INFORMATION NOTE

Australian Parliamentary Contributory Superannuation Scheme

1. Background

1.1 The Subcommittee on Members' Remuneration and Operation Expenses requested the Research and Library Services Division to conduct a research into overseas practice regarding pension arrangements for legislators. This information note presents the Australian Parliamentary Contributory Superannuation Scheme (PCSS).

1.2 In this information note, the average 12-month effective exchange rate in 2000 between the Australian Dollar and the Hong Kong Dollar of A$1=HK$4.54 is adopted.[1]

2. General Introduction

Establishment and Purpose of the Scheme

2.1 The Parliamentary Contributory Superannuation Scheme (PCSS) provides superannuation benefits for members of Parliament[2], their spouses, and orphan children. The scheme was established under the Parliamentary Contributory Superannuation Act 1948 ("the Act" hereafter). Reasons for the establishment of PCSS included:

- "Entering Parliament often meant forgoing potential superannuation payouts from previous employers due to leaving that employer prior to retirement age;
- Electoral and parliamentary demands reduced members' chances to re-establish careers when their parliamentary term was over; and
- The need to entice people to enter Parliament who would not otherwise come."[3]

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1 Hong Kong Special Administrative Region Government, Census and Statistics Department, *Hong Kong Monthly Digest of Statistics, March 2001*, p. 125, Table 7.12.

2 PCSS is provided for members of the federal parliament, i.e. the Parliament of the Commonwealth of Australia. State and Territory Parliaments separately provide retirement benefits to their members.

3 Parliament of the Commonwealth of Australia, 25th Report of the Senate Select Committee on Superannuation, "The Parliamentary Contributory Superannuation Scheme and the Judges' Pension Scheme", Canberra, September 1997, Chapter 1.

2.2 A brief outline of the development of the PCSS between 1948 and March 2001 is at Appendix I.

3. Retirement Fund

Structure of the Pension Fund

3.1 The PCSS is a defined benefit pension scheme. A *defined benefit* pension scheme provides the beneficiary with a set of defined benefit, without taking into account whether or how much contribution has been made by the beneficiary and/or by the employer. In other words, the benefit paid to the beneficiary is predictable and guaranteed, independent of contributions or earnings.

3.2 Membership of the scheme is compulsory for all members of Parliament, comprising both Senators and Members of the House of Representatives.

Source(s) and Amount of Contributions

3.3 Contributions made by members are at a fixed percentage of the parliamentary allowance, i.e. backbench salary plus any additional salary payable for service as Prime Minister, a Minister or office-holder in Parliament.[4] These rates are:

- 11½ % of parliamentary allowance until the completion of 18 years service; and
- 5¾ % of parliamentary allowance after the completion of 18 years service.
- These rates also apply to any additional salary.

3.4 Since the pension fund is a defined benefits scheme, the beneficiary receives a set of defined benefit regardless of his or her contribution. The Government tops up the difference in benefit payment which results from the gap between the contribution in the fund and the benefit payable.

[4] The current backbench salary is A$92,000 (HK$417,680) per annum for both Members and Senators. The holder of each ministerial office or other office of the Parliament draws additional salaries respectively. The addition ranges from 3% (e.g. Deputy Chairman of Committees in the Senate) to 160% (in the case of Prime Minister) of backbench salary.

Reckonable Service

3.5 A Senator's or Members' period of reckonable service means the period during which he or she was a member of Parliament and was entitled to receive a parliamentary allowance. In the Commonwealth Parliament of Australia, a term in Senate lasts six years (with election held for half of the seats in the Senate every three years); a term in the House of Representatives may not be more than three years, and the House may be dissolved earlier than the end of term.

Management of the Retirement Fund

3.6 The PCSS is administered by the Department of Finance and Administration under the direction of the Parliamentary Retiring Allowances Trust (the Trust), which was set up under the Act. There are five trustees of the Trust, comprising the Minister for Finance who is the presiding trustee, plus two Senators and two Members of the House of Representatives appointed by their respective Houses.

3.7 According to the 25th Report of the Senate Select Committee on Superannuation, the full cost of administering the PCSS is borne by the Commonwealth, which also provides advice to the Minister for Finance and the Trust. The administrative costs include the cost of:

- "A small team in the Department of Finance and Administration comprising four and one-half staff years;
- Regular actuarial and audit review; and
- a payment system with direct linkage to the Commonwealth Payroll System."[5]

Tax Relief

3.8 No tax credit is given for compulsory contributions to the PCSS. In addition, the employer's contribution, known as "surchargeable contribution", is classified as income and is subject to a tax known as "superannuation surcharge", of up to 15% on a member's surchargeable contributions, where the members' adjusted taxable income is greater than the minimum surcharge threshold. In 2000/2001 the full 15% surcharge applies where the member's adjusted taxable income is A$98,955 (HK$449,256) or more.

[5] Parliament of the Commonwealth of Australia, 25th Report of the Senate Select Committee on Superannuation, "The Parliamentary Contributory Superannuation Scheme and the Judges' Pension Scheme", Canberra, September 1997, Chapter 1.

3.9 The Department of Finance and Administration maintains a surcharge debt account for each member which accumulates all PCSS surcharge assessments (i.e. surcharge liability) during the member's period of membership. Members may choose to pay any surcharge liability as it accrues by cheque or cash direct to the Department of Finance and Administration for on-forwarding to the Australian Tax Office (ATO). If the surcharge liability is unpaid at the end of each financial year, interest at the 10 year Treasury bond rate (about 8%) is applied to the balance of this account.

3.10 When a benefit becomes payable, the total accrued amount in the surcharge debt account will be paid to the ATO and the member's benefit reduced, having regard to the accumulated surcharge debt.

4. Membership and Costs of the PCSS

4.1 The following table summarizes the position of PCSS membership as at 1 July 1996, taking into account nine Senators leaving the Senate on 30 June 1996 and being replaced by nine new Senators on 1 July 1996.[6]

Table 1 - Membership of the PCSS

	Males	**Females**	**Total**
Contributors	178	46	224
Ex-contributor Pensioners	207	19	226
Spouse pensioners	Nil	86	86

Source: Submission from Department of Finance (precursor of Dept. of Finance and Administration) to Senate Select Committee on Superannuation. Parliament of the Commonwealth of Australia, 25th Report of the Senate Select Committee on Superannuation, September 1997.

4.2 Total pensions payable at 1 July 1996[7] amounted to A$14.3 million (HK$18.84 million) per year. Of the 226 ex-contributor pensioners at 1 July 1996, seven had a pension entitlement which had been suspended due to an office held or membership of a State Parliament. Another seven received a reduced pension because of an office held.

[6] This is the latest published statistics available as of March 2001. The next election for the Senate will be held in 2002.

[7] This is the latest published statistics available as of March 2001.

4.3 The Australian Government Actuary provided details of the cost to the Commonwealth of the PCSS. In such a defined benefit scheme, the employer is responsible for providing the difference between the benefit actually paid and what the member has contributed towards the benefit. In February 1997, the notional employer contribution rate was reported by the Department of Finance and Administration to be 69.1 per cent calculated as at 30 June 1996.[8] In other words, the level of public subsidy was 69.1 per cent.

5. Relationship with National Insurance/Social Security

5.1 Australia does not have contributory National Insurance or social security system for retirement purpose. If a citizen qualifies for Age Pension by a means test for assistance, then it is provided from general revenue. The qualification age is 60 for people born before 1 July 1935, adding 0.5 years of qualification age for people born in each subsequent year until 1 January 1949; it is 65 for people born on 1 January 1949 and after.

5.2 In brief, Australia has implemented a pension system based primarily on mandatory private savings in plans called "superannuation funds". This system, which in 1992 became known as the Superannuation Guarantee (SG), continued to be modified and expanded and now features three key elements. First, workers contribute a set percentage of their income through their employer to private savings plans. By 2002, when the system is fully implemented, all workers will be required to set aside 9 per cent of their income in a superannuation fund of their choice. These mandatory savings can be augmented by tax-deductible voluntary contributions. Secondly, upon retirement, workers will have accumulated a large nest egg from which to draw a secure and comfortable annual income. Thirdly, a safety-net programme guarantees that all retirees will receive an age pension equal to 25% of the average worker's wage--exactly what was available before privatization.[9]

6. Benefits Payable

<u>Calculation of Pension Benefits</u>

6.1 A Senator or Member is entitled to a parliamentary pension after completing 12 or more years service or if he or she has ceased to be a member on four occasions (an “occasion” occurs on the dissolution or expiration of the relevant House or the expiration of a Senator’s or Member’s term of office). This circumstance is known as voluntary retirement.

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8 Submission from Department of Finance to the Senate Select Committee on Superannuation in June 1997. The 1999 Review was yet to be made public on 5 March 2001.

9 The Heritage Foundation, Backgrounder No. 1149, "Australia's Privatized Retirement System: Lessons for the United States", December 8, 1997.

6.2 If retirement is involuntary (e.g. due to the loss of party preselection or loss at an election), a Senator or Member is entitled to a pension if he or she has 8 or more years' service or if he or she has ceased to be a member on three occasions. (Senators who have 6 year terms achieve an "occasion" after the completion of 3 years of that term, as well as when the term expires.)

6.3 A Senator or Member with less than eight years service who qualifies for a pension on account of the number of "occasions" he or she has had (see paragraphs 6.1 and 6.2 above) is deemed to have completed eight years service.

6.4 Senators and Members who do not qualify for a pension under these conditions may be entitled to a pension if the Parliamentary Retiring Allowances Trust is satisfied that the retirement is due to ill-health.

6.5 Where a Senator or Member does not become entitled to a pension he or she is entitled to a lump sum comprising the higher of:

- a refund of contributions plus a supplement;
- for voluntary retirement the supplement is 1 1/6 times the contributions, and where it is involuntary, the supplement is 2 1/3 times the contributions; or
- a lump sum representing the Superannuation Guarantee minimum[10].

6.6 As mentioned in paragraph 3.9 above, benefits are reduced to take account of the superannuation contributions surcharge. The rates of pension are detailed in Table 2 below.

Table 2 - Rates of Pension

Years of Service	Percentage of Backbench Salary
8	50
9	52.5
10	55
11	57.5
12	60
13	62.5
14	65
15	67.5
16	70
17	72.5
18 or more	75

[10] This is the minimum level of superannuation required under the Superannuation Guarantee (SG) legislation. The relevant SG amounts for 2001/02 are 8% of salary, and for 2002 and thereafter are 9% of salary.

6.7 Where a member of Parliament has served for more than eight years but less than 18 years, and his or her period of service includes an incomplete year, the percentage in Table 2 is increased by 0.00685% for each additional day of service. For example, the percentage applicable to a Senator or Member who has completed 15 years and 50 days service is 67.50% + 0.343%, that is 67.843% of the backbench salary.

6.8 Additional pension in respect of office holder service (i.e. service in a Ministerial or other office in the Commonwealth Parliament, such as Chairman of a Committee) accrues at the rate of 6.25% of the additional salary for each year the office is held, up to a maximum of 75% for the highest paying office held, i.e. each day as an office holder attract a benefit of 0.0171% of additional salary.

Pension Adjustment

6.9 Parliamentary salary is adjusted pursuant to statute by reference to a public service pay level. Because pensions and additional pension entitlements are expressed as a percentage of the backbench salary or additional salaries payable from time to time, the actual amount of the pension or additional pension will increase each time the backbench salary or additional salaries payable to serving Senators and Members is/are increased.

6.10 Under a 1996 legislative amendment, parliamentary pension and serving members' accrued benefits are protected from reduction if the salaries on which those benefits are based were to decrease in the future.

7. Payment of Pension

Age Factor

7.1 The Superannuation Industry (Supervision) (SIS) legislation requires that certain lump sum benefits be preserved in a superannuation fund until beneficiaries reach the preservation age[11] (generally age 55) and retire from the workforce, or be used to purchase a deferred annuity which cannot be accessed until the preservation age is reached. However, this legislation has no effect on superannuation contributions to PCSS as PCSS qualifies as a complying pension for exemption under the SIS legislation. In other words, members are not limited by age to receive their parliamentary pensions. In fact, some former members of the Parliament of the Commonwealth of Australia have retired at a relatively young age, say, 35, and became entitled to and have been receiving a life pension of a handsome sum if they happened also to have held ministerial offices. They are the key cost drivers of the PCSS.

11 The preservation age is the age at which retirement benefits are allowed to be withdrawn. Under the SIS legislation, the beneficiary needs to preserve his retirement benefits in a superannuation fund until he reaches the preservation age of generally 55 years.

Effect of Employment After Retirement from Legislature

7.2 A parliamentary pension may be reduced if a retired member is appointed to an office of profit under the Crown[12]. The pension is reduced on the following basis:

- no reduction unless the salary from the office of profit exceeds 20 per cent of the annual salary payable to a backbencher;
- for every dollar over the 20 per cent threshold, the pension is reduced by 50 cents; and
- the maximum amount by which the pension is reduced is 50 per cent of the pension entitlement before commutation (see paragraph 8.5 below)--so that someone who does not commute any of the pension entitlement is not disadvantaged.

Payment Arrangements

7.3 Payments are made by the Department of Finance and Administration. Pensions and additional pensions are paid fortnightly and are subject to income tax. A summary of the income tax rate is as follows:

Table 3 - Taxable Income and Tax Rate in Australia

Taxable Income (A$)	Tax Rate (%)
0-6000	0
6001-20000	17
20001-50000	30
50001-60000	42
60001+	47

Source: Superannuation Branch, Dept. of Finance and Administration

12 An office of profit under the Crown is a public office where the Commonwealth or State Government makes the appointment. For instance where an ex member of Parliament is appointed as Ambassador to another country. The pension is affected by the remuneration from that office.

8. Other Provisions

Suspension of Pension

8.1 Commonwealth parliamentary pensions[13] are suspended where a retired member is elected to a State or Territory Parliament in Australia. However, a person in receipt of a pension higher than the salary in the other Parliament would continue to receive the excess.

Invalidity Benefits

8.2 A member is entitled to a pension on invalidity grounds if the Trust is satisfied that the member has suffered physical or mental incapacity. There are three classes of invalidity:

- Class 1: 60 to 100 per cent incapacity, meaning total, or near total, and permanent disablement, and unlikely to work in a job for which the member is reasonably qualified by education, training or experience;
- Class 2: 30 to 59 per cent incapacity, meaning partial invalidity and unable to work as a member of Parliament, but capable of performing outside employment for which the person is reasonably qualified; and
- Class 3: less than 30 per cent incapacity, meaning the capacity to work as a member of Parliament is restricted (but could still continue),and capable of performing outside employment for which the person is reasonably qualified.

8.3 Class 1 and 2 benefits are paid as non-commutable pensions of 50 and 30 per cent of backbench salary respectively. The Class 3 benefit is the higher of :

- A refund of member contributions plus two and one-third times the member's own contributions; or
- the Superannuation Guarantee amount payable.

8.4 Where a members' benefit on involuntary retirement is higher than the invalidity benefit, that higher benefit is payable.

[13] These are pensions provided by the federal Parliament, the Parliament of the Commonwealth of Australia.

Commutation

8.5 A former Senator or Member who is entitled to a pension, except by reason of ill-health, may elect to commute up to 50 percent of the pension to a lump sum payment. An election to commute may be made not earlier than three months before, and not later than three months after becoming entitled to a pension.

8.6 The lump sum is equal to the annual amount of pension commuted multiplied by the commutation factor. The commutation factor applicable at various ages are set out below:

Age	Factor
65 or less	10.0
66	9.5
67	9
68	8.5
69	8
70	7.5
71	7
72	6.5
73	6
74	5.5
75	5
76	4.5
77	4
78	3.5
79	3
80	2.5
81	2
82	1.5
83	1
84	0.5
85	0
85 or over	0.0

9. Benefits for Surviving Spouses

9.1 A pension is payable to the spouse of a Senator or Member who dies in service irrespective of length of service.

9.2 A pension is payable to the spouse of a former Senator or Member if the marital relationship commenced before retirement from the Parliament. A pension is also payable where the marital relationship commenced after retirement from the Parliament provided that it commenced before the former member was aged 60 or at least 5 years before his or her death. A pension continues to be payable whether or not the spouse remarries.

9.3 From 25 June 1993 the definition of spouse has been widened to include both legally married and de facto spouses. From that date the primary criteria for the payment of a pension will be that the couple lived together as husband and wife (whether legally married or not) on a permanent and bona fide domestic basis at the time of the death of the member or pensioner.

9.4 Recognition of de facto spouses could mean that a person has both a legally married spouse and a de facto spouse. The Trust will apportion the reversionary benefit[14], on a needs basis, amongst the spouses, if there are more than one. The Trust will also apportion the benefit amongst spouses and orphans where the former member is survived by a spouse or spouses who are not natural or adoptive parents of any surviving eligible children (see section 10 below).

9.5 A spouse's pension is 5/6 of a former member's pension. Where the pension becomes payable to the spouse of a serving Member or Senator who died with less than 8 years service, the spouse's pension is based on the benefit which would have been payable had 8 years service been completed.

10. Benefits Payable to Orphan Children

10.1 Pensions are payable to any eligible children provided the Senator or Member (who dies while a member of Parliament) or a former Senator or Member (who dies while entitled to a pension) is not survived by a spouse who is the natural or adoptive parent of the child and who is entitled to a pension. A pension is also payable to any eligible children on the death of a spouse who was in receipt of a pension. To be eligible for a pension, a child must be under 16, or under 25 if a full-time student, and have been dependent on the member of Parliament or pensioner at the time of his or her death.

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14 A reversionary benefit is a benefit payable to a person, usually a spouse, on the death of a member of a superannuation fund.

11. Benefit Payable to Personal Representative

11.1 There is a benefit payable on the death of a member who was entitled to a pension, and who is not survived by a spouse or an orphan who is entitled to a pension. The benefit in this case is a lump sum payable to the personal representative of the deceased member, to be dispersed in accordance with the deceased member's will. This lump sum consists of:

- a refund of contributions plus a supplement equal to two and one third times the contributions paid during the last eight years of service, **or**
- the superannuation guarantee safety-net amount, whichever is the higher,

Less

- the amount of any benefit paid to the former member.

12. Review of Decisions

12.1 A person who is affected by a decision of the Trust and who is dissatisfied with the decision may request, within 30 days of being notified of the decision or such longer period as the Trust allows, that the Trust reconsider the matter. After this review, if the person is still dissatisfied, he or she may apply to the Administrative Appeals Tribunal for a further review of the Trust's decision.

13. Australian Government's View on PCSS

13.1 In the Senate Select Committee on Superannuation inquiry hearing held on 4 June 1997, Mr. Graham John Millar, Assistant Secretary of the Department of Finance (precursor to Department of Finance and Administration) of the government summarized the government's view of PCSS:

> "The key points in our submission were basically that the parliamentary contributory superannuation scheme provides benefits that do vary quite widely as between members, depending on their individual circumstances of retirement. The major cost drivers of the scheme are in respect of those members who retire with a pension benefit at a young age. They tend to result in the scheme being a relatively high cost scheme. The third point is that under the current scheme, being a defined benefits scheme, member choice of fund and investment are not really practical. If greater choice of scheme or investment policy were to be a requirement, it would seem appropriate to move to a fully funded accumulation type scheme….."[15]

13.2 When asked for the reason why the parliamentarians' superannuation scheme does not reflect the practice in the private sector, Mr. Millar replied, "…when the scheme was originally established, it was established with the objective of ensuring a measure of security in retirement for parliamentarians and their dependants, having regard to the exigencies of parliamentary life--in other words, the uncertainties of parliamentary life…."[16]

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15 S112, Official Hansard Report, Senate Select Committee on Superannuation, Parliament of the Commonwealth of Australia, Canberra, Wednesday, 4 June 1997.

16 S 115, ibid.

13.3 In the same inquiry hearing, the Senate Select Committee on Superannuation considered the question of whether or not the PCSS was particularly generous to younger members who leave parliament soon after qualifying for a pension, and relatively less beneficial to long term members. A superannuation consultant found a "discrimination" against "people not achieving the required three terms in office and in this context, benefits provided cannot be considered as equitable compared with the treatment of longer serving members."[17] The Parliamentary Retiring Allowances Trust, the body responsible for the PCSS, submitted:

> "The PCSS is inequitable for short-term members. Whereas it generally caters very well for young retirees with more than 8 years service who become entitled to a pension, it provides much lower benefits for short-term members."[18]

13.4 Also in the same inquiry hearing, the Australian Government Actuary was asked what it would cost for the current scheme to be fully funded. His reply is extracted as follows:

> "--Funding is a partial--there is a range of options for funding. At the moment the scheme is not funded, as you would be aware. So the benefits are paid as they fall due. To pay the contributions in line with our submission [i.e. for the Commonwealth scheme to have the same employer contribution rate as in the private sector], effectively doubling the current outlays for a period of time would be one way of doing it. Another way would be simply to say, 'We will fund the whole unfunded liability right now,' which I think in my submission was of the order of millions of dollars, rather than billions. One of the things about this scheme is it is not a large scheme. I would refer you to my submission, section 10.2, 'would increase the outlays of the order of A$12 million [HK$54.5 million] for some period of time'. As the scheme matures, that would then resume to normal position--A$12 million [HK$54.5 million] as a percentage of total Commonwealth outlay is not a large sum. So I think it is a philosophical position rather than a financial one."[19] The Australian Government Actuary considered that if there were no change to the scheme, "PCSS expenditure will not have a material impact on future budgets".[20]

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17 Paragraph 2.14, 25th Report of the Senate Select Committee on Superannuation, Parliament of the Commonwealth of Australia, Canberra, September 1997.

18 Chapter 2, 25th Report of the Senate Select Committee on Superannuation, Parliament of the Commonwealth of Australia, Canberra, September 1997.

19 S121-S122, ibid.

20 Paragraph 2.40, 25th Report of the Senate Select Committee on Superannuation, Parliament of the Commonwealth of Australia, Canberra, September 1997

13.5 When asked whether there was evidence of parliamentarians staying just in order to meet the qualifying years of service requirement, the Australian Government Actuary replied,

> "No. The withdrawal experience is quite the contrary, that parliamentarians are actually serving for what would be other reasons rather than financial in terms of the benefits of the scheme. If they were behaving financially, you would expect them to leave at the point they qualified for the pension, and they do not…Some of them do : they are unfortunate enough to lose that election but not so many that [I would] suggest it is an issue."[21]

14 Factors which determine the size of the PCSS

Demographics of Parliamentarians

14.1 The size of PCSS is mainly determined by the tenure and age profile of the parliamentarians. Relevant information is extracted from the 25th Report of the Senate Select Committee on Superannuation and summarized below.

Average Tenure of Federal Australian Parliamentarians

14.2 There is a tenure requirement for eligibility for pension--the longer the average tenure of members of Parliament, the higher is the number of members who will qualify to receive a pension under the PCSS. The average tenure of federal Australian parliamentarians since the 1940s is summarized below:

Table 4 - Average Tenure of Federal Australian Parliamentarians

	1940s	**1950s**	**1960s**	**1970s**	**1980s**
H of R	12.9	14.7	11.0	8.7	8.9
Senate	11.6	14.6	11.2	10.8	7.0

Source: Chapter 2, 25th Report of the Senate Select Committee on Superannuation, Parliament of the Commonwealth of Australia, Canberra, September 1997.

14.3 It can be seen that there is a trend towards shorter parliamentary careers over the years. One implication of this trend is that fewer parliamentarians will reach the criteria (12 years for voluntary retirement and 8 years for involuntary retirement) to qualify for a pension. For them, the PCSS becomes purely a compensation or redundancy scheme.

21 S123, ibid.

Average Age of Senators and Members

14.4 Age is related to life expectancy, i.e. the lower the average age of members of Parliament, the younger they are when they qualify to receive a pension on retirement, and the longer is the PCSS required to pay pensioners. Conversely, the older the Senators or Members, the more likely would PCSS pay for a shorter period when they retire. The average age of Senators and Members since the 1940's is listed in Table 5 below:

Table 5 - Average Age of Senators and Members

Year	**1901**	**1950**	**1978**	**1992**	**1995**	**1996**
Average age	48.1	51.8	47.5	50.1	49.4	48.0

Source: Chapter 2, 25th Report of the Senate Select Committee on Superannuation, Parliament of the Commonwealth of Australia, Canberra, September 1997.

14.5 There is no clear trend of significantly younger or older average age of Senators and Members in the past 100 years.

Age of Initial Election to Parliament

14.6 The age of initial election to Parliament starts the date when eligibility is measured. The lower is the age of initial election to Parliament, the more likely are parliamentarians becoming eligible for pensions at a younger age. The age at which first elected members of the federal Parliament is listed in Table 6 below:

Table 6 - Age at which First Elected

Period or Parliament	**Senate**	**House of Reps**	**Both Houses**
1901-48	48.8	45.0	46.3
1949-79	47.8	42.1	43.9
1995-all sitting Members & Senators	41.7	40.1	40.5
1996 all sitting Members & Senators	41.4	40.6	40.9

Source: Chapter 2, 25th Report of the Senate Select Committee on Superannuation, Parliament of the Commonwealth of Australia, Canberra, September 1997.

14.7 There is probably a lowering in the age of initial election to the Parliament. The consequences are that parliamentarians are becoming eligible for pensions at a younger age. This factor, plus increases in life expectancy since the turn of the 20th century, means that the costs, or potential costs, of these pensions is rising because recipients receive payments for a longer period.

15. Views in Australia on the PCSS

Arguments for PCSS

15.1 In the Senate Select Committee on Superannuation inquiry held in June 1997, some members of the Australian public and members of Parliament acknowledge that compared to the private sector, there are more uncertainties inherent in the career of a parliamentarian, disruption of lifestyle and of career that may lead to problems of post-parliamentary employment, which should be duly reflected in the associated remuneration package. In effect, the contributions and benefits for parliamentarians are higher than for the rest of the community, and there is exemption preservation of benefits until the beneficiaries reach a certain age.

15.2 The dissenting report to the Senate Select Committee (made by the Democrats member of the Select Committee) suggested that compensation for parliamentarians should be divided into two parts in recognition of the two needs, i.e., a severance payment (or dislocation benefit) to compensate for the uncertainty of political life plus a pension for retirement purpose. Submissions from the public also suggested that "redundancy payouts should be considered for defeated politicians to tide them over for a few months as for other members of the community."[22]

Arguments Against PCSS

15.3 Some submissions received from members of the public to the Senate Select Committee on Superannuation inquiry held in June 1997 expressed dissatisfaction about the "generous" payment given to legislators for an "uncertain" career as there is also career uncertainty in other economic sectors. Opinions were also expressed that politicians should not have access to pension payments before they reach the general retirement age of 55. Some opinions were that cost controls on the PCSS, a defined benefit scheme, were inadequate and that the scheme was highly vulnerable to exploitation. Opinions were also expressed about individual cases, such as a member receiving a "A$52,000 [HK$236,080] per annum for life after only nine years in his job … as obscene."

22 Chapter 2, 25th Report of the Senate Select Committee on Superannuation, Parliament of the Commonwealth of Australia, Canberra, September 1997.

15.4 The Senate Select Committee on Superannuation on the PCSS tackled the question of whether or not the scheme had increased perceived equity between Members since Members received pension in accordance with their individual circumstances. The consensus view was that "the Scheme as currently constituted does not meet this objective [of increasing perceived equity between members], as the scheme only provides income in retirement for those fortunate enough to qualify for a pension. While the scheme makes payments to non-qualifying members, this is in the form of a lump sum and is effectively a redundancy payment."[23]

16. Analysis: Reference for Hong Kong

16.1 The Australian experience poses certain questions for consideration in Hong Kong, which are listed below.

<u>Rationale for Establishing a Parliamentary Pension Scheme</u>

(1) Does entering Legislative Council (LegCo) mean forgoing potential retirement payouts from previous employers due to leaving that employer prior to retirement age?

(2) Do electoral and LegCo demands reduce the chances of LegCo Members, especially those who work full-time as legislators, to re-establish other careers when their LegCo service is over?

(3) Is there a need to entice people into LegCo who would not otherwise come?

<u>Compared with the Present Situation</u>

(4) There is no pension provision for LegCo Members, despite the general public being mandated to join the Mandatory Provident Fund (MPF) since 1 December 2000. The MPF is a contributory pension fund and provides retirement protection for employees in Hong Kong. The MPF Authority has stated that although LegCo Members receive remuneration from the Hong Kong Government, there exists no employment relationship between the two; neither are LegCo Members considered "self-employed". Hence, no retirement protection is provided to LegCo Members through the MPF. Is such omission out of step with the protection provided to the rest of the community? Should this situation be re-assessed?

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23 Paragraph 3.46, 25th Report of the Senate Select Committee on Superannuation, Parliament of the Commonwealth of Australia, Canberra, September 1997.

16.2 If a superannuation scheme similar to the Australian PCSS were to be established in Hong Kong for legislators, the following questions would need to be addressed:

(5) Should membership of the scheme be compulsory or should Members be given a choice as to which retirement funds they would prefer to join?

(6) Should qualification be based on years of service or age? Should retirement benefits be allowed to be withdrawn once a LegCo Member qualifies in terms of tenure? Or should the benefits be preserved until the Member leaves the Council or reaches a certain general retirement age?

(7) There are obvious questions of pension rates, contribution rates, tax relief for contributions and tax liability for benefits, form of pension (lump sum or regular payment), availability of pension to spouses and orphan children, and the co-ordination of the proposed LegCo Member pension scheme with other pension schemes of which a LegCo Member may be a member.

(8) There are questions about management of the retirement fund, such as whether or not to establish a Trust and whether or not it is to be run by the Government Treasury or by an independent fund manager.

(9) There is a question of establishing an appeal mechanism for review of decisions.

Factors which will Determine the Size of a Proposed Pension Scheme for Legislators

Age Profile of Legislators

16.3 The Australian experience shows that (a) the age profile of legislators determines how young or how old legislators may become eligible to receive benefits and (b) their life expectancy determines the length of the period that the pension fund will need to provide pension benefits. The age profile of current Hong Kong legislators, i.e. 2nd HKSAR Legislative Council, is summarized in Table 7 below, where the tenure of office is assumed to be four years.

Table 7 - Age profile of Current Hong Kong Legislators (as when elected in 2000)

	When elected to 2nd HKSAR LegCo	**When term of 2nd HKSAR LegCo is completed**
Average age	51.6	55.5
Age of youngest Member	35.8	39.7
Age of oldest Member	69.6	73.6

Note: A total of 59 Members assumed office on 4 October 2000 and one assumed office on 13 December 2000. They are all assumed to complete their term on 31 August 2004.

16.4 It can be seen that the average age of current legislators was 51.6 years when elected in 2000. According to the Census and Statistics Department, life expectancy in Hong Kong for people born in 1951 was 69.9 for males and 77.1 for females.[24]

Tenure of Legislators

16.5 Tenure was one of the eligibility requirements in the Australian PCSS. As shown in paragraphs 14.2 and 14.3 and Table 4, the average tenure of legislators may change over the years and some legislators may not qualify to receive pension benefits because the electorate have changed their preferences more quickly than when these legislators attain the required tenure. In Hong Kong, if a similar scheme with a tenure requirement were to be set up for LegCo Members, consideration should be given to establishing a mechanism in the scheme to review the qualifying tenure periodically.

Prepared by Ms Eva LIU on 18 May 2001
Tel: 2869-7735

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[24] Latest information provided by Demographics Statistics Section, Census and Statistics Department.

Appendix I

Outline of the development of the Parliamentary Contributory Superannuation Scheme (PCSS) for the Australian Commonwealth parliamentarians since 1948

1. When then Prime Minister and Treasurer Ben Chiefley introduced the legislation in 1948 he said:

   "It has frequently been said that the loss and insecurity which attend upon service in Parliament deter men and women capable of making a worthwhile contribution to the service of the commonwealth from offering themselves for election. It is hoped that this measure will help in overcoming difficulties of this nature."

2. Originally the PCSS was funded to the extent of the member contributions, and was framed along the lines of the Commonwealth Public Service Superannuation Scheme.

3. Contributions were three pounds per week (about 10.4 per cent of salary) and a fixed annuity of eight pounds per week was payable when a member qualified for a pension.

4. Between 1948 and 1973, the main amendments to the PCSS were:

   - In 1955, the three occasions rule was introduced, i.e.

     On retirement from Parliament, a Senator or Member is entitled to a pension if:

     (a) 12 or more years service has been completed;

     (b) the member has on four occasions ceased to be a member on the dissolution or expiration of the House of which he or she was a member, or on the expiration of a term of office; or

     (c) retirement is involuntary, and the member has completed not less than eight years service, or has on three occasions ceased to be a member on the dissolution of the House of which he or she was then a member, or on the expiration of term of office.

   - From 1959, the age at retirement became a factor in fixing the rate of pension;

   - Orphan benefits were introduced in 1959; and

   - From 1963, pensions changed from a fixed amount to being based on salary.

5. In 1973 the scheme underwent major changes. The PCSS fund was abolished and the assets transferred to the consolidated Revenue Fund (CRF). Contributions were then paid into the CRF, out of which benefits were also paid.

6. The maximum benefit payable to a member was increased from 50 per cent to 75 per cent of the parliamentary salary payable, and pensions accrued according to the length of service rather than age at retirement. Also, the minimum age 40 requirement for the pension on involuntary retirement was removed, and the minimum age on voluntary retirement was raised from 40 to 45 years (eventually removed in 1978). Provision for invalidity pensions, indexation of pensions and recognition of State parliamentary service were introduced.

7. Since 1973, various amendments have been made including the introduction of 50 per cent commutation of pension option in 1978. This was increased to a 100 per cent commutation option in 1979.

8. Further changes in the same period "to address the public's perception of generosity" included:

   - Reducing the 100 per cent commutation option back to 50 per cent in 1983; and

   - The provision for reducing a pension, on the basis of the former parliamentarian receiving in remuneration from an office of profit under the Crown, was reintroduced in 1983 (it had been removed in 1973).

9. From time to time, concern has been expressed about the Commonwealth Government's liability for those unfunded defined superannuation funds for which is responsible, including the PCSS. In its June 1996 report to the Government, the National Commission of Audit made a comment that the Government should initiate further examination to replace its current defined benefit superannuation schemes with fully funded accumulation schemes.[25] "The objective of this change is to increase remuneration flexibility rather than to reduce the total cost of overall remuneration packages."

[25] A defined benefit scheme provides the recipient with a set of defined benefit, without taking into account whether or how much contribution has been made by the recipient and the employer. A fully funded accumulation scheme takes into account the contribution paid into the scheme by the recipient and the employer. In other words, for the latter case, when all the contribution is withdrawn by the recipient as pension, the recipient will have to rely on other sources for his retirement.

10. Following a debate in the Senate chamber on 29 November 1996, the matter was referred to the Senate Select Committee on Superannuation for inquiry and report. The Committee received 46 submissions and conducted public hearings to hear evidence on the scheme. The Committee published its report in September 1997, with the following findings:

There were public perceptions on certain shortcomings of the scheme but the majority of those who criticized attempted to be constructive. The perceived shortcomings may include:

- Over-generosity of the scheme;
- A lack of equity between members of the scheme--some getting nothing if they do not qualify whereas some receiving a generous sum only after eight years of service and retiring in their mid-30's;
- The inflexible, compulsory nature of members' contributions regardless of their circumstances;
- No portability of entitlements if the member leaves Parliament;
- Inadequate controls over the costs associated with benefits received by the partners of parliamentarians or ex-parliamentarians when they die;
- Being out of step with the superannuation available to the rest of the community;
- Unreasonable early access to full parliamentary pension entitlements as there is no minimum age requirement;
- The availability of lucrative post-parliamentary employment; and
- The fact that a Committee of parliamentarians was inquiring into their own scheme, creating a potential conflict of interest.

The Committee considered that reform was desirable. One view was that the Remuneration Tribunal[26] should play a greater role in respect of parliamentary superannuation. However, there were differences of opinion within the Committee about the appropriate approach to reform, resulting in vague recommendations and a dissenting report was attached to the main report. The dissenting report argued for reducing the level of public subsidy to the PCSS and bringing the PCSS much more in line with community standards, while having proper regard to the unusual nature of parliamentary life.

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26 The Remuneration Tribunal currently deals with electorate allowance and other benefits for members and office holders of Parliament; it does not deal with parliamentary salary (which is adjusted pursuant to statute by reference to a public service pay level) nor with parliamentary superannuation. Parliament of the Commonwealth of Australia, 25th Report of the Senate Select Committee on Superannuation, "The Parliamentary Contributory Superannuation Scheme and the Judges' Pension Scheme", Canberra, September 1997, para. 4.23.

11. The Minister of Finance, in response to the Committee's report, advised that the Government would consider the Committee's recommendations in the context of any changes to Parliamentary remuneration likely to come out of other legislation currently before the House.

12. On 5 March 2001, Mr. Peter Andren MP (Independent) introduced a Private Members' Bill, the Parliamentary (Choice of Superannuation) Bill 2001, which sought to give Senators and Members of the House of Representatives the freedom to opt out of the compulsory PCSS. The Member explained in his first reading that the purpose of the bill was to bring in line superannuation arrangements applied to Members or Senators with those applying to the wider community, the latter enjoying freedom of choice and whose superannuation benefit accrued under one scheme is allowed to roll over into another complying fund or Retirement Savings Account (RSA) of their choice. At present, benefits accrued in the Parliamentary Pensions Trust are not transferrable. The Bill was referred to the Senate Select Committee on Superannuation and Financial Services (which replaced the previous Senate Select Committee on Superannuation) on 27 March 2001. An extension of time was granted to the Committee who are now scheduled to report by 8 August 2001.

References

1. Parliamentary Contributory Superannuation Act 1948
(a copy is available in the HKSAR Legislative Council Library)

2. Department of Finance and Administration, *Parliamentary Contributory Superannuation Handbook (February 2001)*, Canberra

3. Department of Finance and Administration, *Parliamentary Contributory Superannuation Scheme Leaflet (January 2000)*, Canberra

4. Parliament of the Commonwealth of Australia, 25th Report of the Senate Select Committee on Superannuation, "The Parliamentary Contributory Superannuation Scheme and the Judges' Pension Scheme", Canberra, September 1997.
(a copy is available in the HKSAR Legislative Council Library)

5. Parliament of the Commonwealth of Australia, Senate Select Committee on Superannuation, "Reference; Parliamentary and judicial superannuation", Official Hansard Report, Canberra, 4 June 1997
(a copy is available in the HKSAR Legislative Council Library)

6. Parliamentary (Choice of Superannuation) Bill 2001, Explanatory Memoranda and First Reading Speech

7. Margaret Healy, Politics and Public Administration Group and Geoff Winter, Statistics Group, Department of Parliamentary Library, Parliament of Australia, Research Paper 30, 1999-2000, "Remuneration of Members of the Parliament of Australia", 27 June 2000.

8. The Heritage Foundation, Backgrounder No. 1149, "Australia's Privatized Retirement System: Lessons for the United States", December 8, 1997.

<u>Websites</u>

1. <http://www.aph.gov.au/senate/committee/superfinan_ctte/index.htm>

2. <http://www.aph.gov.au/library/pubs/rp/1999-2000/2000rp30.htm>

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Ms Eva LIU
Head, Research and Library Services
Research and Library Services Division
Legislative Council Secretariat
5/F, Citibank Tower
3 Garden Road, Central
Hong Kong

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