

立法會
Legislative Council

LC Paper No. CMI/6/01-02

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

Committee on Members' Interests

**Minutes of the sixth meeting
held on Thursday 4 October 2001 at 10:45 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon David CHU Yu-lin, JP (Chairman)
Hon NG Leung-sing, JP
Hon Bernard CHAN
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon YEUNG Yiu-chung, BBS
- Members absent** : Hon SIN Chung-kai (Deputy Chairman)
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

Mr Arthur LEUNG
Senior Assistant Secretary (3)1
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I. The use of the term “material benefits” in the definitions of “remunerated directorships” and “remunerated employments” on Pages 1 and 2 of the Registration Form on Members’ Interests (LC Paper No. LS165/00-01)

At the last meeting, members had asked Senior Assistant Legal Adviser (SALA) to examine if there was a more appropriate term to replace the term “material benefits” in the definitions of “remunerated directorships” and “remunerated employment” on pages 1 and 2 of the Registration Form on Members’ Interests (Registration Form). SALA briefed members on his findings, which were set out in LC Paper No. LS165/00-01 (from paragraph 2 to paragraph 12). He informed members that the Legal Service Division was of the views that the meaning of “material benefits” in the different contexts set out in the paper was clear and replacement of the term on pages 1 and 2 of the Registration Form was not recommended.

2. Mr NG Leung-sing said that unless a better term could be identified, he agreed that replacement was not necessary. The meeting then agreed unanimously not to pursue the matter further.

II. Amendments to Rule 84 of the Rules of Procedure (LC Paper No. LS165/00-01)

3. The Chairman said that at the meeting on 6 February 2001, Mr NG Leung-sing had raised concern about the possible contradictions between the first and the second sentences in Rule 84(1). In response to the Committee's request, the Secretariat had drafted proposed amendments to Rule 84 for the Committee's consideration. He then invited SALA to brief the Committee on the proposed amendments to Rule 84, which were set out from paragraph 13 to paragraph 16 and Appendix A of LC Paper No. LS165/00-01. SALA then highlighted the proposed amendments and the justifications for proposing the amendments, as follows:

<u>Rule</u>	<u>Proposed Amendments</u>	<u>Justifications</u>
(a) Rule 84(1)	(ii) Split into two subrules and re-number them as Rule 84(1) and (2).	To enhance clarity.
	(i) Add “none of the exceptions in subrule (1) applies” to the new subrule (2).	To dispel the uncertainty as to whether the exceptions relating to direct pecuniary interest in the first sentence of Rule 84(1) apply to the second.

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| (b) Rule 84(2) | Re-number as a new Rule 83A. | This subrule was the only one in Rule 84 which concerned the disclosure of pecuniary interests; the other subrules were concerned with the voting of Members with direct pecuniary interest. |
| (c) Rule 84(3) | Delete. | The scope of the new Rule 83A was wide enough to cover Rule 84(3). |
| (d) Rule 84(3A) | (i) Highlight that the ground for a motion for the withdrawal of a Member was failure of him to withdraw as required by the new subrule (2); | To tie in with the new Rule 84(2), proposed in (a)(i) above. |
| | (ii) Re-number as Rule 84(3) | Original Rule 84(3) had been deleted, as proposed in (c) above. |

4. **Mr NG Leung-sing** said that he agreed with the need to add "none of the exceptions in subrule (1) applies" to new Rule 84(2), but asked if the Chinese version could be further improved. **SALA** explained that new Rule 84(2) was drafted in such a way that it had the same construction as the revised Rule 84(1). **The Chairman** proposed that the exceptions relating to direct pecuniary interests could be spelt out in full in the new Rule 84(2), and the opportunity could be taken to review the drafting of the Chinese version. **The meeting** agreed.

5. **Mr YEUNG Yiu-chung** enquired about the reasons for the revised Rule 84(1) to be applicable to all meetings of the Council and any committees or subcommittees whereas new Rule 84(2) applied to the Council and a committee of the whole Council only. **Assistant Secretary General 3 (ASG)3** replied that the addition of the withdrawal requirement to the original Rule 84(1) (or new Rule 84(2)) of the Rules of Procedure was necessitated by the provision in section II in Annex II of the Basic Law, which stipulated in essence that, in the Council or a committee of the whole Council, decisions of the Council on bills and motions are based on a simple majority of the Members present. Thus, the mere presence of a Member might affect the voting results even if he did not cast a vote; hence the need to require a Member who had a direct pecuniary interest in the matter to withdraw. On the

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other hand, in other committees, Members' presence would not affect the voting results as decisions were based on a simple majority of the members voting.

6. **Mr Bernard CHAN** sought clarification on whether a Member could participate in a vote on matters relating to his constituency in which he had a direct pecuniary interest as a result of being a member of his constituency. **ASG3** replied that if such direct pecuniary interests fell within the exceptions in Rule 84(1), i.e. his interest was in common with the rest of the population of Hong Kong or a sector thereof or his vote was given on a matter of Government policy, the Member concerned could participate in voting after disclosure of such interest.

7. **ASG3** reported that subsequent to the issuance of the paper to the Committee, the Secretariat had come up with an alternative proposal for the drafting of the proposed new Rule 84(3) (the existing Rule 84(3A)), which had been tabled at the meeting. **SALA** explained that the alternative proposal stated the ground of the motion for withdrawal and was an improvement from a procedural point of view. After deliberations, **the meeting** decided that the alternative proposal should be adopted. **The meeting** also noted that consequential textual amendments to Rule 85 would have to be made.

the clerk 8. **The meeting** then considered the way forward and asked the Secretariat to prepare a draft paper on its behalf to seek the views of the Committee on Rules of Procedure (CRoP) on the proposed amendments to Rules 84 and 85. The Chairman undertook to represent the Committee and attend the relevant meeting of the CRoP in due course.

V. Date of next meeting

9. **Members** agreed that the Chairman would call the next meeting when there was a need.

10. The meeting ended at 11:15 a.m.

Council Business Division 3
Legislative Council Secretariat
16 October 2001