

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**

**1998 年 7 月至 1999 年 4 月的工作進度報告
Progress Report for the period
July 1998 to April 1999**

**1999 年 4 月
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I. Introduction

1.1 The Committee on Rules of Procedure (the Committee) is a committee of the Legislative Council (the 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, propose to the Council any amendments or changes as are considered necessary, and examine matters of practice and procedure relating to the Council referred by the Council or its committees or the President, or raised by its own members.

1.2 The Committee consists of 12 members, including the Chairman Hon Mrs Selina CHOW, the Deputy Chairman Hon Margaret NG and 10 other members, appointed by the President on 10 July 1998 in accordance with the recommendations of the House Committee. The membership list is in **Appendix I**.

1.3 This Report is the first progress report of the Committee since its establishment. On 9 September 1998, however, the Committee tabled a report in the Council outlining the Committee's recommendations on the procedural arrangements for implementing the provision under Article 79(6) of the Basic Law, prior to the debate on a motion moved on the same day for the purpose of relieving a Member of his duties under the Article.

1.4 From July 1998 to April 1999, the Committee has held a total of 22 meetings. The Committee deliberated on a wide range of subjects, broadly under the following categories:

- (a) procedures relating to the implementation of specific provisions in the Basic Law;
- (b) improvement of the procedural arrangements of the Council; and
- (c) refinement of the textual presentation of rules and procedures in the Rules of Procedures and other Rules of the committees of the Council.

1.5 During the course of its studies, the Committee has conducted consultation with Members of the Council before finalising its findings on some of the more important issues. The consultation papers, as well as papers containing deliberations of the Committee on major concerns, issued

to Members are as follows:

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| (a) Procedure in dealing with the introduction of Members' Bills as provided in Article 74 of the Basic Law and the interpretation of Article 48(10) of the Basic Law | LC Paper No. CB(1)45/98-99 |
| (b) Voting Procedures | LC Paper No. CB(1)72/98-99 |
| (c) Procedural Arrangements for implementing Article 79(6) of the Basic Law | LC Paper No. CB(1)113/98-99 |
| (d) Timing for Commencement of Legislative Sessions | LC Paper No. CB(1)294/98-99 |
| (e) Order of Speaking in Motion Debates | LC Paper No. CB(1)1000/98-99 |
| (f) Arrangements for implementing the provisions under Article 79(7) of the Basic Law | LC Paper No. CB(1)1001/98-99 |

1.6 Apart from those rules relating to the procedural arrangements for implementing Article 79(6) which have separately been dealt with, all proposed amendments to the Rules of Procedure resulting from the various studies contained in this Report will be put before the Council for approval at its meeting on 28 April 1999 by way of a resolution to be moved by Hon Mrs Selina CHOW, Chairman of the Committee.

II. Implementation of the Provisions in the Basic Law

2.1 One of the first tasks of the Committee was the identification of specific provisions in the Basic Law for which procedural arrangements would have to be provided for their implementation. The Committee also followed up on some of the procedures in which the Administration had expressed concern at the time when the Rules of Procedure were made by the Council. A list of the provisions which the Committee has identified for further studies, and the latest position in respect of the studies undertaken by the Committee on these provisions are given in **Appendix II**.

2.2 Among the issues identified for detailed study, the Committee has completed deliberations on the following subjects:

- (a) voting procedures as provided in Annex II of the Basic Law;
- (b) application of Article 74 of the Basic Law to the introduction of bills and the proposing of amendments to bills by Members;
- (c) the procedure to implement Article 79(6) of the Basic Law for relieving a Member of his duties; and
- (d) the procedure to implement Article 79(7) of the Basic Law for the censure of a Member.

2.3 The Committee has accorded priority to the study of the issues raised by the then Solicitor-General of the Department of Justice, Mr Daniel FUNG, who wrote to the Legal Adviser of the Legislative Council Secretariat on 30 June 1998 about his disagreement with some of the Rules in the Rules of Procedure to be made by the Council on 2 July 1998 on account of his different interpretation of the relevant Articles in the Basic Law. As the matters which Mr FUNG had raised required detailed studies, and in order not to delay the adoption of a set of procedures which would enable the immediate functioning of the Council, Members approved the Rules of Procedure on 2 July 1998 and noted that the Committee would conduct detailed examination of the issues raised.

2.4 Soon after the Council meeting on 2 July 1998, two briefings were held on 9 and 15 July 1998 to which Mr FUNG was invited to brief Members on his views on the Rules of Procedure. His views are as follows:

(a) Voting procedures

- (i) In respect of Government bills, abstentions should not be counted in determining the voting outcome. This is based on the use of the Chinese character “票” (votes) in referring to the passage of Government bills as opposed to the absence of the Chinese character “票” in referring to the passage of Members’ bills, motions and amendments as contained in Annex II of the Basic Law.
- (ii) The President, by abstaining from voting, would be counted as one of those present who is not in favour of a proposal. The President should, therefore, not be regarded as present for the purpose of deciding whether a majority of Members present support a proposal.

(b) Application of Article 74 of the Basic Law

- (i) A generous and purposive interpretation should be given to Article 74. The Article should cover not only bills but also Committee Stage amendments introduced by Members.
- (ii) Article 48(10) should cover motions moved by Members, and all motions moved by Members including those without legislative effect may only be moved with the Chief Executive’s consent.

2.5 On these two subjects, the Committee had held six meetings, including one with the Director of Administration. At the meeting on 22 September 1998, the Director of Administration advised the Committee that the Administration had endorsed the views of the Department of Justice and considered that amendments ought to be made to relevant provisions in the Rules of Procedure as these were in contravention of the Basic Law.

2.6 During the process of study, members of the Committee have referred also to the advice given by the Legal Adviser of the Legislative Council Secretariat and sought an independent opinion from Mr Denis CHANG Khen-lee, Senior Counsel, on whether the Rules of Procedures of the Legislative Council have contravened the Basic Law.

2.7 A summary of the viewpoints expressed by the various parties as well as the deliberations of the Committee on the subjects of “Voting procedures” and “Application of Article 74 of the Basic Law” are given

below.

Voting procedures

2.8 The voting procedures of the Legislative Council of the Hong Kong Special Administrative Region, as set out in Annex II of the Basic Law, are reflected in Rules 46 to 49 of the Rules of Procedure. In gist,

- (a) the passage of Government bills shall require a majority vote of the Members present; and
- (b) the passage of Members' bills, motions and amendments introduced by Members to any motions or bills shall require a majority vote of each of the two groups of Members present: Members returned by functional constituencies, and those returned by geographical constituencies through direct elections and by the Election Committee.

Meaning of "majority votes"

2.9 According to the Administration, the provision in Annex II of the Basic Law, which reads "均須分別經功能團體選舉產生的議員和分區直接選舉、選舉委員會選舉產生的議員兩部分出席會議議員各過半數通過" means that the passage of such proposals shall require the support of a majority (or more than half) of each of the two groups of Members present. However, in the case of Government bills, the Chinese character "票" (votes) has been used. "過半數票" in this context would effectively mean "having more than half of the votes casting in favour of the question". Since an abstention is not a vote, "過半數票" for approving Government bills refers to the actual votes cast either in favour of or against the question, but not abstentions.

2.10 The Legal Adviser of the Legislative Council Secretariat however holds a different view. In the Legal Adviser's opinion, the wording of the provision in Annex II of the Basic Law is so clear that it would not be necessary to resort to other aids to interpretation. To reinforce this point, the Legal Adviser has also drawn members' attention to the speech on voting procedures given by Mr JI Peng-fei at the National People's Congress meeting held on 28 March 1990 when moving the adoption of the draft Basic Law. He said:

.....政府提出的法案獲出席會議的議員過半數票即為通過；議員個人提出的法案、議案和對政府法案的修正案

須分別獲功能團體選舉的議員和分區直接選舉、選舉委員會選舉議員兩部分出席會議的議員的各過半數票，方為通過。

2.11 The Legal Adviser's advice is that the provisions on voting procedures in Annex II of the Basic Law have to be read as a whole. The only difference between the requirements for Government bills and Members' motions, etc., is in the requirement for the majority support of two separate groups of Members. The other differences in expression, including the Chinese character “票” highlighted by the Administration cannot possibly cause any substantive difference in meaning simply because of textual or syntactic variations.

2.12 The Committee notes that the Administration's argument has focused on the effect of the use of the Chinese character “票” when referring to Government bills and Members' bills and motions. The Committee however finds the description of the voting procedures in Annex II of the Basic Law reasonably clear. It is evident that decisions of the Council are governed by the principle of “the majority rules”. This principle has applied consistently throughout the Basic Law notwithstanding the different requirements for different circumstances. The stipulation of the requirements for the passage of such motions is also very specific. Government bills 如獲得出席會議的全體議員的過半數票，即為通過 (shall be passed if given the votes of the majority of the Members present). Bills, motions and amendments to Government bills introduced by Members 均須分別經兩部分出席會議議員各過半數通過 (shall be passed by a majority of each of the two groups of Members present). The “votes” refer to “affirmative votes”. It means that the decision shall be made with the support of more than half of the Members referred to. Under the circumstances, only “affirmative votes” are taken into account when deciding on a question.

2.13 The Committee also considers that the use of different wordings to describe the requirement for Government bills and that for bills, etc, introduced by Members is only a matter of style in writing (行文). The use of different styles in writing for describing similar contents is not uncommon in the Basic Law, which was produced after years of drafting with the involvement of hundreds of advisers, many of whom were not trained in law-drafting. There is no evidence to suggest that the intention was to provide two different vote counting modes for the two categories of proposals. The fact that the descriptions of the voting requirements for the two categories of proposals in the English text are entirely consistent proves

that there was no intention, apart from the bicameral voting procedure, to provide different vote counting arrangements for the passage of these proposals. Besides, the part of the speech of Mr JI Peng-fei quoted in paragraph 2.10 above should remove any possible doubt in this respect. Mr JI's speech was given at the time he moved for the passage of the Basic Law at the National People's Congress. This speech, therefore, serves as an important piece of reference document for the purpose of understanding the Basic Law.

2.14 Mr Denis CHANG Khen-lee, who was instructed by the Committee to provide an opinion on whether the Rules of Procedure were in contravention of the Basic Law, also states in his opinion that he does not consider there to be any intention in the Basic Law for two vote counting methods to be introduced in the Council. Any doubt on the different wordings used in the Chinese and the English texts could be removed by referring to the speech made by Mr JI Peng-fei. The two methods of vote counting, i.e., using the majority of "Members present and voting" and the majority of "Members present", are both in order; and that the latter method which has been adopted by the Legislative Council is the safer method.

2.15 Having taken into consideration the views expressed by the various parties, the Committee concludes that the voting procedures contained in the Rules of Procedure are not in contravention of the Basic Law. Since the vote counting method adopted by the Council is regarded as the safer method, the Committee considers that the current voting procedures should be maintained. Nevertheless, members consider there a need to set out clearly in the Rules the practice of how "a majority vote" is arrived at. The Committee has therefore concluded on the addition of Rule 46(4) to set out clearly that "a majority vote" means that out of the Members present at a meeting, the total number of votes in favour of a motion is having a majority over those voting against and those voting in abstention or present but not voting.

Position of the President when voting

2.16 As regards the position of the President, the Administration has proposed that the Rules of Procedure should provide that, if the President does not vote, he/she is not to be regarded as being present for the purpose of deciding whether a majority of those present support the proposal. This is contrary to the advice given to the Committee by the Legal Adviser of the Legislative Council Secretariat who has pointed out that the need for counting the presence of the President under the voting procedure is dictated by the Basic Law. Since the Basic Law requires all Members present to be

counted, it would contravene the Basic Law if the President who does not cast his/her vote on a question is regarded as “not present” for the purpose of vote counting during a Council meeting when the President, who presides over meetings, is actually physically present at a meeting. His/her presence should be counted towards the quorum laid down in Article 75.

2.17 The Committee also notes that the Rules of Procedure of the Legislative Council do not deprive the President of the right to vote. The President, therefore, can vote on a question, although by convention the President abstains from voting in order to preserve his/her neutrality. The Administration’s suggestion of disregarding the President’s presence if he/she does not vote is a legal fiction which will deviate seriously from all parliamentary conventions and create a bad precedent for disregarding arbitrarily the presence of Members at a meeting. The Committee is firmly of the view that the spirit of the Basic Law is on how many Members are in support of a question, and not on how many object or abstain.

2.18 On the basis of the above and in pursuance of Article 75 of the Basic Law which gives the power to the Legislative Council to make its own rules of procedure, the Committee has concluded that the presence of the President should be counted towards the quorum and the President should be regarded as one of the “Members present” in the context of Rule 46.

Application of Article 74

2.19 Another aspect in the Rules of Procedure which, in the view of the Administration, is in contravention of the Basic Law is the application of Article 74. Article 74 provides that Members of the Legislative Council may introduce bills in accordance with provisions in the Basic Law and legal procedures. 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 the Council. The written consent of the Chief Executive shall be required before bills relating to Government policies are introduced.

2.20 The requirements in Article 74 are reflected in Rule 51 (Notice of Presentation of Bills), in particular, subrules (3) and (4), of the Rules of Procedure of the Legislative Council. There is also a self-imposed restriction which governs motions, amendments to bills and amendments to motions, the object or effect of which may be to dispose of or charge any part of the revenue or other public moneys of Hong Kong. Under such circumstances, the written consent of the Chief Executive would have to be

sought. This restriction is reflected in Rules 31 (Restriction on Motions and Amendments) and 57(6) (Amendments to Bills). As regards amendments to the Appropriation Bill, Members are only allowed to reduce the sum allotted to a head of expenditure under Rule 69 (Amendments to Heads of Estimates in Committee of the Whole Council on Appropriation Bill).

Scope of Article 74

2.21 The Administration holds a different view on the scope of Article 74 and highlights the relevance of Article 48(10) in restricting Members' motions. According to the Administration, a generous and purposive interpretation should be given to Article 74. The Article should cover not only bills but also Committee Stage amendments. Any amendments moved by Members, whether to a bill introduced by a Member or by the Government, should also be subject to Article 74. Members, however, are welcomed to make suggestions to the Administration on legislative proposals relating to public expenditure, political structure or the operation of the Government. Nevertheless, the Administration does not consider that resolutions made under Sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) to amend subsidiary legislation should be subject to Article 74.

2.22 As regards the relevance of Article 48(10), which states that one of the powers and functions of the Chief Executive is to approve the introduction of motions regarding revenues or expenditure to the Legislative Council, the Administration's view is that Members may only introduce such motions, including those without legislative effect, with the Chief Executive's consent. The Administration has also pointed out that Rule 31, which confines the requirement for obtaining the Chief Executive's consent to motions or amendments with "charging effect", is inconsistent with the Basic Law as such a formulation is narrower than that of "regarding revenues or expenditure" as specified in Article 48(10). In other words, Members could not introduce any motion with or without legislative effect, including those regarding revenues or expenditure, without the Chief Executive's consent. The Chief Executive, however, could give blanket approval to the moving of motions with no legislative effect.

2.23 According to the Legal Adviser of the Legislative Council Secretariat, the Basic Law is very specific in making reference to bills, motions and Members' amendments to Government bills, as illustrated in the voting procedures provided in Annex II of the Basic Law. If Article 74

were intended to cover Members' amendments to Government bills, there is no reason why it was not stated in the Article in the first place. The Committee considers it inappropriate to extend the coverage of Article 74, which governs only the introduction of Members' bills, to Members' amendments to Government bills.

2.24 The Committee is aware of the concern of the Administration that proposals in relation to those areas mentioned in Article 74 should come from the Executive instead of from Members of the Legislative Council. This principle has been spelt out in Article 74 and also reflected in the Rules of Procedure of the Council. The Basic Law has not specified detailed procedure of the legislative process, but it is clear that amendments to Government bills moved by Members are anticipated, as shown in the bicameral voting procedure in Annex II of the Basic Law and references to the introduction, amendment and passage of bills in various provisions.

2.25 The Committee considers it important to maintain a legislative process which allows every bill or motion before the Council to be fully debated and all aspects of the bill or motion thoroughly considered. The legislative process which the Council has now put in place is a three-reading process which has worked well in Hong Kong and which people of Hong Kong are familiar with. This process provides a stage between the second and third readings during which the Committee of the whole Council discusses the detailed provisions of proposed amendments to a bill. A Member (including a public officer) in charge of a bill can withdraw the bill at the beginning of the proceedings for the second or third reading of the bill. If the Government finds difficulty in accepting a Government bill in its amended form, the public officer in charge of the bill may withdraw the bill before the third reading stage. The availability of the procedure to withdraw a bill provides a means for the Government to decide the final form of the proposed legislation introduced by it. Under the circumstances, it is not logical, nor reasonable, to regard arbitrarily the word "bills" in the context of Article 74 to mean also "amendments to bills" as this would deprive the Council of the opportunity to discuss and agree to proposals alternative to those proposed in a bill. The mechanism under the Rules of Procedure ensures a degree of checks and balances between the Executive and the Legislature, and preserves the principle of executive-led Government.

2.26 As for Article 48(10), the Committee considers that the Article, which comes under a dedicated section on the Chief Executive, is stating the powers and functions of the Chief Executive. Article 48(10), therefore,

refers to the introduction of motions regarding revenues or expenditure to the Legislative Council by the Government, rather than those by Members of the Legislative Council. The only restrictions on Members in respect of introduction of business in the Legislative Council are provided in Article 74 which comes under the section on the Legislature. Besides, it would be illogical if the Legislative Council, with one of its functions being to debate any issue concerning public interests under Article 73(6), was disallowed to debate a motion regarding revenues or expenditure without the Chief Executive's approval.

Authority to rule on Members' bills for the purpose of Article 74

2.27 The Administration considers that decisions as to whether certain proposals are subject to Articles 48(10) and 74 must be made by the Chief Executive, instead of the President of the Legislative Council as provided in Rule 51 of the Rules of Procedure. Although neither Article expressly identifies the decision-maker, such decisions must be made by the Chief Executive by necessary implication. The Administration's view is that since the purpose of the Articles is to restrict the powers of Members of the Legislative Council in certain specified areas falling within the purview of the Executive, this purpose would be defeated were the President given the power to make such decisions, particularly when such decisions might differ from those of the Chief Executive.

2.28 The Committee has studied relevant Articles in the Basic Law in this respect. Since it is not specified in Article 74 as to who should be the person to decide on such matters, and as Article 75 provides the Legislative Council with the power to make its own rules of procedure, the Committee does not concur with the Administration's view. It is for the Legislative Council to draw up its own procedures which on the one hand satisfy the requirements under the Basic Law, and on the other, facilitate the conduct of business of the Council in the most effective manner. The Rules as they stand do not contravene the Basic Law. If it was the intention of drafters of the Basic Law for such decisions to be made by the Chief Executive, such an important requirement would have been expressly provided.

2.29 The Committee considers that referral to the Chief Executive for ruling on every bill, motion and amendment would not only upset the proper checks-and-balances between the Executive and the Legislature, but would also seriously affect the day-to-day functioning of the Legislative Council. If the Administration's arguments were to be accepted, then Article 48(10) and Article 74 would become contradictory in that the former authorizes the

Chief Executive to “approve the introduction of motions regarding revenues or expenditure to the Legislative Council” while the latter prohibits absolutely the introduction of bills which relate to “public expenditure or political structure or the operation of the government”.

2.30 The Committee has also studied the powers of and inter-relationship among the Executive, the Legislature and the Judiciary as provided in the Basic Law. The provisions in the Basic Law enable the Executive and the Legislature to regulate and monitor the activities of each other, as illustrated in the functions of the two bodies and Articles 49, 50, 51 and 52. Under the Rules of Procedure, the President is empowered to take decisions on whether bills, motions and amendments to bills may be introduced into the Council. These rules are in support of the power of the President to decide on the agenda and to exercise other powers and functions as prescribed in the Rules of Procedure under Article 72(2) and (6).

2.31 The Committee has noted that the procedure which enables the President to form an opinion as to whether a bill falls within the particular areas under Article 74 is similar to Standing Order provisions of the former Legislative Council under which the President ruled on the “charging effect” of a proposed bill or proposed amendments to a bill. These Standing Order provisions governing charging effect were made to implement Clause XXIV of the Royal Instructions, where no person was named as the authority to decide on such matters. Before the President was elected by and from among Members, the Governor of Hong Kong was making the relevant rulings in his capacity as President of the Legislative Council rather than as head of the Administration. The Committee has studied the practice and procedure in other jurisdictions and in the former Legislative Council; these serve to confirm that the procedure of having the President to rule on whether a question can be put at a meeting is a practice widely adopted in other common law jurisdictions.

2.32 On the basis of the above, the Committee has come to a view that Rule 51(3) and (4) do not contravene Article 74. The procedure for the President to decide whether any bills introduced by Members are related to the specific areas under Article 74 is in order. The Committee considers that such a procedure, which has been provided in subrule (3) should also be spelt out clearly in subrule (4), so that notice of bills which in the opinion of the President are related to Government policies should be accompanied by the written consent of the Chief Executive.

2.33 As regards Rules 31, 57(6) and 69, the Committee maintains that these are self-imposed restrictions to govern motions and Committee Stage amendments with charging effect moved by Members. These rules are consistent with the financial procedure in other jurisdictions. Although no such requirements are stipulated in the Basic Law, they do not contravene the Basic Law. The Committee considers it reasonable to maintain such a

procedure and therefore does not recommend any change to these Rules.

2.34 Mr Denis CHANG Khen-lee also finds the interpretation of the Administration unacceptable. In his view, the phrase “提出法律草案” in Article 74 refers plainly to the initiation of the legislative process of introducing a bill, and not to other stages such as the moving of Committee Stage amendments. Rule 51(3) is also right in naming the President as the decision-maker. As regards Article 48(10), Mr CHANG’s advice is that the Article governs requirements within the Executive Authorities rather than motions introduced by Members.

2.35 The Committee concludes that the Rules of Procedure do not contravene Articles 48(10) and 74 of the Basic Law and do not require amendments as requested by the Administration. Specifically, the Committee is of the view that:

- (a) Article 48(10) (the Article being on the powers and functions of the Chief Executive) only governs the introduction of motions regarding revenues or expenditure by the Government to the Council, and not motions introduced by Members of the Council;
- (b) the restrictions in Article 74 apply only to the introduction of Members’ bills, and not Members’ proposal of Committee Stage amendments to Government bills;
- (c) decisions on whether bills introduced by Members fall within the confines of Article 74 should be made by the President; and
- (d) the self-imposed restrictions governing motions and Committee Stage amendments with charging effect moved by Members should continue.

2.36 Two reports which contain the Committee’s deliberations on the subjects of “Voting procedures” and “Application of Article 74 of the Basic Law” were prepared and circulated to all Members of the Council. A copy each of the reports were also provided to the Administration on 23 September 1998 for a written response from the legal point of view. No response from the Administration has been received so far.

The procedure for relieving a Member of his duties under Article 79(6)

2.37 In response to a request from the House Committee, the Committee conducted a study in August 1998 on the procedural arrangements relating to relieving a Member of his duties under Article 79(6). Article 79(6) provides that when a Member of the legislative Council “is convicted and sentenced to imprisonment for one month or more for a criminal offence committed within or outside the Region and is relieved of his or her duties by a motion passed by two-thirds of the Members of the Legislative Council present”, the President of the Legislative Council shall declare that the Member is no longer qualified for the office.

2.38 After consulting Members, the Committee tabled a report on its study at the Council meeting on 9 September 1998. A resolution to put in place the relevant rules in the Rules of Procedure for the implementation of the procedural arrangements was moved by Hon Mrs Selina CHOW, Chairman of the Committee, at the same meeting and was passed by the Council.

The procedure for the censure of a Member under Article 79(7)

2.39 Article 79(7) provides for the censure of a Member for misbehaviour or breach of oath by a vote of two-thirds of the Members of the Legislative Council present, and has the same effect as Article 79(6) of disqualifying a Member from office. However, unlike the case of Article 79(6) the application of which depends on existence of a conviction and sentence to imprisonment for a criminal offence, the circumstances under which Article 79(7) may be triggered off depend on an evaluation of whether the condition of either “misbehaviour” or “breach of oath” is satisfied.

2.40 In view of the serious and complicated nature of the subject, the Committee has conducted its study in two dimensions:

- (a) what behaviours should be regarded as falling within the meaning of “misbehaviour” or “breach of oath” and which are serious enough as to justify the censure of a Member and his disqualification from the office of a Member of the Legislative Council; and
- (b) what mechanism should be established to deal with an allegation of such behaviours.

In the course of its studies on the procedural rules for implementing Article 79(7), the Committee has made reference to practices in overseas legislatures and local professional bodies. A consultation exercise among Members was also conducted.

Defining “misbehaviour” and “breach of oath”

Misbehaviour

2.41 In determining the scope of “misbehaviour” in the context of Article 79(7), the Committee has examined the relevant provisions in the Legislative Council Ordinance, Legislative Council (Powers and Privileges) Ordinance and the Rules of Procedure of the Council, and discussed whether such “behaviours” should be confined strictly to the conduct of Members in their capacity as such and which has brought the Council into disrepute.

2.42 The Committee notes that by virtue of section 15(3) of the Legislative Council Ordinance (Cap. 542), the kind of “misbehaviour” for which a Member may be censured under Article 79(7) includes, but is not limited to, a breach of an oath given under section 40(1)(b)(iii) of the Legislative Council Ordinance (Cap. 542). Section 40(1)(b)(iii) requires a person, when nominated as a candidate for election to the Council, to give a promissory oath to the effect that, if elected, he will not do anything during his term of office that would result in his:

- (a) becoming a prescribed public officer, or an officer of the Legislative Council or a member of staff of The Legislative Council Commission;
- (b) being sentenced to death, convicted of treason or corrupt practices;
- (c) being disqualified from being elected as a Member at an election because of the operation of Cap. 542 or any other law;
- (d) becoming a representative or salaried functionary of a government of a place outside Hong Kong;
- (e) becoming a member of any legislature outside Hong Kong (other than a people’s congress or people’s consultative body of the People’s Republic of China) or a member of the armed forces of the Central People’s Government or any other country; or

- (f) in the case of a Member elected for a functional constituency, ceasing to have a substantial connection with the constituency.

2.43 In the course of deliberation, however, some members of the Committee have expressed doubt on the appropriateness for classifying breach of the promissory oath as a kind of “misbehaviour” for which a Member may be censured under Article 79(7). This view has been referred to the Legislative Council Panel on Constitutional Affairs, and the Administration has subsequently advised that the matter will be taken up in the context of the Legislative Council (Amendment) Bill 1999.

2.44 As regards the Legislative Council (Powers and Privileges) Ordinance, while the Ordinance provides for certain powers, privileges and immunities for Members in the conduct of Council business, such as the freedom of speech and debate and immunity from legal proceedings for words spoken before the Council, Members are on the other hand expected to behave at a certain standard so as not to bring discredit upon the Council.

2.45 In the Rules of Procedure, there are provisions which govern the conduct of Members during meetings and set out the requirements of certain conduct of Members the non-compliance of which may attract some form of penalties. Sanctions for certain “misbehaviour” are provided for, for example, under Rule 45 (Order in Council and Committee), Rule 81(2) (Premature Publication of Evidence) and Rule 85 (Sanctions relating to Interests). However, such “misbehaviour” may not necessarily fall within the ambit of “misbehaviour” under Article 79(7).

2.46 In view of the unprecedented nature of the subject, the Committee has also studied the practices in overseas legislatures, including UK, Australia, Canada and the USA. In these places, the conduct of Members of Parliament (MPs) is set out in one form or another to provide a framework against which acceptable conduct should be judged, e.g., a Code of Conduct/Official Conduct, resolutions of the House, statements of the Speaker, or in a Parliamentary Act. In general, the requirements for MPs’ conduct are for them to act in the interests of the nation and conduct themselves creditably as MPs. MPs should not abuse their privilege or act in such manner as to bring the Parliament into disrepute.

2.47 In none of the overseas legislatures has it been possible to draw up an exhaustive list of misconduct, or indeed the types of sanction which may be imposed. Each case is judged by the House according to the degree of seriousness involved. Two general features of these cases are, firstly, that

such acts are related invariably to the conduct of MPs in the performance of their duties as Member of the legislature and, secondly, the sanctions applicable range from apology to denial of right, fine, reprimand, censure, suspension of service or expulsion. The major consideration is whether the misbehaviour has brought about such serious disrepute to the House as to constitute a contempt. It is also noted that these overseas legislatures uphold the guiding principle that the House should exercise its penal jurisdiction as sparingly as possible and only when satisfied that it is essential to do so in order to provide reasonable protection for the House and its Members.

Breach of Oath

2.48 The Committee considers that the “oath” referred to in the context of Article 79(7) is the oath/affirmation taken by Members of the Council at the swearing-in ceremony. The same principle has also been applied by overseas legislatures. Nevertheless, the Committee notes that while the oath itself is explicit, how an act of a Member will constitute a breach of the oath requires consideration.

2.49 After deliberation, the Committee has come to the view that it would be more appropriate for the Council of the day to make a decision on the kind of behaviours which would be regarded as a “misbehaviour” or “breach of oath” leading to the disqualification of a Member from office under Article 79(7). It is, therefore, not necessary for the scope of behaviours to be pre-determined or for a Code of Conduct to be drawn up for the purpose of the Article.

2.50 However, having regard to the serious consequence of an allegation made under the Article, the Committee considers it essential for a mechanism to be established for investigating and assessing such an act upon a motion being moved in the Council. This mechanism should be kept separate from that for handling a complaint against a Member which may lead to a lesser form of punishment.

Mechanism for dealing with alleged cases

2.51 In drawing up the mechanism for dealing with an allegation made under Article 79(7), the Committee has agreed on the following principles:

- (a) A motion moved under Article 79(7) will not be debated or voted upon before the matter which is the subject of the motion has been

investigated. If it is decided by the Council that no investigation is required, the motion will not be proceeded with; and

- (b) The investigation process should be fair to both the Member moving the motion and the Member under complaint; a committee given the responsibility to investigate the matter should only be required to establish the facts and give views on the behaviours under allegation. The decision on whether the Member should be disqualified under Article 79(7) should be made by Members of the Council in accordance with the requirement of the Basic Law.

Moving of a motion under Article 79(7)

2.52 For the moving of a motion under Article 79(7), the Committee considers it necessary for a more stringent requirement to be laid down so as to deter frivolous allegations against Members. The Committee takes the view that the motion should be sponsored by three other Members of the Council apart from the mover of the motion. This requirement is similar to the arrangement in the former Legislative Council before July 1995 when a motion moved by non-Government Members of the Council required the signature of no less than four Members. The Committee considers that the requirement for a total of four Members to initiate the motion is appropriate, as it should deter abuse of the mechanism, and at the same time would not bar minority Members of the Council from initiating action under Article 79(7).

2.53 As for other procedures, the Committee considers that the normal rules governing the giving of notice and the debate of a motion in Part G (Motions) and Part H (Rules of Speaking) of the Rules of Procedure should apply. However, to avoid ambiguity over the intention of the motion, the Committee deems it appropriate for the wording of the motion to be prescribed in the Rules of Procedure. Particulars of the reasons or circumstances to support the censure proposed in the motion should be given in a schedule attached to, and which forms part of, the motion. The motion is not subject to amendment.

2.54 The Committee is aware of the restrictions on the handling of the motion once it is moved, and has examined the possibility of referring the matter to a committee immediately upon the receipt of the notice of the motion. However, to avoid abuse of the mechanism, the Committee considers that the motion should be moved before any formal proceedings are taken on the matter.

2.55 The debate on the motion, once moved, will stand adjourned in accordance with the proposed Rules of Procedure and be referred to an investigation committee to be appointed by the President. Any Member who disagrees with the referral may move without notice that no investigation is required. If this motion of not referring the matter to an investigation committee is agreed to by the Council, the original motion will not be proceeded with. The reason for not proceeding with the original motion is to ensure that no motion for the censure of a Member under Article 79(7) is debated without an investigation into the allegation being undertaken. The provision to dispense with the investigation is to allow the Council an opportunity to dispose of frivolous allegations.

Formation of investigation committee

2.56 The Committee considers that investigation committees should be established on an ad hoc case-by-case basis, and the scope of investigation will be confined to the particulars set out in the schedule of each motion. Unlike other jurisdictions in which major parties have controlling influence in the parliament and where there are well established practices to deal with disciplinary matters, it would not be easy for Members in the Hong Kong Legislature in the present setting to agree on the membership of a standing committee responsible for investigating into the conduct of individual Members. Nevertheless, in view of the ad hoc nature of the membership of the investigation committee, the Committee considers it necessary to stipulate the manner in which the committee is formed and the way it conducts its business.

2.57 The Committee is of the view that the investigation committee should have seven members, including a chairman and a deputy chairman, appointed by the President who will take into account the recommendations of the House Committee. To avoid conflict of interest, the Members moving and sponsoring the motion and the Member alleged of misbehaviour or breach of oath should not be appointed to the investigation committee. The size of the investigation committee should, however, be subject to periodic review to allow for a fair representation of different political groups or interests in the Council. The investigation committee may have the power to determine its own procedure for conducting the investigation subject to the Rules of Procedure.

2.58 To encourage maximum participation in meetings of the investigation committee, the quorum should be five members including the chairman or the member presiding at the meeting. Provision should be

made in the investigation committee's own procedure to enable the chairman to adjourn a meeting whenever there is no quorum.

Investigation process

2.59 The functions of an investigation committee are to establish the facts of the case and to give its views on whether or not the facts established constitute grounds for censure. In the absence of definitions for “misbehaviour” and “breach of oath” within the context of Article 79(7), it may also be necessary for the investigation committee to also give its view in this respect having regard to, among other things, the circumstances of individual cases and the standard of behaviour expected of a Member by the community. However, the decision on whether or not the Member should be censured, hence disqualified from office, should rest with the Council, by a two-third majority vote of the Members of the Council present.

2.60 The Committee is aware that in other jurisdictions as well as local professional bodies, preliminary investigation is usually conducted to establish whether there is a prima facie case before undertaking a full investigation. As the process of and the publicity attracted by preliminary investigations are no different from that of a full investigation, the Committee considers that once the motion is referred to an investigation committee, full investigation should be undertaken immediately.

2.61 The Committee considers that the investigation committee should, by resolution of the Council, have the power to summon persons to testify or give evidence and to call for papers and documents. Having regard to the need to maintain fairness in the investigation process, the Committee considers it appropriate for the hearing of witnesses to be conducted in camera. Upon an election made by the Member being accused at the beginning of the investigation that hearings should be open to the public, the hearings shall be conducted in public throughout the entire investigation. However, the investigation committee may decide on sufficient reason, upon a request made by a member of the committee or an application made by a witness, to conduct any part thereof in camera. Internal deliberations shall always be held in camera. Irrespective of whether hearings are conducted in public or in camera, the transcript of evidence should be published in full as far as possible and form part of the report of the investigation committee.

Proceedings following completion of investigation

2.62 Upon completion of the investigation process, the investigation committee should table its report in the Council. As the report contains the investigation committee’s views on which of the facts in the motion are established and whether the facts established constitute grounds for censure,

there is no need for a separate motion to endorse the report. The report only serves as a reference for Members to decide whether the Member concerned should be disqualified from office under Article 79(7). The investigation committee will be dissolved upon the tabling of its report in the Council. However, if further matters arising from the motion have to be considered, the investigation committee could be revived.

2.63 To ensure that the debate on the motion will be resumed without delay, the Committee considers that it should be written into the Rules of Procedure that debate on the motion will be resumed automatically upon the tabling of the committee's report in the Council, irrespective of the findings of the Committee. The debate should take place at the earliest meeting of the Council at which normal business is transacted next following the tabling of the investigation committee's report.

2.64 During the resumed debate, all Members including the Member alleged may speak on the motion. The Member alleged should be allowed to speak more than once, if the Member so requests, as in the case of a motion moved under Article 79(6). As to whether the Member alleged has the right to vote, present rules already provide that any Member with a direct pecuniary interest should not vote; but if he does vote, there is a mechanism to disallow his vote. The Committee is of the view that the Member alleged has a direct pecuniary interest, but there is no need to make any special provision in this respect.

2.65 After Members have voted on the motion and if the motion is passed by two-thirds of the Members present, the President shall immediately declare the Member disqualified from office.

Rules

2.66 The Committee has prepared amendments to the Rules of Procedure to put in place certain specific rules to deal with a motion moved under Article 79(7). Other related procedures, for example, those provided in Rules 80 (Attendance of Witness) and 81 (Premature Publication of Evidence), should continue to apply. As for voting, the Committee considers that, with the exception of the motion moved under Article 79(7), all other motions moved in relation to the motion should be decided in accordance with the Rules in Part J (Voting) of the Rules of Procedure.

III. Improvement of Procedural Arrangements

3.1 To facilitate the smooth conduct of business in the Council, the Committee has conducted a detailed study of some the current arrangements which require improvement, including the commencement and ending of a legislative session, the manner to convene the first meeting of a committee at the commencement of a new term, the registration and declaration of Members' interests, the term of office of a select committee and the manner of speaking at debates.

Timing for the commencement and ending of legislative sessions

3.2 Although a decision on the timing for the commencement of a session in a legislative term rests with the Chief Executive in accordance with section 9(2) of the Legislative Council Ordinance (Cap. 542), the subject matter affects all Members of the Council and will impact on the timing for the holding of general elections. The Committee notes that prior to July 1997, the arrangements for the commencement of legislative terms and sessions were set out in the Royal Instructions and the Standing Orders of the former Legislative Council. The practice in the former Legislative Council was for a new session to commence in October each year with the Policy Address of the Governor delivered at the first sitting of that session, and to end in July, followed by a summer recess not exceeding three months in between. While the President determined the days and hours of sittings in accordance with the Standing Orders, a session was to end on such date as the Governor might appoint by notice published in the Gazette, or on a dissolution of the Council, whichever was the earlier. The dissolution period between two legislative terms was to enable elections of Members of the Legislative Council to take place. In 1991 and 1995, the general elections took place in September.

3.3 In the case of the Provisional Legislative Council, its term of office as decided by the Preparatory Committee for the Hong Kong Special Administrative Region was to commence after the appointment of the first Chief Executive and to cease operation upon the formation of the first Legislative Council, but in any event not beyond 30 June 1998. Owing to the short duration of the term of office between January 1997 and June 1998, there was only one legislative session in its entire term of office.

3.4 As for the Legislative Council of the Hong Kong Special Administrative Region, its first term shall be two years, and then four years each thereafter according to Article 69 of the Basic Law. Section 4(2) and (3) of the Legislative Council Ordinance (Cap. 542) provides that the first term of office of the Council is to begin on 1 July 1998 and that subsequent terms are to begin on such dates as specified by the Chief Executive. The Committee notes that the word “year” in Article 69 should mean “full calendar year”. According to the Legal Adviser of the Legislative Council, this meaning is consistent with the obvious meaning of “year” as it appears in other Articles (namely Articles 5, 24, 44, 46, 61 and 71) and Annex I of the Basic Law. The Basic Law is silent on whether there could be gaps between consecutive terms of the Council.

Commencement of a legislative session

3.5 The Committee considers the arrangement for the first session of the first term of the Legislative Council not entirely satisfactory. The session commenced on 2 July 1998 with no Council meetings scheduled for the period between 29 July and 9 September 1998. Regular meetings of the Council are scheduled up to mid July 1999, with the Chief Executive’s 1998 Policy Address delivered in October. Apart from the disruption of the flow of Council business by a break of six weeks after the Council has met for only one month, the delivery of the Policy Address in the middle of a session also creates difficulties in the planning of legislative work.

3.6 Members of the Committee are of the view that where possible, each session should commence with the delivery of the Policy Address, preferably in October allowing a summer break of not exceeding three months in between two sessions. In this respect, members are aware that there may be practical difficulties for commencement of the first session of the next term in October 2000 because the present term of office ends on 30 June 2000. Consideration should also be given to the timing of the general election in 2000 as it will affect the commencement of the new term and also its first session. Nevertheless, the Committee considers that different scenarios should be examined, including the possibility of advancing the Policy Address to July if it is not practicable to commence a session in October.

3.7 The Committee has, therefore, sought the views of other Members on, among other things, whether the first meeting of a session should tie in with the delivery of the Policy Address. This would have impact on the timing for the commencement and ending of the sessions in the current term, as well as the second and subsequent terms of the Council. The Committee has also consulted the Administration in this respect and enquired the possibility of advancing Policy Addresses to July if all sessions were to commence in July.

3.8 According to the Administration's response, if a legislative session commences in July, the six-week summer break in August/September under the present arrangement will be much shorter than those of previous legislative sessions. It would be "extremely difficult" for Policy Addresses to be delivered in July as the delivery of the Policy Address is affected by the budget cycle. The Financial Secretary consults Members on expenditure priorities in May/June, and bureaux will formulate policy initiatives and seek funding in the annual resource allocation exercise from July to August. Initiatives with funding allocated will be included in the Policy Address in October. In October/November, the Financial Secretary starts another round of consultation with Members on the revenue aspects of the next Budget, and the expenditure and revenue proposals will be reflected in the draft Estimates of Expenditure and Revenue compiled in January. The Administration has concluded that it will continue to plan for Policy Addresses to be delivered in October in subsequent years.

Gaps in between terms

3.9 Should a legislative session commence in October, it would be necessary to address the gaps in between terms if the term of office of a Legislative Council does not immediately follow that of its predecessor. The Committee notes that in the Basic Law, dissolution of the Council is an exception rather than the rule as the Basic Law only provides for the Council to be dissolved under Article 50. Theoretically speaking, there should be no gap in between terms. To enable a general election to take place, section 6 of the Legislative Council Ordinance (Cap. 542) has provided for a prorogation during which business of the Council will come to a complete stop although all serving Members of the Council are still in office.

3.10 Some members of the Committee have expressed concern that if a general election were to be held during the prorogation of the Council, serving Members may have an unfair advantage over other candidates. However, if the Council were to be dissolved, rather than prorogued, for the purpose of holding the general election, the term of office of a Legislative Council would either be shorter than four years, which is contrary to the requirement under the Basic Law, or that different terms of the Council would commence at different months of a year. If a new term and session were to commence at different months of a year, it will be difficult for a session to commence with the Policy Address. This, however, is not the Committee's main concern. The Committee notes that the Basic Law does not provide for the convening of emergency sessions after the end of a term or during the dissolution of the Council. Although section 11 has been added to the Legislative Council Ordinance (Cap. 542), as a result of a Member's initiative, to provide, inter alia, for the President to convene emergency sessions during the period after the end of the term of office of the Council and for the persons holding office as Members of the Legislative Council immediately before the dissolution to be deemed as Members of the Legislative Council for the purpose of the emergency session, the status of these "deemed Members" and the validity of any laws passed by them might still be subject to challenge.

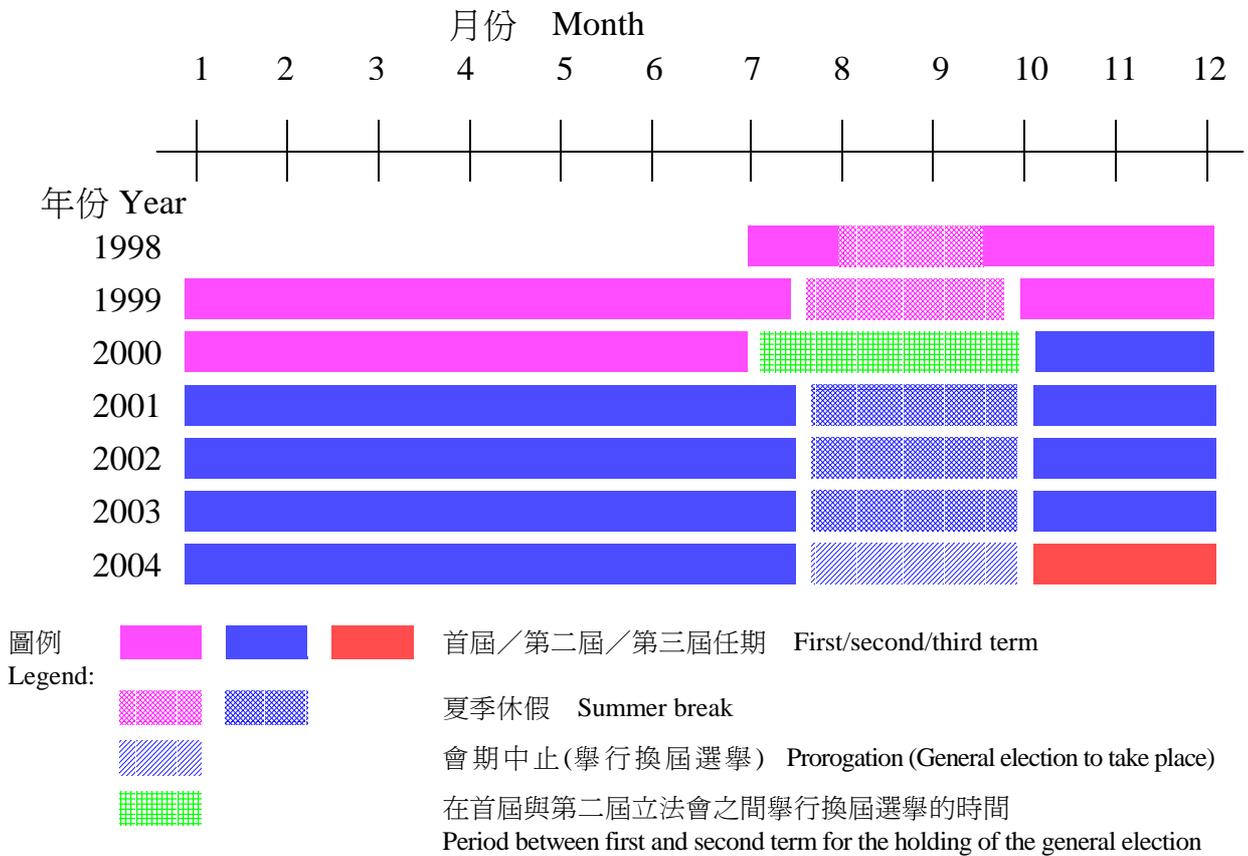
3.11 The Committee has examined the subject at great length. It has come to the view that the deeming of the persons holding office as Members of the Legislative Council under section 11(2) of Cap. 542 is solely for the purpose of convening an emergency session after the Council is dissolved but before the general election takes place. It is a provision necessary for ensuring that a law making mechanism is available during a period when there are no incumbent Members, e.g. when the Legislative Council has been dissolved by the Chief Executive under Article 50 of the Basic Law, but before the next general election is held. The provision is not intended to extend the term of office of these Members. The Committee is of the view that it would be unlikely that the provision would be considered as contravening the Basic Law as regards the two-year or four-year term of office of Members. If an emergency session were to be convened after the general election, the Chief Executive may specify, in accordance with section 4 of Cap. 542, an earlier date for the commencement of the new term and of its first session to enable a Council meeting to be held.

3.12 In response to the Committee's enquiry on the above concern, the Administration has subsequently confirmed, in the context of examination of the Legislative Council (Amendment) Bill 1999 introduced to the Council on 3 February 1999, that section 11 of Cap. 542 is not inconsistent with the Basic Law.

Arrangements for the second and subsequent terms

3.13 The Committee has also invited Members to give special thoughts to the arrangements for the second and subsequent terms. In this respect, a number of options were set out in a consultation paper circulated to Members in October 1998. A total of 58 Members responded. The results of the consultation exercise indicate that most Members are in favour of a new session commencing in October to tie in with the delivery of the Policy Address, and the session ending in July of the following year, allowing a break of not more than three months between sessions. Under this arrangement, the first term of the Legislative Council will end on 30 June 2000, after which a general election will take place. The second term will commence in October 2000 and end in September 2004, and the Council will be prorogued in July/August 2004 to enable the general election to take place.

3.14 An illustration of the arrangement is given below:



Follow-up actions

3.15 As a follow-up to the consultation exercise, the Committee has informed the Administration of Members' preferences to facilitate its determination of the timing for the commencement of legislative sessions and for the holding of general elections. In reply, the Administration has advised that it would comply with Members' preferences for the 1998-99 session to end in July 1999, and the 1999-2000 session to commence in October 1999. The provision for the Chief Executive to determine the first meeting of each term has been incorporated in the Legislative Council (Amendment) Bill 1999.

3.16 To facilitate arrangements for the first meeting of a session to tie-in with the delivery of the Policy Address by the Chief Executive, the Committee has considered it appropriate to introduce an amendment to Rule 13 (The Chief Executive's Policy Address) to provide for the delivery of the Policy Address by the Chief Executive at the first meeting of a session if he so wishes.

Precedence of Members

3.17 During the drafting of the Rules of Procedure in June 1998, Members-elect considered the arrangements for the calling and convening of the first meetings of committees for the purpose of electing the chairmen and deputy chairmen. In the absence of a most "senior" Member in the first term of the new legislature, the only practical arrangement was for the clerks of committees to call the first meetings and preside over the election of the Member to preside over the elections of the chairmen and deputy chairmen. However, it was generally felt that the calling and convening of meetings were the responsibilities of Members, and that a long term arrangement should be put in place.

3.18 The Committee notes that in the former Legislative Council, a precedence was accorded to Members of the Legislature in accordance with the length of the Members' continuous service in the Council. The Member with the longest continuous service in the Council was given a special role to play in the Council. The Member presided over the election of the President at the first meeting of the Council in a legislative term, and would also preside at a Council meeting in the absence of the President and the President's deputy. In the case of a committee, the most "senior" of the members of the committee was responsible for setting the date of the first meeting of the Committee and presided at the meeting for the purpose of electing the chairman. The seating of Members in the Legislative Council Chamber was also arranged according to the same precedence. This traditional practice was reflected in the Standing Orders and House Rules of the former Legislative Council.

3.19 In the case of the Provisional Legislative Council, the precedence of Members was not reflected in the Rules of Procedure of the Provisional Legislative Council. The order of oath-making and seating of Members in the Chamber was determined according to the number of strokes in the traditional characters of Members' names in Chinese. Calling and convening of the first meetings of committees were carried out by the respective clerks.

3.20 For the first Legislative Council of the Hong Kong Special Administrative Region, the order in which Members made their oath at the first meeting of the Council was determined according to the number of strokes in the traditional characters of Members' names in Chinese. The order of oath-making, in line with past practices, is not laid down in the Rules of Procedure. Seating of Members in the Council Chamber is determined by the groupings agreed among Members, instead of by the order of oath-making. The Clerk to the Legislative Council presided at the first meeting of the first term of the Council for the purpose of electing the presiding Member for the election of the President of the Council in accordance with section 10 of the Legislative Council Ordinance (Cap. 542), while the clerks of committees called the first meetings and presided over the election of the Member to preside over the election of the chairmen and deputy chairmen.

3.21 The Committee notes that the holding of the first meetings of the Council and its committees for the purpose of electing the President/chairman consists of two processes:

- (a) the calling of the first meeting of a committee, and convening of the part of the meeting of the Council and a committee for electing a presiding Member; and
- (b) presiding over the election of the President/chairman and, if required, the deputy chairman.

At present, the Rules of Procedure provide that process (a) is carried out by the respective clerks while (b) is conducted by a Member elected among those Members present at the meeting.

3.22 In respect of the Council, it is the presiding over the election of the Presiding Member for the election of the President at the beginning of a new term which requires a longer term arrangement as the term of office of the President is for the entire term of the Council.

3.23 In the case of committees, the current Rules of Procedure have already provided for the chairmen of the Finance Committee, the House Committee and Panels to hold office until the election of chairmen of the respective committees in the session next following that for which they were elected. As such, while the clerks are responsible for calling the first meetings in a new term, meetings in the second and subsequent sessions are called by the respective chairmen. No such question would arise in the case

of those committees the chairmen of which are appointed by the President, or bills committees which are dissolved upon completion of their given tasks. What therefore needs to be addressed is again the arrangements for the first meetings in a new term.

3.24 To simplify the procedure for the election of the President/chairmen, the Committee considers it necessary to establish an order of precedence of Members according to the length of continuous period of time for which Members have held office in the Council. The convening of the first meeting of the Council in a new term will be conducted by the Member with the longest continuous service in the Council present at the meeting. For committees to which no chairmen have been appointed, the member with the longest continuous service will set the date for the first meeting and preside over the election of the chairman and, if necessary, the deputy chairman. This arrangement saves the trouble of first electing a Member to preside at the election of the President/chairman and allows a Member, instead of a clerk, to call the first meeting of a committee.

3.25 The practice of determining the precedence of Members according to the length of continuous service is widely adopted in legislatures of other common law jurisdictions. Under the Committee's recommendation, a Council Member who has held office for a longer continuous period of time shall be given higher precedence. If two or more Members have held office for an equal continuous period of time, the one who first made or subscribed the oath or affirmation shall be deemed to have held office for a longer continuous period of time. The order for new Members to make oath at the same meeting is determined according to the number of strokes in the traditional characters of Members' names in Chinese.

3.26 The Committee has, therefore, concluded that a new Rule 1A (Precedence of Members) be added to the Rules of Procedure, and the Schedule to the Rules of Procedure, which prescribes the procedure for the Election of the President, be amended. At the same time, provisions in Rule 71 (Finance Committee) and Rule 75 (House Committee) on the responsibility of clerks for calling and convening the first meetings of committees for the election of the presiding Member will be deleted. Corresponding amendments will also be made to the House Rules.

Registration and Declaration of Members' Interests

3.27 The Committee has also studied requirements in the Rules of Procedure for the registration and declaration of interests of Members, and

identified a number of rules which require amendments.

Deadline for registration of interests

3.28 Under Rule 83(1) of the Rules of Procedure, the deadline for the registration of interests of Members is specified by way of a resolution of the Council. This arrangement has been necessary for the first term of the Legislative Council as the Rules of Procedure which include procedures on the registration of interests were adopted after Members had taken office. The date so specified for the purpose of the first term was 24 July 1998, which was about two weeks after the Council made the resolution on 8 July 1998. As for new Members who are to fill vacant seats, the current rules require these Members to register their interests within 14 days from the date of their becoming Members of the Council. A 14-day requirement is also laid down for reporting changes in registrable interests.

3.29 Since the Rules of Procedure will continue to apply to subsequent terms of the Council, it will be cumbersome if the deadline for registration of interests has to be specified by way of resolution for each and every term. As the purpose of the registration is to enable other Members and public officers to be aware of the Members' pecuniary interests in the course of debate and proceedings of the Council, the Committee considers it appropriate to change the deadline for registration of interests to "not later than the first meeting of the term". This will allow sufficient time for Members to complete the registration form, and enable the purpose of the registration to be achieved. The respective deadlines for a new Member filling a vacant seat will continue to be "within 14 days of his becoming a new Member", and for changes of registrable interests to be within 14 days of any such change.

Donations towards election expenses

3.30 According to Standing Order 64A(4)(e) of the former Legislative Council, registrable interests also included financial sponsorships "as a candidate for election to the Council, where to the knowledge of the Member the sponsorship exceeds \$10,000 or 25% of his election expenses". This requirement was omitted from the list of registrable interests under Rule 83(5) during the drafting of the Rules of Procedure.

3.31 The 25% requirement was in line with that applicable to Members of the UK Parliament, and was laid down in 1991 when the limit for election expenses was \$200,000 for a geographical constituency and \$50,000 for a functional constituency. The requirement to declare a sponsorship

exceeding \$10,000 was added in 1993 when a stricter rule was deemed necessary by the then Committee on Members' Interests (CMI), after taking note of an observation by the UK House of Commons Select Committee on Members' Interests in 1992 that "substantial" meant any payment of £ 500 or more.

3.32 The subject matter has been referred to the current CMI for study. After taking note of the requirement under section 29 of the Corrupt and Illegal Practices Ordinance (Cap. 288) for every candidate to send the returning officer a return of his election expenses and donations and accompanying declaration within 30 days of the gazettal of the election results, CMI considers that it would not create additional work if Members were to furnish the same information to the Council for the purpose of registration of interests. This return contains basically statements of all election expenses, donations and the donations returned. Since the statements are all supported by receipts, CMI considers that copies of the receipts need not be provided to the Legislative Council Secretariat for the purpose of compliance with Rule 83.

3.33 The Committee agrees with CMI's views, and has made an amendment to Rule 83(5)(d). The Committee also notes that under sections 8B and 29 of Cap. 288, donations of \$500 or more which are not accompanied by sufficient detail as to enable the donor to be identified should not be retained, and should be donated to such charitable institution or trust of a public character as the candidate may select.

Financial sponsorship after taking office

3.34 In the course of deliberation, some members of the Committee have raised concern on whether financial sponsorship from an anonymous source should be accepted after Members have assumed office. As the subject matter falls within the purview of CMI, the Committee has referred the subject to CMI for consideration. After deliberations, the CMI has concluded that no change should be made to the current practice and that Members may continue to accept anonymous financial sponsorship subject to registration of all such sponsorship.

3.35 In the light of the CMI's decision, the Committee has not made any change to the Rules in this respect.

Declaration of direct pecuniary interests during proceedings of Council and Committees

3.36 Rule 84 (Personal Pecuniary Interest to be Disclosed) spells out the restrictions on a Member who has a pecuniary interest in any question or matter:

- (a) A Member shall not vote upon any question, whether in the Council or in any committee or subcommittee, in which he has a direct pecuniary interest (Rule 84(1));
- (b) 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, whether in the Council or in any committee or subcommittee, without disclosing the nature of that interest (Rule 84(2)); and
- (c) In any debate or proceedings of the Council or any committee or subcommittee at which a Member is present he shall declare any direct pecuniary interests which he has in the matter (Rule 84(3)).

Enforcement of Rule 84(1)

3.37 The enforcement of (a) in paragraph 3.36 could be achieved by way of the disallowance of a Member's vote under Rule 84(4) to (7). However, under current vote counting arrangements, the effect of a Member present but not voting is the same as a Member who has voted against a question. It follows that if a Member has a direct pecuniary interest in a question in which a vote is taken, his mere presence at a meeting of the Council and a committee of the whole Council during voting will affect the voting result. It will, therefore, be necessary for such a Member to withdraw from a meeting of the Council and a committee of the whole Council when voting takes place on a question in which he has a direct pecuniary interest, and the Committee has made an amendment to Rule 84(1) to this effect. The requirement to withdraw does not apply to other committees or subcommittees where only the votes of members who are in support of or against a proposal are counted.

3.38 However, if such a Member is still present at the meeting after the question has been put, the Committee is of the view that any Member should be able to move a motion to order the Member's compliance with the proposed Rule 84(1) without having to wait till after the votes have been cast.

If the motion is agreed to, the Member will have to withdraw from the Council or committee of the whole Council until after the voting on the original question is completed.

3.39 On the other hand, if the challenge is made after voting on the original question has begun, then the existing provision for a motion to be moved to disallow a Member's vote on the ground of his direct pecuniary interest will apply. If the motion is agreed to, the President, Chairman of a committee of the whole Council, or chairman of a committee or subcommittee shall state anew his judgment on whether there is a required majority or, in the case of a division, direct that the numbers voting and the effect of the presence of the Member in the original question be altered accordingly.

3.40 The Committee has also noticed that under current rules, the Member concerned has to withdraw when Members speak on the motion to disallow his vote. However, while the Committee agrees that the Member concerned should withdraw from the meeting when voting on the motion takes place, the Committee is of the view that the Member should be given the choice to decide whether to be present during the debate on the motion. As such, the Committee has made an amendment to Rule 84 to this effect.

3.41 At the same time, the Committee has also made textual amendments to subrules (1) and (5) of Rule 84 to specify that the direct pecuniary interest is an interest which is not in common with the rest of the population of Hong Kong or a sector thereof or that the vote is given on a matter of Government policy.

Enforcement of Rule 84(2) and (3)

3.42 There are no explicit rules for monitoring compliance with (b) and (c) in paragraph 3.36. A Member is required to declare out of his initiative any direct or indirect pecuniary interests he may have in a matter. A question has been raised by a Panel Chairman on the extent of his authority to require members to declare such interests at Panel meetings where members are only exchanging views on a subject and not speaking on a motion. Under the present Rules, a Member has the obligation to declare his direct or indirect pecuniary interests according to the circumstances laid down in Rule 84(2) and (3). It is therefore assumed that all Members will comply with the requirements of their own accord, and the chairman of a committee would only ensure compliance when a point of order is raised at the meeting.

3.43 The requirement in Rule 84(3) for a Member who is present at a meeting and who has a direct pecuniary interest in the matter to declare his interest raises a concern as to whether such a declaration is necessary even when the Member is only present at a meeting but is not going to speak or vote. In this regard, the Committee has looked into the practices of overseas legislatures and noticed that the principle is for a pecuniary interest to be declared if it might reasonably be thought by others to influence the Member's actions, speeches or votes in Parliament. This rule, therefore, applies to situations where the Member has the opportunity to speak, such as debates in standing committees, presentation of a public petition, and meetings of a select committee at which evidence is heard. In the United Kingdom, declaration of relevant interest is required, since 1995, in the notice paper when tabling a question (written or oral), motion, an application for adjournment debate, bill, or an amendment to a motion or to a bill. Such declaration is, however, not necessary when Members ask supplementary questions. In Australia, there is no longer any requirement for Members to declare any relevant interest at the beginning of a speech in the House or in a committee, or when directing a question.

3.44 Having regard to the practices in these overseas legislatures where the requirement for Members to declare direct pecuniary interests basically applies only to Members speaking at meetings, the Committee considers it appropriate to amend Rule 84(3) to reflect this principle.

Term of office of Select Committees

3.45 Another area which the Committee has studied to ensure smooth conduct of business is the term of office of select committees. Rule 78 (Select Committees) lays down provisions for the appointment of select committees by the Council:

- (a) Subrule (1) provides that “the Council may in each session appoint one or more select committees to consider matters or bills which the Council may refer to the committee”;
- (b) Subrule (4) provides that “a select committee shall, as soon as it has completed consideration of the matter or bill referred to it, report to the Council thereon and the committee shall thereupon be dissolved. If the committee is of the opinion that it will not be able to complete consideration of the matter or bill before the end of the session, it shall so report to the Council”; and

- (c) Subrule (5) specifies that “at the end of the session every select committee of the Council shall be dissolved.”

3.46 The subject matter which a select committee has been appointed to inquire into is normally a complicated one, such as the enquiries into the termination of the employment of Mr Alex TSUI Ka-kit in 1993, the Kwun Lung Lau Landslip in 1994, the labour disputes involving imported workers in 1995, the departure of Mr LEUNG Ming-yin from the Government in 1996, and the problems surrounding the commencement of the new airport in 1998. It may hence not be possible for a committee to complete its task within a session, especially if the appointment of the committee is made towards the end of a session. In order that the work of a select committee would not be unduly disrupted, the Committee considers that a select committee should only be dissolved at the end of a term rather than a session. Accordingly, the Committee has recommended amendments to Rule 78(1), (4) and (5) to reflect the change.

Manner of speaking at debates

3.47 In response to a request from the President, the Committee has also reviewed the present arrangements regarding the way Members speak at motion debates. The Committee notes that there is no rule in the Rules of Procedure for the President to disallow Members to speak after the public officer’s speech at the end of a motion debate although this has not been the usual practice.

3.48 Under the present practice, the President of the Legislative Council calls upon Members to speak on a motion in accordance with the following rules and having regard to the long standing practices of the speaking order in motion debates:

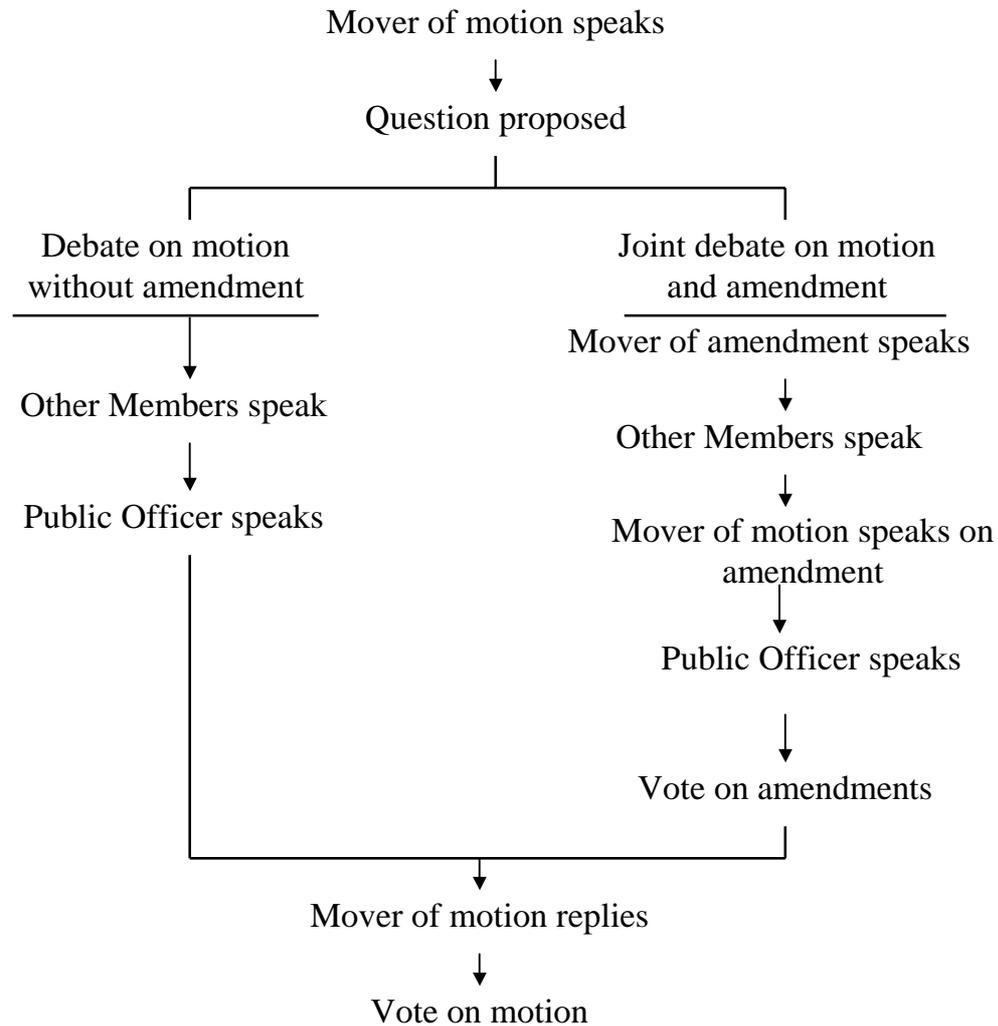
Rules of Procedure

- Rule 33 (Manner of Debating Motions), which provides for the mover of a motion to start off the debate by moving and speaking on the motion;
- Rule 34 (Manner of Debating Amendments to Motions), which provides for the mover of an amendment to move the amendment, to be followed by a joint debate;
- Rule 37 (Recommendations of House Committee as to Time of Speaking), which provides for the House Committee to make recommendations on the allocation of speaking time for a debate;
- Rule 38 (Occasions when a Member may Speak more than once), which sets out the circumstances under which Members and public officers may speak more than once; and

House Rules

- Rule 17 (Motion Debates) which specifies the allocation of speaking time for a debate.

3.49 With the exception of the mover of a motion who is allowed to speak at the commencement of the debate and reply after Members who wish to speak have spoken, no specific provisions have been laid down in current rules as regards the order of speaking of Members vis-a-vis public officers. The present arrangement derives from the long standing practice whereby no Member (except the mover of the motion) will speak after the public officer designated to speak in the debate has spoken. In gist, the sequence of speaking is as follows:



(Note - The above is aimed at illustrating the sequence of speaking of Members and public officers, and does not take into account situations where amendments to amendment or more than one amendment have been proposed.)

3.50 In considering whether a Member should be allowed to speak after the public officer has spoken, the Committee has taken into account the fact that Members may wish to speak on the points made by the public officer in his speech. At present, it is usual practice for the public officer concerned to speak only once and the speech is made after all Members have spoken and before the mover of the motion makes his reply. The Committee, therefore, considers that the crux of the matter is the manner in which the order of speaking could be arranged so as to make the debate more

meaningful.

3.51 Members of the Council have all along expressed a wish for the public officer concerned to speak at an earlier part of the debate to enable Members to understand the position of the Administration before they speak. This would obviate the need for Members to speak towards the end of a debate after the public officer has responded to points raised by Members. The Committee notes that the House Committee of the present and former Legislative Councils had in fact suggested to the Administration on a number of occasions that public officers should speak at an earlier part of the debate. The Administration had nevertheless maintained that if needed, more than one Bureau Secretary would be arranged to participate in motion debates initiated by Members and that it would continue to exercise flexibility to cater for such a need.

3.52 In considering the way forward, the Committee has made reference to the practice in overseas legislatures. While the practices on speaking order in these legislatures vary in one way or another, the following common features have been identified:

- (a) The principles of allowing participants in a debate to speak only once and giving the mover of a motion the right of reply invariably apply;
- (b) The relevant Minister normally speaks first, usually immediately after the mover has spoken. He may speak a second time by unanimous consent to respond to viewpoints made by Members; and
- (c) A Member does not normally speak after a Minister has made his “final speech”, although there are no rules prohibiting a Member from doing so. In other words, if a speech by a Minister is understood to be his “final speech”, no other Member will speak after the Minister has spoken and before the mover of the motion makes his reply.

3.53 The Committee considers it necessary to appeal to the Administration again for a public officer to speak immediately after the mover of a motion has moved the motion. The public officer should be permitted to speak again at the end of the debate to respond to Members’ views expressed earlier in the debate. Alternatively, another public officer may respond to points raised by Members before the mover of the motion

makes his reply.

3.54 There is, however, a possibility for Members to be engaged in more than one round of debates if no rules are laid down to prohibit Members from speaking after the public officer's "final speech". The Committee, therefore, considers that provision should be made in, say, the House Rules, to the effect that Members will not be allowed to speak after the public officer has made his "final speech" and before the mover of the motion makes his reply.

3.55 While it is at the discretion of the Administration to decide when its public officer(s) would speak in a motion debate, the Committee notes that Members are also at liberty to decide when they would speak. If no more Member indicates his intention to speak, the President would then invite the public officer to speak. There is no provision prohibiting a Member who has not yet spoken from indicating his intention to speak after the public officer has spoken, and once the Member has indicated his intention, the President has to call upon the Member to speak. In other words, current Rules allow Members to wait until the public officer has spoken to decide whether they wish to speak in the debate.

3.56 The Committee considers it unnecessary to make any change to the Rules of Procedure for the time being. After consulting Members of the Council, the Chairman of the House Committee has been requested to bring the matter to the Chief Secretary for Administration's attention, in particular, provisions in current rules which allow Members to speak after a public officer has spoken. If there is firm commitment on the part of the Administration that a public officer will speak at an earlier part of the debate and also give a "final speech" before the mover of the motion makes his reply, appropriate amendments would be made to the House Rules to put the arrangement into practice as soon as practicable.

IV. Other Issues Considered

4.1 The Committee has also considered a number of other issues to improve on the textual presentation of rules in the Rules of Procedure and to make the meaning of the rules more specific. These include, namely, rules relating to the exercise of opinion by the President, Members' indication of intention to speak at Council meetings, recording of Members' presence, and failure of division bell.

Rules relating to the exercise of an opinion by the President

4.2 Arising from the proposed addition of the phrase "in the opinion of the President" in Rule 51(4), as outlined in paragraph 2.32, the Committee has reviewed the Chinese version of the phrases "in the opinion of", "in his opinion", and "of the opinion" which appear in 16 rules in the Rules of Procedure and relate to the exercise of opinion or judgment by the President or other Members of the Council. The characters used in the Chinese text are either "認為" or "裁定". On the other hand, the phrase "according to his judgment" (根據其判斷) is used for Rule 47 (Decision of Council and Committee of the Whole Council) and relates to the President or Chairman's judgment of the numbers of Members voting in favour of or against a question. In examining the appropriateness of the expressions used, the Committee has made reference to the manner in which similar expressions are used in overseas legislatures and in local legislation.

4.3 As far as overseas legislatures are concerned, the terms "in the opinion" and "of the opinion" are commonly used in the standing orders or rules in connection with requirements for the Speaker or other Members to form views or exercise judgment on various aspects of business of the House. Examples include decisions on the urgency of questions, statements from Members, voting results, the priority for Members to speak, questions on dilatory motions, continuation of debate on clauses of a bill, and the establishment of prima facie case of breach of privilege. As for local legislation, the characters "認為" and "意見" are normally used in respect of the terms "in the opinion of" and "opinion" respectively, "判斷" in the context of the exercise of "a judgment", and "裁定" in connection with decisions by the court.

4.4 Having regard to the above, there may be three levels of "opinions" exercised in the Council:

- (a) in relation to the President or Chairman's simple judgment, such as the number of Members voting in favour of or against a question;
- (b) in connection with situations relating to the practices and proceedings of the Council to facilitate the smooth conduct of business and to ensure effective use of Council time, and the issues are normally closed at the decision of the Chair, such as the continuing of unfinished business on another day, whether an additional question is an important one of public concern, and whether a motion or an amendment to a motion is out of order; and
- (c) in relation to situations where the consequence of the decision may be subject to challenge by parties outside the Council, such as the Administration, e.g. motions with charging effect.

While (b) and (c) require certain level of evaluation and analysis, (a) refers to more obvious situations.

4.5 While the phrase "according to his judgment" (根據其判斷) should continue to be used for situations in (a), the Committee is of the view that the characters "認為" are to be used for situations in (b) and (c) where the word "opinion" is already being used in the English text. Accordingly, the Committee has made amendments to the Chinese text of Rules 31 (Restriction on Motions and Amendments), 51 (Notice of Presentation of Bills) and 57 (Amendments to Bills).

Indication of intention to speak

4.6 In accordance with current rules, Members who wish to speak in the Council should indicate their intention by rising or raising their hands. Given that there is an existing device in the electronic voting system in the Chamber for a Member who wishes to speak to press the "Request to Speak" button whereupon the President or Chairman will be notified of such a request, the Committee takes the view that the requirement for such Members to rise or raise their hand should be modified and that Rule 36 (Time and Manner of Speaking) be amended to allow flexibility.

4.7 As a related issue, the Committee has taken note of an existing provision in Rule 36(2) for Members to be seated when the President or Chairman rises. This arrangement is inherited from a practice in the UK

Parliament for any Member who is speaking or offering to speak to immediately sit down whenever the Speaker rises to intervene in a debate. Since such a situation is not applicable in Hong Kong, the Committee has considered whether the provision should be deleted. Nevertheless, having regard to the fact that the subrule would be relied on to maintain discipline in the event of serious disorder during the proceedings of the Council, the Committee has concluded that no amendment to the subrule is necessary.

Recording of Members' presence

4.8 On the other hand, Rule 49 (Divisions) outlines the procedural steps for counting votes after a division has been ordered and when an electronic voting system is not in use. Since the rule only requires the Clerk to record in a seating plan the numbers of Members who are in favour of, against, or abstain from voting on a question, but not those who have not made any indication, the Committee sees a need for an amendment to the Rule in order to reflect existing practice for the presence of the latter category of Members to be recorded. Accordingly, the Committee has made amendments to Rule 49(1) and (2).

4.9 As a related issue, the Committee has also reviewed the need for Members who are against a question and who abstain from voting to raise their hands at the time of voting, as whether there is a majority vote should be known after Members who are in favour of the question have raised their hands. As the current voting arrangement has not been challenged by any Member, and Members may find it desirable to indicate their stance as to whether they choose to vote against the question, to abstain from voting, or not to vote at all, the Committee has not made any amendment to the Rules in this respect.

Failure of division bell

4.10 Where a division has been claimed, current rules provide for the division bell to be rung for one or three minutes as appropriate so as to notify Members. In order to cater for a possible failure of the division bell, the Committee has proposed a new subrule to Rule 49 (Divisions) to enable the President or Chairman to order the Clerk to arrange for Members within the precincts of the Chamber to be notified of the division. The division will be held six minutes after the order has been made.

V. Acknowledgement

5.1 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.

議事規則委員會委員名單
Membership list of Committee on Rules of Procedure

周梁淑怡議員(主席)	Hon Mrs Selina CHOW LIANG Shuk-ye, JP (Chairman)
吳靄儀議員(副主席)	Hon Margaret NG (Deputy Chairman)
李永達議員(至 18.9.1998 止)	Hon LEE Wing-tat (up to 18.9.1998)
李卓人議員	Hon LEE Cheuk-yan
李柱銘議員	Hon Martin LEE Chu-ming, SC, JP
張永森議員	Hon Ambrose CHEUNG Wing-sum, JP
陳婉嫻議員	Hon CHAN Yuen-han
梁智鴻議員	Dr Hon LEONG Che-hung, JP
程介南議員	Hon Gary CHENG Kai-nam
黃宏發議員	Hon Andrew WONG Wang-fat, JP
劉健儀議員	Hon Mrs Miriam LAU Kin-ye, JP
劉慧卿議員	Hon Emily LAU Wai-hing, JP
鄭家富議員(由 25.9.1998 起)	Hon Andrew CHENG Kar-foo (with effect from 25.9.1998)

Appendix II

Provisions in the Basic Law identified for further studies by the Committee on Rules of Procedure

Item	Issue	Rule/Ref	Progress/Remarks
1	To consider views of the Solicitor-General as regards voting procedures and the position of the President when voting.	46 and 47, Annex II of Basic Law, and correspondences between the Solicitor-General and the Legal Adviser	The Committee issued a paper (LC Paper No. CB(1)72/98-99) on 4 August 1998 containing its deliberations on concerns raised by the Solicitor-General on the subject of voting procedures. The independent legal opinion from Mr Denis CHANG also shows that the rules are not in contravention of the Basic Law. The Administration has been requested on 23 September 1998 to respond to the Committee's deliberations, and its response is awaited.
2	To consider the interpretation of Articles 74 and 48(10) of the Basic Law.	31, 51(3), 57(6) and 69(3), Art 48(10) and 74 of Basic Law, and correspondences between the Solicitor-General and the Legal Adviser	The Committee issued a paper (LC Paper No. CB(1)45/98-99) on 22 July 1998 containing its deliberations on the interpretation of Articles 74 and 48(10) of the Basic Law. The independent legal opinion from Mr Denis CHANG also shows that the rules are not in contravention of the Basic Law. The Administration has been requested on 23 September 1998 to respond to the Committee's deliberations, and its response is awaited.
3	To provide procedural arrangements for relieving a Member of his duties under Article 79(6) of the Basic Law.	Art 79(6) of Basic Law	A motion to amend the Rules of Procedure to provide rules for implementing Article 79(6) was carried at the Council meeting on 9 September 1998.

Item	Issue	Rule/Ref	Progress/Remarks
4	To provide procedural arrangements for the censure of a Member under Article 79(7) of the Basic Law	Art 79(7) of Basic Law	A motion to amend the Rules of Procedure to provide rules for implementing Article 79(7) will be moved at the Council meeting on 28 April 1999.
5	To consider the need for drawing up procedural rules for the introduction of bills to amend the Basic Law in accordance with Article 159.	Art 159 of Basic Law	As decided by House Committee on 20 November 1998, the Constitutional Affairs Panel is to follow up on the issue. Examination is in progress.
6	<p>To consider the need for providing specific rules to implement certain provisions of the Basic Law:</p> <p>(a) for the Council to consider bills which have been returned to the new Council after the existing Council has been dissolved (Articles 50 and 52);</p> <p>(b) for the Council to consider the Chief Executive's application for provisional appropriations in case the Council refuses to pass the budget introduced by the Government (Article 51);</p> <p>(c) for the Council to pass a motion of impeachment against the Chief Executive (Article 73(9)); and</p> <p>(d) the appointment and removal of the judges of the Court of Final Appeal and the Chief Judge of the High Court (Articles 73(7) and 90).</p>	Art 50, 51, 52, 73(7) and (9), 90 of Basic Law and section 15(1)(e) of LegCo Ord	<p>—</p> <p>To be taken up by the Constitutional Affairs Panel as the subject matter relates to constitutional issues.</p> <p>—</p> <p>—</p>

Item	Issue	Rule/Ref	Progress/Remarks
7	To refine procedures on bills returned to the Council for reconsideration under Article 49 of the Basic Law.	66, Art 49 of Basic Law	—
8	To consider whether the voting method under Rule 46(2) should apply to voting on Members' amendments to Members' bills, given that this is not expressly provided for in Annex II of the Basic Law.	46 to 49, Annex II of Basic Law	—
9	To examine whether the provision in Section 22 (3A) of the Oaths and Declarations Ordinance (Cap. 11) (for a Member of the Legislative Council not to be required to take the Legislative Council Oath if he has taken the oath upon previous election to the Council) is in contravention of Article 104 of the Basic Law for Members to take the oath when they assume office.	1, sections 19 and 22 of Oaths and Declarations Ord, and Article 104 of Basic Law	—

Legislative Council Secretariat
12 April 1999