

**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**

**2019 年 10 月至 2020 年 7 月的工作進度報告**

**Progress Report for the period  
October 2019 to July 2020**

**2020 年 7 月 15 日  
15 July 2020**

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## **Appendix**

### **I. Membership list**

### **II. List of issues studied during the period from October 2019 to July 2020**

## 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 of the Legislative Council ("the President"), or raised by its own members.

1.2 The Committee consists of 12 members, including Chairman Hon Paul TSE, Deputy Chairman Hon Kenneth LEUNG 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 2019 to July 2020 during which one meeting was held. Members considered and deliberated:

- (a) outcome of consultation on a proposal to prohibit the holding of directorship in a listed company by the President;
- (b) proposed sanctions against grossly disorderly conduct of Members in Council or committee of the whole Council;
- (c) procedural arrangements for the moving of a motion under Article 73(5) and (10) of the Basic Law or section 9 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382); and
- (d) issues relating to the election of committee chairmen.

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

## **2. Outcome of consultation on a proposal to prohibit the holding of directorship in a listed company by the President of the Legislative Council**

2.1 In the last legislative session, the Committee considered Hon Kenneth LEUNG's proposal to add a new rule to the Rules of Procedure to prohibit the President "from acting as director of any listed company in Hong Kong, whether the directorship is paid or unpaid".<sup>1</sup> After deliberation, the Committee agreed that all Members should be consulted on his proposal. Members were subsequently consulted thereon.

2.2 A total of 66 Members responded to the consultation.<sup>2</sup> Among them, 26 Members supported Hon Kenneth LEUNG's proposal, 39 Members did not support his proposal, and one Member did not have any comment on his proposal. As about two thirds of the respondents did not support his proposal, the Committee concluded that it would not pursue the proposal further. In this connection, the Committee noted that Hon Kenneth LEUNG would not take forward his proposal in the current legislative session which is the last session of the current term of the Legislative Council. Nevertheless, he had indicated that, if he was re-elected as a Member of the next term of the Legislative Council, he would pursue the proposal.

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<sup>1</sup> According to the meaning of "listed" under Schedule 1 to the Securities and Futures Ordinance (Cap. 571), "[l]isted" company in Hong Kong means a company that has any of its shares listed on a stock market operated by an exchange company which is recognized by the Securities and Futures Commission under section 19(2) Cap. 571.

<sup>2</sup> The President, the Committee Chairman and a Member did not respond to the consultation.

### **3. Proposed sanctions against grossly disorderly conduct of Members in Council or committee of the whole Council**

3.1 In the last legislative session, the Committee discussed the proposed introduction of new sanctions against grossly disorderly conduct of Members in Council or committee of the whole Council. The Committee has agreed that further consideration should be given to issues including the role of the President in maintaining order at Council meetings, the duration of prohibition of Members from attending Council meetings, and issues relating to financial penalty for a Member's grossly disorderly conduct (including whether the remuneration should be withheld, or whether a fine should be imposed; and the level of such penalty as well as the need to make relevant legislative amendments in order to introduce such financial penalties).

3.2 In the current legislative session, the Committee originally planned to consider, with reference to the sanction mechanism in the House of Commons of the Parliament of the United Kingdom, whether (and if so, how) the Legislative Council should impose similar sanctions, having regard to any legal and practical difficulties that might arise in Hong Kong. As the issues involved are complicated and require a lot of time for examination and consultation, it is unlikely that the Committee can complete studying the subject matter in the current legislative session which is the last session of the current term of the Legislative Council. The Committee has therefore decided to refer the subject matter to the Committee of the next term of the Legislative Council for consideration.

#### **4. Procedural arrangements for the moving of a motion under Article 73(5) and (10) of the Basic Law or section 9 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382)**

4.1 Article 73(5) and (10) of the Basic Law respectively set out the following powers and functions of the Legislative Council: to raise questions on the work of the government; and to summon, as required when exercising Legislative Council's powers and functions set out in Article 73 of the Basic Law, persons concerned to testify or give evidence. Section 9 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) empowers the Council, its standing committee,<sup>3</sup> or any other committee which is specially authorized by a resolution of the Council, to order any person to attend before the Council or before such committee and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.

4.2 The President considers that the moving of motions moved under Article 73(5) and (10) of the Basic Law ("Basic Law motions") or section 9 of Cap. 382 ("Cap. 382 motions") has the effect of "jumping the queue" as, pursuant to rule 15(a) of the House Rules, such motions have to be dealt with before motions with no legislative effect. It is observed that when there was one or more Basic Law motions or Cap. 382 motions on the Council Agenda, the Council was on many occasions unable to complete the consideration of the two motions with no legislative effect scheduled for the same Council meeting. In the last legislative session, the President requested the Committee to consider how to address the issue.

4.3 After deliberating on the subject matter in the last legislative session, the Committee agreed to explore, in the current legislative session, options to address the President's concern about the "queue-jumping effect" and examine the cause(s) of the reduced opportunities for the moving of motions with no legislative effect. As the issues involved are complicated and require a lot of time for examination and consultation, it is unlikely that the Committee can

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<sup>3</sup> A standing committee refers to the Finance Committee, Public Accounts Committee, or Committee on Members' Interests established respectively under Rules 71, 72 or 73 of the Rules of Procedure.

complete studying the subject matter in the current legislative session which is the last session of the current term of the Legislative Council. The Committee has therefore decided to refer the subject matter to the Committee of the next term of the Legislative Council for consideration.



## 5. Issues relating to the election of committee chairmen

5.1 Arising from a prolonged delay in the election of the Chairman of the House Committee for the 2019-2020 session ("the Election"),<sup>4</sup> a member requested the Committee to discuss the mechanism for the election of the Chairman of the House Committee. Taking the view that the delay was caused by some Members who abused the relevant election procedure by filibustering, that member considered that the Committee should study whether there were ways to avoid such filibustering. Separately, the President made a ruling<sup>5</sup> by which he decided to invoke Rule 92 of the Rules of Procedure<sup>6</sup> to introduce a new procedure for the Election.<sup>7</sup> In the ruling the President also invited the Committee to study issues relating to the election of committee chairmen including any lessons that may be drawn from the case about the Election.

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<sup>4</sup> The Election started at the special House Committee meeting on 15 October 2019. As the House Committee Chairman for the 2018-2019 session ("the incumbent HC Chairman") was nominated for the chairmanship, the member who was the House Committee deputy chairman before the election, i.e. the House Committee Deputy Chairman for the 2018-2019 session ("the incumbent HC Deputy Chairman") presided at the election. From 15 October 2019 to 8 May 2020, the House Committee held 17 special meetings called by the incumbent HC Chairman for the purpose of the Election. The Election was finally completed at the House Committee meeting on 18 May 2020 presided over by Hon CHAN Kin-por according to the procedure set out in Footnote 7 below. This is the first time a committee of the Legislative Council has taken so much time to elect its chairman. In the normal course of events, the election of a committee is completed within one meeting with the Member presiding at the election of the relevant committee proceeding direct to the election procedure set out in Appendix IV to the House Rules.

<sup>5</sup> The ruling can be accessed via [https://www.legco.gov.hk/yr19-20/english/pre\\_rul/pre20200515-ref-e.pdf](https://www.legco.gov.hk/yr19-20/english/pre_rul/pre20200515-ref-e.pdf)

<sup>6</sup> Rule 92 of the Rules of Procedure provides that "In 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."

<sup>7</sup> The new procedure for the Election is as follows:

- (a) The incumbent HC Deputy Chairman, and any other Member referred to in rule 20(c) of the House Rules and paragraph 2 of Appendix IV to the House Rules who may otherwise preside at the election of the House Committee chairman are to be excused from presiding at the Election;
- (b) Hon CHAN Kin-por is specified as the member presiding at the Election at a House Committee meeting;
- (c) The House Committee meeting for the Election presided over by the specified presiding member will be held at the date and time specified by the President with the duration and venue of the meeting to be determined by the specified presiding member, and where necessary, the President may call further House Committee meeting(s) for the Election; and
- (d) When presiding at the Election, the specified presiding member shall proceed straight to balloting in accordance with the procedures prescribed in paragraphs 7 to 12 of Appendix IV to the House Rules, and shall not hear points of order or entertain any motion including a motion to establish the manner in which House Committee wishes to proceed with the Election.

5.2 The Committee has considered the above requests. Regarding the President's invocation of Rule 92 of the Rules of Procedure to introduce a new procedure for the Election, some members were concerned whether the President of the next term of the Legislative Council ("new President"), if the position was taken up by another Member, could adopt a new interpretation of that Rule which was different from that of the President of the current Legislative Council ("the incumbent President"). If the new President could do so, whether the new interpretation would take precedence over the current interpretation. In this connection, the Committee noted that the Rule could only be invoked if the condition set out in that Rule was met. While different situations might warrant different considerations, the decision by the incumbent President to invoke that Rule to introduce a new procedure for the Election would serve as useful reference for the new President in handling cases with similar circumstances in future.

5.3 After deliberation, the Committee agreed to explore whether there could be an overhaul of the mechanism for the election of committee chairmen, with a view to addressing the problems arising from the Election and avoiding frequent invocation of Rule 92 of the Rules of Procedure to introduce new procedures for the election of committee chairmen. As the issues involved are complicated and require a lot of time for examination and consultation, it is unlikely that the Committee can complete studying the subject matter in the current legislative session which is the last session of the current term of the Legislative Council. The Committee has therefore decided to refer the subject matter to the Committee of the next term of the Legislative Council for consideration.

## **6. Acknowledgement**

6.1 The Committee wishes to record their appreciation of Members of the Council for their support for the work of the Committee.

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

<b>Chairman</b>	Hon Paul TSE Wai-chun, JP
<b>Deputy Chairman</b>	Hon Kenneth LEUNG
<b>Members</b>	Hon James TO Kun-sun Hon Tommy CHEUNG Yu-yan, GBS, JP Hon CHAN Hak-kan, BBS, JP Dr Hon Priscilla LEUNG Mei-fun, SBS, JP Hon Michael TIEN Puk-sun, BBS, JP Hon KWOK Wai-keung, JP Hon Dennis KWOK Wing-hang Hon Alvin YEUNG Dr Hon Junius HO Kwan-yiu, JP Hon CHEUNG Kwok-kwan, JP  (Total : 12 Members)
<b>Clerk</b>	Mr Colin CHUI
<b>Legal Adviser</b>	Mr YICK Wing-kin

**Appendix II****Committee on Rules of Procedure****List of issues studied during the period from October 2019 to July 2020**

<b>Item</b>	<b>Issue</b>	<b>Relevant rule(s)</b>	<b>Progress/remarks</b>
1	<b>Outcome of consultation on a proposal to prohibit the holding of directorship in a listed company by the President of the Legislative Council</b>	Rule 83 of the Rules of Procedure	The outcome of the consultation showed that about two thirds of the respondents did not support the proposal. The Committee decided not to pursue the proposal further.
2	<b>Proposed sanctions against grossly disorderly conduct of Members in Council or committee of the whole Council</b>	Rules 42, 45 and 85 of the Rules of Procedure	The Committee has decided to invite the Committee of the next term of the Legislative Council to consider, with reference to the sanction mechanism in the House of Commons of the Parliament of the United Kingdom, whether (and if so, how) the Legislative Council should impose similar sanctions, having regard to any legal and practical difficulties that might arise in Hong Kong.
3	<b>Procedural arrangements for the moving of a motion under Article 73(5) and (10) of the Basic Law or section 9 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382)</b>	Article 73(5) and (10) of the Basic Law Section 9 of Cap. 382 Rules 18 and 19 of the Rules of Procedure Rules 13 and 15 of	The Committee has decided to invite the Committee of the next term of the Legislative Council to explore options to address the President's concern about the "queue-jumping effect" of the motions moved under Article 73(5) and (10) of the Basic Law or section 9 of Cap. 382, and to examine the cause(s) of the reduced opportunities for the moving of

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<b>Item</b>	<b>Issue</b>	<b>Relevant rule(s)</b>	<b>Progress/remarks</b>
		the House Rules	motions with no legislative effect.
4	<b>Issues relating to the election of committee chairmen</b>	Appendix IV to the House Rules  Rule 92 of the Rules of Procedure	The Committee has decided to refer the subject matter to the Committee of the next term of the Legislative Council for consideration.