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**Paper for the House Committee meeting
on 5 November 1999**

Committee on Rules of Procedure

**Proposed amendments to House Rules:
Withdrawal of Member or disallowance of vote
on grounds of direct pecuniary interest**

Purpose

This paper proposes amendments to the House Rules to modify the procedure for the moving of motions under Rule 84 of the Rules of Procedure which was amended in April 1999.

Background

2. The Council passed a resolution on amendments to the Rules of Procedure at its meeting on 28 April 1999. The resolution covered a number of amendments, including the following amendments to Rule 84 (Personal Pecuniary Interest to be Disclosed) (**Appendix I**):

- (a) A Member who has a direct pecuniary interest on a question to be voted on in the Council or a committee of the whole Council shall withdraw when the vote is taken (Rule 84(1));
- (b) A motion for the withdrawal of a Member on grounds of his direct pecuniary interest may be moved without notice by any Member after the President or Chairman has put the question on the original motion but before the vote is taken (Rule 84(3A)); and

- (c) A motion to disallow a Member's vote on grounds of his direct pecuniary interest may be moved without notice by any Member, notwithstanding whether a division has been ordered or not (Rule 84(4)).

3. Following the above amendments to Rule 84 of the Rules of Procedure, the Committee on Rules of Procedure (the Committee) considers it necessary to amend the House Rules to provide for the procedures on the moving of motions for:

- (a) withdrawal of a Member before voting takes place;
- (b) disallowance of votes where a division has not been ordered; and
- (c) disallowance of votes where a division has been ordered.

Proposed amendments to the House Rules

4. At present, a procedure for moving a motion to disallow a Members' vote on grounds of his direct pecuniary interest is provided in House Rule 3 and Appendix II of the House Rules. The Committee recommends that the procedure be modified to provide also for moving of a motion for the withdrawal of a Member on grounds of his direct pecuniary interest, as set out in **Appendices II and II(a)**.

Advice sought

5. Members are invited to consider the Committee's proposed amendments to the House Rules as provided in Appendices II and II(a) and to amend the House Rules accordingly.

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Rule 84 of the Rules of Procedure

84. Personal Pecuniary Interest to be Disclosed

(1) 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.

(L.N. 107 of 1999)

(2) A Member shall not move any motion or amendment relating to a matter in which he has a pecuniary interest, whether direct or indirect, or speak on any such matter, whether in the Council or in any committee or subcommittee, without disclosing the nature of that interest.

(3) A Member speaking in any debate or proceedings of the Council or any committee or subcommittee shall declare any direct pecuniary interests which he has in the matter.

(L.N. 107 of 1999)

(3A) A motion for the withdrawal of a Member on the ground of his direct pecuniary interest under subrule (1) may be moved without notice by any Member after the President or Chairman has put the question on the original motion but before the vote is taken.

(L.N. 107 of 1999)

(4) A motion to disallow a Member's vote on the ground of his direct pecuniary interest under subrule (1) may be moved without notice by any Member immediately upon the statement by the President, Chairman of a committee of the whole Council or chairman of his judgment on whether there is a required majority or, if a division has been ordered, upon his statement of the numbers of Members recorded in the division.

(L.N. 107 of 1999)

(5) The President, Chairman of a committee of the whole Council or chairman shall have the discretion whether or not to propose the question upon a motion under subrule (3A) or (4); and in exercising such discretion he shall have regard to the nature of the question upon which the vote is taken and to the consideration whether the interest therein of the Member whose presence or vote is challenged is direct and pecuniary and not an interest in common with the rest of the population of Hong Kong or a sector thereof and whether the vote is on a matter of Government policy.

(L.N. 107 of 1999)

(5A) If the question for the withdrawal of a Member is proposed, the Member concerned may be heard in his place but he shall then withdraw from the Council or a committee of the whole Council for the duration of any vote on the question. If the motion is agreed to, the Member shall withdraw or continue to withdraw from the Council or the committee of the whole Council when the original question is put and voted upon. *(L.N. 107 of 1999)*

(6) If the question for the disallowance of a Member's vote is proposed, the Member concerned may be heard in his place but he shall then withdraw from the Council, a committee of the whole Council, a committee or subcommittee for the duration of any vote on the question. If the motion is agreed to, the President, Chairman of a committee of the whole Council or chairman shall state anew his judgment on whether there is a required majority in the original question or, in the case of a division, direct the Clerk to the Legislative Council or the clerk to alter the numbers voting and, in the case of the Council or a committee of the whole Council, the effect of the presence of the Member in the original division accordingly. *(L.N. 107 of 1999)*

(7) *(Repealed L.N. 107 of 1999)*

Proposed House Rule 3

3. Withdrawal of Member or Disallowance of Vote on Grounds of Direct Pecuniary Interest

- (a) A motion for the withdrawal of a Member on grounds of his direct pecuniary interest may be moved without notice by any Member after the President or Chairman of a committee of the whole Council has put the question on the original motion but before the vote is taken. The procedure on the moving of a motion for the withdrawal of a Member is in Appendix II.

- (b) A motion to disallow a Member's vote on grounds of his direct pecuniary interest may be moved without notice by any Member immediately upon the statement by the President, Chairman of a committee of the whole Council or chairman of his judgment on whether there is a required majority or, if a division has been ordered, upon his statement of the numbers of Members recorded in the division. The procedure on the moving of a motion to disallow a Member's vote is also in Appendix II.

Proposed Appendix II of the House Rules

**Procedure on the Moving of Motion
for the Withdrawal of Member or Disallowance of Vote
on Grounds of Direct Pecuniary Interest**

Moving of motion for the withdrawal of Member

1. A Member who wishes to move a motion under Rule 84(3A) of the Rules of Procedure for the withdrawal of another Member on grounds of the latter's direct pecuniary interest may pass a note to the President or Chairman of a committee of the whole Council indicating his intention to do so during the debate but before the question on the original motion is put. He should give the name of the Member whose withdrawal is proposed in the motion and the reasons for moving the motion.
2. The Member wishing to move the withdrawal motion may also notify the Member concerned at the same time, giving the reasons for moving the motion. This gives the latter the opportunity, if he so wishes, to clarify matters. Should the Member intending to move the motion decide not to proceed with the motion in the light of the clarification given, he should inform the President or Chairman of a committee of the whole Council of his decision.
3. If the withdrawal motion is to be moved, the Member wishing to move the motion should indicate his intention to speak immediately after the President or Chairman of a committee of the whole Council has put the question on the original motion.
4. The President or Chairman of a committee of the whole Council shall then call upon the Member to move the motion for the withdrawal of the other Member.

5. The President or Chairman of a committee of the whole Council shall decide whether or not to propose the question upon the withdrawal motion having regard to Rule 84(5) of the Rules of Procedure.
6. If the question for the withdrawal of a Member is proposed, the Member concerned may, in accordance with Rule 84(5A) of the Rules of Procedure, be heard in his place but he shall then withdraw from the Council or the committee of the whole Council for the duration of any vote on the question.
7. If the withdrawal motion is negatived, the Member may return to the meeting.
8. If the withdrawal motion is agreed to, the Member concerned shall withdraw from the Council or a committee of the whole Council when the original question is put and voted upon.

Moving of motion for the disallowance of vote

9. A Member may move a motion without notice under Rule 84(4) of the Rules of Procedure to disallow a Member's vote on grounds of the latter's direct pecuniary interest after a vote on the original motion has been taken but before the result of the voting is declared. The Member should as early as practicable pass a note to the President, Chairman of a committee of the whole Council or chairman indicating his intention to do so, and notify the Member concerned as far as possible.
10. (a) ***Where a division has not been ordered on the original motion,*** the Member who wishes to move the disallowance motion should indicate his intention to speak immediately upon the statement by the President, Chairman of a committee of the whole Council or chairman of his judgement on whether there is a required majority in the original question.
- (b) ***Where a division has been ordered on the original motion,*** the Member who wishes to move the disallowance motion should indicate his intention to speak immediately upon the statement by the President, Chairman of the committee of the whole Council or chairman of the numbers of Members recorded in the division.

11. The President, Chairman of a committee of the whole Council or chairman shall then call upon the Member to move the motion for the disallowance of the other Member's vote.
12. The President, Chairman of a committee of the whole Council or chairman shall decide whether or not to propose the question upon the disallowance motion having regard to Rule 84(5) of the Rules of Procedure.
13. If the question for the disallowance of a Member's vote is proposed, the Member concerned may, in accordance with Rule 84(6) of the Rules of Procedure, be heard in his place but he shall then withdraw from the Council, a committee of the whole Council, a committee or subcommittee for the duration of any vote on the question.
14. If the disallowance motion is negatived, the Member may return to the meeting. The President, Chairman of the committee of the whole Council or chairman shall then declare the decision on the original motion.
15. If the disallowance motion is agreed to,
 - (a) *where a division has not been ordered on the original motion*, the President, Chairman of a committee of the whole Council or chairman shall state anew his judgement on whether there is a required majority in the original question; or
 - (b) *where a division has been ordered on the original motion*, the President, Chairman of a committee of the whole Council or chairman shall direct the Clerk to the Legislative Council or the clerk to alter the numbers voting and, in the case of the Council or a committee of the whole Council, the effect of the presence of the Member in the original division accordingly.