

## **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 –

- (a) approve enhancements to the remuneration package for Members of the Legislative Council with effect from the Fifth Term of the Legislative Council due to begin in October 2012;
- (b) approve supplementary provision of \$29.181 million under Head 112 Legislative Council Commission Subhead 366 Remuneration and reimbursements for Members of the Legislative Council to meet additional expenditure in 2012-13 arising from the above enhancements and the addition of ten Members in the Fifth Term; and
- (c) approve the creation of a capital account commitment of \$17.500 million under Head 112 Legislative Council Commission Subhead 872 Non-recurrent expenses reimbursements for Members of the Legislative Council for the combined provision for the Setting Up Expenses Reimbursement and the Information Technology and Communication Equipment Expenses Reimbursement for the Fifth Term.

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**PROBLEM**

The remuneration package for Members of the Fifth Term Legislative Council (LegCo) requires appropriate enhancements. Additional provision is required to implement these enhancements, as well as to meet the cost of the remuneration package for the ten additional Members of the Fifth Term LegCo. We also need to create a capital account commitment to merge the Setting Up Expenses Reimbursement (SUER) and the Information Technology and Communication Equipment Expenses Reimbursement (ITER) into a single provision.

**PROPOSAL****Proposed enhancements to Members' remuneration package in the Fifth Term**

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 (the Independent Commission) and approved by the Chief Executive in Council (CE-in-Council), we propose, for implementation with effect from 1 October 2012 upon the commencement of the Fifth Term LegCo, to –

- (a) increase the monthly remuneration for LegCo Members by 10%, from \$73,150 to \$80,470 per month, on top of the annual price adjustment to be made in October 2012;
- (b) increase the annual Office Operation Expenses Reimbursement (OOER) by 20%, from \$1,719,290 to \$2,063,150 per annum, on top of the annual price adjustment to be made in October 2012;
- (c) allow the surplus from a year's OOER entitlement to roll over to the following year until the end of a LegCo term; and
- (d) combine the SUER and the ITER into one provision, but with no enhancement to the combined amount.

**Supplementary provision required for 2012-13**

3. We propose to provide supplementary provision of \$29.181 million under Head 112 Legislative Council Commission Subhead 366 Remuneration and reimbursements for Members of the Legislative Council to meet additional expenditure in 2012-13 arising from –

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- (a) the proposed enhancements in paragraph 2(a) and (b)<sup>1</sup> for 60 LegCo Members in the Fifth Term (\$13.015 million); and
- (b) the remuneration package payable to the ten additional Members in the Fifth Term incorporating the proposed enhancements in paragraph 2(a) and (b) above (\$16.166 million<sup>2</sup>).

### **Merging of SUER and ITER**

4. To take forward the proposal in paragraph 2(d) above, we propose to create a capital account commitment of \$17.500 million under Head 112 Legislative Council Commission Subhead 872 Non-recurrent expenses reimbursements for Members of the Legislative Council. The \$17.500 million covers the maximum combined provision for the SUER and ITER claimable by the 70 Members of the Fifth Term LegCo during their four-year tenure starting from October 2012.

### **JUSTIFICATION**

#### **Comprehensive review**

5. The Independent Commission<sup>3</sup> is appointed by the Chief Executive to, among others, advise the Administration on the remuneration package for LegCo Members. It is an established practice for the Independent Commission to conduct a comprehensive review of the remuneration package for LegCo Members about one year before the start of a new LegCo term. With the Fifth Term LegCo due to begin in October 2012, the Independent Commission started the review in May 2011 which is now completed.

6. In conducting its comprehensive review, the Independent Commission has adopted a holistic approach, taking into account a basket of factors. It has also considered the requests of and justifications provided by the LegCo Subcommittee on Members' Remuneration and Operating Expenses Reimbursement (LegCo Subcommittee) in its submissions in March 2011 and February 2012 respectively.

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<sup>1</sup> The proposed enhancements in paragraph 2(c) and (d) seek to increase Members' flexibility in using the relevant allowances and do not entail additional expenditure.

<sup>2</sup> The \$16.166 million comprises four elements payable to the ten additional Members in 2012-13, viz. remuneration, OOER, medical allowance, and Entertainment and Travelling Expenses Reimbursement (ETER). The remuneration and OOER entitlement of the ten Members will be \$80,470 per month and \$2,063,150 per annum as per paragraphs 2(a) and (b) respectively, while the medical allowance and ETER will remain at the existing level of \$28,020 per annum and \$176,310 per annum respectively.

<sup>3</sup> The Independent Commission is chaired by Mr Vincent Cheng. Other members are Mr Nicky Lo, Mr Chow Chung-kong, Mrs Betty Yuen, Professor Chan Yuk-shee and Ms Kelly Chan.

### Monthly remuneration

7. The Independent Commission considers that given the very unique nature of LegCo membership, determination of the appropriate level of Members' monthly remuneration is a complex issue involving a host of factors. It is not appropriate or indeed possible to derive a simple or mechanical formula to determine LegCo Members' monthly remuneration. By the same token, it is also not appropriate to compare the remuneration of LegCo Members directly with that of other sectors or to peg it to that of the civil service or politically appointed officials. Besides, while the Independent Commission considers that the monthly remuneration should be set at a level which is sufficient to attract talents and can enable those who regard LegCo membership as their main occupation to have a reasonable standard of living, it maintains that remuneration should not be the single most important factor for those who aspire to be a LegCo Member. The vision and the desire to serve the community, the interest in pursuing a career in politics, and the high social status enjoyed by LegCo Members are also very important considerations. The benchmark remains to be that the monthly remuneration should be reasonably attractive to encourage a broad spectrum of quality individuals from different sectors of the community to serve the public in the capacity of LegCo Members vis-à-vis other pursuits.

8. The Independent Commission acknowledges that there has been growing demand and public expectation on LegCo Members in recent years in terms of time and efforts to be spent on LegCo business, as seen from the increase in the number of meetings; longer hours of meetings; and the complex and controversial nature of issues put to LegCo for examination. The Independent Commission considers that this factor should be taken into account in considering the monthly remuneration for LegCo Members.

9. LegCo Members' monthly remuneration was last enhanced in 2008 where it was adjusted upwards for 15% (in addition to the annual adjustment in accordance with the Consumer Price Index (C) (CPI(C))). The Independent Commission notes that, for the period from 2008 to 2011, the overall rate of increase of Members' remuneration marginally lags behind the rate of growth in nominal Gross Domestic Product (GDP) per employed person by 1.45%; and lags behind the rate of growth in per capita GDP by 2.3%. In addition, comparing the rate of increase in remuneration of LegCo Members with that of the top 25% of salary earners working as managers and administrators (the median monthly salary of this group is roughly comparable to the remuneration of LegCo Members), the rate of increase of LegCo Member's remuneration from 2008 to 2011 lags behind this group by about 7.57% over the same period.

10. Taking into account the above considerations, as well as other factors including the constitutional role and functions of LegCo Members; the increase in workload and the public expectation on LegCo Members in recent years; the objective to enable a wide spectrum of quality individuals from different sectors of the community to serve as LegCo Members for the long-term constitutional development of Hong Kong; and to cater for expectation of future economic growth, the Independent Commission recommends to increase the monthly remuneration for Members of the Fifth Term LegCo by 10%, on top of the annual price adjustment due in October 2012. Based on the existing rate of \$73,150 at the 2011 price level, the proposed 10% increase will bring the monthly remuneration to \$80,470 (rounded to the nearest ten). The Independent Commission further recommends that the monthly remuneration for the LegCo President, the President's Deputy and the LegCo Members who are also serving on ExCo should continue to be fixed at 200%, 150% and two-thirds respectively of the remuneration for their fellow LegCo Members after the proposed 10% increase.

## **OOER**

11. The OOER is a major component of the Operating Expenses Reimbursement (OER) and is intended to reimburse LegCo Members' staffing and other operating expenses (e.g. maintaining their offices or for conducting research, etc) for conduct of LegCo business. It was last increased by 10% in 2006, on top of the annual CPI(C) adjustment.

12. In its submission to the Independent Commission in March 2011, the LegCo Subcommittee proposes to increase the OOER by \$634,091 per annum, among which \$423,863 is intended to cater for expenses for engaging staff and for maintaining Members' offices; and the remaining \$210,228 is a new amount proposed to be separately kept and maintained by the LegCo Secretariat for the sole purpose of paying end-of-service gratuity to full-time staff engaged by LegCo Members. Based on past expenditure pattern that about 70% of the OOER is spent on staff salary, the LegCo Subcommittee proposes that 70% of the OOER should be adjusted annually in accordance with the civil service pay adjustment. The remaining 30% should continue to be adjusted in accordance with CPI(C). In addition, the LegCo Subcommittee proposes to provide a new, separate allowance of \$204,000 per annum to enable Members to engage outside parties to conduct research and to lift the current restriction so that the political parties to which Members are affiliated can also be engaged to conduct such researches. The LegCo Subcommittee also proposes to implement these enhancements within the current term, with effect from 1 October 2011.

13. The Independent Commission notes that the utilisation rate of the OOER has been consistently high in recent years, at more than 90%. Besides, the rental expenses for private offices have been soaring in Hong Kong in recent years. Specifically, the percentage increase in office rental of Grade C office from 2006 to 2011 ranges from 38% to 62%. As for staffing support, the Independent Commission notes that Members have full discretion to decide on the exact number of staff to employ, the salary level and benefits of their staff, as well as the number of district offices. All in all, the Independent Commission agrees that the level of the OOER should be enhanced to make available more resources to Members to better perform their constitutional role and to better serve the community.

14. However, the Independent Commission considers that given the uniqueness of the civil service pay mechanism, it is inappropriate to use civil service pay, as proposed by the LegCo Subcommittee, as the basis to work out the amount required to cover salary expenses to be incurred by Members for employment of their staff<sup>4</sup>. The proposed new and separate allowance for research should also be critically examined, considering the fact that currently expenses for research is claimable under OOER, which actually provides more flexibility to cater for different needs of Members. The related proposal of the LegCo Subcommittee to lift the current restriction so that a LegCo Member can engage his/her own political party to conduct research is also not supported given the real or perceived conflict of interest.

15. Taking into account the above considerations and the need to maintain maximum flexibility for Members to utilise their OOER, the Independent Commission recommends a lump sum increase of the OOER by 20%, from the current \$1,719,290 to \$2,063,150 (rounded to the nearest ten) per annum. The amount should continue to be adjusted annually in accordance with CPI(C). Since the proposed 20% increase in OOER is a substantial enhancement and considering that 2011-12 is the last session of the current LegCo term, to preserve the integrity of the remuneration regime and in order to avoid any real or potential conflict of interest, the Independent Commission recommends that notwithstanding the request of LegCo to increase the OOER with effect from 1 October 2011, the proposed 20% increase should only take effect from the commencement of Fifth Term LegCo (i.e. with effect from 1 October 2012).

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<sup>4</sup> Based on the findings of a survey among LegCo Members, the LegCo Subcommittee adopts the assumptions that each Member will employ seven full-time staff, pitched at the average salary of the first four salary points of “comparable” ranks in the civil service (i.e. one Executive Officer I, two Executive Officers II and four Assistant Clerical Officers); and that each Member will operate one central office and two district offices, as the basis to work out its requested increase in OOER.

16. To address the need of LegCo Members to retain experienced staff, the Independent Commission agrees with the LegCo Subcommittee that it would be reasonable to allow any surplus of a Member's OOER entitlement each year to roll over to the following year until the end of a LegCo term. This would facilitate LegCo Members to retain part of the OOER funding for salary increments and/or payment of gratuity at the end of the four-year term, if they choose to, with a view to retaining experienced staff.

### **SUER and ITER**

17. At present, a newly-elected LegCo Member is entitled to SUER of up to \$150,000 per term to cover expenses for fitting out, purchase of furniture, equipment, software, etc. A re-elected Member may claim up to \$75,000 if he/she has claimed any SUER in the previous term. Separately, a LegCo Member may claim ITER of up to \$100,000 per term to cover expenses for the purchase or upgrading of information technology and communication equipment. The LegCo Subcommittee proposes to combine the SUER and the ITER into one single provision and to increase the total amount from the existing \$250,000 per term to \$482,500 per term.

18. The Independent Commission notes that for the Third Term LegCo, 38% of Members used less than 50% of the SUER while 31% of Members used less than 50% of the ITER. For the Fourth Term LegCo (up to September 2010), 65% of Members used less than 50% of the SUER while 69% of Members used less than 50% of the ITER. Judging from these utilisation rates, the Independent Commission does not consider the proposal to increase the amount of the two allowances justifiable. However, to enable more flexibility to Members, the Independent Commission recommends to merge the SUER and the ITER with effect from the Fifth Term LegCo, but with no enhancement to the combined amount. In other words, with effect from the Fifth Term LegCo, Members can claim up to \$250,000 to cover their setting up and IT communication equipment expenses during their four-year tenure, or up to \$175,000 if the re-elected Member had claimed any setting up expenses in the previous term.

19. Separately, taking into account the original intent of introducing the ITER, we consider it appropriate for expenses incurred for maintenance and operation of IT and communication equipment to be claimable under ITER or the future SUITER. In other words, depending on their individual needs, Members could free up more resources under OOER, which would otherwise need to be spent on maintenance and operation expenses for IT and communication equipment, to cover other office operation expenses, including staff costs. Moreover, the original intent of SUER, as approved by the Finance Committee, is for capital expenses incurred for the setting up of offices. However, we appreciate that sometimes expenses for setting up offices may not be incurred in one go, but would have to be

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incurred in phases. In addition, given the changing times, it may be more economical for Members to use hire purchase or leasing arrangements etc. to provide equipment in their offices than to make one-off capital purchase; or to repair rather than replace them. We therefore consider it appropriate for the operation, maintenance or repair costs of fixed assets to be claimable under the SUITER in future.

20. The proposed remuneration package for LegCo Members, effective as from the Fifth Term LegCo, together with the existing package, is at the

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Enclosure.

### **Need for additional funding for ten additional new Members in the Fifth Term LegCo**

21. In March 2011, LegCo passed the local legislation regarding the method for the formation of the Fifth Term LegCo. Pursuant to the legislation, the number of LegCo seats will be increased by ten from 60 to 70 in the Fifth Term. There is a need to provide additional funding to meet the cost of the remuneration package for the ten Members in 2012-13 incorporating the proposed enhancements to the remuneration and OOER in paragraph to 2(a) and (b) above respectively.

### **FINANCIAL IMPLICATIONS**

22. The proposed enhancements in paragraphs 2(a) and (b) above will entail additional expenditure for the remuneration and OOER for the 70 Members of the Fifth Term LegCo. They will also lead to consequential increase in expenditure for end-of-service gratuity and Winding Up Expenses Reimbursement, the payment of both being linked to the remuneration and OOER respectively<sup>5</sup>. Taking into account the direct and consequential increases in expenditure, we estimate that the total additional financial implications of implementing the proposed enhancements for the Fifth Term LegCo, save for any annual price adjustments to be made, will be about \$127.2 million per term<sup>6</sup>. This translates into, on average, an additional \$1.8 million per LegCo Member per term or an additional \$454,000 per LegCo Member per annum.

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<sup>5</sup> The end-of-service gratuity payable at the end of a LegCo term is pitched at 15% of the total remuneration received during the term, while WUER is equivalent to 1/12 of the annual OOER plus actual severance payment.

<sup>6</sup> The total additional financial implications of \$127.2 million comprises to \$2.212 million for the President per term; \$2.010 million for the President's Deputy per term; and \$1.808 million per LegCo Member per term x 68 Members (the total number of LegCo Members will be increased from 60 to 70 for the Fifth Term LegCo).



23. As proposed in paragraph 3, we need to provide supplementary provision of \$29.181 million under Head 112 Legislative Council Commission Subhead 366 Remuneration and reimbursements for Members of the Legislative Council to meet additional expenditure in 2012-13, broken down as follows –

- (a) \$13.015 million for the proposed enhancements to the remuneration and OOER for 60 LegCo Members of the Fifth Term; and
- (b) \$16.166 million for the enhanced remuneration package (comprising remuneration, OOER, medical allowance and ETER) for the ten additional Members of the Fifth Term.

We will include sufficient provisions in the annual draft Estimates for 2013-14 and beyond.

24. The proposed capital account commitment of \$17.500 million under Head 112 Legislative Council Commission Subhead 872 Non-recurrent expenses reimbursements for Members of the Legislative Council represents the maximum combined SUER and ITER provisions, namely the new SUITER, claimable by the 70 Members of the Fifth Term LegCo during their four-year tenure<sup>7</sup>. We estimate that the expenditure will spread over between 2012-13 and 2016-17, as follows –

Year	Estimated cash flow requirement (\$million)
2012-13	4.813
2013-14	4.358
2014-15	5.057
2015-16	1.837
2016-17	1.435
Total	17.500

Following the existing rule for SUER entitlement, any re-elected Members who had claimed any setting up expenses in the previous term can only claim up to \$175,000 for the combined SUER and ITER provision during their four-year tenure of the current term.

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<sup>7</sup> The maximum combined SUER and ITER provision claimable by a Member is \$250,000 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 \$17.500 million.

**PUBLIC CONSULTATION**

25. The Independent Commission met with the LegCo Subcommittee in June 2011 and exchanged views with LegCo Members upon receipt of the latter's proposals to enhance various components of the OER. It also conducted site visits to district offices of LegCo Members in July 2011 and listened to views of the assistants employed by LegCo Members. Upon invitation of the LegCo Subcommittee, the Administration Wing attended meeting of the LegCo Subcommittee in December 2011 to listen to Members' further views.

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Administration Wing  
Chief Secretary for Administration's Office  
May 2012

Existing and Proposed remuneration package for LegCo Members

Existing Package	Proposed Package with effect from the Fifth Term LegCo (before any effect of price adjustments)
<b><u>Remuneration and Benefits</u></b>	
<p><b>1. Monthly Remuneration *</b></p> <p>\$146,300 for the LegCo President            \$109,730 for the President’s Deputy            \$73,150 for other Members            \$48,770 for Members also serving on ExCo</p> <p><b>2. End-of-service gratuity</b>            (payable at the end of a term)            15% of the total remuneration received during the term</p> <p><b>3. Medical Allowance *</b>            (per annum)            \$28,020</p>	<p><b>1. Monthly Remuneration *</b></p> <p>\$160,940 for the LegCo President            \$120,710 for the President’s Deputy            \$80,470 for other Members            \$53,650 for Members also serving on ExCo</p> <p><b>2. End-of-service gratuity</b>            (payable at the end of a term)            15% of the total remuneration received during the term</p> <p><b>3. Medical Allowance *</b>            (per annum)            \$28,020</p>
<b><u>Operating Expenses Reimbursement</u></b>	
<p><b>4. Office Operation Expenses Reimbursement (OOER) *</b>            (per annum) \$1,719,290</p> <p><b>5. Entertainment and Travelling Expenses Reimbursement *</b>            (per annum) \$176,310</p>	<p><b>4. Office Operation Expenses Reimbursement (OOER) *</b>            (per annum) \$2,063,150</p> <p><b>5. Entertainment and Travelling Expenses Reimbursement *</b>            (per annum) \$176,310</p>

<b>Existing Package</b>		<b>Proposed Package with effect from the Fifth Term LegCo (before any effect of price adjustments)</b>	
<b>6. President's Entertainment *</b> (per annum)	\$176,480	<b>6. President's Entertainment *</b> (per annum)	\$176,480
<b>7. Setting Up Expenses Reimbursement</b> (per term)	\$150,000 or \$75,000 (for Members who have claimed Setting Up in the previous term)	<b>7. Setting Up and Information Technology Expenses Reimbursement</b> (i.e. the <b>combined</b> provision for Setting Up Expenses Reimbursement and Information Technology and Communication Equipment Expenses Reimbursement) (per term)	\$250,000 or \$175,000 (for Members who have claimed setting up expenses in the previous term)
<b>8. Information Technology and Communication Equipment Expenses Reimbursement</b> (per term)	\$100,000		
<b>9. Winding Up Expenses Reimbursement *</b> (per term)	1/12 of the annual OOER (i.e. \$143,274), plus actual severance payment	<b>8. Winding Up Expenses Reimbursement *</b> (per term)	1/12 of the annual OOER (i.e. \$171,929) plus actual severance payment

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

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