

立法會
Legislative Council

LC Paper No. LS 77/01-02

**A Note on the Meaning of "Direct Pecuniary Interest"
in Rule 84 (1) of the Rules of Procedure of the Legislative Council**

When considering the proposed amendments to rule 84 of the Rules of Procedure at the meeting of the House Committee on 22 March 2002, a Member inquired about the meaning of direct pecuniary interest and whether it would cover a contingent or probable interest which might arise in future. The Chairman requested the Legal Service Division to provide a written response for Members' reference.

2. The existing rule 84(1) provides that:-

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.

Meaning of "direct pecuniary interest"

3. The term "direct pecuniary interest" was intended to carry its natural meaning. In the *Advisory Guidelines on Matters of Ethics in relation to the conduct of Members of the Legislative Council of the Hong Kong Special Administrative Region in their capacity as such* issued by the Committee on Members' Interests (CMI), the CMI did not consider it necessary to elaborate on the meaning of the term in Rule 84 (1). Instead, the CMI advised Members to apply the general standard that "A Member should adhere to the spirit and the letter of any rules or regulations made by the Council".

4. In Hong Kong, it has been generally accepted that to operate as a disqualification under Rule 84, an interest should be immediate and not merely of a remote or general character. It must be personal to the Member and not merely one which is shared with the general public.

5. A recent example where a Legislative Council committee has considered the meaning of "direct pecuniary interest" was when the Committee on Rules of Procedure (CROP) was formulating the procedural rules for relieving the duties of a Member of the Legislative Council under Article 79 (6) of the Basic Law in 1998. The CROP was of the view that a Member who is the subject of a motion would have a direct pecuniary interest because he would lose his remuneration and allowances if the motion was passed. However, the CROP took the view that "as to whether the Member alleged has the right to vote, existing rules already provide that any Member with a direct pecuniary interest should not vote; but if he does vote, there is a mechanism to disallow his vote." (paragraph 2.64 of the Progress Report for the period July 1998 to April 1999 made by the CROP, LegCo Paper No. CB(1) 1099/98-99). The CROP adopted the usual approach that it is a matter for the Member to judge initially whether he should take part in the voting because of a direct pecuniary interest. If any Member considers it necessary to seek to disallow a Member's vote (or presence), that should be a matter for him to invoke the mechanism provided in the Rules of Procedure for doing so.

Contingent or probable interest which might arise in future

6. A "contingent or probable interest which might arise in future" would come within the natural meaning of "direct pecuniary interest" if the interest is personal to the Member and is not of a remote or general character, taking into account the condition for the interest to arise in terms of what exactly is the interest and the time. As with questions of this kind, they are fact specific and would be a matter for the Member in the first instance.

Prepared by

LEE Yu-sung
Senior Assistant Legal Adviser
Legislative Council Secretariat
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