

# 立法會

## *Legislative Council*

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### **Report of the Committee on Members' Interests of the Second Legislative Council**

#### **Purpose**

This Report outlines the work of the Committee on Members' Interests (the Committee) of the Second Legislative Council during its term of office.

#### **Appointment of members to the Committee**

##### Terms of Reference

2. The Committee is a standing committee of the Legislative Council (LegCo). Its terms of reference are set out in Rule 73(1) of the Rules of Procedure.

##### Membership

3. On the recommendation of the House Committee and in accordance with Rule 73(2) of the Rules of Procedure, the President of the Legislative Council appointed Hon David CHU Yu-lin as the Chairman, Hon SIN Chung-kai as the Deputy Chairman and five Members as members of the Committee with effect from 20 October 2000. The membership list is in the **Appendix**.

#### **The work of the Committee**

##### Meetings and major areas of work

4. During its term of office, the Committee held nine meetings and deliberated the following issues:

- (a) the registration system for pecuniary interests furnished by Members;

- (b) the interpretation of the phrase of "a sector thereof" in Rule 84(1) of the Rules of Procedure;
- (c) textual amendments to Rule 84;
- (d) uploading the Register of Members' Interests onto the LegCo Web-site;
- (e) maintaining the Register of Members' Interests in both English and Chinese; and
- (f) complaints received in respect of some unbecoming conduct of Members.

#### Details of deliberations

##### **(a) The registration system for pecuniary interests furnished by Members**

5. The Committee deliberated if the scope of registrable interests, as set out in Rule 83 of the Rules of Procedure, was adequate in terms of present-day standards. The Committee was satisfied that it was so. The Committee also examined the respective contents of the Registration Form on Members' Interests (Registration Form) and the "Advisory Guidelines on Matters of Ethics in relation to the conduct of Members of the Legislative Council of the Hong Kong Special Administration Region in their capacity as such" that it had issued to Members. As regards the former, it found that no revision was necessary; in respect of the latter, it made some textual amendments and the revised Guidelines were issued to Members on 7 February 2001.

6. The Committee considered whether the minimum value of registrable one-off material benefits, set at \$10,000, was still appropriate. Having studied factors such as how the minimum value had been set, the stipulations set out by some overseas legislatures, the incidence of Members receiving material benefits of value close to \$10,000, the Committee considered that Members might wish to be more diligent in making such declaration and suggested that the amount should be adjusted downwards to \$2,000. The Committee put its suggestion to the House Committee at its meeting on 2 March 2001. However, as the main stream opinion of Members could not be ascertained at that meeting, it decided to seek the views of all Members by way of circulation of paper. The majority view it received from the Members was that the minimum value of registrable one-off material benefits should be maintained at \$10,000. The Committee accordingly decided not to vary the amount, and informed Members of its decision on 6 June 2001.

**(b) Interpretation of the phrase of "a sector thereof" in Rule 84(1) of the Rules of Procedure**

8. Rule 84(1) of the Rules of Procedure 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."

9. The Committee examined Rule 84(1) to see if the phrase "a sector thereof" might be interpreted as allowing a Member to vote on any motion in which he had a direct pecuniary interest so long as he could find one member of the public who had the same direct pecuniary interest as his. In the same exercise, the Committee also studied the question raised at the House Committee meetings as to whether LegCo Members who were also District Council (DC) members were allowed to vote on the question concerning remuneration for DC members.

10. The Committee considered such cardinal principles as that the present registration and disclosure system is an honour system and that, the right of a Member elected from a constituency to vote on matters relating to his constituency should be preserved, in line with the principle of representation. It also deliberated such practical issues as that it is generally difficult and impracticable to equate "a sector thereof" to a minimum number of people, or to put it down simply as "publicly recognized trades, professions, social strata or groups". Furthermore, no matter how many people a direct pecuniary interest is common to, one can always identify at least some inhabitants of Hong Kong who do not have that interest. Having regard to all these, the Committee concluded that it was technically impossible to give a clear and clean definition of the phrase "a sector thereof", and individual Members should decide whether their pecuniary interests were common to "a sector of the population of Hong Kong", in the light of their own particular circumstances. The Committee considered such a conclusion could throw light on LegCo Members, who were DC Members, in making decision on whether they should vote on the question concerning remuneration for DC Members. On the instruction of the Committee, the above interpretation of the phrase of "a sector thereof" was issued to all Members on 6 June 2001 for reference.

**(c) Textual amendments to Rule 84**

11. The Committee also reviewed the contents of Rule 84, which deals with two issues, namely the voting and withdrawal of Members in case of direct pecuniary interest and the disclosure of personal pecuniary interests.

12. After consideration, the Committee agreed that the provisions of the Rule were adequate, but in the interest of clarity and to dispel uncertainties, separate rules should be provided for in respect of each of the two issues. Accordingly, a new Rule 83A, amendments to Rule 84 and consequential amendments to Rule 85 were drawn up, and the proposal was approved by the Council on 3 July 2002 through a resolution moved by the chairman of Committee on Rules of Procedure.

**(d) Uploading the Register of Members' Interests onto the LegCo Web-site**

13. The Committee accepted the suggestion by a member of the public that to enhance the transparency of the legislature, the Register should be made available for public viewing on the LegCo web-site. The Register was accordingly uploaded onto the LegCo web-site with effect from 2 January 2001.

**(e) Maintaining the Register of Members' Interests in both English and Chinese**

14. The Committee accepted also a proposal from a member of the public that the Register of Members' Interests should be maintained in both Chinese and English. The arrangement was put into effect since October 2002 .

**(f) Complaints received in respect of the unbecoming conduct of Legislative Council Members**

15. In response to complaints received about some Members' not behaving properly as they should as Legislative Members outside meetings of the Legislative Council, the Committee held one meeting on 15 July 2003 to consider whether it should investigate these complaints but decided against undertaking any investigation because it was outside the scope of its terms of reference.

**Committee on Members' Interests  
of the Second term Legislative Council**

**Membership list**

Dr Hon David CHU Yu-lin, JP (Chairman)  
Hon SIN Chung-kai (Deputy Chairman)  
Hon Cyd HO Sau-lan  
Hon NG Leung-sing, JP  
Hon Bernard CHAN, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon YEUNG Yiu-chung, BBS