

Remuneration Package for Members of the HKSAR Legislative Council

The Issue

We need to study whether and how Members of First HKSAR Legislative Council should be remunerated after the expiry of their term of office on 30 June 2000.

Background

2. The existing remuneration and reimbursement package for LegCo Members include two broad categories of payment –

- (a) monthly payments comprising three key elements :
 - (i) remuneration for LegCo Members;
 - (ii) reimbursement for office operation on an accountable basis;
and
 - (iii) a non-accountable allowance for entertainment and travelling expenses;

- (b) reimbursement for non-recurrent expenses comprising
 - (i) a setting up allowance;
 - (ii) expenses on information technology and communication equipment; and
 - (iii) a winding up allowance.

A synopsis of the remuneration and reimbursement package presently received by LegCo Members is at Annex A.

Relevant Considerations

3. The following are relevant in considering the issue of remunerating incumbent LegCo Members after 30 June 2000.

I. Term of Office of LegCo

4. The length of the term of office of the LegCo is expressly stated in law – Chapter IV Article 69 of the Basic Law stipulates that the term of office of the LegCo of the HKSAR shall be four years, except the first term which shall be two years. The Legislative Council Ordinance provides that the term of office of the Legislative Council is as prescribed by Chapter IV of the Basic Law and that the first term of office of the LegCo is to begin on 1 July 1998.

5. Section 9(4) of the Legislative Council Ordinance further states that while the consideration of any bill or other business of the LegCo is not to be affected by the end of a session and may be resumed at any subsequent meeting, it is to lapse at the end of a term of office or on a dissolution of the LegCo. Hence, according to the law, all official businesses for the first SAR LegCo cease after 30 June 2000.

6. This notwithstanding, section 11 of the Legislative Council Ordinance states that former Members of the LegCo are deemed to be LegCo Members for the purpose of an emergency session, in the event that such a session is convened. Schedule 2 section 1(8)(b) also states that persons holding office on 30 June 2000 as Members of LegCo will be registered as ex-officio members of the Election Committee.

II. Existing Remuneration Arrangements

7. The Executive Council decided in March 1998, on the recommendation of the Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the HKSAR, that LegCo Members should be remunerated for their services and receive a remuneration package from the beginning of a LegCo term until the end of the term.

III. Interval between the first and the second LegCo terms

8. The term of the office of the current First HKSAR LegCo will end on 30 June 2000. Elections for the Second HKSAR LegCo will be held on 10 September 2000 and the Second term of office of LegCo will commence after the election probably in October 2000. The arrangement this time is exceptional, and general elections for subsequent LegCos are expected to be held before the end of a LegCo term. That is to say, as from the Second SAR LegCo, subsequent terms will end and commence on a back-to-back basis.

IV. Practical Issues

(a) Implications for Members' offices and staff

9. If incumbent LegCo Members were expected to terminate their work with the expiry of their term of office as LegCo Member on 30 June 2000, Members would theoretically be expected to wind up their offices and lay off staff recruited in connection with their Council businesses. Provisions are made in the existing remuneration package for Members, who ceased to be Members, to be provided with reimbursements to wind up their operation, i.e. a fixed sum plus allowances for making actual severance payments to their staff. The disruption and unsettling effect to parties concerned brought about by the winding up of a LegCo Member's operation has raised concern.

(b) Implication for Members

10. Certain Members regard LegCo work as their main occupation. The current package therefore include a monthly remuneration for Members for their service. Cessation of this monthly remuneration would have to be carefully considered.

(c) Public Perception

11. Members of the First LegCo term may seek re-election to the Second LegCo. If they were continued to be remunerated after the end of their term of office and after Council businesses have in practical terms ceased, there would be the question of whether candidates seeking

election in the same Elections may perceive this as an unfair advantage provided by the Government to incumbent LegCo Members seeking re-election.

V. Constituency Representation

12. All Members of LegCo are representatives of a particular constituency. Since the next election will not be held until 10 September, there is the question of whether the constituencies might be deprived of their representation if the office of Members were to cease after the expiry of their term on 30 June.

13. Pursuant to Annex I of the Basic Law, LegCo Members constitutes a sub-sector in the Election Committee and are among the 800 responsible for returning six Members to the second LegCo from this constituency. And the Legislative Council Ordinance makes provision to give effect to this (vide paragraph 6 above).

VI. Overseas Practices

14. Overseas legislatures surveyed indicate that different arrangements apply but can be broadly categorised into two types – one with their terms of office defined and Members remunerated according to their terms of office and the other with the incumbent legislators remunerated up to the date of the next election. Annex B outlines the arrangements for the remuneration of Members in various overseas legislatures.

15. In the US, legislators receive remuneration from the start of a term to the end of the relevant term. There is no time gap between any two terms : election is held during a term.

16. In Singapore, members of Parliament receive remuneration up to the end of their elected term of office. There is a gap between two terms of office, with election held one to two month after the end of an immediately preceding term. No remuneration is made during the period between the end of an elected term and election day.

17. In the UK and Canada, the Parliament is dissolved before

election is held. In the UK, Members of Parliament will continue to receive part of the remuneration package, viz the salary and office cost allowance, from the date the Parliament is dissolved until the general election date. In Canada, Members of the Parliament continue to receive entire remuneration package up to the day before the Day of Election.

18. In Australia, the remuneration arrangements for members of the House of Representatives and the Senate are different. In the House of Representatives, the arrangement is similar to that of the UK whereby the House will be dissolved and election held after the dissolution, with Members continuing to receive remuneration until the day before the election. The arrangement in the Senate, on the other hand, is similar to that in the US where senators receive remuneration from the start of their term on 1 July until the end of their term on 30 June six years later, with no time gap between any two terms of Senate and elections held during the term.

VII. Financial Implications

19. If all Members of the first LegCo term were asked to wind up their offices at the end of the first LegCo term, winding up expenses of about \$12.5 million would be entailed. There would also be setting up costs when the Second LegCo is formed. An estimate is not possible at this stage since we do not know how many incumbent Members would seek re-election and would be returned.

20. If all Members of the first LegCo were to continue to be remunerated during the period between the first and the second LegCo terms, in accordance with the existing remuneration and reimbursement package, the maximum financial implication is estimated to be about \$32 million.

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**Remuneration and Reimbursement Package for Members
of the Legislative Council of the Hong Kong Special Administrative Region**

- (a) Monthly remuneration of \$62,590^(Note).

- (b) Monthly operating expenses reimbursement and allowance comprising-
 - (i) an “accountable expenses reimbursement for office operation” of up to \$101,290; and

 - (ii) a non-accountable allowance for “entertainment and travelling expenses” of up to \$14,460. Up to 50% of this allowance can be used by Members to meet staff expenses on an accountable basis, with the Government bearing the financial responsibility of the associated severance payments in future.

- (c) Other reimbursable operating expenses comprising –
 - (i) a setting up expenses reimbursement of up to \$150,000 for each LegCo Member per LegCo term to set up their offices (up to 50% of the expenses reimbursement for re-elected Members who have claimed the expenses reimbursement in the previous LegCo term for the purposes of renovation, removal, expansion and/or setting up of additional office(s)); and

 - (ii) an “information technology and communication equipment expenses reimbursement” of up to \$100,000 for each LegCo Member per LegCo term. This expenses reimbursement is to be drawn after the reimbursement for setting up expenses has been fully utilised. Members who draw on this expenses reimbursement within the first Special Administrative Region (SAR) LegCo term and who are re-elected in the second LegCo term will not be entitled to a fresh provision in the second LegCo term. They will only be eligible to

^(Note) LegCo Members who also sit on the Executive Council will receive two-thirds of the salary components of the LegCo remuneration package. For Members who also serve on the District Councils, they receive the LegCo remuneration package in full (including the expenses reimbursements) with two-thirds of the honorarium for the other tier of representative government.

draw on the unexpended portion under their entitlement during the first SAR LegCo term. All Members will be eligible to the full entitlement in the third term and thereafter.

- (d) Winding up expenses reimbursement comprising two parts –
- (i) a fixed amount equivalent to the “accountable expenses reimbursement for office operation” i.e. \$101,290, payable on a reimbursement basis, of which \$10,000 may be claimed against certified claims of expenses incurred, to enable Members to cover expenses incurred when they cease to be Members of the legislature, either because they decide not to stand for re-election or for reasons beyond their control such as death, serious injury, defeat in an election or the dissolution of the legislature; and
 - (ii) a separate amount with no pre-set ceiling, payable on the basis of the actual severance payment that needs to be paid to staff employed using the “accountable expenses reimbursement for office operation” and up to 50% of the allowance for “entertainment and travelling expenses”, and in accordance with the provisions of the Employment Ordinance. LegCo Members are eligible to compensate their staff who have worked for them for less than two years on a pro-rata basis at the rate of two-thirds of the employees’ last month’s salary for each year of service if Members have to cease office for reasons over which they have no control.
- (e) The LegCo President is entitled to a monthly remuneration of \$125,180, an annual entertainment expenses reimbursement of up to \$173,660 and the operating expenses reimbursements as other LegCo Members receive. The President’s Deputy, i.e. Chairman of the House Committee, is entitled to a monthly remuneration of \$93,890 and the operating expenses reimbursements as other LegCo Members receive.

The amounts under item (a), (b), (d)(i) above, the monthly remuneration and the annual entertainment expenses reimbursement of the LegCo President, and the monthly remuneration of the President’s Deputy are annually adjusted in October in accordance with the movement of the Consumer Price Index (C).

Arrangements on Remuneration for Members of the Legislature Practised in Overseas Countries

Country	Timing for holding election/ Period between terms	Period within which Members of the legislature receive remuneration
United States of America	The election will be held before the end of terms of office of the Congress. There is normally no time gap between two terms. In the rare circumstances where a time gap does exist, it will only last for a few days.	Members of Congress are remunerated in accordance with their relevant terms of office.
Singapore	The parliamentary election will only be held after the end of an elected term. The period between the end of an elected term and the election for the new term may extend from one to two months.	Parliament members are only entitled to remuneration within their relevant terms of office. Outgoing members do not enjoy any form of remuneration during the period between the end of their term and the next election.
United Kingdom	The parliament will be dissolved before the election for the parliament is held.	Members of parliament will continue to receive the salary and office cost allowance up the election day. However, they will not receive transportation allowance for travelling between their constituencies and London during the period.
Canada	The parliament will be dissolved before the election is held.	Members of parliament will continue to receive remuneration up to the day before the Day of Election.

Country	Timing for holding election/ Period between terms	Period within which Members of the legislature receive remuneration
Australia	<p>House of Representatives: The House of Representatives will be dissolved and election will be held after the dissolution.</p> <p>Senate: The election for Senate will be held within one year before the places of the retiring Senators become vacant. There is no time gap between terms of Senate (the term of Senate starts on 1 July and ends on 30 June six years later).</p>	<p>House of Representatives: Members of the House of Representatives will continue to receive remuneration during the period between the dissolution of the House and the day before the election. Members of the new House will start to receive remuneration on the election day.</p> <p>Senate: Senators are remunerated in accordance with their relevant terms of office.</p>