

## **ITEM FOR FINANCE COMMITTEE**

### **HEAD 112 – LEGISLATIVE COUNCIL COMMISSION**

#### **Subhead 366 Remuneration and reimbursements for Members of the Legislative Council**

#### **Subhead 872 Non-recurrent expenses reimbursements for Members of the Legislative Council**

Members are invited to approve –

- (a) a supplementary provision of \$5,845,000 under Head 112 Subhead 366 to meet additional expenditure in 2016-17 for enhancing the remuneration package for Members of the Legislative Council with effect from the Sixth Legislative Council due to begin in October 2016; and
- (b) creation of a capital account commitment of \$26,250,000 under Head 112 Subhead 872 for the Setting Up and Information Technology Expenses Reimbursement.

### **PROBLEM**

Additional provision is required to implement the new enhancements to the remuneration package for Members of the Sixth Legislative Council (LegCo). We also need to create a capital account commitment for the Setting Up and Information Technology Expenses Reimbursement (SUITER).

**/JUSTIFICATION .....**

## JUSTIFICATION

### Enhancements to remuneration package for Members of the Sixth LegCo

2. As recommended by the Independent Commission on Remuneration for Members of the Executive Council and the Legislature, and Officials under the Political Appointment System of the Hong Kong Special Administrative Region (Independent Commission) and approved by the Chief Executive in Council, the following enhancements will be introduced upon the commencement of the Sixth LegCo as from 1 October 2016 –

- (a) the surplus from one year's medical allowance may be rolled over to the following year until the end of a LegCo term;
- (b) the annual Office Operation Expenses Reimbursement (OOER) will be increased by 7%, from \$2,385,510 to \$2,552,500 per annum, on top of the annual price adjustment to be made in October 2016; and
- (c) the SUITER will be increased by 50%, from \$250,000 to \$375,000 per term; and from \$175,000 to \$262,500 per term for those Members who have claimed setting up expenses in the previous term.

### Supplementary provision required for 2016-17

3. We propose to provide supplementary provision of \$5,845,000 under Head 112 Legislative Council Commission Subhead 366 Remuneration and reimbursements for Members of the Legislative Council to meet additional expenditure in 2016-17 arising from the enhancements in paragraph 2(b)<sup>1</sup> above for 70 LegCo Members in the Sixth LegCo.

### Creation of a capital account commitment

4. We propose to create a capital account commitment of \$26,250,000 under Head 112 Legislative Council Commission Subhead 872 Non-recurrent expenses reimbursements for Members of the Legislative Council. The \$26,250,000 is the maximum amount of enhanced SUITER (taking into account paragraph 2(c) above) claimable by the 70 Members of the Sixth LegCo during their four-year tenure starting from October 2016.

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<sup>1</sup> The enhancement in paragraph 2(a) above seeks to increase Members' flexibility in using the medical allowance and does not entail additional expenditure.

## The Review

Encl. 1 5. The Independent Commission is appointed by the Chief Executive to, among others, carry out periodic review and advise the Government of the remuneration package for LegCo Members. The membership of the Independent Commission is at Enclosure 1. With the Sixth LegCo due to begin in October 2016, the Independent Commission has completed a review which started in May 2015.

6. In conducting its review, the Independent Commission has adopted a holistic approach by examining a host of factors. It has considered the requests of and justifications provided by the LegCo Subcommittee on Members' Remuneration and Operating Expenses Reimbursement (LegCo Subcommittee) in its submission in May 2015.

## Medical Allowance

7. The existing Medical allowance, at \$32,400 per annum and subject to annual adjustment in accordance with Consumer Price Index (C) (CPI(C)) movements, was introduced with effect from 1 October 2008. The average utilisation rates as provided by the LegCo Secretariat during the past three legislative sessions are 55.3% (2012-13), 56.6% (2013-14) and 38.0% (2014-15)<sup>2</sup> respectively. Taking into account the utilisation rates and the fact that the LegCo Subcommittee did not request any adjustment, the Independent Commission recommended maintaining the medical allowance at the existing level for the Sixth LegCo, but allowing the surplus in one year to roll over to the following year until the end of a LegCo term to cater for unforeseen circumstances.

## OOER

8. The OOER is a major component of the Operating Expenses Reimbursement and is intended to reimburse LegCo Members' staffing and other operating expenses, such as office rent, activities relating to LegCo business and expenses on publicity items, etc. Members have full discretion to decide on the exact number of staff to employ and their salary level, number of district offices, number of activities organised, etc. according to their individual needs and priorities. The OOER was last increased by 20% in 2012, on top of the annual

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<sup>2</sup> The reimbursement year of 2014-15 covers the period from 1 October 2014 to 30 September 2015. The percentage provided is calculated based on the claims processed by the LegCo Secretariat during the period from 1 October 2014 to 7 August 2015. As such, the percentage does not represent full-year figure. LegCo Members are allowed to submit reimbursement claims within three months from the month the expenditure was incurred.

CPI(C) adjustment. Arising from the annual adjustments in October in accordance with movements in CPI(C), the amount of OOER now stands at \$2,385,510 per annum. As from the Fifth LegCo, any unused balance can be carried forward to the following year until the end of a LegCo term.

9. The Independent Commission noted that the utilisation rates of OOER as provided by the LegCo Secretariat during the last three legislative sessions were 78.2% (2012-13), 87.2% (2013-14) and 94.5% (2014-15)<sup>3</sup> respectively. The Independent Commission also noted that three Members had claimed OOER in excess of the reimbursement ceilings in the first two legislative sessions of the Fifth LegCo.

10. The Independent Commission affirmed that OOER should be maintained at a level which would enable LegCo Members to discharge their core duties. To this end, the Independent Commission agreed to adopt a basket of working assumptions in working out an appropriate level of OOER. The working assumptions included the following –

- (a) each Member would employ seven full-time staff, comprising one at management/professional level, two degree-holders with three to five years' working experience, and four clerical support workers. Their salaries should be comparable with those of workers of similar qualifications and experience in the private sector;
- (b) a 3% increase in salary per annum (in addition to the CPI(C) annual adjustment) and a 15% end-of-service gratuity for Members' staff;
- (c) MPF contribution payable by the employer;
- (d) 7% of OOER be allocated for renting offices<sup>4</sup>; and
- (e) 10% of OOER be allocated for other incidental expenses<sup>4</sup>.

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<sup>3</sup> The reimbursement year of 2014-15 covers the period from 1 October 2014 to 30 September 2015. The percentage provided is calculated based on Members' claims for the first six months (up to March 2015) in relation to the time-apportioned provision. LegCo Members are allowed to submit reimbursement claims within three months from the month the expenditure was incurred.

<sup>4</sup> With reference to the spending pattern of Members as provided by LegCo Secretariat, in 2012-13, 2013-14 and 2014-15, Members spent on average 5.9%, 6.25% and 6.71% respectively on office accommodation; and 8.26%, 9.51% and 9.90% respectively on other operating expenses. Given the spending pattern, the Independent Commission adopts the working assumptions that 7% of OOER be spent on office rental and 10% of OOER be spent on other expenses/buffer.

Encl. 2

11. Based on the above working assumptions and as illustrated by an example at Enclosure 2, there is a case to enhance the level of OOER for the Sixth LegCo by 6.95%. Taking all relevant factors into consideration, the Independent Commission recommended a 7% increase in OOER for the Sixth LegCo.

12. The Independent Commission considered it inappropriate to peg the salary of the assistants employed by Members to that of the civil service given their different job nature and the unique mechanism of the civil service pay structure. It therefore rejected the LegCo Subcommittee's proposals to adjust 70% of the OOER annually in accordance with the civil service pay adjustment instead of the movement of CPI(C), or to assume a certain percentage of OOER as the "salary portion" and for such portion to follow the annual rate of civil service pay adjustment.

13. The LegCo Subcommittee proposed to provide a new and separate allowance of \$239,096 per annum to enable Members to engage outside parties for conducting research. It also proposed to lift the current restriction so that the political parties to which Members were affiliated could also be engaged to conduct such research. Given that research expenses were claimable under OOER and the LegCo Secretariat provided research services to all LegCo Members upon the request of the relevant panels and committees, the Independent Commission recommended that the request for a new and separate accountable research allowance be rejected.

14. Another request from the LegCo Subcommittee was in respect of reimbursing long service payment and severance payment to staff of LegCo Members in the middle of a term. Currently, outgoing Members can claim under Winding Up Expenses Reimbursement (WUER) severance payments made to staff if they choose not to stand for re-election or cease office for reasons over which they have no control (e.g. not re-elected or resign due to serious illness). Severance payments as well as long service payments made by serving Members can be claimed under OOER.

15. As a matter of principle, the Independent Commission considered it not appropriate to expand the scope of WUER for reimbursement of expenses not relating to winding up. As for the introduction of an additional reimbursable provision, according to the information provided by the LegCo Secretariat, up to December 2015, only two and three Members had claimed long service payment and severance payment respectively. The amount payable by individual

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LegCo Members was very small as compared with the annual OOER (less than 1.5% of OOER). The 7% increase and the roll-over arrangement in OOER should provide sufficient buffer and flexibility for LegCo Members in allocating their use of OOER over their term of office. The Independent Commission therefore considered the introduction of a separate accountable provision with no ceiling under OOER for reimbursement of long service payment and severance payment not justified.

## **SUITER**

16. With effect from the Fifth LegCo, the previous Setting up Expenses Reimbursement (SUER) (for setting up offices) and the Information Technology and Communication Equipment Expenses Reimbursement (ITER) (for the purchase and use of information technology and communication equipment) were combined into one provision called SUITER to provide flexibility for LegCo Members. The current provision of SUITER is \$250,000 per term; or \$175,000 per term for Members who have claimed the setting-up portion of this allowance in the previous term. The LegCo Subcommittee proposed to increase the total amount to \$482,500 per term. This represents an increase of \$232,500 per term (93% increase).

17. The Independent Commission noted that the average utilisation rate of SUITER in the current term (up to 7 August 2015) was 67.2%. As compared with the utilisation rates of 55.6% for SUER and 60.8% for ITER in the last LegCo term, this was already higher than the full-term utilisation rate. A further analysis showed that during the Fifth LegCo (up to 14 July 2015), 70% of Members used up 50% or more of SUITER. It was noted that SUER and ITER were first introduced in 1993 and 1999 respectively, and no adjustment to the provisions had been made since then. Moreover, SUITER (and the previous SUER and ITER) was not subject to annual adjustment in accordance with the movements in CPI(C). Taking into account the above and to encourage the use of information technology to provide more efficient services to their constituents, the Independent Commission recommended a lump sum increase of the SUITER by 50%, from \$250,000 to \$375,000 per term, with effect from the Sixth LegCo. For LegCo Member who had claimed expenses for setting up in the previous term, they would be entitled to up to \$262,500 per term.

18. The recommendations of the Independent Commission were presented to and endorsed by the Chief Executive in Council on 1 March 2016. The existing remuneration package for LegCo Members and the new package effective as from the Sixth LegCo are summarised at Enclosure 3.

Encl. 3

**/FINANCIAL .....**

## FINANCIAL IMPLICATIONS

19. The enhancements in paragraphs 2(b) and (c) above will entail additional expenditure for the OOER and SUITER for the 70 Members of the Sixth LegCo. The enhancement in paragraph 2(b) above will also lead to consequential increase in expenditure for WUER, as its amount is linked to the OOER<sup>5</sup>. Taking into account the direct and consequential increases in expenditure, we estimate that the total additional financial implications of implementing the enhancements for the Sixth LegCo, save for any annual price adjustments to be made, will be about \$56,000,000 per term<sup>6</sup>. This translates into, on average, an additional \$800,000 per LegCo Member per term or an additional \$200,000 per LegCo Member per annum.

20. As proposed in paragraph 3 above, we need to provide supplementary provision of \$5,845,000 under Head 112 Legislative Council Commission Subhead 366 Remuneration and reimbursements for Members of the Legislative Council to meet additional expenditure in 2016-17. We will include sufficient provisions in the annual draft Estimates for 2017-18 and beyond.

21. The proposed creation of a capital account commitment of \$26,250,000 under Head 112 Legislative Council Commission Subhead 872 Non-recurrent expenses reimbursements for Members of the Legislative Council represents the maximum provision of SUITER, claimable by the 70 Members of the Sixth LegCo during their four-year tenure<sup>7</sup>. We estimate that the expenditure will spread over between 2016-17 and 2020-21, as follows –

| <b>Year</b>  | <b>Estimated cash flow requirement<br/>(\$'000)</b> |
|--------------|---|
| 2016-17      | 9,000   |
| 2017-18      | 7,250   |
| 2018-19      | 7,000   |
| 2019-20      | 2,000   |
| 2020-21      | 1,000   |
| <b>Total</b> | <b>26,250</b>                                       |

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<sup>5</sup> The provision of WUER is at 1/12 of the annual OOER plus actual amount of severance payment.

<sup>6</sup> This comprises additional recurrent funding of around \$11,700,000 each year (\$11,700,000 x 4 = \$46,800,000) and non-recurrent funding of \$8,800,000 for SUITER.

<sup>7</sup> The maximum provision of SUITER claimable by a Member is \$375,000 per term if he/she has not claimed any setting up expenses reimbursement in the previous term. Multiplying this figure by 70 Members produces a commitment of \$26,250,000.

Following the existing requirement, any re-elected Members who had claimed any setting up expenses in the current term can only claim up to \$262,500 for the SUITER provision during their four-year tenure of the coming term.

## **PUBLIC CONSULTATION**

22. The Independent Commission met with the LegCo Subcommittee in July 2015 and exchanged views with LegCo Members upon receipt of the latter's proposals. It also conducted site visits to central/district offices of LegCo Members in May 2015 and talked to the assistants employed by LegCo Members. On 25 April 2016, the Administration Wing briefed the LegCo Subcommittee of the Government's acceptance of the recommendations of the Independent Commission and the LegCo Subcommittee noted the submission of recommendations to the Finance Committee of the LegCo for approval.

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Administration Wing  
Chief Secretary for Administration's Office  
June 2016



**Membership of the Independent Commission**

| <b>Name</b>                        | <b>Occupation</b>   | <b>Political affiliation</b> |
|------------------------------------|---|------------------------------|
| <u><b>Chairman</b></u>             |   |                              |
| Mr Nicky Lo Kar-chun,<br>SBS, JP   | Director,<br>Italade Technology Holdings Ltd  | Nil                          |
| <u><b>Members</b></u>              |   |                              |
| Ms Kelly Chan Yuen-sau             | Finance Director,<br>Moet Hennessy Diageo HK Ltd  | Nil                          |
| Prof Leonard Cheng<br>Kwok-hon, JP | President,<br>Lingnan University  | Nil                          |
| Mr Andrew Fung<br>Hau-chung, JP    | Executive Director and Head of<br>Global Banking and Markets,<br>Hang Seng Bank Limited | Nil                          |
| Ms Lau Ka-shi, BBS                 | Managing Director & Chief<br>Executive Officer,<br>BCT Group                            | Nil                          |
| Ms Elaine Lo Yuen-man              | Asia Chair and Senior Partner<br>Mayer Brown JSM  | Nil                          |

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**Calculations of the  
Office Operation Expenses Reimbursement (OOER) amount required  
(applying assumptions used by the LegCo Subcommittee)**

|   | <b>Per annum</b>                                 | <b>Per term</b>     |
|---|--|---------------------|
| A1. Staff salary (using market rate and assuming a 3% salary increment per year) <ul style="list-style-type: none"> <li>• one management/professional (\$46,000 per month)</li> <li>• two university graduates with 3-5 years' experience (\$21,200 each per month)</li> <li>• four clerical support workers (\$13,700 each per month)</li> </ul> | \$1,797,286<br>on average                        | \$7,189,145         |
| A2. MPF contribution  | \$78,997<br>on average                           | \$315,989           |
| B. 15% end-of-service gratuity for staff  | \$269,593<br>on average<br>(payable at term end) | \$1,078,372         |
| C. Office rental (7% of existing OOER)  | \$166,986  | \$667,944           |
| D. Other expenses/Buffer (10% of existing OOER)   | \$238,551  | \$954,204           |
| <b>Total amount required for items A-D</b>  | <b>\$2,551,413</b>                               | <b>\$10,205,654</b> |
| <b>Total OOER as at 1 Oct 2015</b>  | <b>\$2,385,510</b>                               | <b>\$9,542,040</b>  |
| <b>Surplus/(shortfall)</b>  | <b>(\$165,903)</b>                               | <b>(\$663,614)</b>  |
| <b>% of surplus/(shortfall) against total OOER as at 1 Oct 2015</b>   | <b>(6.95%)</b>                                   |                     |

Working assumptions:

Salary and wage statistics collected in surveys conducted by the Census & Statistics Department

| <b>Occupation</b>   | <b>Monthly Salary/Wage</b> | <b>Source</b>   |
|---|----------------------------|---|
| Management/professional<br>(average salary of<br>Administration<br>Manager/Company<br>Secretary/Office Manager and<br>Accountant) | \$46,000 <sup>1</sup>      | 2014 Survey of Salaries and Employee<br>Benefits Statistics – Managerial and<br>Professional Employees (Excluding Top<br>Management)<br>(2014 SSEB) |
| University Graduates with<br>3-5 years' experience  | \$21,200 <sup>2</sup>      | 2014 Annual Earnings and Hours Survey<br>(2014 AEHS)  |
| Clerical Support Workers  | \$13,700 <sup>3</sup>      | 2014 AEHS   |

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<sup>1</sup> Figure refers to the average monthly salary rate of full-time employees who worked as administration managers, company secretaries, office managers and accountants in selected industry sections covered by SSEB. Salary rate in SSEB includes basic salary, cost-of-living allowance, guaranteed year-end bonus/payment, commission, and other regular and guaranteed bonuses and allowances.

<sup>2</sup> Figure refers to the average monthly wage of full-time employees who were aged 29 or below, had attained tertiary education and had worked in the same company for 3-5 years at the time of the survey.

<sup>3</sup> Figure refers to the average monthly wage of full-time employees who worked as clerical support workers.

## Existing and new remuneration package for LegCo Members

| Existing Package  | New Package<br>with effect from the Sixth LegCo<br>(before any effect of price adjustments)  |
|---|--|
| <b><u>Remuneration and Personal Benefits</u></b>  |  |
| <p><b>1. Monthly Remuneration *</b></p> <p>\$186,080 for the LegCo President<br/>\$139,560 for the President's Deputy<br/>\$93,040 for other Members<br/>\$62,030 for Members also serving on ExCo</p> <p><b>2. End-of-service gratuity</b><br/>(payable at the end of a term)<br/>15% of the total remuneration received during the term</p> <p><b>3. Medical Allowance *</b><br/>(per annum)<br/>\$32,400</p> | <p><b>1. Monthly Remuneration *</b></p> <p>\$186,080 for the LegCo President<br/>\$139,560 for the President's Deputy<br/>\$93,040 for other Members<br/>\$62,030 for Members also serving on ExCo</p> <p><b>2. End-of-service gratuity</b><br/>(payable at the end of a term)<br/>15% of the total remuneration received during the term</p> <p><b>3. Medical Allowance *#</b><br/>(per annum)<br/>\$32,400</p> |
| <b><u>Operating Expenses Reimbursement</u></b>  |  |
| <p><b>4. Office Operation Expenses Reimbursement (OOER) *#</b><br/>(per annum)      \$2,385,510</p> <p><b>5. Entertainment and Travelling Expenses Reimbursement *</b><br/>(per annum)      \$203,860</p>   | <p><b>4. Office Operation Expenses Reimbursement (OOER) *#</b><br/>(per annum)      \$2,552,500</p> <p><b>5. Entertainment and Travelling Expenses Reimbursement *</b><br/>(per annum)      \$203,860</p>  |

| Existing Package |   |   | New Package<br>with effect from the Sixth LegCo<br>(before any effect of price adjustments) |   |   |
|------------------|---|---|---|---|---|
| 6.               | <b>President’s Entertainment Allowance*</b><br>(per annum)                        | \$204,060   | 6.  | <b>President’s Entertainment Allowance *</b><br>(per annum)                       | \$204,060   |
| 7.               | <b>Setting Up and Information Technology Expenses Reimbursement</b><br>(per term) | \$250,000 or \$175,000<br>(for Members who have claimed setting up expenses in the previous term) | 7.  | <b>Setting Up and Information Technology Expenses Reimbursement</b><br>(per term) | \$375,000 or \$262,500<br>(for Members who have claimed setting up expenses in the previous term) |
| 9.               | <b>Winding Up Expenses Reimbursement *</b><br>(per term)                          | 1/12 of the annual OOER (i.e. \$198,793), plus actual severance payment                           | 8.  | <b>Winding Up Expenses Reimbursement *</b><br>(per term)                          | 1/12 of the annual OOER (i.e. \$212,708) plus actual severance payment                            |

\* Subject to annual adjustments in October each year in accordance with movements of CPI(C).

# Surplus from a year's entitlement may be rolled over to the following year until the end of a LegCo term.

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