copy of the judgment and a summary of the judgment prepared by the LegCo Secretariat were issued to all Members vide LC Paper No. AS169/13-14 and LC Paper No. LS3/14-15 respectively.

<sup>4</sup> The "overwhelming majority" threshold may be 60% or two-thirds of the Members, or another proportion as considered appropriate by Members.

and to move motions at Council meetings, any procedural restrictions on such constitutional rights should only be imposed under exceptional circumstances; hence it is not unreasonable that the moving of a motion to close a debate should be subject to a higher threshold.

2.5 Some members also consider that although the exercise by the President of his power conferred by Article 72(1)<sup>5</sup> of the Basic Law and Rule 92<sup>6</sup> of the Rules of Procedure to close a debate in Council or the committee of the whole Council may not be a perfect solution, this remains so far an effective way to close a prolonged debate. The additional requirement on "overwhelming majority" threshold for moving a motion at the Council would complicate the procedure for dealing with filibusters. These members are of the view that given the current political structure, it is difficult to reach a consensus among Members on a procedure specifically provided for dealing with filibusters.

#### Proposals to handle voluminous amendments

2.6 Regarding the two proposed procedures for handling voluminous amendments (paragraphs 2.2(b) and (c) above), the Committee considers it unlikely for some Members to support these proposals as greater powers would be given to the President notwithstanding that, in accordance with the CFA's judgment, the President already had the power to handle voluminous amendments to bills for filibustering purpose.

2.7 As there is no consensus on the procedural options to deal with filibusters, the Committee decides not to further study the subject matter at this stage.

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<sup>5</sup> Article 72(1) of the Basic Law provides that the President of the Legislative Council shall exercise the power and function to preside over meetings.

<sup>6</sup> Rule 92 of the Rules of Procedure provides that "[i]n any matter not provided for in these Rules of Procedure, the practice and procedure to be followed in the Council shall be such as may be decided by the President who may, if he thinks fit, be guided by the practice and procedure of other legislatures".

## **Procedures on quorum at Council meetings**

### Proposals to deal with incessant quorum calls for the purpose of filibustering

2.8 The Committee examined the following proposals to deal with the making of incessant quorum calls for the purpose of filibustering in the 2013-2014 legislative session:

- (a) confining the application of the quorum requirement to particular junctures of Council proceedings, such as at the beginning of a meeting or when a vote is taken on a question;
- (b) imposing restrictions on Members' right to make quorum calls during Council meetings;
- (c) allowing a longer period for summoning Members;
- (d) giving the President the discretion to suspend the relevant meeting, instead of adjourning the Council, after the expiry of the summoning period;
- (e) prohibiting Members from leaving the Chamber during a quorum call at a Council meeting; and
- (f) prohibiting the Member who requests a quorum call during a Council meeting from leaving the Chamber during the quorum call.

2.9 The Committee revisited the above proposals in the current legislative session, and also made reference to the advice of Lord Lester of Herne Hill, QC ("Counsel"), a leading public and constitutional lawyer. The advice is sought pursuant to the President's instructions on what is available to the President in terms of the law, practice and procedure to deal with incessant quorum calls triggered for the purpose of filibustering, and to reduce the possibility of the abrupt adjournment of the Council with unfinished business on the Agenda due to the absence of a quorum.



2.10 The Committee notes that according to the Counsel's advice, some proposals, including confining the quorum requirement to particular junctures of Council proceedings (paragraph 2.8(a) above), restricting Members' right to make quorum calls (paragraph 2.8(b) above) or prohibiting Members from leaving the Chamber during quorum calls (paragraphs 2.8(e) and (f) above) are either inconsistent with the object or purpose of Article 75 of the Basic Law, or will be a disproportionate use of the President's power under the relevant provisions of the Basic Law and the Rules of Procedure. The proposal to allow a longer period for summoning Members (paragraph 2.8(c) above) does not contravene the Basic Law and the Rules of Procedure, but its effectiveness in addressing the problem of incessant quorum calls is doubtful.

2.11 There are also divergent views among members of the Committee on giving the President the discretion to suspend a meeting instead of adjourning the Council (paragraph 2.8(d) above). Some members supporting this proposal consider that although the proposal could not prevent Members from making incessant quorum calls to filibuster the proceedings of the Council, it might prevent the abrupt adjournment of the Council. However, other members express reservations about the proposal as this decision would be made solely by the President. It is therefore necessary to devise a clear and objective set of guidelines agreed to by the Legislative Council to regulate the use of such discretionary power by the President. The Committee considers that, given the present political sentiment, it might not be easy for the Legislative Council to reach a consensus among Members on the guidelines.

2.12 The Committee also considered the following two proposals to deal with incessant quorum calls:

- (a) reconvening a Council meeting shortly, say in three hours, after the Council is adjourned due to a lack of a quorum so that the unfinished business on the Agenda could be dealt with after an abrupt adjournment of the Council; and
- (b) giving the President the discretion to defer dealing with a point of order raised on a lack of a quorum by a Member interrupting another Member while speaking, in an attempt to prolong the relevant Council proceedings, until after the latter Member had finished delivering his speech.

2.13 As regards the suggestion on reconvening a Council meeting shortly after it is adjourned due to a lack of a quorum (paragraph 2.12(a) above), the Committee notes that the power for the President to convene a meeting is provided for in Rule 14(3) of the Rules of Procedure. It is up to the President to decide whether to exercise such power to re-convene a meeting shortly after the Council has been adjourned after considering all pertinent factors. Despite some technical issues which might need to be addressed, such as the calculation of deadlines for notice requirements and the time limitation to amend subsidiary legislation tabled in the Council, it is more important for Members to have a consensus on whether to adopt such measure.

2.14 On the proposal to defer dealing with a point of order raised on a lack of a quorum by a Member interrupting another Member while speaking (paragraph 2.12(b) above), the Committee notes that different issues may be raised on a point of order. According to Rule 39(a)<sup>7</sup> of the Rules of Procedures, the President would need to hear the points raised by an interrupting Member immediately before he could decide whether and how to deal with the point of order raised.

2.15 The Committee also studied the following proposed measures put forward by Hon TANG Ka-piu:

- (a) compelling the attendance of the absent Members by making reference to the practice in the United States Congress whereby the Sergeant-at-Arms could be authorized to bring in, and when necessary, to compel the attendance of the absent Members; and
- (b) publishing information relating to quorum calls, such as the number of quorum calls, the time spent and the names of Members who make quorum calls, on the Legislative Council Website on a regular basis.

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<sup>7</sup> Rule 39(a) of the Rules of Procedures provides that "[a] Member shall not interrupt another Member, except by rising to a point of order, when the Member speaking shall resume his seat and the Member interrupting shall direct attention to the point which he wishes to bring to notice and submit it to the President or Chairman for decision".

2.16 On the proposal in paragraph 2.15(a) above, the Committee is of the view that there will be operational difficulties for the Secretariat staff to compel the attendance of absent Members during a Council meeting when a quorum call is made as Members have all along been given the liberty to decide on their attendance. As for the proposal in paragraph 2.15(b) above, the Committee notes that the recently introduced Hansard Database on the Legislative Council Website has already enabled users to easily search for the instances of quorum calls, though not their duration. The Secretariat will explore how the on-line records of the Legislative Council can be enhanced to improve the dissemination of this information.

#### Amendment to Rule 17(3) of the Rules of Procedure

2.17 Rule 17(3) of the Rules of Procedure provides that "[i]f the attention of the Chairman in committee of the whole Council is drawn to the fact that a quorum is not present, he shall direct the Members to be summoned. If after 15 minutes have expired, a quorum is not then present the Council shall be resumed and the President shall count the Council. If a quorum is then present the Council shall again resolve itself into committee but if a quorum is not present the President shall adjourn the Council without question put".

2.18 The Committee notes that unlike the Westminster-style parliaments where resumption of the House from a committee of the whole House entails a change of the Chair, resumption of the Council from a committee of the whole Council in the Legislative Council of Hong Kong does not require a change of the Chair. In a committee of the whole Council, if a quorum is not present after 15 minutes for the summoning of Members have expired, the Council will be resumed immediately and the Chairman in the committee of the whole Council will then preside the meeting in the capacity as the President.

2.19 The Committee also notes that it has all along been the practice that after the quorum bell has been rung for 15 minutes in a committee of the whole Council and a quorum is not then present, the Council is resumed and the President adjourns the Council without ordering a headcount again. To reflect the existing practice of the Council, the Committee proposed in the last legislative session to amend Rule 17(3) of the Rules of Procedure. The motion to amend Rule 17(3) was passed by the Council at its meeting on 29 October 2014.

## **Procedures on debate on the Motion of Thanks in respect of the Chief Executive's Policy Address**

2.20 Procedures relating to the debate on the Motion of Thanks were last reviewed by the Committee of the Fourth Legislative Council in 2010. While no change to the procedures was recommended, the Committee of the Fourth Legislative Council considered that the various issues should be revisited in the Fifth Legislative Council at an appropriate time when new Members had had experience in debating the Motion of Thanks. The current procedures and arrangements relating to the debate on the Motion of Thanks are set out in **Appendix IV**.

2.21 The Committee reviewed the procedures relating to the debate on the Motion of Thanks, and focused its discussion on the following aspects:

- (a) wording of and voting on the motion;
- (b) grouping policy areas under different sessions; and
- (c) speaking time of Members.

### Wording of and voting on the motion

2.22 The Committee notes that the wording of the motion in the form of "That this Council thanks the Chief Executive for his address" is specified in Rule 13 of the Rules of Procedure. All motions to thank the Chief Executive for his Policy Addresses<sup>8</sup> have been negatived by the Council since the 2009-2010 legislative session.

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<sup>8</sup> The arrangement for a Motion of Thanks to be moved to thank the Chief Executive (or the former Governor) for his Policy Address delivered at the first meeting of a session can be traced back to 1968 when the relevant procedure was incorporated in the former Standing Orders. This practice is based on the practice in the United Kingdom where a session of the Parliament is opened by the Queen's Speech which sets out the Government's business, including the legislative programme, for the session. After the Queen's Speech has been read, an Address in Reply is moved and seconded by two government back-benchers in the form of a motion expressing thanks to the Queen for her speech. The Address in Reply in the House of Commons in Canada and that in the House of Representatives in Australia are also moved in the form of a motion with similar wording. As regards amendments to the Motion of Thanks, the practice in the Hong Kong Legislature also models on that of the United Kingdom. In the House of Commons in the United Kingdom, amendments to the Address in Reply may be moved in the form of an addition of words to the Address. In the case of Hong Kong, it had all along been laid down in the Standing Orders of the previous Legislative Council that amendments might be moved to the Motion of Thanks only by way of adding words at the end of the motion. The same provision is adopted in the current Rules of Procedure (i.e. Rule 13).

2.23 The Committee has considered whether a more neutrally worded motion should be adopted and whether the motion should be amendable and subject to a vote. Reference has been made to the format of a take-note motion under Rule 49E of the Rules of Procedure for Members to debate on the legal instruments referred to in a report of the House Committee on consideration of subsidiary legislation and other instruments. The Committee is of the view that the practice, including the wording of and voting on the motion, has been adopted by the Council for a long time and should be maintained. The Committee also considers that if amendments are not allowed and the motion is not put to vote, it would deprive Members of the chance to express their stances on the Policy Address.

#### Grouping policy areas under different sessions

2.24 On the existing "3-day-5-session" mode<sup>9</sup> of debate on the Motion of Thanks, the Committee considers that the present arrangement has worked well to enable a structured and focused debate whereby relevant public officers could immediately respond to Members' views on their policy areas at the end of each debate session. The Committee notes that most of the Members have adhered to the arrangement to speak on the specific policy areas for a particular session. The Committee considers that the current grouping of policy areas into five sessions spanning a total of three days should be maintained.

#### Speaking time of Members

2.25 On the speaking time of Members, in order to accommodate all Members who wish to speak within a three-day meeting, and to allow sufficient time for public officers to respond, the meeting for the debate on the Motion of Thanks would need to continue until 10:30 pm for each of the first two days and 10:00 pm for the final day. The Committee notes that such arrangement was adopted for the debate on the 2015 Policy Address from 11 to 13 February 2015. If the meeting is to be suspended at 8:00 pm for each of the first two days, in line with the new

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<sup>9</sup> Since the 2002-2003 legislative session, the "3-day-5-session" mode has been adopted in the debate on the Motion of Thanks which is structured in five sessions spanning over three days. Each session is dedicated to a group of policy areas.

Council meeting arrangements<sup>10</sup>, and approximately by 10:00 pm on the third day, each Member's total speaking time needs to be adjusted from 30 minutes to 25 minutes.

2.26 The Committee notes that the proposal to shorten the Members' speaking time may affect independent Members as Members of the same political party could arrange to speak on different policy areas and use the total speaking time more effectively. As the above proposal will affect all Members, the Committee considers it necessary to seek Members' views on this proposal. The Committee has requested members to consult Members belonging to their political parties/groupings on the proposal. The Committee will follow up the matter in the next session.

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<sup>10</sup> At the meeting on 30 January 2015, the House Committee supported the proposal to adjust the suspension time of Council meetings to 8:00 pm if the business on the agenda was unlikely to be finished by around 10:00 pm on the day of the meeting. The adjusted suspension time of Council meeting has been put in place since March 2015.

### **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) amendments to a motion proposed during the period of extension of a committee meeting;
- (b) pecuniary interests of committee chairmen; and
- (c) handling of deputations from groups/organizations to submit written submissions and/or register to give oral representations at committee meetings.

#### **Amendments to a motion proposed during the period of extension of a committee meeting**

3.2 Dr Hon CHIANG Lai-wan wrote to the Chairman of the Committee expressing concern that it was not clearly spelt out in rule 24A(f) of the House Rules whether amendments to a motion may be proposed during the period of extension<sup>11</sup> of a committee meeting and there were inconsistencies in how committee chairmen handle such amendments. Dr CHIANG considered it necessary to provide clear guidelines in this regard in the House Rules.

3.3 Rule 24A of the House Rules provides for the arrangement on extending a meeting beyond its appointed ending time. Rule 24A(f) expressly provides that no new motion may be proposed during the period of extension. However, it is not clearly spelt out in rule 24A(f) whether amendments to a motion might be proposed during the period of extension.

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<sup>11</sup> "Period of extension" refers to:

- (a) that period of extension or continuation of meeting for not more than 15 minutes beyond the appointed ending time of the meeting extended or allowed by the chairman referred to in rule 24A(a) of the House Rules; and
- (b) that period of extension of meeting decided by the committee under rule 24A(b) which is beyond the period of extension or continuation of meeting referred to in rule 24A(a); or that period of further extension decided by the committee under rule 24A(c) during the period of extension referred to in rule 24A(b).

3.4 Rule 22(p) of the House Rules provides guidelines for dealing with a proposed motion and amendments to a motion at a Panel meeting. Rule 22(p) was recommended by the Committee and endorsed by the House Committee to provide Panels<sup>12</sup> with flexibility to decide on a stance on a specific issue where necessary without being inhibited by rigid rules. However, to ensure that members will not be caught by surprise by new motions proposed during the period of extension, as some members might have left the meeting before that period has begun and would be unable to decide whether to participate in the discussion and vote on the new motions, rule 24A(e) provides for motions already proposed during the original appointed meeting time to be dealt with during the period of extension while rule 24A(f) disallows new motions to be proposed during the period.

3.5 The Committee considers that following the principles that there should be flexibility but no element of surprise, it is reasonable to allow amendments to a motion be proposed during the period of extension. This is because any motion agreed to be dealt with during the extended period has been made known to members during the original appointed time of the meeting. In the event that the newly proposed amendments turn out not to be related to the scope of the motion, the committee chairmen may rule them out of order.

3.6 The Committee agrees that guidelines on the above arrangements to handle amendments to a motion proposed during the period of extension should be provided in the handbooks for committee chairmen to ensure consistency in practice among committee chairmen.

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<sup>12</sup> The procedure for dealing with a motion at a Bills Committee meeting is not provided for in the Rules of Procedure and the House Rules but Bills Committee may follow the procedure for processing of a proposed motion at a Panel meeting under rule 22(p) of the House Rules (paragraph 4.37 of the Handbook for Chairmen of Bills Committee). In accordance with rule 26(f) of the House Rules, the practices and procedures set out in rules 20 to 25 (including rule 22(p)) shall apply, where appropriate, to subcommittees of the House Committee, Bills Committees or Panels (including joint subcommittees appointed by two or more Panels).



### **Pecuniary interests of committee chairmen**

3.7 Dr Hon Fernando CHEUNG wrote to the Chairman of the Committee requesting the Committee to consider if it was necessary to amend the Rules of Procedure to regulate the chairing of meetings by the chairman of a committee who had a direct pecuniary interest in a matter to be scrutinized by that committee.

3.8 There is no provision in the Rules of Procedure to prohibit a member of a committee who is elected as chairman of that committee from chairing a meeting on the ground that he has a pecuniary interest in a matter under consideration by the committee. The Rules of Procedure only have provisions requiring disclosure of direct or indirect pecuniary interest by a Member before speaking on or moving motions or amendments (i.e. Rule 83A<sup>13</sup>) and prohibiting the voting by a Member on a question in which the Member has a direct pecuniary interest (i.e. Rule 84(1)<sup>14</sup>). The Committee has studied if it is necessary to amend the Rules of Procedure to regulate the chairing of meetings by the chairman of a committee who has a direct pecuniary interest in a matter to be scrutinized by that committee.

3.9 The Committee notes that various committees such as the Public Accounts Committee, the Finance Committee and its two subcommittees, Panels, Subcommittees and Bills Committees have developed their own practices and procedures to deal with declaration of interests by or situations involving conflict of interests of their chairmen and members. However, all these committees have adopted the same principle that if a chairman of a committee considers that there may be concern about conflict of interests in his/her chairing the meeting for discussion on a certain item, he/she should make a declaration on the relevant matter. The related committee should be invited to consider whether the chairman should preside over the discussion on the item or the deputy chairman or another member should preside.

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<sup>13</sup> Rule 83A provides that "[i]n the Council or in any committee or subcommittee, a Member shall not move any motion or amendment relating to a matter in which he has a pecuniary interest, whether direct or indirect, or speak on any such matter, except where he discloses the nature of that interest".

<sup>14</sup> Rule 84(1) provides that "[i]n the Council or in any committee or subcommittee, a Member shall not vote upon any question in which he has a direct pecuniary interest except where his interest is in common with the rest of the population of Hong Kong or a sector thereof or his vote is given on a matter of Government policy".

3.10 The Committee also makes reference to the relevant rules and practices regarding pecuniary interests of chairmen of committees in matters considered by committees in selected overseas legislatures, namely, the House of Commons of the United Kingdom and Canada, as well as the House of Representatives of New Zealand and the United States. The Committee notes that among the legislatures studied, all Members of Parliament, including chairmen of committees, are required to register and declare their financial or pecuniary interests according to the provisions stipulated in their standing orders or relevant rules. As regards chairmen's participation in committees, the rules and practices vary among different legislatures. For example, in New Zealand and the United Kingdom, there are established practices to allow chairmen of standing committees to step aside in case of conflict of interests.

3.11 The Committee in general agrees that a committee chairman could consider stepping aside from chairing the relevant meeting(s) if he or she considers that there might be a conflict of interest or roles. In the end, the Member concerned would need to bear the political consequences should he/she fail to disclose his/her interests. In this connection, there is a view that it is necessary to draw professional advice or expert views from Members who represent a particular industry or who have involvement in a subject matter under discussion by the committees. It would therefore be impractical to exclude these Members from participating in the committee's discussion on a particular matter on the ground of their having a conflict of interest or roles.

3.12 After deliberation, the Committee considers that the existing provisions under the Rules of Procedure as well as the practices and procedures established by various committees regarding disclosure of pecuniary interests are sufficient. It is not necessary to amend the Rules of Procedure to regulate the chairing of meetings by a committee chairman who has direct pecuniary interests in a matter to be scrutinized by the committee.

### **Handling of deputations from groups/organizations to submit written submissions and/or register to give oral representations at committee meetings**

3.13 In the 2013-2014 legislative session when the Committee discussed the arrangement for members of the public to make oral representations at committee meetings, some members expressed concern about organizations/groups bearing names with offensive and insulting connotation. This was undesirable as the names would be recorded in the formal and permanent records of the Legislative Council such as minutes of meetings and other relevant documents. The Committee agreed that the subject matter should be studied further.

3.14 There is no provision in the Rules of Procedure governing the arrangements for receiving representations from the public at committee meetings. Rule 25(c) of the House Rules deals with written submissions from members of the public who will attend or have attended a committee meeting for making representations. Some guidelines in respect of the invitation of public views, speaking order of and speaking time limit for deputations, etc. are provided in the various handbooks for committee chairmen.

3.15 The Committee notes that in the handbooks for committee chairmen, the chairman of a committee may order to restrict the circulation of a submission which contains defamatory remarks/expressions made against or which may be embarrassing to any person or body. The chairman may order to restrict the circulation of such a submission to members only, or to obliterate the remarks/expressions before circulation. At present, there is no guideline in the handbooks for committee chairmen on handling requests from organizations/groups bearing names with insulting and offensive connotation to give oral representation at committee meeting(s) or to submit written submissions to committees.

3.16 The Committee notes that chairmen of committees have the discretionary power to rule out names of groups/organizations with connotation that could give rise to a serious concern that the dignity or solemnity of the proceedings of the committees might be compromised, such as the names of the groups/organizations having offensive and insulting connotation. Should the chairman rule that the name of a group/organization cannot be used at the meeting, the representative of

the group/organization concerned may still give their views in their personal capacity.

3.17 To ensure consistency in the practices among committees, the Committee considers that suitable guidelines should be provided in the handbooks for committee chairmen.

#### **4. Amendments to Rule 83A of the Rules of Procedure proposed by the Committee on Members' Interests**

4.1 At the request of the House Committee, the Committee on Members' Interests had studied the following issues which were raised by the Bills Committee on the Stamp Duty (Amendment) Bill 2012 during its scrutiny of the Bill:

- (a) whether a Member was required to disclose a pecuniary interest which was in common with the rest or a sector of the population of Hong Kong ("common pecuniary interest"); and
- (b) whether a Member was required to disclose the same pecuniary interest in a matter each time he speaks on the matter in the same committee ("repeated disclosures").

4.2 Rule 83A of the Rules of Procedure provides that "[i]n the Council or in any committee or subcommittee, a Member shall not move any motion or amendment relating to a matter in which he has a pecuniary interest, whether direct or indirect, or speak on any such matter, except where he discloses the nature of that interest." The main purpose of disclosure of pecuniary interests by a Member is to ensure that other Members and the public are made aware, when the Member is participating in the proceedings of the Council or its committees, of any pecuniary interest of that Member which might reasonably be thought to be relevant to those proceedings.

4.3 The Committee on Members' Interests made reference to overseas legislatures on the related arrangement and noted that in the House of Commons of the Parliament of the United Kingdom, their Members are not required to declare interests which are common to all Members and arising solely from that specific capacity. Likewise in the House of Commons of the Parliament of Canada, although their Members are prohibited from participating in debate or voting on a question in which they have a "private interest", such a "private interest" excludes matters which are of general application or that affect Members or others as part of a broad class of the public.

4.4 The Committee on Members' Interests also noted the practice of the House of Commons of the United Kingdom that for a public bill

committee, their Members are required to declare relevant interests at the first meeting of the committee or on the first occasion on which they address the committee, and repeated declarations at subsequent meetings are not necessary except when a Member speaks on an amendment to which the interest is particularly relevant. Also, the interests declared by Members will be recorded in the minutes of the first meeting which will be uploaded onto the House of Commons' website for public inspection.

4.5 As common pecuniary interests are of general application and not unique to individual Members and having regard to the express exclusion of direct common pecuniary interests in relation to voting and withdrawal from voting in Rule 84(1) and (1A) of the Rules of Procedure, the Committee on Members' Interests proposed, after consultation with all Members, to make the following changes to Rule 83A:

- (a) excluding common pecuniary interests from the requirement of Rule 83A on disclosure of pecuniary interests by Members in the Council or any committee or subcommittee; and
- (b) expressly providing that members of a committee/subcommittee on legislative proposals are required to disclose pecuniary interests when they first speak on a matter in the committee/subcommittee and repeated disclosures of the same interests at subsequent meetings of the same committee/subcommittee are not necessary.

4.6 After studying the matter, the Committee supports the proposed amendments to Rule 83A. With the support of the House Committee, the Chairman of the Committee on Members' Interests moved a motion to amend Rule 83A at the Council meeting of 18 March 2015. However, the motion was negatived after debate by the Council.

4.7 The Committee notes that the Rules of Procedure does not provide the Chairman of a committee/subcommittee with the power to require a member to disclose pecuniary interests or to rule whether a member should disclose a certain interest. It is for individual members to judge whether they have a direct or indirect pecuniary interest in the matter under consideration and disclose such interest accordingly. At

the suggestion of the Committee on Members' Interests, the Committee agrees to reflect the above two important principles in the handbooks for committee chairmen.

## **5. Acknowledgement**

5.1 The Committee wishes 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, GBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon WONG Kwok-kin, SBS  
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** Mr Anthony CHU

**Legal Adviser** Mr Stephen LAM (up to 1 February 2015)  
Mr Timothy TSO (since 2 February 2015)  
Mr YICK Wing-kin (since 2 February 2015)

**Appendix II****Committee on Rules of Procedure****List of issues studied during the period from October 2014 to June 2015**

<b>Item</b>	<b>Issue</b>	<b>Relevant rule(s)</b>	<b>Progress/remarks</b>
1	<b>Proposed procedures for dealing with filibusters</b>	Rule 57(4)(d) of the Rules of Procedure	As members of the Committee cannot reach a consensus on the measures to deal with filibusters, the Committee considers that there is no need to further study the subject matter at this stage.
2	<b>Matters relating to quorum calls at Council meetings</b>	Article 75(1) of the Basic Law and Rules 17(2) and 17(3) of the Rules of Procedure	Members of the Committee have divergent views on the matter. Their views have been conveyed to the President for his consideration.
3	<b>Debate on the Motion of Thanks in respect of the Chief Executive's Policy Address</b>	Article 73(4) of the Basic Law and Rule 13 of the Rules of Procedure	The Committee agrees that there is no need to change the wording of the Motion of Thanks, the voting arrangement and the mode of debate in five sessions, each with specific policy areas. As regards the speaking time for each Member, members of the Committee are requested to consult Members belonging to their political parties/groupings on the proposal to shorten it from 30 minutes to 25 minutes for each Member in order that the first two days of the three-day debate could end at 8:00 pm and the third day could end at around 10:00 pm.

<b>Item</b>	<b>Issue</b>	<b>Relevant rule(s)</b>	<b>Progress/remarks</b>
4	<b>Amendments to a motion proposed during the period of extension of a committee meeting</b>	Rules 22(p) and 24A of the House Rules	The Committee agrees that amendments to a motion could be proposed during the period of extension of a committee meeting. The Committee considers that suitable guidelines should be provided in the handbooks for committee chairmen.
5	<b>Pecuniary interests of committee chairmen</b>	Rules 83A and 84(1) of the Rules of Procedure	The Committee considers that the existing provisions in the Rules of Procedure and the practices and procedures established by various committees regarding disclosure of interests are sufficient. It is not necessary to amend the Rules of Procedure to regulate the chairing of meetings by a committee chairman who has direct pecuniary interests in a matter to be scrutinized by the committee.
6	<b>Handling of deputations from groups/ organizations to submit written submissions and/or register to give oral representations at committee meetings</b>	Rule 25(c) of the House Rules	The Committee notes that when groups/organizations register to give oral representations at committee meetings or submit written submissions, the committee chairmen have the discretionary power to rule out names of groups/organizations with connotation that could give rise to serious concern that the dignity or solemnity of the proceedings of the committees might be compromised. In such cases, the representatives of the groups/organizations concerned may choose to give views in their personal capacity. The Committee

Item	Issue	Relevant rule(s)	Progress/remarks
			considers that suitable guidelines should be provided in the handbooks for committee chairmen.
7	<b>Amendments to Rule 83A of the Rules of Procedure proposed by the Committee on Members' Interests</b>	Rule 83A of the Rules of Procedure	<p>The Committee supports the proposal of the Committee on Members' Interests to amend Rule 83A of the Rules of Procedure. With the support of the House Committee, the Chairman of the Committee on Members' Interests moved a motion to amend Rule 83A of the Rules of Procedure at the Council meeting of 18 March 2015. However, the motion was negated at the Council meeting.</p> <p>The Committee supports the proposal of the Committee on Members' Interests that suitable guidelines should be provided in the handbooks for committee chairmen on the following two principles:</p> <ul style="list-style-type: none"> <li>i. a committee chairman does not have the power to require a member to disclose pecuniary interests or rule whether a member should disclose a certain interest; and</li> <li>ii. it is for individual members to judge whether they have a direct or indirect pecuniary interest in the matter under consideration and disclose such interests accordingly.</li> </ul>

**Appendix III****Details of the proposed time allocation procedure  
and proposed procedures for handling voluminous amendments****Time allocation procedure – Procedure for allocation of time to debates at  
Committee Stage of a bill**

Under this proposed procedure, a time allocation motion may be moved to –

- (a) close a debate immediately or after a certain period of time;
- (b) close a number of debates after a certain period of time; or
- (c) close the whole Committee Stage after a certain period of time.

2. Details of the proposed procedure and its rationale are as follows –

*Consideration of proposals by the House Committee*

- (a) Any proposal to move a time allocation motion in committee of the whole Council for consideration by the House Committee should be made jointly by a certain number of Members, and a limit should be imposed on the number of proposals each Member may propose for consideration by the House Committee on any one occasion.
- (b) Any decision of the House Committee that a time allocation motion be moved in committee of the whole Council should require a high threshold, such as a two-thirds majority vote of all the members of the House Committee, in order to address the concern that Members in the minority may not be given adequate protection of their right to speak.

*Moving a time allocation motion in Council*

- (c) Pursuant to a relevant decision of the House Committee, a Member (normally the Chairman of the House Committee) may move a time allocation motion without notice in committee of the whole Council.

- (d) In order that procedural certainty and orderliness could be achieved, any time allocation motion should be worded in a prescribed form which would be designed to cater for different possible scenarios of time allocation as decided by the House Committee.
- (e) A time allocation motion should not be subject to amendment or debate so that the motion could be put to vote forthwith without its proceeding being subject to filibusters.
- (f) In accordance with Annex II to the Basic Law, passage of the motion requires a majority vote of each of the two groups of Members present: Members returned by functional constituencies and those returned by geographical constituencies.
- (g) If such a motion is passed, the Chairman of the committee of the whole Council will order that the relevant debate(s) be concluded upon the expiry of the specified duration.

#### Procedures for handling voluminous amendments

3. Under the existing Rule 57(4)(d) of the Rules of Procedure, the President, acting as the Chairman of the committee of the whole Council, may rule out of order an amendment which he/she considers to be frivolous or meaningless. However, it is not clear whether this restriction may apply to a series of amendments. Hence, it will be difficult for the President to rule out amendments which individually may serve a substantive purpose but if taken together can be regarded as frivolous and may have the effect of prolonging Council proceedings more than necessary for providing fair and genuine choices for Members. It has therefore been proposed that Rule 57(4)(d) of the Rules of Procedure be revised to expressly provide that an amendment or a series of amendments which is in the opinion of the Chairman of the committee of the whole Council frivolous or meaningless may not be moved.

4. It has also been proposed that the Rules of Procedure be amended to confer on the President the power to select amendments for debate and voting at the Committee Stage, with reference to the relevant arrangements of the House of Commons of the United Kingdom<sup>15</sup> and those of the House of Commons of Canada<sup>16</sup>.

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<sup>15</sup> In the House of Commons of the United Kingdom, the Speaker has the power to select amendments to bills or to motions for debate and voting in the House. Selection is made in such a way as to bring out the salient points of criticism, to prevent repetition and overlapping, and where several amendments deal with the same point, to choose the more effective and the better drafted. The practice is that the Speaker does not give reason for his/her decision in individual cases.

<sup>16</sup> In the House of Commons of Canada, the Speaker has the power to select or to combine amendments or clauses to be proposed to a bill at the report stage. A Note is appended to the relevant Standing Order stating that the Speaker should not select for debate an amendment or series of amendments of a repetitive, frivolous or vexatious nature or of a nature that would serve merely to prolong unnecessarily proceedings at the report stage. The practice is that the Speaker will inform the House of his/her relevant decisions with reasons stated.

## Appendix IV

### Procedures and arrangements for debating the Motion of Thanks

The following procedures were adopted for the debate on the Motion of Thanks in the 2014-2015 legislative session:

- (a) the debate is divided into five sessions and held on three consecutive days. The theme of each debate session which is dedicated to a group of policy areas as well as the order of debate sessions are proposed by the Administration for the House Committee's consideration. The five groups of policy areas for the debate on the 2015 Policy Address are in **Annex**;
- (b) a Member may speak once in each of the five debate sessions, subject to the total speaking time limit of 30 minutes. The HC Chairman, as mover of the Motion of Thanks, has an additional 15-minute speaking time for moving the Motion and making his reply;
- (c) the contents of Members' speeches in a session should be confined to the policy areas specified for that session;
- (d) the total speaking time limit for designated public officers in each debate session is as follows:
  - (i) for one or two officers, each officer may speak for not less than 15 minutes, subject to the total time limit of 45 minutes; and
  - (ii) for three or more officers, it will be calculated on the basis of 15-minute speaking time limit for each officer.



**Annex**

**Debate on the Motion of Thanks on the 2015 Policy Address  
Grouping of Policy Areas**

<b>Debate session and theme</b>	<b>Main policy area</b>
1. Economic Development	<ul style="list-style-type: none"> <li>- Commerce and Industry</li> <li>- Economic Development (other than energy)</li> <li>- Financial Affairs</li> <li>- Information Technology and Broadcasting</li> <li>- Maritime and Aviation</li> </ul>
2. Land, Housing, Transportation, Environment and Conservation	<ul style="list-style-type: none"> <li>- Housing</li> <li>- Development (planning, land and works)</li> <li>- Building Safety</li> <li>- Transport</li> <li>- Economic Development (energy)</li> <li>- Environmental Affairs</li> <li>- Conservation</li> </ul>
3. Poverty Alleviation, Welfare and Medical Services, Elderly Care and Public Health	<ul style="list-style-type: none"> <li>- Poverty Alleviation</li> <li>- Welfare Services</li> <li>- Support for Ethnic Minorities and the Disadvantaged</li> <li>- Elderly Care</li> <li>- Health Services</li> <li>- Food Safety and Environmental Hygiene</li> </ul>
4. Population, Education, Manpower, Youth, Arts and Culture and Sports	<ul style="list-style-type: none"> <li>- Population Policy</li> <li>- Education</li> <li>- Manpower</li> <li>- Youth</li> <li>- Arts and Culture</li> <li>- Sports</li> </ul>
5. Governance, Constitutional Development and District Administration	<ul style="list-style-type: none"> <li>- Constitutional Affairs</li> <li>- District Administration</li> <li>- Civic Education</li> <li>- Administration of Justice and Legal Services</li> <li>- Human Rights</li> <li>- Security</li> <li>- Public Service</li> </ul>