

**Proposed Research Outline:
Restrictions on Activities of Former Heads of Government
and Former Senior Members of Government**

1. Background

1.1 The Panel on Constitutional Affairs at its meeting on 19 March 2001 requested the Research and Library Services Division (RLS) to work in collaboration with the Government with a view to providing the Panel with information on the restrictions on activities of a former Chief Executive, pending the outcome of a study being conducted by the Government. At the meeting on 17 July 2001 when the preliminary findings prepared by the Government were discussed, it was decided that the RLS should conduct the research independently.

2. Proposed Outline

Part 1 - Introduction

- ♦ A description of the rationale behind the restrictions on activities imposed on former heads of government and former senior members of government.

(Senior members of government include principal government officials such as ministers, political appointees, and senior civil servants. Former heads and former senior members of government include people who leave, resign, retire or are removed from the government.)

Part 2 - Arrangements Applicable to Former Heads and Former Senior Members of Government in the Selected Territories

- ♦ A description of post-office restrictions (e.g. restrictions on political activities, commercial activities, and other applicable ethical rules) imposed on and benefits granted to former heads and former senior members of government in the selected territories. Sources of authority of these restrictions will also be included.

- Part 3 - Enforcement Mechanisms of the Arrangements Applicable to Former Heads and Former Senior Members of Government in the Selected Territories
- ♦ Enforcement mechanisms adopted by the selected territories, (e.g. by statute, codes / guidelines, agreement, convention, etc.) and the rationale behind the types of enforcement mechanisms selected.
 - ♦ Authorities responsible for monitoring the conduct of the former heads and former senior members of government, e.g. an independent authority or a committee of the legislature.
 - ♦ The monitoring mechanism, (e.g. act on complaints or by regular monitoring) and the investigation procedures.
 - ♦ Sanctions imposed, e.g. a reprimand, cessation of pension, criminal penalties, etc.
 - ♦ Authorities responsible for imposing those sanctions, e.g. the monitoring authority or the court.
- Part 4 - Arrangements Applicable to a Chief Executive After Stepping Down From Office and to Former Senior Members of Government in Hong Kong
- ♦ A description of post-office restrictions, if any, imposed on a Chief Executive after stepping down from office and a description of those imposed on former senior members of government in Hong Kong.
 - ♦ A description of benefits, if any, granted to a Chief Executive after stepping down from office and a description of those granted to former senior members of government in Hong Kong.
- Part 5 - Analysis

3. Proposed Territories to be Studied

3.1 The RLS proposes to study the arrangements adopted by governments in the following countries:

- ♦ France;
- ♦ the United Kingdom; and
- ♦ the United States,

and those adopted by governments in the following territories:

- ♦ California of the United States; and
- ♦ Ontario of Canada.

3.2 We have taken the following factors into account when deciding which countries and territories are to be included in the study:

- ♦ the state of their political, economic and social development;
- ♦ their systems of government; and
- ♦ whether there are written or unwritten rules concerning post-office restrictions and benefits applicable to their former heads or former senior members of government.

Please see the following table for details.

Table - Proposed Countries and Territories to be Studied

| | Population | Gross Domestic Product (GDP) or equivalents | System of government | Selection method of the head of government | Any post-office restrictions? |
|--|-------------------|--|---|---|---|
| <i>Proposed Countries:</i> | | | | | |
| France | 58 million | GDP: US\$1,600 billion | Semi-presidential style of parliamentary government | The Prime Minister is appointed by the President on the basis that the former can win a majority in the National Assembly | Yes for senior civil servants |
| United Kingdom | 59 million | GDP: US\$1,200 billion | Parliamentary system | The Prime Minister is a Member of Parliament who is normally the leader of the majority party | The restrictions are set out in the Ministerial Code, Civil Service Management Code, etc. |
| United States | 272 million | GDP: US\$8,500 billion | Presidential system | The President is elected by an Electoral College consisting of Presidential Electors who are elected on a state basis | The restrictions are set out in the Ethics Reform Act of 1989 and by convention |
| <i>Proposed Territories:</i> | | | | | |
| California, a state in the United States | 34 million | Gross State Product: US\$1,300 billion | Presidential system | The State Governor is directly elected by voters in the entire state | All elected state officials are subject to the Postgovernment Employment Restrictions Act of 1990 |
| Ontario, a province in Canada | 12 million | GDP: US\$267 billion | Parliamentary system | The Premier is the leader of the party with the most support in the Legislative Assembly | Members of the Legislative Assembly including members and former members of the Executive Council are subject to the Members' Integrity Act 1994 (administered by the Integrity Commissioner) |

4. Proposed Timetable

4.1 The RLS proposes to complete the research project by the end of 2001.