

## INFORMATION NOTE

### Remuneration of Members of the House of Representatives of Australia

#### 1. Background

1.1 The remuneration of Members of the Australian Parliament is made up of four elements<sup>1</sup>, namely salary, superannuation, electorate allowance and other benefits.<sup>2</sup> However, Members are not provided with any medical benefits as part of their remuneration.<sup>3</sup> This information note provides information relating to the remuneration of Members of the House of Representatives of Australia. The scope of study covers the following aspects:

- (a) factors that may affect Members' remuneration, including:
  - (i) job duties of Members; and
  - (ii) whether a Member's job is treated as full-time or part-time in determining the level of pay;
- (b) legal framework for Members' remuneration;
- (c) Members' salary entitlements, including:
  - (i) mechanisms for determining and adjusting Members' basic salary; and
  - (ii) additional salaries of Ministers and other office holders, including parliamentary committee chairs;

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<sup>1</sup> The four elements are identified in Submission 45, Remuneration Tribunal, p. 4. See Senate (1997).

<sup>2</sup> Benefits are generally referred to as "entitlements" in Australia.

<sup>3</sup> Australian citizens have access to free or low-cost medical, optical and hospital services under Australia's publicly funded health care system, known as Medicare.

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- (d) other elements of Members' remuneration, including:
  - (i) electorate allowance;
  - (ii) superannuation arrangements; and
  - (iii) other entitlements; and
- (e) latest development of Members' remuneration and entitlements.

## **2. Factors that may affect Members' remuneration**

### Job duties of Members of the House of Representatives

2.1 There is no formal job description setting out what a Member does.<sup>4</sup> Nevertheless, there are aspects of work common to all Members, and most of them can be viewed as carrying out three roles – that of a parliamentarian, constituency representative and party member.

2.2 In fulfilling the various roles, Members carry out the following duties:<sup>5</sup>

- (a) as a parliamentarian:
  - (i) scrutinizing bills and procedures;
  - (ii) holding the federal government to account by examining its work and how it spends the money raised from taxation;
  - (iii) participating in parliamentary committees;
  - (iv) promoting the role of Parliament to the national community; and
  - (v) providing advocacy on behalf of the entire population;

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<sup>4</sup> Commonwealth of Australia (2010) and House of Representatives (2010).

<sup>5</sup> Ibid.

- (b) as a constituency representative:
  - (i) being a facilitator of the two-way flow of information between constituents and the federal government;
  - (ii) representing community interests and local causes;
  - (iii) representing individual interests, such as seeking correction of administrative defects, resolving disputes and shepherding people through government processes; and
  - (iv) being a local dignitary, such as a community leader; and
- (c) as a party member, if he or she belongs to a political party:
  - (i) contributing to the development and amendment of the policies advocated by the political party;
  - (ii) participating in party committee meetings to review legislative proposals and government policies, with each of these committees specializing in a particular area of the government; and
  - (iii) filling management and ministry/shadow ministry positions, or developing skills in order to do so in the future.

### Whether being Member of Parliament is a full-time or a part-time job

2.3 In Australia, there is no statutory requirement for Members of the House of Representatives to serve on a full-time basis. The Australian Parliament does not set out any definition of what constitutes a full-time legislator, nor does it adopt any criteria or guidelines to classify Members as full-time or part-time legislators. The Australian *Constitution* also provides scant guidance for Members in their approach to the issues of outside employment or income.<sup>6</sup>

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<sup>6</sup> Young (1996).

2.4 Nevertheless, the changing roles of a Member and the ensuing increased workload have brought about the perception that a Member's work requires full-time commitment.<sup>7</sup> According to the House of Representatives, "[w]hen the Australian Constitution was written, it was assumed that backbench Members would earn a living outside Parliament... By the 1950s, the evolving role of a Member had the clear implication that carrying on an external occupation was increasingly difficult if parliamentarians were to remain effective." Particularly, while acknowledging the significant workload demands of the electorate and Parliament, the Committee of Enquiry into the Salaries and Allowances of Members of the National Parliament asserted in a report published in 1952 that Members should have a basic salary that was "a sum sufficient to enable a man to live comfortably and honourably, but not luxuriously...". From around this time, the work of a Member was considered to be full time employment.

2.5 Although there are minimal restrictions on outside employment undertaken by Members, a recent review report on parliamentary entitlements points out that "should a sitting Member choose to pursue external employment, it can lead to perceptions of conflicts of interest and a neglect of parliamentary and electorate duties."<sup>8</sup>

### *Working hours of Members*

2.6 As indicated by the House of Representatives, "Members work long hours in the House, on parliamentary committee work and in their electorates. Generally when the House is meeting, it meets for between 8 and 12.5 hours a day and sometimes even longer."<sup>9</sup> While Members' working hours in the House were reported to be in the range of 7.5 to 10.5 hours in 2002<sup>10</sup>, Members tend to spend relatively longer time in parliamentary work at present.

2.7 According to the House of Representatives, the parliamentary demands on a Member can easily fill days and evenings for seven days a week. This is especially the case when the House is sitting and Members (primarily those Members from electorates far away from Canberra) have to travel in and out of the national capital to take care of electorate responsibilities during the weekends.

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<sup>7</sup> Legislative Council Secretariat (2005).

<sup>8</sup> Commonwealth of Australia (2010) p. 32.

<sup>9</sup> House of Representatives (2010).

<sup>10</sup> Legislative Council Secretariat (2004).

### 3. Legal framework for Members' remuneration

3.1 In Australia, "[t]he payment of Members of Parliament was adopted by the Parliaments of the Australian colonies in the late nineteenth century...Its purpose was to ensure that membership of Parliament was open to all classes, and not only to the rich."<sup>11</sup> The payment of such allowance has a constitutional basis. As stated in Section 48 of the *Constitution*:

*"Until the Parliament otherwise provides, each Senator and each Member of the House of Representatives shall receive an allowance of four hundred pounds a year, to be reckoned from the day on which he takes his seat."*

3.2 At present, the legal framework governing parliamentary pay in Australia is complicated, with a mix of primary legislation, regulations, determinations, procedural rules, executive decisions, accepted conventions and administrative practices – at least 11 Acts of Parliament, three sets of regulations, six determinations and reports made by the independent Remuneration Tribunal (refer to paragraph 3.4 for the functions of the Tribunal), 21 determinations made by the Special Minister of State, and nine formal procedural rules and sets of guidelines made by the Minister to give effect to the Remuneration Tribunal's determinations.<sup>12</sup> In particular, Members' salaries and electorate allowances are provided under the *Remuneration and Allowances Act 1990* (the "*R&A Act*"). Several entitlements including office accommodation and travel allowances are provided under the *Parliamentary Entitlements Act 1990*, and the regulations of this statute authorize a few other entitlements. As a specific example, the telephone services for Members are currently provided through seven overlapping entitlements under four heads of authority.

#### *Relevant statutory authorities*

3.3 Several statutory authorities are responsible for administering the various legislation relating to parliamentary salaries, allowances and entitlements. They are the Prime Minister, the Minister for Finance and Deregulation, the Special Minister of State, and the Minister for Tertiary Education, Skills, Jobs and Workplace Relations.

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<sup>11</sup> Healy and Winter (2000).

<sup>12</sup> Commonwealth of Australia (2010).

### *Relevant non-statutory body*

3.4 An independent statutory body – the Remuneration Tribunal – was established by the *Remuneration Tribunal Act 1973*, to "inquire into and report" with recommendations on parliamentary remuneration. In particular, the *Act* empowered the Tribunal to determine Members' basic salary. Nevertheless, such power was removed by the *R&A Act* adopted in 1990, and subsequently restored in August 2011 with the *Remuneration and Other Legislation Amendment Act 2011* coming into effect. The changes made to the Tribunal's jurisdiction will be discussed in Sections 4 and 8.

## **4. Members' salary entitlements**

### Mechanisms used for determining and adjusting Members' basic salary

4.1 Historically, there were several different methods of determining Members' basic salaries (also known as "annual allowance") and their adjustments. Between 1901<sup>13</sup> and 1973, the Australian Parliament set the salaries of its Members by legislation, either on the basis of the decisions made by the government, or as a result of recommendations from committees of inquiry on parliamentary remuneration. However, there was "no fixed pattern of approach" to the timing and method of reviewing Members' remuneration during this period of time.<sup>14</sup>

4.2 In 1973, review of Members' remuneration on a regular basis was introduced with the establishment of the Remuneration Tribunal. The *Remuneration Tribunal Act 1973* required the Tribunal to review parliamentary remuneration and report at regular intervals of not more than one year. Up to 1990, the Tribunal determined the basic salaries and allowances of Members by means of formal determinations, which were required to be tabled in the House of Representatives. Unless specifically disallowed by Parliament, the determinations came into effect on the date specified in the determination.

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<sup>13</sup> In 1901, the Australian Parliament began to enact legislation to define the annual allowance in pursuance of Section 48 of the *Constitution*.

<sup>14</sup> Parliamentary Library of Australia (2011).

4.3 In 1990, the Australian government introduced the *R&A Act* to remove the power of the Tribunal to determine Members' basic salary.<sup>15</sup> Instead, the *Act* specified that the Tribunal's role was to, from time to time, provide advice to the government in this respect. The government might choose to accept or reject the Tribunal's advice, and decide on the rate of Members' basic salary. To provide an annual adjustment mechanism, the government introduced a linkage between Members' salary and the public sector pay. As such, from 1990 to 6 December 1999, Members' salary was linked to the Senior Executive Service ("SES") pay bands, and then from 7 December 1999 till today, it has been linked to a figure determined by the Remuneration Tribunal for the Principal Executive Office ("PEO") structure. Details about these linkage systems are given in the paragraphs below.

*Key considerations of the Remuneration Tribunal in making recommendations on Members' salary*

4.4 From its establishment in 1973, the Remuneration Tribunal has taken into account a range of factors in undertaking the review on parliamentary salaries and recommending appropriate adjustments. The Tribunal has indicated that some of the key factors are:

- (a) key economic indicators;
- (b) specific indicators such as the Wage Cost Index;
- (c) salary outcomes in the public and (to a lesser degree) private sectors;  
and
- (d) principles of wage determination and decisions of the Australian Industrial Relations Commission.<sup>16</sup>

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<sup>15</sup> Only the power to determine Members' basic salary was removed from the Remuneration Tribunal's domain. Its other functions with regard to the range of parliamentary allowances and entitlements specified in the *Tribunal Remuneration Act 1973* have remained unchanged.

<sup>16</sup> The Australian Industrial Relations Commission is an independent national tribunal dealing with employment issues.

### *Linkage to the Senior Executive Service*

4.5 A linkage between the salaries of Members and those of SES in the Australian Public Service ("APS") was introduced by the Australian government in 1990. This arrangement was contrary to the recommendations made by the Remuneration Tribunal based on a previous independent review conducted by an external consultant (Cullen Egan Dell), which suggested that Members' pay should be increased in accordance with work value<sup>17</sup> and community pay standards.<sup>18</sup> At the same time, the Tribunal also advised that there be no linkage between Members' annual allowance and APS salaries.<sup>19</sup>

4.6 Nevertheless, the *R&A Act* was introduced and passed in 1990, providing for a phased increase of Members' basic salaries up to the level of SES Band 1.<sup>20</sup> Should Members' basic salaries reach this level, subsequent adjustments would align with any adjustments made to the SES Band 1 salaries. In 1994, the reference salary was raised by legislation to the minimum annual rate of salary payable to a SES employee with a classification of SES Band 2.

### *Linkage to the Principal Executive Office structure*

4.7 With the introduction of devolved pay bargaining in Australia in the mid-1990s, SES members obtained pay raises through workplace agreements (between the government and public sector unions) while the SES rates became frozen in 1996. As a result, the linkage with SES was broken and there was no mechanism in place to enable increases in parliamentary salaries to be made.

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<sup>17</sup> The work value of a position can be determined by a job evaluation process based on a proprietary system developed by Cullen Egan Dell. This system expresses the worth of a job in "work value points". These points are determined by assessing three factors that are considered to be common to all jobs, namely expertise, judgment and accountability. The system is so designed to rate similar types of jobs at similar scores, thus facilitating comparisons on grounds of work value and pay. Since the late 1980s, this system has been commonly used by public services across Australia, government-owned enterprises and a number of major private sector companies.

<sup>18</sup> Parliamentary Library of Australia (2011).

<sup>19</sup> The Chairman of the Remuneration Tribunal noted in 1974 that, "we concur in the view that there is no reason to believe that the activities of Members of Parliament are similar in any way to the work of second division officers of the Australian Public Service [predecessors of the SES]". See Remuneration Tribunal (2009).

<sup>20</sup> There are three SES pay bands, with SES Band 1 the lowest and SES Band 3 the highest.

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4.8 Subsequently, the *Public Employment (Consequential and Transitional Provisions) Amendment Act 1999* was adopted, among other things, to amend the *R&A Act* and the *Remuneration Tribunal Act 1973*. The relevant legislative changes allowed for determining Members' basic salaries either with the existing SES link, or prescribing a percentage of up to 100% of a new reference salary. Further, the Remuneration Tribunal was given an additional function of determining a classification structure for PEO and providing advice to the Prime Minister on the terms and conditions (including remuneration and allowances) applicable to PEOs.

4.9 Following the establishment of the PEO classification structure by the Tribunal, the Tribunal set a reference salary of AUS\$90,000 (HK\$723,600)<sup>21</sup> per annum in Band A of this new structure<sup>22</sup>, and recommended to the government that this be adopted as the new rate of basic salary for Members.<sup>23</sup> In framing this recommendation, the Tribunal had regard to the following key considerations:

- (a) complexity of the work of Members, their responsibilities and accountabilities, and their contribution to a better governed and more prosperous nation;
- (b) range of duties undertaken by Members, and changes in the quantity and quality of the various key outputs they deliver;
- (c) all payments and benefits received by Members; and
- (d) community wage and salary movements and remuneration trends in specific market segments, especially the public sector.

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<sup>21</sup> Based on the average exchange rate of HK\$ 8.04 per Australian dollar in 2011.

<sup>22</sup> The classification structure covers five Bands. Band A is the lowest and Band E the highest. In 1999, the PEO Band A classification had a maximum salary of AUS\$98,000 (HK\$787,920) per annum. The Tribunal set the reference salary at the maximum less AUS\$8,000 (HK\$64,320), i.e. AUS\$90,000 (HK\$723,600).

<sup>23</sup> The Research Division has written to the Remuneration Tribunal Secretariat regarding the specific considerations of creating a link between Members' pay and the PEO structure. As at the publication of this information note, the Secretariat has not responded to the inquiry.

4.10 Upon acceptance of the Tribunal's recommendation, the Australian government made a regulation under the *R&A Act* to link parliamentary pay to a percentage of reference salary in Band A of the new PEO Structure (expressed as "Reference Salary A"). The government also accepted another recommendation of the Tribunal of setting the annual rate of Members' basic salary at 100% of the reference salary. This was to align parliamentary pay more closely with the broad trends of the rate of annual wage growth in the community, including in the Australian Public Service, given that Members received no salary adjustments between 1996 and 1999.

4.11 To bring Members' salary (frozen at AUS\$81,856 or HK\$658,122 since 1996) to the level of 100% of Reference Salary A (i.e. AUS\$90,000 or HK\$723,600), it would require an increase of 9.95%. The government implemented the increase in two stages: by 4.45% with effect from December 1999, and by 5.5% with effect from July 2000.

4.12 Regarding annual uprating, the Remuneration Tribunal has made a determination each year on 1 July from 2000 to set the salaries for the PEO structure, including the reference salary. In other words, Members' basic salary changes automatically when Reference Salary A is adjusted.<sup>24</sup>

#### (A) Effect of pay freeze in 2008

4.12.1 In February 2008, the Australian government announced a pay freeze for Members as "a moderate exercise in wage restraint" to help fight inflationary pressures in the economy. However, following its 2008 Review of Remuneration for Holders of Public Office, the Remuneration Tribunal made a determination to increase Reference Salary A by 4.3% to AUS\$132,530 (HK\$1.07 million) from 1 July 2008. To reduce the reference salary by the amount (in whole dollars) necessary to keep the parliamentary pay at the rate payable prior to 1 July 2008 (i.e. AUS\$127,060 or HK\$1.02 million), the government introduced the *Remuneration and Allowances Amendment Regulations 2008 (No. 1)*, which were subsequently passed by the House. The effect of the amendment regulations was that in the following years, Members' basic salary would be equal to Reference Salary A less AUS\$5,470 (HK\$43,979)<sup>25</sup> per annum. Furthermore, commencing from 1 July 2008, the relevant legislation has no longer specified 100% of Reference Salary A for the purposes of the *R&A Act*.

<sup>24</sup> The rate of Members' basic salary is subject to the periodic review of the Tribunal and government decision.

<sup>25</sup> The amount is the difference between AUS\$132,530 (HK\$ 1.07 million) and AUS\$127,060 (HK\$1.02 million).

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## (B) Salary adjustments following the pay freeze

4.12.2 The pay freeze imposed on Members in 2008 ended in September 2009. As a result of the Tribunal's determination on Reference Salary A, Members experienced a pay raise of 3% from 1 October 2009. Annual increases were also implemented in both 2010 and 2011, at the rates of 4% and 3.1% respectively (effective 1 July in both years). Currently, Members are entitled to the basic salary of AUS\$140,910 (HK\$1.13 million) per year.

### Additional salaries of Ministers and other office holders

#### *Legal basis*

4.13 Section 66 of the *Constitution* provides the basis for the payment of salaries for Ministers of State. Section 7 of the *R&A Act* provides that Ministers of State and parliamentary office holders are to receive a salary in addition to their basic salary. As specified in Schedule 4 of the *R&A Act*, those office holders entitled to an additional salary include the Prime Minister, the Speaker, Ministers, Opposition Leaders and their Deputies, Whips, as well as chairs and deputy chairs of parliamentary committees "concerned with public affairs rather than the domestic affairs of Parliament".<sup>26</sup>

4.14 Under the *Remuneration Tribunal Act 1973*, the Remuneration Tribunal is allowed to issue reports on the question regarding whether any alterations are desirable in the salaries payable to Ministers of State. However, ministerial salary is ultimately a matter for the government and the Cabinet can adjust ministerial salary if it so wishes.<sup>27</sup> On the other hand, the *Act* gives the Tribunal the power to determine the salary for parliamentary office holders.

#### *Adjustment mechanisms*

4.15 The additional salaries of both Ministers and parliamentary office holders are expressed as a percentage of the basic salary as a Member, as shown in the following **Table**. The Remuneration Tribunal issues a Report and a Determination each year to recommend or confirm the relevant percentage rates. Such rates have not been altered by the Tribunal since 1999.<sup>28</sup>

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<sup>26</sup> House of Representatives (2005).

<sup>27</sup> Commonwealth of Australia (2011).

<sup>28</sup> The rates of additional salaries adopted in 1999 were proposed by the Remuneration Tribunal, on the basis of

4.16 Under the *R&A Act*, increases in the rates of additional salaries are to occur at the same time and in the same proportion as increases in the basic salary payable to Members. Since the basic salary has been linked to Reference Salary A determined by the Remuneration Tribunal, adjustments of the additional salaries should be in accordance with the movement of this reference salary (unless otherwise decided by the Cabinet in the case of Ministers).

**Table – Additional salaries for selected Ministers of State and parliamentary office holders in the House of Representatives (effective July 2011)**

	<b>Additional salary per annum, in terms of percentage of basic salary and amount<sup>(1)</sup></b>
<b>Ministers of State</b>	
Prime Minister	160.0% or AUS\$225,456 (HK\$1.81 million)
Deputy Prime Minister	105.0% or AUS\$147,956 (HK\$1.19 million)
Ministers in Cabinet (other than Prime Minister and Deputy Prime Minister)	72.5% or AUS\$102,160 (HK\$821,366)
Other Ministers	57.5% or AUS\$81,023 (HK\$651,425)
Parliamentary Secretaries	25.0% or AUS\$35,228 (HK\$283,233)
<b>Parliamentary office holders</b>	
Speaker	75.0% or AUS\$105,683 (HK\$849,691)
Deputy Speaker	20.0% or AUS\$28,182 (HK\$226,583)
Leader of a recognized party of more than 10 Members of Parliament, other than a party whose Leader is the Prime Minister or the Leader of the Opposition	45.0% or AUS\$63,410 (HK\$509,816)
Leader of a recognized party of at least five, and no more than 10, Members of Parliament	42.5% or AUS\$59,887 (HK\$481,491)

the same set of considerations listed in paragraph 4.4.

**Table – Additional salaries for selected Ministers of State and parliamentary office holders in the House of Representatives (effective July 2011) (cont'd)**

	<b>Additional salary per annum, in terms of percentage of basic salary and amount<sup>(1)</sup></b>
<b>Chair and Deputy Chair of parliamentary committees</b>	
Chair of the Joint Statutory Committee of Public Accounts and Audit	16% or AUS\$22,546 (HK\$181,270)
Deputy Chair of the Joint Statutory Committee of Public Accounts and Audit	8% or AUS\$11,273 (HK\$90,635)
Chair of a General Purpose Standing Committee	11% or AUS\$15,500 (HK\$124,620)
Deputy Chair of a General Purpose Standing Committee	5.5% or AUS\$7,750 (HK\$62,310)
Chair of an Investigating Standing Committee established by resolution of the House	11% or AUS\$15,500 (HK\$124,620)
Deputy Chair of an Investigating Standing Committee established by resolution of the House	5.5% or AUS\$7,750 (HK\$62,310)
Chair of the Standing Committee of Privileges	11% or AUS\$15,500 (HK\$124,620)
Deputy Chair of the Standing Committee of Privileges	5.5% or AUS\$7,750 (HK\$62,310)
Chair of the Standing Committee on Procedure	11% or AUS\$15,500 (HK\$124,620)
Deputy Chair of the Standing Committee on Procedure	5.5% or AUS\$7,750 (HK\$62,310)
Chair of the Committee of Members' Interests	3% or AUS\$4,227 (HK\$33,985)
Chair of a Parliamentary Committee concerned with public affairs rather than the domestic affairs of Parliament not otherwise specified	3% or AUS\$4,227 (HK\$33,985)

Note: (1) The total salary received by the Ministers and other office holders equals additional salary plus basic salary. For example, the Prime Minister is entitled to a total payment of AUS\$366,366 (HK\$2.95 million) per annum, or 260% of the basic salary.

## 5. Electoral allowance

5.1 Electoral allowance is an expense of office allowance payable to Members to reimburse them for costs necessarily incurred in providing services to their constituents.<sup>29</sup> It is treated as taxable income but is not regarded as salary. Electoral allowance is determined by the Remuneration Tribunal.

5.2 Members with larger electorates are entitled to a higher rate of the electorate allowance. Currently, a base rate of electorate allowance of AUS\$32,000 (HK\$257,280) per annum is payable to each Member. For Members representing an electorate of between 2 000 sq km and 4 999 sq km and of 5 000 sq km or more, there is a supplementary electorate allowance of AUS\$6,000 (HK\$48,240) and AUS\$14,000 (HK\$112,560) per annum respectively.

5.3 The electorate allowance is paid to Members on a monthly basis. Members do not have to explain the expenditure of the electorate allowance to the House Department which pays for it. Members are liable to income tax for any portion of the allowance about which they cannot demonstrate, to the satisfaction of the Commissioner of Taxation, as expenditure on allowable items.

5.4 Further, Members are entitled to a private-plated vehicle to be used for parliamentary, electorate or official business, as well as family travel and private purposes, but not for commercial purposes.<sup>30</sup> From March 2006, a Member who does not choose to take a vehicle is entitled to an additional electorate allowance of AUS\$19,500 (HK\$156,780). As a result, the total electorate allowance payable to Members varies with both the size of a particular electorate and whether the Member has chosen to take a private-plated vehicle.

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<sup>29</sup> Remuneration Tribunal (1999).

<sup>30</sup> At present, Members make a personal contribution of AUS\$711 (HK\$5,716) per annum towards the cost of the Commonwealth-provided vehicle.

## 6. Superannuation

6.1 There are two parliamentary superannuation schemes in operation. Members who were elected prior to the general election held on 9 October 2004 are entitled to superannuation benefits under the *Parliamentary Retiring Allowances Act 1948*. This Act established the Parliamentary Contributory Superannuation Scheme ("PCSS"), which was closed to new Members elected after 9 October 2004. On the other hand, Members elected for the first time in the 2004 election or subsequent elections, including former Members returning to the Parliament, are eligible for benefits under the *Parliamentary Superannuation Act 2004*.

### Pre-2004 arrangements

6.2 According to Australia's Commonwealth Parliamentary Library, the reasons for the establishment of PCSS in 1948 were:

- (a) when elected, Members often gave up potential superannuation payouts from previous employment when they left prior to retirement age;
- (b) electoral and parliamentary demands reduced Members' chances to re-establish careers when their parliamentary term was over; and
- (c) there was a need to entice people to enter Parliament, especially those who would not otherwise nominate for the role.<sup>31</sup>

6.3 Membership of PCSS is compulsory for all Members entering the Australian Parliament before the 2004 election. Eligible PCSS members are required to contribute to their superannuation. The contributions are paid into the Consolidated Revenue Fund at rates designed as a fixed percentage of the basic salary and any additional salary payable to Ministers and parliamentary office holders – 11.5% of total salary (after tax) for the first 18 years of service, and 5.75% thereafter.

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<sup>31</sup> The reasons were identified by the Commonwealth Department of Finance in its Submission No. 46 to the Senate Select Committee on Superannuation. See Parliamentary Library of Australia (2004).

6.4 Under PCSS, Members are entitled to a retiring allowance (pension) if they have completed a specified minimum period of service. For Members elected prior to 2001, there is no age limit on drawing a pension, whereas the remaining Members cannot draw a pension until they reach age 55.<sup>32</sup> Depending on a Member's length of service, mode of retirement and receipt of any additional salary, the amount of pension is calculated by a pre-determined formula. Where no pension is payable, the Member is entitled to a lump sum comprising a refund of contribution plus a supplement.

#### Post-2004 arrangements

6.5 The superannuation arrangements introduced after the 2004 general election ("the 2004 scheme") have the stated aim of bringing the arrangements for parliamentarians in line with the existing community standards of superannuation arrangements in the Commonwealth public sector.<sup>33</sup> The 2004 scheme involves a government contribution of 15.4% of Members' total salaries, payable into a superannuation fund chosen by eligible Members.

6.6 Unlike PCSS, which is an "unfunded defined benefit scheme" with the amount of benefit fixed by a formula unrelated to fund performance, the 2004 scheme is "an accumulation system" with the final benefit made up of contributions to the funds, plus any investment earnings, less administration costs. Under the latter scheme, the amount of benefit varies from Member to Member, depending on the superannuation funds they choose.

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<sup>32</sup> Commonwealth Parliamentary Association (2005) p.33.

<sup>33</sup> There was a public perception that the parliamentary superannuation scheme was "too generous". See Senate Standing Committees on Finance and Public Administration (2009).

## 7. Other entitlements

7.1 In addition to the government-provided private-plated vehicle, Members are entitled to other benefits as listed in Schedule 1 Part 1 of the *Parliamentary Entitlements Act 1990*. These entitlements cover a range of categories, including office administrative costs (such as publications, printing and communications), office accommodation in the electorate and in the capital, office equipment and facilities, travelling allowance and travel expenses for both domestic and overseas travel, employee expenses and entitlements available to former Members (such as post-retirement travel and resettlement allowance). These entitlements may be subject to either monetary limits or specific purposes stipulated by relevant legislation. The *Parliamentary Entitlements Act 1990* allows these benefits to be "varied or omitted" by determination of the Remuneration Tribunal or by regulations pursuant to the *Act*.

### Recent changes

7.2 In September 2009, the Australian National Audit Office ("ANAO") released its report on a performance audit of the administration of parliamentarians' entitlements. ANAO raised concerns about the use of parliamentary entitlements for election campaigning activities, as access to these entitlements could be an advantage of incumbency for sitting Members. In October 2009, the Australian government responded to these concerns by implementing a number of reforms to reduce the printing and communication entitlements (including cutting the annual budget for printing, ending the use of printing entitlements for electioneering, and capping the expenditure on office consumables such as toners and papers), and expanding the reporting system to publish all expenditure related to entitlements online.

## **8. Latest developments on Members' remuneration and entitlements**

8.1 ANAO's audit report issued in 2009 concluded that the "[parliamentary] entitlements framework is difficult to understand and manage for both parliamentarians and [the Department of Finance and Deregulation]". In this connection, the Australian government set up an independent review of the entitlements framework (known as the Belcher Review) in October 2009. The Review represented the first comprehensive review of the federal parliamentary entitlements in over 35 years. It was completed in April 2010 and made public by the government in March 2011.

### Belcher Review

8.2 In line with ANAO's audit, the Belcher Review found that "the existing arrangements are an extraordinarily complex plethora of entitlements containing myriad ambiguities, which had resulted in inconsistency, ambiguity, duplication, overlap, redundancy and gaps in the framework". The Belcher Review proposed a number of changes to improve the parliamentary entitlements framework. The major recommendations are summarized in the paragraphs below.

### *Role of the Remuneration Tribunal*

8.3 The Belcher Review recommended that the Remuneration Tribunal directly determined parliamentary salary, and published the reasons for its decisions. Further, the Parliament's ability to disallow parliamentary remuneration determinations should be removed. The reasons behind these recommendations are listed below:

- (a) there was strong support from Senators and Members, and also from the Remuneration Tribunal, for restoring the Tribunal's role in determining Members' basic salary;
- (b) restoring the Tribunal's role in this respect would make the system of entitlements more transparent with decision-making responsibility clearly defined;

- (c) the value of the Tribunal's independence could be enhanced if its parliamentary determinations were not subject to disallowance in Parliament; and
- (d) the process of setting parliamentary remuneration would be more accountable if the Tribunal published the reasons for its decisions.

### *Separating "tools of trade" from remuneration*

8.4 The Belcher Review considered it important to draw a distinction between remuneration (i.e. salary) and "tools of trade" or means by which Members carry out their roles (i.e. entitlements such as office facilities and transport), and recommended that each be dealt with separately. The purposes of such distinction were to "help to assure both the parliamentarians and the wider community about the true nature of the expenditure" and "assist in determining the standards and conditions that should apply".<sup>34</sup> Further, to resolve issues of overlap, inconsistency and duplication, the Belcher Review suggested that the tools of trade entitlements be covered by a single piece of legislation to be administered by the responsible Minister.

### *Cashing out certain benefits*

8.5 By viewing the parliamentary entitlements framework as having two distinct streams – remuneration and tools of trade, the Belcher Review recommended that the entitlements providing personal benefit be considered part of the salary, "principally for reasons of clarity and transparency".

8.6 In particular, the Belcher Review regarded the electorate allowance and the entitlement to overseas study travel to be personal benefit. The electorate allowance is introduced to cover Members' business expenses incurred in performing their duties. It covers items such as additional accommodation expenses, donations and subscriptions to associations, clubs and institutions. The benefit of travelling overseas for study purposes allows Members to gain some international experience to enhance their contributions to the Australian Parliament.

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<sup>34</sup> Commonwealth of Australia (2010).

8.7 The Belcher Review pointed out that the recommendation to cash out the electorate allowance or any other entitlements would not constitute a pay raise, but simplify the salary structure. The amount folded in would be taxed upfront as part of the normal monthly salary. However, it was suggested that the payment in lieu of electorate allowance and overseas study travel should not form part of the salary used to determine the superannuation benefits of members of PCSS.<sup>35</sup> This is because PCSS uses the up-to-date salaries of Members to establish the pension levels paid to beneficiaries. As such, Members who are eligible members of PCSS would have advantage over their counterparts of the 2004 superannuation scheme.

#### *Other suggested changes*

8.8 Following similar reasoning of ANAO (refer to paragraph 7.2), the Belcher Review made further recommendations to limit the use of entitlements during election campaigns, so as to minimize a publicly-funded advantage of sitting Members over other candidates. The recommendations are, from the date of the announcement of a federal election to the day after the corresponding polling day, that Members should not have access to:

- (a) the printing and communications entitlements; and
- (b) travelling allowance for staff employed by Members when they undertake travel independently of their employer to the city in which their employer's party's campaign headquarters is based.

8.9 Additionally, the Belcher Review recommended the following reforms to Members' post-retirement travel benefits:

- (a) shutting down the free domestic travel schemes (both the Life Gold Pass and severance travel schemes<sup>36</sup>) to new Members entering Parliament at the following and subsequent elections;

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<sup>35</sup> The Belcher Review did not examine superannuation arrangements. Instead, it studied the impact on the relevant retirement schemes resulting from any proposed restructuring of remuneration.

<sup>36</sup> Depending on their length of service, Members become eligible for either the Life Gold Pass or severance travel upon retirement. Both schemes provide 25 return trips each year at Commonwealth expense. Life Gold Pass has a spouse travel component and may continue for the remainder of the former Member's life, whereas severance travel is available to the former Member for a maximum of five years immediately after retirement. Severance travellers who have only served in one Parliament are limited to 12 return trips during the six months following their retirement.

- (b) reducing the number of return flights within Australia each year for eligible retired Members; and
- (c) reducing the number of return flights to Canberra per annum for the spouses/partners who have qualified for a Life Gold Pass.

8.10 These recommendations were made on the grounds that the post-retirement provisions should not be considered essential elements of a Member's employment arrangements, nor were they benefits common to employment arrangements generally. Furthermore, these benefits, particularly the Life Gold Pass entitlement, fuelled the most public concern and the perception of receiving benefits not in keeping with community standards.

#### *Government responses to the Belcher Review*

8.11 In March 2011, the Australian government announced its support for the Belcher Review's recommendations regarding the Tribunal's role, in order to restore integrity to the system for determining the basic salary of parliamentarians and remove the potential for political interference in the setting of parliamentarians' pay.<sup>37</sup>

8.12 Subsequently, new legislation was introduced by the government to implement the recommendation. The *Remuneration and Other Legislation Amendment Act 2011*, which came into effect in August 2011, has expanded the jurisdiction of the Remuneration Tribunal to determine the basic salary of parliamentarians and removes the Parliament's ability to disallow parliamentary remuneration determinations made by the Tribunal.

8.13 According to the Special Minister of State, the government may also introduce legislation after the Parliament resumes on 7 February 2012 to include amendments to abolish the Life Gold Pass and reduce the number of business class return trips within Australia to five return trips each year for eligible retired Members.

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<sup>37</sup> Special Minister of State (2011).

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## Recommendation of a new basic salary for Members

8.14 In December 2011, the Remuneration Tribunal announced its intention to increase Members' basic annual salary from the current AU\$140,910 (HK\$1.13 million) to AUS\$185,000 (HK\$1.49 million) in 2012.<sup>38</sup> Such decision was based on an assessment of the work of Members carried out by the consultant, Egan Associates. Taking into consideration Members' accountabilities and the remuneration of comparable jobs, the consultant concluded that a basic salary in the range of AUS\$185,000 (HK\$1.49 million) to AUS\$250,000 (HK\$2.01 million) per annum was appropriate for Members. According to the assessment, comparable jobs were deemed to be that of middle-ranking public servants, lawyers, local government councillors and senior executives in middle-ranking businesses, all of whom were paid an average of between AUS\$200,000 (HK\$1.61 million) and AUS\$300,000 (HK\$2.41 million) per year. Given the need to "remunerate [Members] sufficiently so as to attract and retain men and women of appropriate capacity", the Tribunal accepted the consultant's advice. However, to be consistent with its conservative approach to public sector remuneration, the Tribunal has decided to set a salary figure at the bottom of the range.

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31 January 2012  
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<sup>38</sup> The Tribunal has not yet issued the determination to implement the proposal of salary adjustment.

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