



中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China



立法會秘書處

LEGISLATIVE COUNCIL SECRETARIAT

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24 April 2012

Miss Jennifer MAK Yee-ming, JP
Director of Administration
Chief Secretary for Administration's Office
25/F, 2 Tim Mei Avenue, Tamar
Hong Kong

Dear Miss MAK

Subcommittee on Members' Remuneration and Operating Expenses Reimbursement

Thank you for attending the meeting of the Subcommittee on Members' Remuneration and Operating Expenses Reimbursement (the "Subcommittee") and explaining the Administration's proposals on the remuneration package for Members of the Fifth Legislative Council on 20 April 2012. To relieve the financial burden on Members, the Subcommittee has requested the Administration to consider the following.

Severance payment and long service payment

At present, a LegCo Member may claim Winding Up Expenses Reimbursement ("WUER") when he/she ceases to be a LegCo Member, either because he/she does not seek re-election or for reasons over which he/she has no control (e.g. death, defeat in re-election or dissolution of LegCo). The current financial provision for WUER is set at one-twelfth of the annual Office Operation Expenses Reimbursement ("OOER") (currently at \$143,274), plus reimbursement of actual severance payments with no pre-set ceiling.

However, a Member cannot claim WUER if his/her assistant leaves in the middle of a term, even though the Member has to pay for the severance payment or long service payment in accordance with the Employment Ordinance (Cap. 57). As the financial provision under OOER is normally insufficient to cover the day-to-day needs of Members' offices, Members usually have to bear such payments personally. If the service of the staff is long and the amounts available¹ for offsetting are small, the amount of severance or long service payment could be quite substantial.

Two reimbursement methods are proposed by the Subcommittee:

(a) *Reimbursement under WUER*

As severance pay is reimbursable under WUER, the Administration could allow the claiming of such payments as well as long service payments under WUER in advance of the Member's departure.

(b) *Funds set aside under OOER*

At present, a Member may set aside funds from his/her OOER to pay for staff benefits such as contract bonus, double-pay or end-of-agreement gratuity, which are payable at a future date. The funds set aside are based on, and not exceeding, the Member's contractual and other legal obligations towards his/her staff.

In the case of severance payment or long service payment, the Subcommittee is of the view that reference could be made to the setting aside of funds for payment of contract double-pay or end-of-agreement gratuities. Under the setting aside of funds arrangement (which was recommended by the Independent Commission in 1995 and agreed by the Administration), Members can submit claims to cover staff-

¹ Under sections 31I and 31Y of the Employment Ordinance, if an employer has paid to an employee a severance payment or long service payment in accordance with the Employment Ordinance and accrued benefits are held in a relevant mandatory provident fund ("MPF") scheme in respect of the employee, the employer may offset the severance payment or long service payment by the accrued benefits attributable to the employer's contributions made to the employee in the MPF scheme. Under the same sections, gratuities that are based on the employee's length of service may also be used to offset severance payments and long service payments.

related benefits before they are actually paid. Funds set aside at the end of each reimbursement month/year can be carried forward to the subsequent month/year until they are paid. In other words, funds set aside in a current term for double-pay can be carried forward to the next term until payment is due (which is usually before the Chinese New Year in the following year), if the Member is re-elected for the next term. If the Member has to leave office after election, he/she can settle the contractual liabilities accrued (namely gratuity, pension and other employment benefits) with the funds set aside. The same principle can apply to severance payment and long service payment.

Setting Up Expenses Reimbursement ("SUER") and Information Technology and Communication Equipment Expenses Reimbursement ("ITER")

At present, while fixed assets and one-off setting up expenses could be charged to SUER and ITER as appropriate, the related operating and maintenance charges (such as repair and maintenance of fixed assets, meter charges for leasing photocopiers, toner for fax machines, subscriptions to anti-virus protection service, and fees for website hosting and maintenance) can only be reimbursed under OOER. In order to allow greater flexibility for Members to utilize the combined SUER and ITER, the Subcommittee requests the Administration to consider allowing Members to claim the said operating and maintenance charges under the combined SUER and ITER.

Your early response to the above proposals would be appreciated.

Yours sincerely



(Joseph P C KWONG)
for Secretary General

Encl.

c.c. Hon Emily LAU Wai-hing, JP (Chairman of the Subcommittee)