

# 立法會

## *Legislative Council*

LC Paper No. FC19/00-01

Ref: CB1/F/1

### **Paper for the House Committee meeting on 1 December 2000**

#### **Procedure in relation to the withdrawal of the authority delegated by the Finance Committee**

#### **Purpose**

This paper sets out the procedure and the legal basis for the withdrawal of the authority delegated to Government officials by the Finance Committee.

#### **Background**

2. At its meeting on 24 November 2000, the House Committee considered Hon IP Kwok-him's request that the Administration should be asked to consider freezing the current rate of honorarium for District Council members instead of revising it in accordance with the movement of the Consumer Price Index (C) (CPI (C)). Members noted that the Finance Committee, at its meeting on 2 July 1999, delegated to the Secretary for the Treasury the authority to approve future revisions of the honorarium for District Council members annually on 1 January by reference to the movement of CPI (C). With the delegation, the Secretary for the Treasury may approve revisions of the vote of honorarium without recourse to the Finance Committee, unless the Financial Secretary considers a need to deviate from the approved authority and puts a fresh proposal to the Finance Committee.

3. In considering whether the authority delegated to the Secretary for the Treasury can be withdrawn, the House Committee requested the Secretariat to examine the procedure and the legal basis for withdrawing the delegated authority.

### **Legal Advice**

4. The Legal Adviser has advised that under section 44 of the Interpretation and General Clauses Ordinance (Cap. 1), where any ordinance confers power upon any person to delegate the exercise on his behalf of any of the powers conferred upon him under any ordinance, such delegation shall not preclude the person so delegating from exercising at any time any of the power so delegated. The same section also provides that the delegation may be conditional, qualified or limited in such manner as the person so delegating may think fit, and the delegation may be amended by the person so delegating. In law, amendment includes repeal.

### **Procedure**

5. To repeal the delegation, it is necessary for a motion to be moved at a Finance Committee meeting. According to paragraphs 21 and 22 of the Finance Committee Procedure, any member may give notice of a motion to the Clerk for inclusion in the agenda of the Finance Committee. As the next revision of District Council members' monthly honorarium will be effective on 1 January 2001, the motion to amend the delegation should therefore be moved at the Finance Committee meeting on 15 December 2000, which is the only meeting to be held before 1 January 2001. As the notice of agenda items should reach the Clerk at least six clear days before the meeting concerned, the notice of the motion should reach the Clerk not later than 7 December 2000.

6. If the above-mentioned delegation is repealed, the Financial Secretary will have to put up a proposal to revise the honorarium for District Council members to the Finance Committee for approval. It will then be for members of the Finance Committee to decide on the proposal.

**Advice sought**

7. Members are requested to note the legal advice and procedure in respect of amending the delegation of authority made by the Finance Committee as set out in this paper.

Council Business Division 1  
Legislative Council Secretariat  
29 November 2000