

**Select Committee to Inquire into Matters relating to  
the Post-service Work of Mr Leung Chin-man**

**Information provided by the Administration in response to  
the Clerk to Select Committee's letter of 16 September 2009**

	Document
	No.
SC(2) Paper No. C53 (Administration's reference: CSB124)	
<p>(1) The Administration has provided information regarding the role and functions of the Public Service Commission ("PSC"), and its membership since its establishment in 1950. The reply has not covered the background leading to the establishment of PSC. Please provide the requested information.</p> <p><i>CSB's Response: Owing to the lapse of time, only limited information which can shed light on the subject is available for reference. As far as we can ascertain from the information available, the establishment of PSC "was advocated in the Salaries Commission Report of 1947 on the recommendation contained in the White Paper Colonial 197 that a Public Services Commission should be set up to advise the Governor on the selection and appointment of candidates to posts in the public services with a view to ensuring the increased confidence both in the service and among the public". Such information is extracted from the 1954-6 Public Services Commission Annual Report.</i></p>	
<p>(2) (a) The Administration's reply to item 2(a) states that the policy objective and detailed arrangements of the post-service outside work control regime are set out in the Civil Service Regulations ("CSR") 397 and 398, and relevant Civil Service Bureau ("CSB") Circulars for civil servants on permanent terms. Please confirm whether the Memoranda on Conditions of Service ("MOCS") issued to civil servants on permanent terms contain a clause on the control on the taking up of post-service work by civil servants; if not,</p>	

please confirm whether the control over post-service work taken up by these civil servants are by means of CSR and CSB circulars only.

- (b) The Administration's reply to items 2(b) and (c) states that the contract between the Government and civil servants contains, as one of its express terms, a right by the Government to vary any of a civil servant's terms of appointment and /or conditions of service should the Government consider that to be necessary. Thus CSR and CSB Circulars are changed and updated as necessary, and become conditions of service for civil servants. Please confirm (i) whether the MOCS are changed and updated accordingly where new measures are introduced in the control regime for taking up of post-service work by civil servants; (ii) whether civil servants' consent is required before the amendments to the MOCS in relation to the control on the taking up of post-service work can take effect.

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*CSB's Response: As we mentioned in ~~CSB124~~, the employment relationship between the Government and civil servants is based on contract. The terms of the contract are set out in the letter of appointment, the accompanying MOCS, CSR and CSB Circulars. Any terms of the contract set out solely in the CSR are as effective and binding as terms that are set out in the MOCS and repeated in the CSR, or, as terms the generality of which is set out in the MOCS and the details of which are set out in the CSR (as in the case of post-service outside work control regime). Furthermore, as we mentioned in ~~CSB124~~, the contract between the Government and civil servants contains, as one of its express terms, a right by the Government to vary any of a civil servant's terms of appointment and/or conditions of service should the Government consider that to be necessary. Amendment of the CSR alone is sufficient to effect a change to the terms of the contract between the Government and civil servants.*

*There are various different terms on which civil servants have been appointed over the years. The post-service outside work control regime has also evolved with time. Generally speaking,*

*for civil servants on permanent terms, the policy objective and detailed arrangements of the post-service outside work control regime are set out in CSR 397 (for directorate officers) and CSR 398 (for non-directorate officers) and relevant CSB Circulars (SC Paper Nos. C8 and C11). For directorate civil servants on agreement terms, the requirement to seek permission before taking up outside work on completion of agreement or service is set out in their MOCS in general terms and in CSR 397 in detail. It is, however, immaterial as to whether the control regime in general terms is set out in a civil servant's MOCS for as long as the policy objective and detailed arrangements are set out in CSR for the reason explained in the above paragraph.*

*For the same reason, when changes are brought to the control regime, we do not, and it is not necessary to, amend the MOCS of all affected civil servants. It will be sufficient to amend the CSR and promulgate the changes through the issue of a CSB circular.*

*MOCS are periodically reviewed and revised to incorporate the changes which have been made to the terms and conditions of service. The revised MOCS will only apply to new recruits to the civil service, but not retrospectively on serving civil servants who, as explained above, are otherwise bound by the prevailing CSR and CSB Circulars.*