

**Subcommittee on
Members' Remuneration and Operating Expenses Reimbursement**

**Arrangements for Mandatory Provident Fund Payments for
Members' Personal Assistants**

Purpose

This note provides information on the provision for provident fund payments under the existing arrangement and considers the proposal of the Honourable Leung Yiu-chung regarding advances from severance payments to meet mandatory provident fund (MPF) contributions.

The Mandatory Provident Fund Schemes Ordinance

2. Under section 7 of the Mandatory Provident Fund Schemes Ordinance (MPFSO), every employer of a relevant employee must take all practicable steps to ensure that the employee becomes a member of a registered provident fund scheme upon the commencement of the relevant provisions in the MPFSO on 1 December 2000. Employers are required under section 7A of the MPFSO to contribute to the relevant registered scheme from their own funds. Depending on the exact terms of the employment contracts between LegCo Members and their staff, Members are required to enroll their personal assistants and other staff in a registered scheme.

Existing remuneration and reimbursements package for LegCo Members

3. Under the existing arrangement, LegCo Members receive a remuneration and reimbursement package on a monthly basis which includes –

- (a) a remuneration of \$59,400;
 - (b) an allowance of up to \$96,120 for accountable expenses relating to office operation; and
 - (c) a non-accountable allowance of up to \$13,720 for entertainment and travelling;
4. In addition, LegCo Members receive on a one-off basis –
- (a) an allowance of up to \$150,000 for setting up their offices for each LegCo term;
 - (b) an allowance of up to \$100,000 for “information technology and communication equipment expenses” for each LegCo term; and
 - (c) an allowance for winding up expenses when they cease to be Members of the legislature comprising –
 - (i) a fixed amount not exceeding \$96,120, payable on a reimbursement basis, to cover office expenses incurred; and
 - (ii) a separate amount, with no pre-set ceiling, to cover actual severance payment to be paid to staff.

Ambit of the office operation expenses reimbursement

5. The existing package of remuneration and reimbursement had been drawn up on the basis of that recommended by the Commissions on Remuneration for Members of the Legislative Council appointed in July 1993 and December 1994 respectively. With regard to the allowance for office operation expenses, the Report of the 1993 Commission stated that “The existing arrangements allow LegCo Members to use the monthly expense allowance to pay for the salary and medical, insurance and

retirement benefits of staff.” The Report of the 1994 Commission¹ further recommended that, for provision of gratuity, pension and other employment benefits for LegCo Members’ staff, “LegCo Members should be allowed to set aside funds from their monthly general expenses allowance to pay for these benefits”. The Finance Committee of the LegCo, in approving the revised remuneration package for LegCo Members in 1995, noted the recommendation.

6. The current “Guide for Reimbursement of Operating Expenses for Members of the LegCo” accordingly includes “provident fund contributions” as an item of reimbursable expenses under “Office Operation Expenses Reimbursement”.

7. MPF contribution, a form of provident fund contribution, is hence an item of expenses provision for which has already been included in the remuneration and reimbursement package presently available to Members, and for which Members may seek reimbursement under the existing arrangement. And, information to hand indicates that several LegCo Members have over the years set aside funds on a monthly basis for the provision of provident fund to their staff.

Proposal of the Hon Leung Yiu-chung

8. In his letter to the House Committee on 11 October 2000, the Honourable Leung Yiu-chung suggested, inter alia, that arrangement be made to enable LegCo Members to claim their actual monthly MPF contributions from severance payments payable to their personal assistants when Members wind up their offices, so that Members need not bear any additional financial burden arising from such contributions.

9. Members are aware that pursuant to section 31B of the Employment Ordinance, an employer is liable to pay to his employee a severance payment if the employee is dismissed by the employer by reason of redundancy or is laid off. In the case of LegCo Members, severance

¹ The Report is entitled “Response of the Commission of Remuneration for Members of the Legislative Council to Comments on the Report of the Former Commission”

payments are therefore payable to Members' staff, as part of the winding up allowance, when a Member ceases to be a Member of the Council (paragraph 4(c)(ii) above is relevant). Thus, severance payments are made in specified circumstances. And, not all personal assistants of LegCo Members are eligible for severance payment, since some of them may for one reason or another left the service of the Member during the latter's term of office as a LegCo Member. The proposed advance from severance payments to enable Members to meet their statutory obligations under the MPFSO is not therefore a viable proposition.

10. On the other hand, section 12A of the MPFSO provides, inter alia, that an employer may offset the severance payment against the employee's MPF benefits attributable to contributions paid by the employer. The MPFSO also caps the level of an employee's income for contribution purpose at \$20,000 per month. Hence, the maximum monthly MPF contribution by an employer (i.e. 5% of the employee's monthly salary) for each of his staff is \$1,000. Members may therefore consider alternative means for meeting their obligations under the MPFSO.

Administration Wing
Chief Secretary for Administration's Office
November 2000