

# 立法會

## *Legislative Council*

LC Paper No. CMI/24/00-01

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### **Paper for the Committee on Members' Interests meeting on 6 February 2001**

### **Reasons for the Legislature of Hong Kong setting the minimum value of \$10,000 for registrable "material benefits"**

#### **Purpose**

As requested by the Committee on Members' Interests (the Committee) at the meeting on 12 December 2000, this paper sets out the information regarding the minimum value of \$10,000 set for registrable "material benefits" in the legislature of Hong Kong in the past.

#### **Existing requirements**

2. At present, the notes on page 1 (i.e. the registration of interests under the category of "**Directorships**") of the Registration Form on Members' Interests (the Form) provide that:

the term "material benefits" refers to

- (i) interest received from a single source in the course of one year where the total value of such interests exceeds 5% of the annual salary\* of a Member of the Council(\*excluding the general expenses allowance which covers expenses incurred by a member of his work);  
or
- (ii) one-off material benefits exceeding \$10,000 in value.

3. The definition also applies to the term "material benefits" on pages 2, 4 and 6 of the Form (i.e. the registration of interests under the categories of "Remunerated Employment, Offices, etc.", "Donations/Financial Sponsorships" and "Payments, benefits and advantages received from any Government or organization of a place outside Hong Kong or from any person who does not qualify as a 'Hong Kong permanent resident'").

## **Background information**

### The establishment of the Committee and provision of the Registrar

4. On 10 July 1991, the Legislative Council agreed to add further sections to the Standing Orders, to provide for the establishment of the Committee on Members' Interests<sup>1</sup>, provision of the Registrar of Members' Interests<sup>2</sup> and imposition of sanctions against Members' contravention of the registration requirements.

### Review on the format of the Form

5. The Form was first introduced on 1 October 1991, the format of which was reviewed by the Committee in the 1992-93 Legislative Council Session. The revised Form was more detailed than its first version, with questions and notes to facilitate Members registering the relevant interests. The revised Form, with the approval of the President of the Legislative Council, was introduced in September 1993.

6. The note on page 4 of the new Form (i.e. the registration of interests under the category of "Financial Sponsorships") provided for the definition of "material benefit or advantage" (物質利益或好處, currently translated as "實惠或實利") as follows:

interests received from a single source in the course of one year where the total value of such interests exceeds 5% of the annual salary\* of a Member of the Council (\* excluding the general expenses allowance which covers expenses incurred by a Member in his work).

### The process in which the registration requirements for material benefits exceeding \$10,000 in value were formulated

7. When considering matters regarding Members' acceptance of gifts and material benefits at its meeting on 17 April 1993, the Committee decided that material benefits with a value exceeding \$10,000 received by Members in a single course should be registrable. Its decision was based on the following factors:

- when the former Committee decided to set the minimum value of registrable material benefits at 5% of the annual salary of a Member, reference was made to the "ethics rule" of the Hong Kong Society of Accountants;

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<sup>1</sup> Committee on Members' Interests was first translated as "議員利益關係事項委員會" and renamed as "議員個人利益監察委員會" in 1995-96.

<sup>2</sup> Initially translated as 《議員利益關係事項登記冊》.

- the values recommended by the United Kingdom House of Commons Select Committee on Members' Interests on the registration of gifts and other material benefits (£125 and 5% of the salary of a Member, i.e. £155 respectively), as contained in their first report published in March 1992, were lower than the values concerned in Hong Kong; and
- the Committee had agreed in an earlier meeting that financial sponsorships exceeding \$10,000 in value towards a Member's election expenses should be registrable (see **Appendix 1**). According to the minutes of meeting on 12 January 1993 of the Committee, it had then recommended that financial sponsorship exceeding \$10,000 in value towards a member's election expenses should be registrable, and there was no data basis for determining this amount.

The extracts of minutes of this Committee meeting were in **Appendix 2**. The revised Form, with the approval of the President of the Legislative Council, was introduced on 18 May, 1994.

#### Application of the definition of “material benefits”

8. The Form introduced by the Provisional Legislative Council on 24 March, 1997 continued to apply the definition adopted by the former Legislative Council on “material benefits or advantages”, with a change of the Chinese term to become “實惠或實利”. Subsequently, the Provisional Legislative Council adopted a revised Form in June, 1997, in which the application of the definition of “material benefits” was extended to cover interests under categories 1, 2 and 6 (i.e. “Directorships”, “Remunerated Employment, Offices, etc.”, and “Payments, benefits and advantages received from any Government or organization of a place outside Hong Kong or from any person who does not qualify as a ‘Hong Kong permanent resident’”). The definition was moved from page 4 to page 1 accordingly.

9. The definition of material benefits in the Form adopted by the first Legislative Council in July 1998 was virtually no different from that adopted by the Provisional Legislative Council. Neither of the two subsequent amendments involved any change in the definition of material benefits.

10. For Members' easy reference, the evolution in the definition of “material benefits or advantages” were listed in the table at **Appendix 3**.

## Appendix 1

### **The process in which the registration requirements for financial sponsorships exceeding \$10,000 in value towards a Member's election expenses were formulated**

According to the Standing Orders amended on 10 July 1991 by the Legislative Council, financial sponsorships exceeding 25% of a Member's election expenses received at the election to the Council should be registrable. Such percentage requirement was in line with that adopted by the United Kingdom House of Commons. The Registration Form on Members' Interests (the Form) introduced in 1991 adopted the following wording for the registration of financial sponsorships in relation to election: **a candidate for election to the Council, where to the knowledge of the Member the sponsorship exceeds 25 per cent of his election expenses.**

2. In the 1992-93 Legislative Council Session, the Committee embarked on a comprehensive review of Standing Order 64A regarding the registration of interests. During the deliberations of the Committee, reference was made to the practice and procedures in other legislatures, in particular to the recommendations of the United Kingdom House of Commons Select Committee on Members' Interests on the registration and declaration of financial interests as contained in its first report published in March 1992. The Form introduced in September 1993, with questions and notes to facilitate Members registering the relevant interests, was more detailed than the first version. The wording adopted in this version for the registration of financial sponsorships in relation to election was as follows: **Did you benefit from any sponsorship towards your election expenses at the last election, where to your knowledge, the financial support in any case exceeded 25% of your election expenses at that election? If so, please give details of the sponsor(s) and the amount involved in each case.**

3. The Committee noted that a Member who has incurred the maximum amount of \$200,000 as election expenses in a direct election to the Council is not obliged to register financial sponsorship not exceeding \$50,000. The Committee considered that a stricter rule should be called for and recommended that any financial sponsorship exceeding 25% of a Member's election expenses, or any amount exceeding \$10,000 shall be registrable. (The extracts of minutes of the Committee meeting concerned were at the **Annex.**)

4. By a letter issued on 30 July 1993, Members of the Legislative Council were consulted, inter alia, on the above proposal, and the motion moved to amend the Standing Orders for the implementation of these recommendations was passed by the Legislative Council on 4 May 1994. With the approval of the President of the Legislative Council, the revised Form was adopted on 18 May 1994.

**Annex to Appendix 1**

**Extracts of Minutes of meetings  
of the Committee on Members' Interests  
regarding the minimum value of \$10,000  
set for registrable financial sponsorships for election expenses**

Membership:

Hon. Mrs Miriam LAU Kin-ye, O.B.E., J.P. (Chairman)

Dr. the Hon. LEUNG Che-hung, O.B.E.

The Hon. Michael HO Mun-ka

Dr. the Hon. LAM Kui-chun

The Hon. Emily LAU Wai-hing

The Hon Eric LI Ka-cheung, J.P.

The Hon. Christine LOH Kung-wai

Meeting on	Relevant paragraphs
12 January 1993	<p>4. Miss Emily LAU observed that a financial sponsorship which does not exceed 25 per cent of a Member's election expenses is not a "registrable interests" under existing Standing Order 64A(4)(e)(i). This means that a Member who incurred the maximum amount of \$200,000 as election expenses in a direct election to the Legislative Council was not obliged to register a financial sponsorship of \$50,000, which was already a fairly substantial amount of money. She suggested that in addition to a percentage, and Members would be required to register all financial sponsorships which exceeded either 25 per cent of his total election expenses or the specified amount whichever was the less.</p> <p>5. The Chairman invited Members' attention to the fact that Miss Emily LAU's proposal would entail corresponding amendments to be made to the Standing Orders, in which case the consent of the whole Council would have to be sought.</p> <p>6. Mr Eric LI said the issue had in fact been considered by the Committee in the previous year when the Guidelines were drawn up. The rationale for using a percentage instead of a fixed amount was to avoid the need for periodical revisions to be made. The Committee was then of the view that 25 per cent of the total election expenses, which was in line with the U.K. practise, was a reasonable percentage to be used in the Standing Order. It was also considered that amounts less than this percentage would unlikely be of sufficient significance as to affect a Member's conduct or influence his actions in the Council.</p> <p>7. After some discussion, the Committee agreed that any financial sponsorship exceeding 25 per cent of a Member's election expenses or \$10,000 in value should be "registrable" under S.O.</p>

	<p>64A (4)(e)(i). Nevertheless, the views of other Members of the Council would have to be sought before any amendment to the Standing Order was proposed.</p>
<p>8 February 1993</p>	<p>3. The Chairman recapitulated that the Committee had agreed at the last meeting that any financial sponsorship exceeding 25 per cent of a Member's election expenses or \$10,000 in value should be "registrable". She went on to say that the views of the other Members of the Council on the subject would shortly be sought before a proposal was made to the whole Council for the amendment of the relevant Standing Order.</p> <p style="text-align: right;">(Action: <u>The Chairman</u>)</p> <p>10. As regards the registration of donations towards election expenses under Standing Order 64A, the Committee agreed that such interests should be registered under S.O. 64A(4)(e)(i). However, there may still be circumstances where a Member may find it difficult to decide whether or not a particular sponsorship is registrable, as he may not be in a position to tell whether the sponsorship would exceed 25% of his election expenses before the election is over. The Committee noted, nonetheless, that the proposed amendment to S.O. 64A, which seeks to make sponsorships exceeding \$10,000 in value "registrable", would remove most of the uncertainties. Moreover, it would be up to Members to disclose interests beyond those required under S.O.64A or given in the Committee's Guidelines.</p> <p>11. Dr. K.C. LAM remarked that it might sometimes be difficult to determine the value of "material benefits" received by a Member. The Chairman said that according to the Committee's Guidelines, the term "material benefits or advantages" was defined as "those interests received from a single source in the course of one year where the total value of such interests exceeds 5 per cent of the annual salary of a Member in his capacity as a Legislative Councillor". It would be indeed be up to Members to estimate the value of the material benefits received.</p>
<p>15 March 1993</p>	<p>2. The meeting noted that only one Member, namely, the Hon Andrew Wong, had responded to the Chairman's letter of 8 February 1993 seeking the views of the other Members of the Council on the Committee 's proposed amendments to SO 64A(4)(e)(i) and 65(1). Mr WONG expressed reservation on the proposal to require the registration of financial sponsorships towards a Member's election expenses where such a sponsorship exceeds \$10,000. He considered the level to have been set "unrealistically low" and that the proposal was "administratively tedious".</p>

3. The Committee noted, however, that a candidate standing for election to the Legislative Council is in any case required under the Corrupt and Illegal Practices Ordinances (Cap 288) to provide to the Registration and Electoral Office a statement of all the donations received which amounts to \$500 in value. The proposal of the Committee to require the registration of sponsorships exceeding \$10,000 should not therefore mean an additional burden for the Member.

4. Having regard to the fact that no further comments had been received from other Members of the Council, the Committee agreed to stand by their original proposal to require the registration of financial sponsorships which exceeded either 25 per cent of a Member's total election expenses or \$10,000.

**Extracts of Minutes of the meeting  
of the Committee on Members' Interests  
regarding the minimum value of \$10,000  
set for registrable material benefits**

Meeting on	Relevant paragraphs
17 April 1993	<p data-bbox="435 472 1396 517"><u>Registration of Gifts and Material benefits</u></p> <p data-bbox="435 551 1396 752">11. The UK Committee recommended that “gifts should be registered if they are of a value greater than £125, and that any hospitality, service or other material benefit should be registered if its value exceeds one half of one per cent of the current salary of a Member or Parliament” (approx. £155).</p> <p data-bbox="435 786 1396 1066">12. The Committee observed that the existing Guidelines in Hong Kong provides that interests received from a single source in the course of one year with a total value exceeding 5% of a Member's annual salary, i.e. \$23,640, are registrable. This “financial value” above which gifts and material benefits should be registered was therefore somewhat higher than what had been proposed for adoption in the UK.</p> <p data-bbox="435 1099 1396 1301">13. Mr Eric LI recapitulated that in devising the Committee's guideline on the “financial value” of registrable material benefits, reference was made to the “ethics rule” of the Hong Kong Society of Accountants regarding the acceptance of gifts and material benefits.</p> <p data-bbox="435 1335 1396 1570">14. Having regard to the relatively low value proposed by the UK Committee, and the fact that the Committee had at an earlier meeting agreed that financial sponsorships exceeding \$10,000 in value towards a Member's election expenses should be “registrable” under S.O. 64A(4)(e)(i), the Committee agreed that one-off material benefits exceeding \$10,000 in value should also be registrable.</p>



**Appendix 3****The definition of material benefits or advantages**

Version	Date introduced	The Chinese translation of “material benefits or advantages”	The definition of material benefits or advantages
1	1 October 1991	物質利益	—
2	September 1993	物質利益或好處	The term “material benefits or advantages” refers to interests received from a single source in the course of one year where the total value of such interests exceeds 5% of the annual salary* of a Member of the Council (*excluding the general expenses allowance which covers expenses incurred by a Member in his work).
3	18 May 1994	物質利益或好處	The term “material benefits or advantages” refers to (i) interests received from a single source in the course of one year where the total value of such interests exceeds 5% of the annual salary* of a Member of the Council (*excluding the general expenses allowance which covers expenses incurred by a Member in his work); or (ii) one-off material benefits exceeding \$10,000 in value.
4	March 1997 (Provisional Legislative Council)	實惠或實利	The term “material benefits or advantages” refers to (i) interests received from a single source in the course of one year where the total value of such interests exceeds 5% of the annual salary* of a Member of the Council (*excluding the general expenses allowance which covers expenses incurred by a Member in his work); or (ii) one-off material benefits exceeding \$10,000 in value.

5	June 1997 (Provisional Legislative Council)	實惠或實利	The term “material benefit” refers to (i) interests received from a single source in the course of one year where the total value of such interests exceeds 5% of the annual salary* of a Member of the Council (*excluding the general expenses allowance which covers expenses incurred by a Member in his work); or (ii) one-off material benefits exceeding \$10,000 in value. (This definition also applies to the term “material benefit” in categories 2, 4 and 6.)
6, 7 and 8	July 1998 May 1999 and May 2000	ditto	The term “material benefit” refers to (i) interests received from a single source in the course of one year where the total value of such interests exceeds 5% of the annual salary* of a Member of the Council (*excluding the general expenses allowance which covers expenses incurred by a Member in his work); or (ii) one-off material benefits exceeding \$10,000 in value. (This definition also applies to the term “material benefit” in categories 2, 4 and 6.)