

ITEM FOR FINANCE COMMITTEE

HEAD 112 – LEGISLATIVE COUNCIL COMMISSION Subhead 366 Remuneration and reimbursements for Members of the Legislative Council

Members are invited to approve enhancements to the remuneration package for Members of the Legislative Council with effect from the fourth term of the Legislative Council due to begin in October 2008.

PROBLEM

The remuneration package for Members of the Legislative Council (LegCo) requires appropriate enhancements.

PROPOSAL

2. As recommended by the Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the Hong Kong Special Administrative Region (the Independent Commission) and approved by the Chief Executive in Council, we propose, for implementation with effect from the fourth-term LegCo due to begin in October 2008, to –

- (a) increase the monthly remuneration for LegCo Members by 15%, on top of the price adjustment to be made in October 2008;

/(b)

- (b) provide a gratuity pitched at 15% of the total remuneration that Members receive during a LegCo term, which is payable upon the end of their service with LegCo for that whole term, subject to such exceptions as set out in paragraph 13 below;
- (c) make available an annual accountable medical allowance of \$25,000 to serving LegCo Members, which can be used either to pay for the premium of their personal medical and/or dental insurance covers, or actual medical and dental expenses, or both; and
- (d) apply to the proposed medical allowance the current price adjustment mechanism applicable to the relevant components of the remuneration package.

JUSTIFICATION

Comprehensive review

3. It is a practice for the Independent Commission to conduct a comprehensive review of the remuneration package a year or so before the start of a new LegCo term. With the fourth-term LegCo due to begin in October 2008, the Independent Commission started the review in April 2007 which is now completed.

4. In this review, the Independent Commission conducted a thorough examination of the remuneration package for LegCo Members and the underlying principles adopted previously. It also considered submissions from the Subcommittee on Members' Remuneration and Operating Expenses Reimbursement (the LegCo Subcommittee)¹.

LegCo Subcommittee's requests

5. For the review, the LegCo Subcommittee submitted the following requests in relation to the components of the remuneration package for LegCo Members –

- (a) the monthly remuneration for LegCo Members should be pegged to a certain percentage of the salary range of the directorate officers in the civil service. Alternatively, an independent remuneration scale may be set for LegCo Members;

/(b)

¹ This is a subcommittee established under the House Committee to examine issues relating to the level of remuneration and expenses reimbursement for LegCo Members.

- (b) retirement benefits in the form of a gratuity at 15% of the total remuneration received should be given;
- (c) civil service medical benefits should be made available to serving LegCo Members; and
- (d) the annual accountable allowance for Operating Expenses Reimbursement (OER) be increased such that it will be sufficient for a LegCo Member to operate four district offices and one central office.

6. The Independent Commission took a practical approach to the review, viz. to review and devise a remuneration package which is commensurate with the high level of responsibilities and the powers and functions vested in LegCo membership, attractive enough for able candidates to come forward and serve the community in the capacity of LegCo Members, and which enables those who regard LegCo work as their main occupation to maintain a reasonable standard of living. The Independent Commission's considerations and recommendations are set out in the ensuing paragraphs.

Monthly remuneration

7. The LegCo Subcommittee has stated that the demands now placed on LegCo Members, and public expectations, have been rising continuously. Even for those who retain their main occupations in the relevant professions or continue to run their businesses in the relevant sectors, the time and attention they devote to LegCo work are now much more substantial than that spent on their own professions or sectors. The LegCo Subcommittee has requested that the monthly remuneration for LegCo Members should be increased by way of pegging it to a certain percentage of the salary range of the directorate officers in the civil service, or alternatively, establishing an independent remuneration scale for LegCo Members.

8. The Independent Commission recognises the increasing volume and complexity of LegCo work, the heavier responsibilities and time commitments, and the higher public expectations now placed upon LegCo Members. It further notes that there has been no change to the level of the monthly remuneration since 1991, except the annual adjustments in accordance with the movements of the Consumer Price Index (C) (CPI(C)) under the price adjustment mechanism approved by the Finance Committee. The real value of the monthly remuneration for LegCo Members has been curbed without moving in line with the growth of real income in the rest of Hong Kong's society. The Independent Commission considers that an increase is warranted.

9. The Independent Commission has examined the rate of economic growth and productivity gains vis-à-vis the change in the remuneration for LegCo Members. Since 1991, the overall rate of increase in the remuneration for LegCo Members has lagged behind the rate of growth in nominal Gross Domestic Product (GDP) per employed person and per capita nominal GDP by 12.0% and 16.4% respectively. In this light, the Independent Commission recommends that, with effect from the fourth-term LegCo, the monthly remuneration be increased by 15%, on top of the price adjustment due in October 2008. Based on the existing rate of \$56,750 at the 2007 price level, the proposed 15% increase will bring the monthly remuneration to the level of \$65,260 (rounded to the nearest ten). This will place LegCo Members among the top 2.1% – 2.2% of salary earners as at 2006 (as opposed to 2.8% – 2.9% currently). The Independent Commission further recommends that the monthly remuneration for the LegCo President and the President's Deputy should continue to be fixed at 200% and 150% respectively of that for their fellow LegCo Members after the proposed 15% increase.

End-of-service gratuity

10. The LegCo Subcommittee has requested that a gratuity equivalent to 15% of the remuneration that LegCo Members receive during their tenure of office be provided. The Independent Commission is sympathetic to the need to provide some form of protection to help LegCo Members tide over a period should they decide not to seek re-election or fail to be re-elected. Accordingly, and also in recognition of LegCo Members' service, the Independent Commission recommends that an end-of-service gratuity be made available to LegCo Members as requested. As to the size of the proposed gratuity, the Independent Commission considers that it is appropriate to pitch the gratuity at 15% of the total remuneration that LegCo Members receive, as this percentage is adopted in many entities in both the private and public sectors where an end-of-contract gratuity is payable.

11. In line with the established principle that any substantial changes to the remuneration package should be implemented only in the following LegCo term, the Independent Commission recommends that the proposed gratuity should be applicable for the fourth-term LegCo due to begin in October 2008. That is to say, starting from the fourth-term LegCo, upon the end of a LegCo term, the total amount of monthly remuneration that a LegCo Member receives in that term will be counted towards the calculation of the amount of gratuity which is payable upon the end of that term.

12. Article 69 of the Basic Law stipulates that the term of office of LegCo shall be four years, except the first term. Each LegCo Member is expected to serve for four years when he or she is elected (unless he or she is returned in a by-election). The Independent Commission recommends that the proposed gratuity should be provided when a LegCo Member has completed his or her term of office, i.e. at the end of the four-year period.

13. That said, the Independent Commission considers that there are exceptional circumstances under which a LegCo Member may be provided with the proposed gratuity even if he or she does not serve out a whole LegCo term. The Independent Commission recommends that –

- (a) upon a Member's death, the gratuity should also be payable (to the administrator of the Member's estate);
- (b) a LegCo Member should not be entitled to receive the gratuity if he or she is declared by the LegCo President to be no longer qualified for the office under Article 79 of the Basic Law², except under Article 79(1) (when he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons), or under Article 79(4) (when he or she accepts a government appointment and becomes a public servant);
- (c) LegCo Members should be provided with the gratuity if their membership ceases due to the dissolution of LegCo under Article 50 of the Basic Law³;

/(d)

² Article 79 of the Basic Law stipulates the following circumstances under which the LegCo President shall declare that a Member is no longer qualified for LegCo office –

- “(1) When he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons;
- (2) When he or she, with no valid reason, is absent from meetings for three consecutive months without the consent of the President of the Legislative Council;
- (3) When he or she loses or renounces his or her status as a permanent resident of the Region;
- (4) When he or she accepts a government appointment and becomes a public servant;
- (5) When he or she is bankrupt or fails to comply with a court order to repay debts;
- (6) When he or she is convicted and sentenced to imprisonment for one month or more for a criminal offence committed within or outside the Region and is relieved of his or her duties by a motion passed by two-thirds of the members of the Legislative Council present; and
- (7) When he or she is censured for misbehaviour or breach of oath by a vote of two-thirds of the members of the Legislative Council present.”

³ Under Article 50 of the Basic Law, the Chief Executive may dissolve LegCo if he refuses to sign a bill passed the second time by LegCo, or LegCo refuses to pass a budget or any other important bill introduced by the Government, and if consensus still cannot be reached after consultations.

- (d) if the LegCo President is satisfied, if necessary after consulting a body comprising LegCo Members, that a LegCo Member resigns as a result of serious illness or any other valid reasons, the LegCo President should have the discretion to have the gratuity paid to the Member; and
- (e) the amount of gratuity payable under the circumstances in (a) to (d) above should be determined on a pro-rata basis for the time the Member has served.

Medical benefits

14. The LegCo Subcommittee has requested that civil service medical benefits be made available to serving LegCo Members. The Independent Commission accepts the LegCo Subcommittee's submission that the physical well-being of serving LegCo Members is important given the heavy demands placed on them, and recommends that certain forms of medical benefits should be made available to them so as to help them maintain better health and better serve the community during their tenure of office. It does not, however, support the LegCo Subcommittee's proposal of making available civil service medical benefits, being a type of staff benefits, for LegCo Members who have no employment relationship with the Government.

15. At present, LegCo Members may reimburse from the OER their expenses on the premium of their personal medical and dental insurance policies. The LegCo Subcommittee has previously stated that many LegCo Members have not done so as they have devoted the OER to other more pressing items. To address this point, the Independent Commission recommends that the present arrangement be strengthened, by the provision of a separate, additional annual accountable medical allowance. From this proposed accountable medical allowance, LegCo Members should be allowed to pay for the premium of their personal medical and/or dental insurance policies, either procured individually or jointly with other LegCo Members (in which case the premium should be apportioned evenly amongst all the involved LegCo Members and charged to their respective accounts), or to use the allowance to pay for actual medical and dental expenses. Having considered the premium of insurance plans generally available in the market which provide a comprehensive hospitalisation and out-patient coverage, the Independent Commission recommends that the allowance be pitched at \$25,000 per annum. The level of this medical allowance should be subject to the same price adjustment mechanism as applied to the monthly remuneration, the OER and the entertainment and travelling expenses allowance. The current arrangement where LegCo Members may reimburse from the OER their expenses on the premium of their personal medical and dental insurance policies should cease with effect from the fourth-term LegCo.

/OER

OER

16. Following a review of the level of the OER conducted by the Independent Commission in mid-2006, the Finance Committee approved on 3 November 2006, vide FCR(2006-07)23, an increase of 10% in the OER with retrospective effect from 1 October 2006. With this increase, and the two price adjustments made in October 2006 and October 2007, the current level of the OER stands at \$1,534,020 per annum (i.e. \$127,835 per month). In its latest written submission to the Independent Commission, the LegCo Subcommittee requested that the OER should be increased to cater for the establishment of a LegCo Member's office in each District Council constituency, and that as in most cases, there are four District Council constituencies in a LegCo geographical constituency, the OER level should be set at a level with adequate provisions for the establishment of four district offices, on top of the central office.

17. In the review of the level of the OER conducted in mid-2006, the Independent Commission took the view that the need amongst LegCo Members and the cost of running a Member's office varied greatly, and that it was difficult, if not impossible, to devise an objective yardstick to determine the optimum number of assistants and district offices for LegCo Members, having regard to their different background and different modes of operation. The Independent Commission stands by this view in the present comprehensive review. It finds it difficult to accept the LegCo Subcommittee's submission that operating four district offices (plus one central office made available by the Administration to each LegCo Member free of charge) should be taken as the benchmark for determining the level of the OER.

18. In considering whether the current level of the OER is adequate for the majority of LegCo Members, the Independent Commission considers it prudent to examine the utilisation rate of the OER for the period after the 10% increase effective from 1 October 2006. For the period from October 2006 to May 2007 (the latest month with available information), the average utilisation rate of the OER was 86.6% which was slightly on the decline when compared with the rate of 92.6% for the same eight-month period in the 2005-06 legislative session. The Independent Commission therefore considers that there are not enough empirical data to allow an informed judgment at this stage and recommends no change to the current level of the OER.

FINANCIAL IMPLICATIONS

19. We estimate that the annual additional expenditure due to the 15% increase in the monthly remuneration and the provision of an annual accountable medical allowance will be around \$6.28 million and \$1.5 million respectively. The proposed payment of 15% gratuity will entail additional expenditure of \$28.9 million per term. The total financial implications of implementing the proposals for the fourth-term LegCo, save for any annual price adjustments to be made, will be about \$60 million. Subject to Members' approval, we will include the necessary provisions in the draft Estimates of the respective financial years.

PUBLIC CONSULTATION

20. In the review conducted in mid-2006, the Independent Commission met the LegCo Subcommittee on 6 June 2006 and 2 August 2006. For the present comprehensive review, the Independent Commission visited two district offices operated by LegCo Members on 11 September 2007, and met the LegCo Subcommittee again on 18 September 2007. We also attended a meeting of the LegCo Subcommittee on 30 July 2007 to receive their views.

BACKGROUND

21. The Independent Commission is appointed by the Chief Executive to determine the remuneration package for the Executive Council and LegCo Members in the Hong Kong Special Administrative Region. The Independent Commission has completed a review and recommended enhancements to several components of the remuneration package for LegCo Members with effect from the fourth-term LegCo.

Encl. 22. The proposed remuneration package for LegCo Members, effective as from the fourth-term LegCo, together with the existing one, are at the Enclosure.

Administration Wing
Chief Secretary for Administration's Office
January 2008

Existing and proposed remuneration package for LegCo Members

<p style="text-align: center;">Existing Package</p>	<p style="text-align: center;">Proposed Package with effect from the fourth-term LegCo (before any effect of price adjustments)</p>
<p>1. Monthly Remuneration</p> <p>\$113,500 for the LegCo President \$85,150 for the President's Deputy \$56,750 for other Members</p> <p>2. Annual Expenses Reimbursement</p> <p>(a) Operating expenses reimbursement \$1,534,020</p> <p>(b) President's entertainment expenses \$157,460</p> <p>(c) President's and other Members' entertainment and travelling expenses \$157,310</p> <p>3. One-off Provisions (per term)</p> <p>(a) Setting-up \$150,000</p> <p>(b) Information technology and communications \$100,000</p> <p>(c) Winding up \$127,835 and actual for severance payments</p>	<p>1. Monthly Remuneration</p> <p>\$130,520 for the LegCo President \$97,890 for the President's Deputy \$65,260 for other Members</p> <p>2. Annual Expenses Reimbursement</p> <p>(a) Operating expenses reimbursement \$1,534,020</p> <p>(b) President's entertainment expenses \$157,460</p> <p>(c) President's and other Members' entertainment and travelling expenses \$157,310</p> <p>(d) Medical allowance \$25,000</p> <p>3. One-off Provisions (per term)</p> <p>(a) Setting-up \$150,000</p> <p>(b) Information technology and communications \$100,000</p> <p>(c) Winding up \$127,835 and actual for severance payments</p> <p>4. Gratuity (payable at the end of a term)</p> <p>pitched at 15% of the total remuneration received during the term</p>