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## INFORMATION NOTE

### Arrangements for Members' Remuneration and Operating Expenses Reimbursement in Selected Overseas Legislatures

#### 1. Background

1.1 The Subcommittee on Members' Remuneration and Operating Expenses Reimbursement of the Legislative Council (LegCo), at its meeting on 6 December 2004, requested the Research and Library Services Division to provide information on the following items in overseas legislatures:

- (a) whether any substantial changes to the remuneration package for Members proposed in one term of parliament should only be implemented in the following term; and
- (b) whether Members with district offices are given additional funding for the operation of such offices.

1.2 This study covers the following overseas legislatures:

- (a) House of Commons in Parliament of the United Kingdom (UK);
- (b) House of Representatives in Parliament of Australia;
- (c) House of Representatives in Parliament of New Zealand;
- (d) House of Commons in Parliament of Canada;
- (e) House of Representatives in Congress of the United States (US);
- (f) Parliament of Singapore; and
- (g) Senate (Seanad Eireann) in the National Parliament (Oireachtas) of Ireland.

1.3 The legislatures from (a) to (f) are selected because each of them has certain distinctive arrangements for Members' remuneration package. These legislatures were also taken as references in the *Report on the Review of Remuneration Package for LegCo Members in the Third Term* (the Report) by the Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the Hong Kong Special Administrative Region (HKSAR). This study attempted to include Japan as well, so as to cover all overseas places selected by the Report. However, as at the publication of this information note, relevant information on Japan is not available. The Senate in Ireland is selected because some of its Members are elected under an electoral system similar to the functional constituency electoral system in the HKSAR.

1.4 A comparison table of the main features of the arrangements for Members' remuneration and operating expenses reimbursement in the selected overseas places and the HKSAR is presented at the Appendix.

**2. Whether any substantial changes to the remuneration package for Members proposed in one term of parliament should only be implemented in the following term**

House of Commons in Parliament of the United Kingdom

2.1 In the UK, the timing of implementing any recommended changes to the remuneration package for Members of the House of Commons is not tied to the term of Parliament.

2.2 Such recommendations are made by an independent body known as the Senior Salaries Review Body (SSRB)<sup>1</sup>, and approved by the House. SSRB is required to conduct a review of parliamentary pay and allowances every three years.

2.3 SSRB usually makes recommendations with effective dates, which are not related to the term of Parliament but to the start of either the financial year of Parliament (i.e. 1 April) during which SSRB conducts the review or the following financial year. For example, in its latest report released in October 2004, SSRB recommended that most changes to Members' allowances commence on 1 April 2005, while parliamentary pension arrangements take effect retrospectively on 1 April 2004.<sup>2</sup> The normal practice of the House is to follow SSRB's recommendations, although it can vote for alternative implementation dates.<sup>3</sup> The expiry or dissolution of the House has no effect on a decision previously taken by the House on the timing of implementing SSRB's recommendations.<sup>4</sup>

House of Representatives in Parliament of Australia

2.4 In Australia, the timing of implementing any changes to the remuneration package for Members of the House of Representatives is not tied to the term of Parliament.

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<sup>1</sup> SSRB is a non-statutory body appointed by the Prime Minister. One of its functions is to provide independent advice to the Prime Minister from time to time on the pay, allowances and pensions of Members of Parliament. According to the Cabinet Office of the UK Government, SSRB comprises 10 members appointed by the Prime Minister. They are of different backgrounds and experience, including senior executives from private and public sectors, labour market economists, human resources specialists and academics. The code of practice for members of SSRB does not disbar a Member of Parliament from becoming a member of SSRB, but it requires members of SSRB to be politically impartial in their role and declare any party political activity they undertake whilst serving on SSRB.

<sup>2</sup> Review Body on Senior Salaries (2004).

<sup>3</sup> Information provided by the Office of Manpower Economics of the UK Government, which is the Secretariat of SSRB.

<sup>4</sup> Information provided by the Office of Manpower Economics and the House of Commons Information Office of the UK Parliament.

2.5 Under the Remuneration and Allowances Act 1990, Members' pay is automatically adjusted every year in line with the percentage change of a reference salary.<sup>5</sup> On the other hand, Members' major allowances are reviewed and determined annually by an independent statutory authority known as the Remuneration Tribunal (RT) established under the Remuneration Tribunal Act 1973.<sup>6</sup> The implementation of RT's decisions, which are set by means of formal determination (statutory regulation), does not require the House's approval,<sup>7</sup> but all determinations can be disapproved by the House.<sup>8</sup>

2.6 Unless specifically disapproved by the House, each determination takes effect on the date of signature of the determination, or another date as specified in the determination.<sup>9</sup> Such a date is neither tied to the term of Parliament nor affected by the expiry or dissolution of the House. It is not necessarily tied to the start (i.e. 1 July) of the financial year of the government either.<sup>10</sup> For example, while the effective date of the determination on Electorate Allowance is 1 July each year, the effective date of the 2004 determination on Members' entitlements was 16 April 2004.

#### House of Representatives in Parliament of New Zealand

2.7 In New Zealand, the timing of implementing any changes to the remuneration package for Members of the House of Representatives is not tied to the term of Parliament.

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<sup>5</sup> Section 6, Part 1, Division 1 (1), the Remuneration and Allowances Act 1990.

<sup>6</sup> Under Section 4(4)(a) of the Remuneration Tribunal Act 1973, the three members of the Tribunal, who are appointed by the Governor-General, cannot be Members of Parliament. Currently, two Tribunal members are senior executives of public and private corporations, and the remaining one is a lawyer.

<sup>7</sup> Information provided by the House of Representatives of Parliament of Australia.

<sup>8</sup> Under sections 7 (7) and (8) of the Remuneration Tribunal Act 1973, either House of Parliament, within 15 sitting days after the determination has been tabled, can pass a resolution "*disapproving of the determination*". If the determination that is disapproved has already come into operation, it ceases to be effective, but such a disallowance does not apply retrospectively.

<sup>9</sup> Information on determinations by the Remuneration Tribunal is available from: <http://www.remtribunal.gov.au/determinationsReports/default.asp>. [Accessed 1 February 2005].

<sup>10</sup> Information provided by the House of Representatives of Parliament of Australia.

2.8 Members' pay and major allowances are reviewed and determined annually by an independent statutory body known as the Remuneration Authority (RA) established under the Remuneration Authority Act 1977.<sup>11</sup> The implementation of RA's determinations does not require the House's approval,<sup>12</sup> and the House is legally required to observe the determinations.<sup>13</sup> Other allowances relating to parliamentary travel, accommodation, attendance and communications services are determined by the Speaker of the House pursuant to section 20A of the Civil List Act 1979. The Speaker reviews these allowances only when the need arises.<sup>14</sup> Similar to the practice in Australia, changes to Members' remuneration package are set by means of formal determination.

2.9 The implementation date of determinations can be effective without the House's approval. The Remuneration Authority Act 1977 does not specify a date on which a determination by RA must take effect. RA usually completes its review and issues a determination in October each year. Nevertheless, the determination's effect is usually backdated to 1 July which is the start of the financial year of the government.<sup>15</sup> RA may also issue separate determinations at different times.<sup>16</sup> The Civil List Act 1979 does not specify the effective date for determinations made by the Speaker either. The most recent determination came into force on 1 November 2003.<sup>17</sup>

#### House of Commons in Parliament of Canada

2.10 In Canada, the timing of implementing any recommended changes to the remuneration package for Members of the House of Commons is not tied to the term of Parliament.

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<sup>11</sup> Under section 19 (5) of the Remuneration Authority Act 1977, RA is required to review and issue a determination on remuneration for Members at intervals of not more than three years. In practice, according to the House of Representatives, such a determination is released approximately annually. The Act does not specify whether Members of Parliament are eligible to be members of RA. According to RA, for the sake of keeping RA independent and objective, it is not advisable for a member of RA to be a sitting or former Member of Parliament.

<sup>12</sup> Information provided by RA.

<sup>13</sup> Section 14 (2), the Remuneration Authority Act 1977.

<sup>14</sup> Information provided by RA.

<sup>15</sup> Ibid.

<sup>16</sup> Section 19 (1), the Remuneration Authority Act 1977.

<sup>17</sup> See, for example, the Parliamentary Travel, Accommodation, Attendance, and Communications Services Determination 2003 published under the authority of the New Zealand Government.

2.11 Since 2001, under the Parliament of Canada Act, Members have tied changes to their own remuneration to changes to judicial remuneration.<sup>18</sup> Judicial remuneration is reviewed at least every four years by an independent federal statutory body known as the Judicial Compensation and Benefits Commission (JCBC).<sup>19</sup> JCBC's recommendations must be approved by the House. As such, instead of directly debating the changes to their own remuneration, Members deliberate on judicial remuneration with the understanding that their remuneration adjustments are tied to those of federal judges.

2.12 The Judges Act specifies that the periodic adjustment and revision of remuneration for Judges to be effective on 1 April (i.e. the start of the financial year of the government) in each of the specified years. This effective date applies to the corresponding changes to Members' remuneration, although the House can set an alternative implementation date by amending the Parliament of Canada Act.

#### House of Representatives in Congress of the United States

2.13 In the US, the timing of implementing any changes to the remuneration package of Members of the House of Representatives is not tied to the term of Congress.

2.14 Under the Constitution, Congress is responsible for determining its own pay.<sup>20</sup> Members' pay is not subject to regular review by either the government or an independent commission. Instead, it is adjusted annually under the automatic adjustment procedure authorized by the Ethics Reform Act of 1989. The adjustment usually takes effect on 1 January each year.<sup>21</sup>

2.15 Members' allowances are reviewed and adjusted by the House's Committee on House Administration<sup>22</sup> authorized under section 57, Title 2 of the US Code. However, the statute does not specify when changes to Members' allowances should be implemented. The normal practice is that Members' allowances are adjusted on 3 January each year.<sup>23</sup>

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<sup>18</sup> Sections 54.1 (1), (2) and (12), Parliament of Canada Act. See also Official Report of the Parliament of Canada, No. 072, available from: [http://www.parl.gc.ca/37/1/parlbus/chambus/house/debates/072\\_2001-06-05/han072\\_1505-e](http://www.parl.gc.ca/37/1/parlbus/chambus/house/debates/072_2001-06-05/han072_1505-e). [Accessed 1 February 2005].

<sup>19</sup> JCBC is established under section 26 of the Judges Act to review the adequacy of the remuneration package of the federally appointed judges. It comprises three members appointed by the Governor in Council: one is nominated by the judiciary and another by the Minister of Justice, and these two members jointly nominate a third member to be the Chairperson.

<sup>20</sup> Article I, section 6, the Constitution of the United States.

<sup>21</sup> Dwyer (2004).

<sup>22</sup> The Committee is a standing committee of the House of Representatives, which currently consists of six Republican Members and three Democratic Members. The Committee has a wide range of oversight powers regarding the House administration, including appropriations from accounts for allowances and expenses of Members. See *A Guide to the Rules, Precedents and Procedures of the House*, available from: [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108\\_house\\_practice&docid=hp-11](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_house_practice&docid=hp-11). [Accessed 1 February 2005].

<sup>23</sup> Dwyer (1999).

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### Parliament of Singapore

2.16 In Singapore, Members only receive an allowance because they perform their parliamentary duties part-time.<sup>24</sup> There is no rule or established practice governing the timing of implementing changes to Members' allowance.<sup>25</sup> Members' allowance is reviewed and decided on by the Cabinet appointed by the Prime Minister.<sup>26</sup> The implementation of the Cabinet's decision does not require Parliament's approval. The Cabinet can implement the decision at any time it thinks fit, and is not required to tie the implementation to the term of Parliament or the start of the financial year (i.e. 1 April) of the government.<sup>27</sup>

### Senate in the National Parliament of Ireland

2.17 In Ireland, the timing of implementing any recommended changes to the remuneration package for Senators in the National Parliament is not tied to the term of Parliament.

2.18 Recommended changes to Senators' pay are made every four years by a standing body known as the Review Body on Higher Remuneration in the Public Sector (the Review Body) appointed by the government.<sup>28</sup> The Review Body makes recommendations to the Minister for Finance. Such recommendations do not contain an effective date. When or whether the recommendations should be implemented is determined by the government as it thinks fit.<sup>29</sup>

2.19 Senators' allowances are reviewed under the authority of the Minister for Finance. The timing of implementing changes to their allowances is at the discretion of the Minister.<sup>30</sup>

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<sup>24</sup> Information provided by Parliament of Singapore.

<sup>25</sup> While article 67 of the Constitution of Singapore provides that "*the Legislature may by law make provision for the remuneration of Members of Parliament*", Parliament has never exercised the power.

<sup>26</sup> The Prime Minister is usually an Elected Member who commands the confidence of the majority of Members of Parliament.

<sup>27</sup> Information provided by Parliament of Singapore.

<sup>28</sup> Established by the Government in 1969, the Review Body is a non-statutory body. Its remit is to review the remuneration for the top level posts in the public sector and make recommendations to the Government. According to the Department of Finance, no Members or former Members of Parliament have been members of the Review Body. This is to avoid any conflict of interest when the Review Body determines the remuneration of Members of Parliament.

<sup>29</sup> According to the 2000 report by the Review Body, the Review Body was "*advised that implementation of the Review Body's report will be considered by the Government in due course in the light of prevailing public service pay policy.*" The report also mentioned that "*the Review Body has no role in relation to the implementation of its recommendations, or in relation to the length of the intervals between reviews. These are matters for the Government.*" See Review Body on Higher Remuneration in the Public Sector (2000), pp.13-16.

<sup>30</sup> Information provided by the Department of Finance of the Government of Ireland.

### **3. Whether Members with district offices are given additional funding for the operation of such offices**

#### House of Commons in Parliament of the United Kingdom

3.1 In the UK, the 659 Members of the House of Commons are all directly elected from single-member constituencies. Members with district offices are entitled to an Incidental Expenses Provision (IEP), which can be used to cover expenses involved in running a district office. Apart from IEP, Members are not given extra or any other allowances to run district offices. IEP is not a lump sum awarded to all eligible Members but an amount with a ceiling against which only appropriate expenses can be claimed. Nevertheless, the maximum annual rate (currently £19,325 or HK\$282,000) of IEP is the same for every eligible Member, regardless of the size of the constituency a Member represents or the number of district offices a Member runs.

#### House of Representatives in Parliament of Australia

3.2 In Australia, the 150 Members of the House of Representatives are directly elected from single-member constituencies. Other than the Electorate Allowance (an office allowance for expenses incurred in providing services to electorates) for which all Members can apply, there is no additional funding for Members with district offices. Nevertheless, apart from being provided with office accommodation in Parliament House and in their constituencies, as well as an entitlement to three full-time staff members, Members with larger electorates are provided with a second office and an additional staff member.<sup>31</sup> They are also entitled to a higher rate of the Electorate Allowance. In electorates of less than 2 000 sq km, of 2 000 to 4 999 sq km, and of 5 000 sq km or more, the annual rate of the Electorate Allowance is AU\$27,300 (HK\$163,800), AU\$32,450 (HK\$194,700) and AU\$39,600 (HK\$237,600) respectively.

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<sup>31</sup> House of Representatives Practice (2001), p. 151.

### House of Representatives in Parliament of New Zealand

3.3 In New Zealand, the House of Representatives consists of 69 electorate Members elected from single-member electorates; and 51 list Members elected from lists of candidates nominated by registered political parties.<sup>32</sup> There is no additional funding for Members with district offices. However, electorate Members are given a bigger budget to cover basic expenses, including operating expense of their out-of-Parliament offices. For an electorate Member, the annual budget is NZ\$66,000 (HK\$368,000), while for a list Member, the annual budget is NZ\$42,000 (HK\$234,000).

### House of Commons in Parliament of Canada

3.4 In Canada, the 308 Members of the House of Commons are all directly elected from single-member constituencies. Members with district offices are not given extra funding for the operation of such offices. Nevertheless, Members representing larger constituencies or more electors are entitled to additional allowances provided through the Member's Office Budget (MOB). Each Member is provided with an MOB, which is usually used to pay expenses for a Member's parliamentary precinct office and expenses incurred in establishing and operating a district office. Each MOB consists of a basic budget set according to the type of constituency: urban, rural, a combination of urban and rural, or the number of electors a Member represents. A Member's basic budget is given a Geographic Supplement when the area of his or her constituency is at least 8 000 sq km, or an Elector Supplement when the constituency has at least 70 000 electors. In 2003-04, the annual MOB, including Geographic and Elector Supplements, ranged from CAN\$227,800 (HK\$1,453,500) to CAN\$286,380 (HK\$1,827,000).

### House of Representatives in Congress of the United States

3.5 In the US, the 435 Members of the House of Representatives are all directly elected from single-member districts. Each Member is entitled to an Official Office Expenses Allowance (OOEA), which can be used to pay expenses incurred in support of official and representational duties to the district from which the Member has been elected. The base allowance of OOEA is the same for all Members. Members are not given extra allowances for the operation of district offices. Nevertheless, there are two allowances under OOEA whose amount payable to each Member varies, depending on the distance between Washington D.C. and the farthest point in a Member's district and the rental cost of that district.

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<sup>32</sup> In New Zealand, under the mixed member proportional system of representation, each voter has two votes at a general election: (a) the Party Vote for the political party (that has nominated a priority list of candidates for the election) the voter wants to be represented in Parliament; and (b) the Electorate Vote for the candidate the voter wants to be represented as the electorate Member in Parliament.

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### Parliament of Singapore

3.6 The Parliament of Singapore comprises 84 Elected Members representing single member or group representation constituencies, one Non-Constituency Member selected by opposition parties, and nine Nominated Members representing functional groups<sup>33</sup> appointed by the President of Singapore. Members with districts offices are not given extra allowances. Nor is there any type of allowance for which Members can apply to operate district offices. Nevertheless, Elected Members are paid a substantially larger amount of allowance than Non-Constituency and Nominated Members. For an Elected Member, the monthly allowance is about SG\$14,000 (HK\$66,700), and for a Non-Constituency or Nominated Member, about SG\$1,100 only (HK\$5,250).<sup>34</sup>

### Senate in the National Parliament of Ireland

3.7 In Ireland, the Senate of the National Parliament comprises 11 Senators appointed by the Prime Minister, six elected by graduates of the two major universities in Ireland, and 43 elected from five panels of candidates representing specified interests and services.<sup>35</sup> While these three types of Senators are selected by different methods, they are entitled to the same amounts and types of allowances, including the Constituency Telephone Allowance (CTA) with a ceiling of €4,761.52 (HK\$48,425) per annum.<sup>36</sup> Apart from CTA, there is no office allowance available to Senators with district offices.

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<sup>33</sup> These functional groups are: business and industry; professions; labour movement; tertiary education institutions; social and community service organizations; and media, arts and sports organizations. See Third Report of the Special Select Committee on Nominations for Appointment as Nominated Members of Parliament (2004).

<sup>34</sup> Information provided by the Parliament of Singapore.

<sup>35</sup> Article 18, the Constitution of Ireland. The five panels of interests and services are: (a) national language and culture, literature, art, education and related professional interests; (b) agriculture and allied interests, and fisheries; (c) labour; (d) industry and commerce, including banking, finance, accountancy, engineering and architecture; and (e) public administration and social services, including voluntary social activities. For further information on the functional representation in the Senate, see Legislative Council Secretariat. (2004) *Functional Representation in Ireland, Slovenia and France*. LC Paper No. IN16/03-04, pp. 1-9.

<sup>36</sup> Information provided by the National Parliament of Ireland.

**Appendix - Comparison of the main features of arrangements for Members' remuneration and operating expenses reimbursement in selected overseas places and the Hong Kong Special Administrative Region**

Selected places	Whether changes to Members' remuneration package in one term of parliament should only be implemented in the following term	Whether additional allowances are available to Members with district offices
The HKSAR	Yes.	No.
The UK	No, changes to Members' remuneration recommended by the Senior Salaries Review Body are usually implemented at the start of the financial year of Parliament following the House's approval of such changes.	No, each Member is entitled to the same amount of the Incidental Expenses Provision, regardless of the size of the constituency a Member represents or the number of district offices a Member runs.
Australia	No, Members' pay is automatically adjusted annually, while changes to Members' major allowances are usually implemented on the date of signature of the determination issued annually by the Remuneration Tribunal, or another date as specified in the determination. The implementation of the determination does not need the House's approval, but the House can disapprove of such a determination.	No, but Members with larger electorates are provided with an additional office and staff member, and are entitled to a higher rate of the Electorate Allowance.
New Zealand	No, changes to Members' pay and major allowances are usually implemented at the start of the financial year of the government following the annual release of the determination by the Remuneration Authority. Such a determination can be effective without the House's approval.	No, but electorate Members are given a bigger budget than list Members to cover expenses, including operating expenses of their district offices.
Canada	No, Members' remuneration is tied to the remuneration of federal Judges. Changes to the remuneration of federal Judges recommended by the Judicial Compensation and Benefits Commission every four years are required to be implemented at the start of the financial year of the government following the House's approval of such changes.	No, but Members representing larger constituencies or more electors are entitled to additional allowances provided under the Member's Office Budget.
The US	No, Members' pay is automatically adjusted on 1 January each year, while Members' allowances are normally adjusted on 3 January each year.	No, but Members may be entitled to additional allowances under the Official Office Expenses Allowance, depending on the remoteness of a Member's district and the rental cost of that district.
Singapore	No, changes to Members' allowances are determined and implemented by the Cabinet at any time it sees fit.	No, but Elected Members receive a larger amount of allowance than Non-Constituency and Nominated Members.
Ireland	No, changes to Senators' pay recommended by the Review Body on Higher Remuneration in the Public Sector are implemented by the government at any time it sees fit. The timing of implementing changes to Senators' allowances is also at the discretion of the government.	No, all Senators receive the same amounts and types of allowances.

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