

Information Note
for the LegCo Panel on Public Service Meeting on 19 March 2001

Declaration of Investments by Civil Servants

Purpose

This note briefs Members on the results of a review of the current system governing the declaration of investments by civil servants.

Background

2. At the Panel meeting on 30 October 2000, we informed Members that the system on declaration of investments by civil servants was being reviewed. The review has now been completed and the results are set out in this paper.

The Policy

3. An honest and clean civil service is vital to maintaining public trust and support in the Government. The Administration is firmly committed to upholding a high standard of integrity and conduct within the civil service. That commitment is reflected in the civil service rules, regulations and system of declaration of investment which prescribe clear guidelines on conduct and the sanctions against breaches.

4. The following principles, amongst others, govern the conduct of each and every member of the civil service:-

- (a) he must not subordinate his duty to his private interests, nor put himself in a position which creates a reasonable suspicion that he has done so;
- (b) he must not use his official position to further his private interests;
- (c) he must not engage in private financial transactions in areas where he might reasonably be suspected of having access to privileged information; and
- (d) he must not engage in any occupation/undertaking which might

conflict with the interests of the government nor act in a manner which might bring the service into disrepute.

Any civil servant in breach of the foregoing principles which are codified in the civil service rules are liable to disciplinary action leading to dismissal in serious cases (see paragraph 6 below).

Safeguards against conflict of interest

5. Special rules and guidelines governing the circumstances under which each and every civil servant should avoid putting himself in a position where his official duties are in conflict (or may be seen to conflict) with his private interests, pecuniary or otherwise, are contained in individual Civil Service Regulations (CSRs) and Circulars. These rules and guidelines cover subjects including the declaration of investments; acceptance of advantages; indebtedness; insolvency; use of official information; outside work; employment after leaving the service, etc. Moreover, for officers holding posts with access to sensitive information, they are in addition required to regularly declare their private investments (see paras. 7 - 10 below). A list of the relevant regulations and circulars is given in the Annex.

Sanctions

6. Apart from the clear standards of probity demanded of civil servants (para. 4 above), the widely disseminated rules which give guidance to civil servants on how to avoid being put in a conflict of interest situation (para. 5 above); and the detailed declaration/reporting requirements that have been developed over the years (paras. 8 to 10 below), we have sanctions that are well understood. Failure to comply with any of the rules and declaration/reporting requirements is a disciplinary offence and may result in an officer being dismissed or compulsorily retired from the civil service. Where an officer abuses his official position to further his private interest (such as misuse of sensitive information obtained in his official capacity for personal gain), he may be subject to criminal prosecution. Depending on the facts of the case, he may be charged under the common law offence of misconduct in public office or, where the case involves the solicitation or acceptance of advantages, the Prevention of Bribery Ordinance.

System on declaration of investments

7. Under our current policy on declaration of private investments, we strive to ensure a proper balance between civil servants' right to private investments and privacy on the one hand, and upholding civil service impartiality

and accountability on the other. It is important to note that the existing declaration arrangement forms part of the wider system described in the previous paragraphs and serves to facilitate identification of conflict of interest situations so that proper safeguards and management actions could be introduced at the earliest possible opportunities. This system is based on self-reporting by the officers and guarded by disciplinary sanctions for non-compliance.

8. The existing system on declaration of private investments has the following key features:-

- (a) posts requiring regular declaration are classified into two tiers. Tier I consists of 27 strategic posts, including those filled by the most senior civil servants at Bureau Secretary level who have access to highly sensitive information. Tier II posts include all directorate posts and posts designated by Bureau Secretaries/Heads of Department as carrying high risk of exposure to conflict of interest situations. At present, there are about 3,100 Tier II posts;
- (b) Tier I and II officers are required to report their global investments annually and biennially respectively. Between the annual or biennial declarations, they have to report any investment transaction which is equivalent to or exceeds \$200,000 or 3 months' salary, whichever is the less, within 7 days;
- (c) all Tier I and II officers have to declare the occupation of their spouse;
- (d) Tier I officers are additionally required to register their financial interests annually. The register is open to public inspection on request; and
- (e) officers in posts not designated are not required to make declaration regularly. Nonetheless, all civil servants shall continue to be responsible for avoidance of conflict of interest situations and to report individual cases as and when necessary.

9. On top of these declaration requirements, Bureaux/Departments may, in the light of their specific circumstances and operating needs, prescribe supplementary declaration requirements for compliance by their staff. These requirements are equally binding as CSRs. At present, 29 Bureaux/Departments have developed additional declaration guidelines which cover over 52,000 posts in these bureaux/departments. These additional guidelines include the reporting of investment transactions in specified trades, irrespective of amount or whether

the officer is occupying a Tier I or II post; the reporting of the employment of spouse/relatives who are working in companies with official dealings with the Bureau/Department; more frequent declarations; and the reporting of investments by the officers of certain grades on appointment. There are also cases where the Bureaux/Departments have prescribed restrictions on investments in specified trades or business areas.

10. Where a real or apparent conflict of interest situation comes to light, management may prescribe actions that are operationally necessary and legally justified, e.g. an officer may be required to divest himself of the investments, to refrain from acquiring or disposing of the investments, or to put his investments in a blind trust.

The Review

11. The current system on declaration of investments was last revised in September 1998, which led to additional enhancements introduced to the system. In our recent review, we have concluded that the current system has been largely operating well. Nonetheless, we have identified a number of areas for enhancements which will help further strengthen the effectiveness of the present declaration arrangements. These include:-

- (a) we will invite Bureau Secretaries to critically review the designation of posts and, on the basis of operational need and relative risk of exposure to conflict of interest situations, to recommend if necessary the designation of additional senior posts as Tier I posts (para. 8 above) to which the requirement of public disclosure applies;
- (b) the register of financial interests declared by Tier I officers (accessible to public inspection on request) is now updated annually. In future, the register will be up-dated within one-month of a Tier I officer reporting an investment transaction which falls under the items for public disclosure;
- (c) at present, company directorship is not explicitly mentioned in the relevant CSR which defines the sort of investment that must be declared and reported. We will place it beyond doubt that company directorship is a form of interest in a company which must be declared and reported;

- (d) at present, Tier I and II officers are not required to declare bank deposits (irrespective of currencies or amount). However, they have to report any single currency transaction which exceeds \$200,000 or 3 months' salary, whichever is the less, within 7 days. For consistency, we propose to dispense with the general requirement of reporting currency transactions exceeding \$200,000 in value where they involve conversion of the same amount from one currency to another. Nevertheless, Bureaux/Departments will be invited to consider prescribing, for compliance by their staff, requirements for reporting currency transactions having regard to departmental needs; and
- (e) we will issue a more detailed reference guide for designated reviewing officers in Bureaux/Departments to assist them in the examination of declaration returns. Through more proactive and vigilant vetting, conflict of interest situations can be identified at the earliest opportunity.

12. Meanwhile, we will remain vigilant and continue to take proactive actions in encouraging more Bureaux/departments to prescribe supplementary declaration guidelines specific to their operational needs and circumstance, and in reminding all officers of their responsibility to avoid (and report all instances of) conflict of interest with their investments or those of their spouse/relatives.

13. In addition, we will continue with our education and outreach activities. Through the "Civil Service Integrity Programme", representatives from Civil Service Bureau and the Independent Commission Against Corruption have since 1999 embarked on an outreach programme to Departments to help them enhance integrity management. Through visits and face-to-face dialogue with members of senior management, assistance is rendered to Departments in reviewing and developing departmental guidelines on conflict of interest and acceptance of advantages, having regard to situations specific to departmental operations. We have visited all 67 Government departments and 40 of them have issued or are in the course of revising supplementary departmental guidelines on conflict of interest. Since January 1999, we have arranged seminars or training sessions on civil service integrity for over 32,500 civil servants. We have also issued a handbook (titled "Ethical Leadership in Action") to senior managers to assist them in strengthening ethical values among their staff and in guarding against corruption in their organizations.

14. In 2001/2002, we plan to organize added experience-sharing workshops for departmental managers on common integrity issues, e.g. acceptance of entertainment, unauthorized loans, etc. To enable departmental managers to have more ready access to ethics development materials and to facilitate the sharing of information and experience amongst different government departments, we also plan to set up an electronic information and resource centre on integrity management by the end of the year.

Way Forward

15. The Civil Service Bureau will keep the efficacy of our declaration system under regular review, whilst maintaining efforts in promoting integrity in the civil service.

Civil Service Bureau
March 2001

List of Relevant CSB Circulars, CSRs and Publications

I. Conflict of Interest

CSB Circular No. 19/92 Conflict of Interest

II. Acceptance of Advantages and Entertainment

CSB Circular No. 17/92 The Acceptance of Advantages (Chief Executive's Permission) Notice 1992 and Related Matters

CSB Circular No. 18/92 The Acceptance of Advantages and Entertainment

CSB Circular No. 7/94 (C) Sponsored Visits

CSB Circular Memorandum dated 12.12.85 Acceptance of Complimentary Tickets

CSB Circular Memorandum dated 11.4.86 Acceptance of Complimentary Tickets

CSB Circular Memorandum No. 19/94 Acceptance of Advantages - Free Raffle Tickets

CSRs 431 – 435 Acceptance of Entertainment

CSR 444 Acceptance of Advantages

CSR 448 Retirement Gifts

III. Investments

CSB Circular No. 8/98 Declaration of Investments by Civil Servants

CSB Circular Memorandum No. 19/99 dated 1.11.99 Tracker Fund of Hong Kong

CSB Circular Memorandum dated 21.9.2000 Mass Transit Railway Corporation Limited (MTRCL) shares

CSRs 461 – 466 Investments

IV. *Outside Work*

CSB Circular No. 13/95 Acceptance of Outside Appointments after Retirement

CSB Circular Memorandum No. 50/96 dated 7.10.96 Outside Appointments during Pre-retirement Leave and after Retirement

CSB Circular No. 3/97 Permission to Take Up Outside Appointment on Completion of Agreement

CSR 326 Acceptance of Outside Appointment after Retirement

CSRs 550 –564 Outside Work

V. *Indebtedness*

CSB Circular No. 4/97 Indebtedness in the Civil Service

CSB Circular Memorandum No. 28/91 Money Lending and Borrowing by Civil Servants and Sources of Finance

CSRs 455 – 459 Insolvency and Bankruptcy

CSRs 480 – 482 Lending Money and Borrowing Money at Interest

CSRs 483 Use of Subordinates as Guarantors

Booklet Sources of Finance for Civil Servants

VI. Reporting Crime and Corruption

CSB Circular No. 20/79	Reporting of Criminal Offences
CSB Circular No. 10/80	Reporting of Attempted Bribes
CSB Circular No. 9/94	Allegations of Corruption Against Civil Servants

VII. Production by Government Officers of Publications Containing Paid Advertisements

CSB Circular No. 6/77	Production by Government Officers of Publications Containing Paid Advertisements - Civil Service Regulation 530
CSB Circular No. 23/77	Production by Government Officers of Publications Containing Paid Advertisements - Civil Service Regulation 530
CSRs 530 - 531	Publications and Public Donations

VIII. Others

Booklet	Civil Servants' Guide to Good Practices
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