

立法會
Legislative Council

LC Paper No. CMI/20/00-01

Ref: CB(3)/C/2 (00-04)

Committee on Members' Interests

**Minutes of the second meeting
held on Tuesday 12 December 2000 at 10:45 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon David CHU Yu-lin (Chairman)
Hon SIN Chung-kai (Deputy Chairman)
Hon NG Leung-sing
Hon Bernard CHAN
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon YEUNG Yiu-chung
- Member absent** : Hon Cyd HO Sau-lan
- Clerk in attendance** : Mrs Betty LEUNG
Chief Assistant Secretary (3)1
- Staff in attendance** : Mr LAW Kam-sang, JP
Deputy Secretary General
- Mr Ray CHAN
Assistant Secretary General 3
- Mr LEE Yu-sung
Senior Assistant Legal Adviser
- Ms Eva LIU
Head (Research & Library Services)
- Mr CHAN Wai-kwong
Information Technology Manager

Mr Arthur LEUNG
Senior Assistant Secretary (3)1

I. Confirmation of Minutes of the last meeting held on 7 November 2000
(CMI/11/00-01)

The minutes of the last meeting were confirmed without amendments.

II. Matters arising
(CMI/14/00-01)

Uploading the Register of Members' Interests onto the LegCo Web-site

2. The Information Technology Manager (ITM) briefed members on the proposed arrangements for uploading the Register of Members' Interests (Register) onto the Legislative Council (LegCo) Web-site. The individual pages of the Registration Form on Members' Interests (Registration Form) sent in by Members would be converted into scanned images and uploaded onto the LegCo Web-site.

3. ITM said he had considered the feasibility of providing an option for Members to send in completed Registration Form by electronic means. A Member could attach the softcopy of the completed Registration Form to an electronic mail message for the Secretariat and authenticate himself/herself by way of the electronic certificate facility. However, as the issue time of an electronic mail message was taken from the internal clock in the sender's computer, which could be adjusted freely, it would be difficult to authenticate the actual submission time of the Registration Form.

4. As regards the proposal to provide a facility on the LegCo Web-site to allow Members to upload by themselves the completed Registration Form or particulars of registrable interests, ITM said that it would involve a number of technical issues and would entail a feasibility study should the meeting decide to pursue the proposal.

5. Mrs Sophie LEUNG said that the existing arrangement had spelt out clearly the division of responsibilities between Members and the Clerk to LegCo, which was that Members were required to furnish to the Clerk the particulars of their registrable interests and the Clerk was responsible for making the Register accessible to the public. She considered that this arrangement was satisfactory and should continue. Mr NG Leung-sing said

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that Registration Forms should be sent in a standardized and consistent manner. The meeting agreed that the proposals to allow Members to send in Registration Forms electronically and to provide an uploading facility for Members need not be pursued at this stage.

All
members
clerk

6. The meeting agreed to inform all Members of the new arrangement to upload the Register onto the LegCo Web-site at the House Committee meeting on 15 December 2000. The Chairman also urged members to brief Members of their own political parties of the new arrangement before the House Committee meeting. Subject to the House Committee's views, the Register would be made available on the LegCo Web-site on 2 January 2001.

III. Information papers issued since the last meeting (CMI/5/00-01, CMI/7/00-01 and CMI/10/00-01)

Advisory Guidelines on Matters of Ethics in relation to the conduct of Members of the Legislative Council of the Hong Kong Special Administrative Region (Advisory Guidelines)

7. Mr NG Leung-sing raised queries on Rule 84(1) of the Rules of Procedure, which was quoted in the Advisory Guidelines issued to all Members:

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 except where his interest is in common with the rest of the population of Hong Kong or a sector thereof or his vote is given on a matter of Government policy. Where there is such a direct pecuniary interest on a question to be voted on in the Council or a committee of the whole Council, the Member concerned shall withdraw therefrom when the vote is taken.

8. Mr NG Leung-sing said that the rider "except where his interest is in common with ... a sector thereof" in the subrule would allow a Member to vote on motions for which he had a direct pecuniary interest so long as he could find at least one member of the public who also had the same direct pecuniary interest as he did. He also asked whether this rider, which enabled a Member to vote, was in line with the withdrawal requirement stipulated in the last sentence of the subrule. He cited a recent case in which questions were raised at House Committee meetings on whether LegCo Members who were also District Council (DC) members should vote on motions concerning remuneration for DC members.

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9. In reply, the Deputy Secretary General (DSG) cited the Legal Adviser's advice at the relevant House Committee meetings that the Rules of Procedure allowed LegCo Members who were also DC members to vote on motions related to remuneration for DC members and the current disclosure requirements were based on an honour system. DSG added that there were safeguards in other parts of the Rules of Procedure, namely, motions could be moved under Rule 84(4) to disallow a Member's vote, or under Rule 84(3A) on the withdrawal of a Member on grounds of his direct pecuniary interest. As regards the withdrawal requirement, DSG explained that under the existing rule voting, the mere presence of a Member at a meeting who abstained from voting when a vote on a motion was being taken would have the same effect as if he had voted against the motion. Moreover, it was sometimes inevitable that Members were allowed to vote on motions in which they had direct pecuniary interests, as in the case when the Finance Committee examined financial proposals to revise remuneration for Members.

clerk

10. The Chairman said that the present registration system should be viewed from the perspective that it was an honour system which was founded on the initiatives of individual Members and subject to the scrutiny of the public. The meeting agreed to examine the above rider and the withdrawal requirement in Rule 84(1) at the next meeting and asked the Secretariat to prepare a paper.

clerk

11. Mr YEUNG Yiu-chung noted that terms with similar meanings (viz. "優惠", "實惠", "實利" and "利益") had been used in the Advisory Guidelines and questioned the reason for using the term "further" to qualify "private interest" in paragraph 5, which stated that "a Member should not, in his capacity as such, seek to influence another person to further the Member's private interest". The meeting asked the Secretariat to review such terms to see if they could be standardized and to review the consistency in the English and Chinese versions of the Advisory Guidelines.

12. Referring to paragraph 4(f) of the Advisory Guidelines, Mr NG Leung-sing said that he had received an enquiry from a member of the public about whether a Member could conceal the donations he had received by using an overseas bank account, since there was no requirement to register particulars of such accounts. The Deputy Chairman responded that whilst Members were not required to register particulars of overseas bank accounts, donations received through such accounts were advantages and registrable.

IV. Review of registration requirements (CMI/8/00-01 and CMI/13/00-01)

13. At the invitation of the Chairman, Head (Research & Library

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Services)(H(RL)) briefed members on a comparison of registrable pecuniary interests in legislatures in Hong Kong, the United Kingdom and the United States, as set out in an information note (CMI/13/00-01) for the meeting.

14. While noting that legislators of Hong Kong were not required to register liabilities, the Deputy Chairman enquired whether Members could accept loans with a below-market interest rate. Senior Assistant Legal Adviser (SALA) replied that such loans at below-market interest rate was a discharge of a liability, which was within the definition of "advantage" under the Prevention of Bribery Ordinance (PBO)(Cap. 201). However, whether accepting such a loan would be considered as an acceptance of advantage depended on the circumstances of the case. In response to Mrs Sophie LEUNG's enquiry, SALA said that the acceptance of such loans would constitute an acceptance of advantage under PBO only if the advantage accepted by a Member, as a public servant, was made as an inducement or reward for some actions or omissions by the Member concerned in his capacity as such.

15. The Deputy Chairman enquired if souvenirs received at social events would be considered as an advantage. SALA advised that in such cases Members should make reference to the definition of "advantage" in PBO as well as consider the motive behind the offering of such gifts.

H(RL) 16. The Deputy Chairman enquired whether the legislature of the United States had rules on its legislators in taking up employment. H(RL) undertook to provide further information at the next meeting.

clerk 17. The Deputy Chairman said he was in favour of reviewing the minimum value of \$10,000 currently set for registrable material benefits. Mr NG Leung-sing enquired about the time when the value was first set at such a level. The clerk undertook to provide the information at the next meeting. The meeting agreed to review at the next meeting the minimum value for registrable material benefits.

18. The Deputy Chairman invited the meeting to consider if there was any merit in providing Members with examples on the different circumstances under which benefits could be accepted or not. DSG said that the present system was concerned mainly with the registration, rather than the acceptance of benefits. He said that the former Committee on Members' Interests had, about five years ago, thoroughly considered the merit of providing detailed guidelines for Members and eventually decided not to do so. Given that it had been stated in the Advisory Guidelines that "a Member should ensure that his conduct must not be such as to bring discredit upon the Legislative Council", it would be up to individual Members to make his own registration decisions having regard to his particular circumstances. Mrs Sophie LEUNG considered that given the great variability of circumstances, it would be difficult to set out

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foolproof guidelines. Mr NG Leung-sing also pointed out that as the registration system was an honour system and Members were expected to have a high standard of ethical behaviour, Members should always be mindful of the registration requirements and, if in doubt, err on the safe side.

V. Date of next meeting

19. The clerk would consult members regarding the date of next meeting.

20. The meeting ended at 12:00 noon.

Legislative Council Secretariat

28 December 2000