

立法會 *Legislative Council*

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Meeting of Subcommittee on Members' Remuneration and Operating Expenses Reimbursement on 6 December 2004

Background Brief prepared by Legislative Council Secretariat

Retirement Benefits for Legislative Council Members

Purpose

This paper summarizes the recommendations of the former Subcommittee on Members' Remuneration and Operating Expenses Reimbursement in the second LegCo term (the former Subcommittee) and the response from the Administration on the subject.

Recommendations of the former Subcommittee in November 2001

2. In a survey conducted by the former Subcommittee in July 2001 on whether a pension scheme should be set up for LegCo Members, 33 of the 54 Members who responded supported the establishment of a pension scheme, 18 did not support and three did not indicate any preference. In view of the majority support, the Chairman of the House Committee wrote to the Administration on 5 November 2001 inviting it to draw up a pension scheme for Members' consideration.

Response from the Administration in October 2003

3. On 21 October 2003, the Chief Secretary for Administration (CS) informed the Chairman of the House Committee that the introduction of a retirement scheme for LegCo Members in the third LegCo term with Government contribution would not be supported. This decision was based on the recommendation of the Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the HKSAR ('the Independent Commission'), which held the view that 'a retirement scheme for LegCo Members with Government contribution may only be justified if it is premised upon the view that LegCo membership is a full-time job'.

Further recommendations of the former Subcommittee

4. The former Subcommittee did not share the Independent Commission's views on the criterion for the provision of retirement benefits for LegCo Members. The former Subcommittee had studied the retirement benefits for legislators in Canada, the United Kingdom, Australia, the United States and Singapore and noted that there was no requirement for Members in these legislatures to work full-time in order for Members to qualify for retirement benefits, neither were there any criteria to differentiate between full-time and part-time legislators.

5. Recognizing the need to provide retirement protection for LegCo Members, the former Subcommittee proposed that a retirement protection scheme be established with contributions paid separately from both Members' own resources and their Office Operation Expenses Reimbursement (OOER) accounts. The contribution rates would be the same as those stipulated for employees and employers under the Mandatory Provident Fund Schemes Ordinance (MPFSO) (Cap. 485), which currently stand at 5% of an employee's relevant income with a ceiling of \$1,000 per month from either party. In line with the spirit of MPFSO, Members who participated in other retirement schemes should also be eligible for participation in the proposed retirement protection scheme for LegCo Members.

6. The proposal was made after considering the following factors:

- (a) Retirement benefit contributions were similar in nature to the premiums for Members' medical and dental insurance coverage, which had already been reimbursable out of the OOER account since 1995;
- (b) At current rates, the contribution proposed to be charged to the OOER account of a Member was \$12,000 a year, which was only 0.88%* of the account's expenditure ceiling of \$1,356,940. No additional commitment or expenditure on the part of the Government would be required;
- (c) Under MPFSO, contributions to a mandatory provident fund had to be made if one was employed for a continuous period of not less than 60 days, regardless of whether they were full-time or part-time employees. In line with the spirit of this provision, LegCo Members should also enjoy retirement protection; and
- (d) Provision of retirement benefits would attract able persons to stand for election to serve the community.

(* With the downward revision of the expenditure ceiling to \$1,331,160 w.e.f. 1.10.04, it should now be 0.9%)

Consultation exercise in February 2004

7. A consultation paper was issued on 6 February 2004 to obtain Members' views on the proposal. A total of 55 Members have responded. The majority of Members (37) supported the proposed retirement protection arrangement set out in paragraph 5 above.

8. The former Subcommittee's recommendations were endorsed and forwarded by the Chairman of House Committee to the Administration on 20 March 2004.

Response from the Administration in June 2004

9. On 16 June 2004, CS advised that the Executive Council had accepted the Independent Commission's recommendation, that the Administration should not pursue the former Subcommittee's proposed retirement protection scheme for LegCo Members in the third term.

10. The Independent Commission did not support the proposed retirement protection scheme as a matter of principle, as it ran counter to its established view that LegCo membership was not a job but a form of public service. In this regard, the Independent Commission had also reaffirmed its view that there would be a need for LegCo Members to declare, or restrictions to be imposed on, their outside employment and earnings if LegCo membership were a job. Such restrictions or declaration requirements might, however, discourage some suitable candidates from coming forward to stand for LegCo elections, particularly when they were already holding a professional job or a managerial position which they were reluctant to relinquish.

11. In the Hong Kong context, the Independent Commission noted that any outside job restriction might also have implications for those who intended to stand for re-election in the functional constituencies (FC). This might be relevant as candidates for FC elections were required under the law to have a substantial connection with the constituency concerned. Hence, while noting that the former Subcommittee's proposal did not involve additional financial commitments from the public coffer, the Independent Commission had resolved to maintain its earlier recommendation, i.e. the former Subcommittee's proposed retirement protection scheme for LegCo Members in the third term should not be supported.

12. On the proposed funding arrangements, the Independent Commission noted that the ambit of the OOER account was to cover primarily the office operation expenses of LegCo Members incurred in relation to their Council business. The Independent Commission considered it inappropriate to draw an analogy with the use of the OOER account to cover the premiums for LegCo Members' medical and dental insurance coverage, given the different nature of a retirement protection scheme. To the Independent Commission, the provision of medical and dental benefits was arguably relevant to LegCo Members' effective discharge of their functions and duties and was applicable only during their term of office. However, the proposed contribution to Members' retirement scheme fell clearly outside the ambit of the OOER account, especially when such benefits were to be realized after a LegCo Member had stepped down from office. The Independent Commission was therefore not convinced of the proposed use of the OOER account.

13. Notwithstanding the above, the Independent Commission was prepared to revisit the whole subject matter when it reviewed, during the third LegCo term commencing October 2004, the remuneration package and arrangement for LegCo Members in the following LegCo term. Understandably, such review would take into account the circumstances at the time, including the outcome of the constitutional review underway leading to the LegCo election in 2008. This constitutional review was a comprehensive study and might have significant implications over some relevant principles that the Independent Commission had held on to in its consideration of the remuneration package of LegCo Members. The Executive Council accepted the Independent Commission's undertaking and noted that both the Independent Commission and the Administration would keep an open mind in conducting the next review during the third LegCo term.

Relevant papers

14. A copy of the Independent Commission's "Report on the Review of Remuneration Package for LegCo Members in the Third Term" is in the **Appendix**.

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Legislative Council Secretariat
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Appendix

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