

**The Independent Commission on Remuneration for  
Members of the Executive Council and the Legislature  
of the Hong Kong Special Administrative Region**

**Report on the Review of Remuneration Package for  
Members of the Fourth-Term Legislative Council**

**November 2007**

## TABLE OF CONTENTS

CHAPTER		PAGE
1.	INTRODUCTION AND RECOMMENDATIONS	1
2.	REVIEW SOUGHT BY LEGCO IN 2006	5
3.	BASIC PRINCIPLES AND LEVEL OF REMUNERATION	9
4.	END-OF-SERVICE GRATUITY	16
5.	MEDICAL BENEFITS AND OPERATING EXPENSES REIMBURSEMENT	19
6.	OTHER COMPONENTS	23
ANNEX A	TERMS OF REFERENCE OF THE INDEPENDENT COMMISSION	25
ANNEX B	MEMBERSHIP OF THE INDEPENDENT COMMISSION	26
ANNEX C	GROSS DOMESTIC PRODUCT AND LEGCO MEMBERS' REMUNERATION FROM 1991 TO 2006	27
ANNEX D	MONTHLY INCOME FROM MAIN EMPLOYMENT OF WORKING POPULATION AT SELECTED PERCENTILES, 2006	29

ANNEX E	REMUNERATION FOR LEGISLATORS IN HONG KONG, SINGAPORE, NEW SOUTH WALES OF AUSTRALIA AND THE UNITED KINGDOM	32
ANNEX F	UTILISATION OF THE OPERATING EXPENSES REIMBURSEMENT	34
ANNEX G	UTILISATION OF THE ENTERTAINMENT AND TRAVELLING ALLOWANCE	36
ANNEX H	UTILISATION OF THE SETTING-UP, WINDING-UP, AND INFORMATION TECHNOLOGY AND COMMUNICATION ALLOWANCES	38

## CHAPTER 1: INTRODUCTION AND RECOMMENDATIONS

1.1 The Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the Hong Kong Special Administrative Region (“the Independent Commission”) is appointed by the Chief Executive to determine the remuneration packages for Members of the Executive Council and the Legislative Council (“LegCo”). The terms of reference of the Independent Commission and its current membership are at Annex A and Annex B respectively.

1.2 It is an established practice for the Independent Commission to conduct a comprehensive review of the remuneration package for LegCo Members about a year before the start of a new LegCo term. With the fourth-term LegCo due to begin in October 2008, the Independent Commission started a comprehensive review in April 2007 which is now completed.

1.3 The existing remuneration package for LegCo Members includes the following components:

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|-----|--|--|
| (a) | Monthly remuneration:                                | \$113,500 for the LegCo President,<br>\$85,150 for the President’s Deputy,<br>\$56,750 for other LegCo Members |
| (b) | Annual Operating Expenses Reimbursement (OER):       | \$1,534,020 for all LegCo Members  |
| (c) | Annual Entertainment and Travelling Allowance (ETA): | \$314,770 for the LegCo President,<br>\$157,310 for other LegCo Members  |
| (d) | One-off provisions:                                  |  |
|     | Setting-up   | \$150,000  |
|     | Information technology and communications            | \$100,000  |

Winding-up	One-twelfth of the annual OER (i.e. about \$127,835), and actual for severance payments
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Components (a), (b) and (c) (and consequentially, the one-off winding-up provision in component (d)) are subject to annual adjustments in October each year in accordance with movements of the Consumer Price Index (C) (“CPI(C)”). The latest adjustment, made in October 2007, was +2.4%.

## **Approach**

1.4 The Independent Commission conducted a thorough examination of the remuneration package, the nature of LegCo membership and the existing annual price adjustment mechanism.

1.5 During the course of the review, members of the public and the media have expressed a wide spectrum of views on LegCo Members’ remuneration package. For instance, prompted by certain instances such as the adjournment of a full LegCo meeting due to the absence of a quorum, some quarters were critical of the performance of individual incumbent Members. They suggested that a linkage be drawn between the performance of LegCo Members and their remuneration package. Some held a different view, arguing that a reasonable remuneration package was necessary to attract interested and capable persons to come forward and stand in elections.

1.6 The Independent Commission has given serious consideration to these varying views. The Independent Commission considers that the current exercise is not to determine the remuneration for the incumbent LegCo Members, but the appropriate package for the next term of LegCo Members due to be elected. Thus, rather than passing a judgement on the incumbents’ performance, the review should take an objective and forward looking approach focusing on drawing up an appropriate remuneration package which is commensurate with the powers and duties vested in LegCo Members. The Independent Commission expects that all Members will discharge their functions fully and are committed to serving the public. It is up to individual LegCo Members to prove themselves worthy before their constituencies.

Indeed, members of the public are in the best position to determine if their LegCo representatives have performed satisfactorily, by casting their votes for their preferred candidates in the next round of elections.

1.7 In making its recommendations, the Independent Commission has taken into account the level of responsibilities that LegCo Members are to discharge, and the workload and complexity of business that LegCo as an institution handles. The Independent Commission also considers it necessary to have due regard to developments in both the economic and political spheres. The remuneration package should be capable of attracting high calibre individuals to serve the community in the capacity of LegCo Members. It should also enable those who regard LegCo work as their main occupation to maintain a reasonable standard of living.

### **Meetings with the LegCo Subcommittee**

1.8 The LegCo's House Committee has formed a Subcommittee on Members' Remuneration and Operating Expenses Reimbursement ("the LegCo Subcommittee") to consider matters relating to the level of remuneration and expense reimbursement for LegCo Members. Before the onset of this review, and also in the course of it, the Independent Commission has met the LegCo Subcommittee on a number of occasions and exchanged views on the requests made by the Subcommittee (see Chapter 2 for details). In order to achieve a better understanding, the Independent Commission also paid a site visit to the district offices of two LegCo Members (returned by geographical and functional constituencies respectively).

### **Recommendations**

- 1.9 The Independent Commission recommends that –
- (a) the taxable monthly remuneration for LegCo Members should be increased by 15%, from \$56,750 to \$65,263 (subject to the price adjustment in accordance with movements of the CPI(C) due on 1 October 2008). The monthly remuneration for the LegCo President and the

President's Deputy should continue to be fixed at 200% and 150% respectively of the remuneration for their fellow LegCo Members, i.e. \$130,526 and \$97,895 after the proposed 15% increase;

- (b) a taxable gratuity pitched at 15% of the total remuneration that a LegCo Member receives during a LegCo term should be payable to the LegCo Member at the end of the term, subject to the eligibility criteria as set out in Chapter 4;
- (c) an annual accountable medical allowance of \$25,000 should be made available to serving LegCo Members, which could be used either to pay for the premium of their personal medical and/or dental insurance cover, or actual medical and dental expenses, or both;
- (d) no change be made to the existing level of the OER, i.e. \$1,534,020 per annum, which is subject to annual adjustment in accordance with the movements of the CPI(C);
- (e) the proposed changes in paragraph 1.9(a), (b) and (c) above should be applicable for the fourth-term LegCo with effect from 1 October 2008, in line with the established principle that any substantial changes to LegCo Members' remuneration should take effect for the following term of office; and
- (f) the level of the ETA and the one-off provisions should continue to apply to the fourth-term LegCo. The price adjustment mechanism currently applicable to the monthly remuneration, the OER and the ETA should be maintained, and will also apply to the proposed medical allowance.

## CHAPTER 2: REVIEW SOUGHT BY LEGCO IN 2006

2.1 In October 2004, the LegCo's House Committee resolved to form a Subcommittee on Members' Remuneration and Operating Expenses Reimbursement to examine issues relating to the level of remuneration and expense reimbursement for LegCo Members. After several rounds of discussions with the Independent Commission and the Administration Wing of the Chief Secretary for Administration's Office (which serves as the Secretariat to the Independent Commission) which took place between May and August 2006, the LegCo Subcommittee put forth the following requests for the Independent Commission's consideration:

- (a) as top priority, the OER should be increased by up to 20%;
- (b) as second priority, civil service medical benefits should be made available to LegCo Members, both during and after their service with LegCo. Retirement benefits in the form of a gratuity at 15% of the total remuneration received should be given;
- (c) as third priority, the monthly remuneration for LegCo Members should be pegged to a certain percentage of the salary range of the directorate officers in the civil service. Alternatively, an independent remuneration scale may be set for LegCo Members;
- (d) the Independent Commission should critically review the underlying principle governing LegCo Members' remuneration, viz. "LegCo membership is not a job, but a form of public service";
- (e) the restriction against shared employment of staff should be relaxed; and
- (f) the Independent Commission should consider engaging an independent consultant to evaluate the work of LegCo Members with a view to drawing up an appropriate remuneration package for them.



2.2 The Independent Commission gave priority attention to the request for an increase in the OER, which was accorded top priority by the LegCo Subcommittee. The Independent Commission was sympathetic to the reasons put forward by the LegCo Subcommittee that the level of the OER might not be fully adequate for individual LegCo Members, especially those who felt the need to operate a number of district offices. The Independent Commission was however unable to take on board the proposition put forward by the LegCo Subcommittee that the request to raise the OER by up to 20% reflected more of a compromise among political parties than the outcome of a quantitative analysis. Besides, the Independent Commission took the view that the need amongst LegCo Members and the cost of running a Member's office could vary significantly, and that it was difficult, if not impossible, to devise an objective yardstick to determine the optimum number of assistants and district offices for LegCo Members, having regard to their different background and modes of operation.

2.3 The Independent Commission therefore adopted a holistic approach and considered a basket of factors. It recommended in August 2006 that the request to increase the OER should be acceded to, and the rate of increase should be 10% (vs. "up to 20%" as requested by the LegCo Subcommittee). The increase, which would be on top of the price adjustment due from October 2006, should be given effect within the third-term LegCo (2004-08).

2.4 The Independent Commission also recommended that –

- (a) the request to relax the restriction on shared employment of staff by LegCo Members should be acceded to; and
- (b) the request to engage an independent consultant to consider the remuneration package for LegCo Members should be rejected.

2.5 Notwithstanding the established practice to effect any changes to the remuneration package in the following term in order to preserve the regime, the Independent Commission decided to recommend immediate increase to the OER on the basis that these were out-of-pocket expenses which did not benefit LegCo Members personally.

2.6 As to the requests to adjust the personal benefits for LegCo Members, i.e. the monthly remuneration, medical benefits and retirement benefits, the Independent Commission took the view that these proposals, if accepted, would amount to substantial changes in the remuneration package for LegCo Members. The Independent Commission reaffirmed the established principle that any such changes should be implemented only in the following LegCo term. The Independent Commission therefore recommended in August 2006 that those requests concerning the monthly remuneration, medical benefits and retirement benefits should be set aside for the comprehensive review for the remuneration package for the fourth-term LegCo. As to the request for reviewing the nature of LegCo membership, the Independent Commission noted that one of the established principles previously adopted was that LegCo membership was a form of public service rather than a job. It was also an important anchor on which the remuneration package was drawn up. The Independent Commission therefore also recommended committing this issue to the comprehensive review of the remuneration package for the fourth-term LegCo. The detailed considerations for these recommendations are set out in the Independent Commission's Report published in August 2006.

2.7 The Independent Commission's recommendations were accepted by the Chief Executive in Council in October 2006. Following LegCo Finance Committee's endorsement on 3 November 2006, the 10% increase in the OER took effect from 1 October 2006. The restrictions against shared employment of staff have been relaxed since November 2006.

### **Affirmation of Requests by LegCo Subcommittee**

2.8 At its meeting with the Independent Commission on 18 September 2007, Members of the LegCo Subcommittee reaffirmed its previous requests as set out in paragraph 2.1(b), (c) and (d). In relation to the request for medical benefits, Members of the LegCo Subcommittee agreed that the present review should focus on whether medical benefits should be made available for serving LegCo Members only. Members of the LegCo Subcommittee also requested that notwithstanding the increase of 10% in the OER which took effect from 1 October 2006, the

Independent Commission should cover in the comprehensive review the level of the OER. This position is also in line with the requests made to the Independent Commission by the two LegCo Members during the site visit on 11 September 2007.

2.9 Following the meeting with the Independent Commission on 18 September 2007, the LegCo Subcommittee submitted a further paper to the Independent Commission on 31 October 2007 which confirmed its previous requests as set out in the preceding paragraphs. On the OER, the LegCo Subcommittee further submitted that its level should be increased to cater for the establishment of a LegCo Member's office in each District Council constituency, and given that "in most cases", there are four District Council constituencies in a LegCo geographical constituency, the OER ceiling should be set at a level with adequate provisions for the establishment of four district offices, on top of the central office which the Administration makes available to each LegCo Member free of charge.

## **CHAPTER 3: BASIC PRINCIPLES AND LEVEL OF REMUNERATION**

### **Basic Principles for Determining Remuneration**

3.1 In the review conducted in 2003 for the third-term LegCo, the Independent Commission re-affirmed the long-held principles for the determination of the remuneration package for LegCo Members as follows –

- (a) LegCo membership is not a job, but a form of public service. There is hence no restriction on LegCo Members taking up full time employment alongside their LegCo duties, nor are they required to declare income derived from their full-time employment, if any;
- (b) the main objective of the remuneration package remains to make it possible for a broad spectrum of individuals from different sectors and walks of life of the community to serve the public in the capacity of LegCo Members;
- (c) irrespective of the election methods, LegCo Members should be entitled to the same remuneration package, as they are exercising the same constitutional powers and functions under the Basic Law; and
- (d) though the remuneration of LegCo Members is funded by the public coffers, LegCo Members do not have any employment relationship with the Government.

### **Enhancements to the Remuneration Package since 1991**

3.2 A number of major enhancements have been made to the remuneration package for LegCo Members since 1991. The summary below will place the LegCo Subcommittee's present requests in the proper historical context –

- (a) In 1993

The monthly general expenses allowance for LegCo

Members was increased from \$32,700 to \$73,000. The allowance comprised two components, an accountable component for office and staff costs of \$63,000 per month and a non-accountable component for travelling and entertainment expense of \$10,000 per month. The increase aimed to provide additional resources for LegCo Members to cover the expenses in office rental, staff salaries and other office charges.

(b) In 1995

An additional accountable provision of \$11,220 per month was provided to directly-elected LegCo Members for operation of district offices.

An additional one-off provision of \$50,000 was provided to all LegCo Members for the setting up of their central offices.

An additional one-off provision of \$107,000 was provided to outgoing LegCo Members to cater for severance payments and other expenses payable to their staff arising from a cessation of their office.

(c) In 1996

50% of the ETA provision was made non-accountable in the light of difficulties experienced by LegCo Members in obtaining receipts in support of their ETA claims.

All LegCo Members were made eligible for the accountable allowance for office rental and the setting-up allowance to ensure equal treatment for all, irrespective of how Members were returned.

(d) In 1999

The separate allowance for district office expenses was merged into the allowance for office and staff expenses to

form a single OER provision to provide LegCo Members with greater flexibility in using the allowances concerned.

The entire ETA allowance was made non-accountable to further streamline the administrative arrangements in processing LegCo Members' ETA claims. At the same time, up to 50% of the ETA allowance could be deployed to meet staff expenses on an accountable basis, so that LegCo Members could enjoy greater flexibility in deploying resources to meet staff expenses, if necessary.

A one-off allowance of \$100,000 was provided for LegCo Members to purchase/upgrade IT and communication equipment to maintain contacts with the public.

(e) In 2001

The monthly OER provisions were merged into an annual provision to allow LegCo Members greater flexibility in deploying their resources.

In addition, the OER was increased by \$300,000 (about 27%) per annum at the same time in the light of LegCo Members' increased workload relating to LegCo business.

(f) In 2006

The annual OER provision was increased by 10% after a basket of factors, including the utilization rates of the OER, statistics on the number of offices operated and staff employed by LegCo Members, population changes, the number of registered electors for geographical constituency elections, and the complexity of issues handled by LegCo Members and public expectations, had been taken into account.

## **Nature of LegCo Membership**

3.3 LegCo Members have repeatedly stressed that the demands now placed on them, and public expectations of LegCo Members, have been rising continuously. They also point out that even for those who have retained their main occupations in the relevant professions or continued to run their businesses in the relevant sectors, the time and attention they devote to LegCo work is now much more substantial than that spent on their own professions or business. The LegCo Subcommittee therefore strongly argues that LegCo membership should be recognised as a job, not public service. Furthermore, notwithstanding the fact that some LegCo Members returned by functional constituencies have not been able to work as full-time legislators or declare themselves to be so, as a matter of fairness, LegCo Members should receive the same remuneration package irrespective of the channels through which they were elected.

3.4 The Independent Commission has taken note of the LegCo Subcommittee's submissions. The Independent Commission duly recognizes the very important role LegCo Members play, individually and collectively, in enacting laws, monitoring the work of the Government and controlling public expenditure. It also recognizes the increasing volume and complexity of LegCo work as society grows, and the heavier responsibilities and higher public expectations placed upon LegCo Members. Because of the important functions they perform and the high volume of LegCo business, much heavier time commitments have indeed become necessary.

3.5 The Independent Commission however notes that if LegCo membership were to be conceived as a full-time job, the need would arise for LegCo Members to declare their outside employment and earnings. It would also be reasonable to expect that some restrictions, or at least certain requirements, be imposed on LegCo Members for doing so. Any outside job restrictions however may have implications for those who intend to stand for re-elections in functional constituencies. This is because candidates for such elections are required under the law to satisfy the Returning Officer that they have a substantial connection with the

constituencies concerned<sup>1</sup>. If there were outside job restrictions, individual LegCo Members might have difficulties in proving to the satisfaction of the Returning Officer that they are able to satisfy the “substantial connection” test before they can stand for re-election.

3.6 Rather than dwelling on the debate as to whether LegCo membership should be regarded as a job, the Independent Commission is minded to take a pragmatic approach, viz. to review and devise a remuneration package which is commensurate with the high level of responsibilities and the powers and functions vested in LegCo membership, and that is attractive enough for able candidates to come forward and serve the community in the capacity of LegCo Members. The remuneration package should also enable those who regard LegCo work as their main occupation to maintain a reasonable standard of living.

3.7 While maintaining its previous view on the nature of LegCo membership as a form of public service and that LegCo Members have no employment relationships with the Government, the Independent Commission has recommended appropriate adjustments to the remuneration package so as to maintain its attractiveness to capable candidates who aspire to serve as LegCo Members, whether as a form of public service or political career, vis-à-vis other pursuits in society. The Independent Commission also agrees to the submission from the LegCo Subcommittee that the remuneration package should be the same for all LegCo Members, i.e. irrespective of the channels through which they are elected, as the public’s expectation of them, and the duties they are supposed to discharge, are the same.

### **Level of Remuneration**

3.8 The Independent Commission notes that there has been no change to the level of monthly remuneration for LegCo Members since 1991, except the annual adjustments in accordance with the movements of the CPI(C) which is a measure of inflation or deflation. It is now

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<sup>1</sup> For the purpose of the Legislative Council Ordinance (Cap. 542), the circumstances in which a person has a substantial connection with a functional constituency include, but are not limited to –

- (i) being a member, partner, officer or employee of a corporate elector of the constituency or a corporate member of such a corporate elector; or
- (ii) belonging to a class of persons specified as being electors of the constituency.



appropriate time to review the level of remuneration for LegCo Members.

3.9 As the remuneration for LegCo Members has been adjusted for inflation only, the real value of the remuneration for LegCo Members has been curbed without moving in line with the growth of real income in the rest of Hong Kong's society. To ascertain the rate of economic growth and productivity gains vis-à-vis the change in the remuneration, the Independent Commission has examined the Gross Domestic Product (GDP) and related indices since 1991 (**Annex C**). The two indicators adopted in the analysis, viz. nominal GDP per employed person and per capita nominal GDP, have taken into account the effects of both price changes and real growth in income in the studied period. The change of the annual remuneration from 1991 to 2006 reflects only the adjustments made in accordance with the movements of the CPI(C). In 1991, the nominal GDP per employed person and per capita nominal GDP were \$250,690 and \$120,015 respectively while the annual remuneration for LegCo Members was \$432,000. In 2006, the nominal GDP per employed person and per capita nominal GDP increased to \$432,327 and \$215,006 respectively while the annual remuneration for LegCo Members was \$665,040. Taking 1991 as the base year for which all the indices are normalised to 100, the indices of the nominal GDP per employed person and per capita nominal GDP climbed up to 172.5 and 179.1 respectively in 2006, compared with the index of 153.9 for the annual remuneration for LegCo Members.

3.10 As revealed in the analysis above, since 1991 the overall rate of increase in the annual remuneration for LegCo Members over the same period has lagged behind the rate of growth in nominal GDP per employed person and per capita nominal GDP by 12.0% and 16.4% respectively. This is because over this period, there has been zero increase in the real remuneration for LegCo Members whereas there has been real growth in productivity and real income in the Hong Kong economy measured by the indices. To enable LegCo Members to share the fruits of Hong Kong's economic growth and to maintain the attractiveness of the remuneration package vis-à-vis other pursuits, the Independent Commission proposes that with effect from the start of the fourth-term LegCo on 1 October 2008, the taxable monthly remuneration be increased by 15% (i.e. to \$65,263 on the basis of the current

remuneration level), on top of the price adjustment due in October 2008. Consistent with the established practice, the Independent Commission proposes that the monthly remuneration for the LegCo President and the President's Deputy should continue to be fixed at 200% and 150% respectively of the remuneration for their fellow LegCo Members.

3.11 The Independent Commission considers that the increased level represents a reasonable enhancement to the attractiveness of the office. This also places LegCo Members among the top 2.1 to 2.2% of salary earners as at 2006 (as opposed to 2.8 - 2.9% at present) (**Annex D**). While fully aware of the differences among political systems which render direct comparisons not meaningful, the Independent Commission notes that the proposed level of the monthly remuneration is broadly comparable with Members of the Singapore Parliament, the New South Wales Legislative Assembly in Australia and the House of Commons in the United Kingdom (**Annex E**).

3.12 The Independent Commission recognises that the nature of LegCo work is so unique that it would not be appropriate to draw any reference from the remuneration level of any occupation or executive offices nor to link up the monthly remuneration for LegCo Members with the civil service pay scale. The Independent Commission approaches the issue in the light of the question on whether the level is reasonably attractive for a broad spectrum of individuals from different sectors and walks of life of the community to come forward and serve as LegCo Members.

3.13 The proposed remuneration level should help meet the longer term objective of grooming political talent. Nevertheless, the Independent Commission also recognises that whether aspiring individuals will run for LegCo elections does not solely depend on the level of the monthly remuneration, and that intangible factors (such as public recognition of the importance of the LegCo office, and work satisfaction derived from being a LegCo Member) are also at work.

## **CHAPTER 4: END-OF-SERVICE GRATUITY**

### **Gratuity in Recognition of Members' Service**

4.1 The LegCo Subcommittee requests that a gratuity equivalent to 15% of the remuneration that LegCo Members receive during their tenure of office be provided.

4.2 For the same reasons that the Independent Commission has considered in relation to the monthly remuneration as set out in the previous Chapter, the Independent Commission recommends that the LegCo Subcommittee's request for a gratuity be acceded to. Apart from being a recognition of LegCo Members' service to the community, the proposed gratuity would help LegCo Members tide over a period should they decide not to seek re-election or fail to be re-elected.

4.3 As to the size of the proposed gratuity, the Independent Commission also agrees to the LegCo Subcommittee's request to pitch it at 15% of the total remuneration that a LegCo Member receives during a LegCo term. This percentage is adopted by many entities in both the private and public sectors where an end-of-contract gratuity is payable.

4.4 In line with the established principle that any substantial changes to the remuneration package should be implemented only in the following LegCo term, the Independent Commission recommends that the proposed gratuity should be applicable for the fourth-term LegCo and with effect from 1 October 2008. That is to say, starting from the fourth-term LegCo, upon the end of a LegCo term, the remuneration that LegCo Members receive in that term will be counted towards the calculation of the amount of gratuity which is payable upon the end of that term.

### **Eligibility Criteria**

4.5 The proposed gratuity, which will be subject to tax, serves in recognition of LegCo Members' public service as well as to assist Members to tide over a period should they decide not to seek re-election or fail to be elected. Article 69 of the Basic Law stipulates that the term

of office of LegCo shall be four years, except the first term. Each LegCo Member is expected to serve for four years when he is elected. The Independent Commission recommends that the proposed gratuity should be provided when a LegCo Member has completed his term of office, i.e. at the end of the four-year period.

4.6 That said, the Independent Commission considers that there are exceptional circumstances under which a LegCo Member may be provided with the proposed gratuity even if he does not serve out a whole LegCo term. The Independent Commission recommends that –

- (a) upon a Member’s death, the gratuity should also be payable (to the administrator of the Member’s estate);
- (b) a LegCo Member should not be entitled to receive the gratuity if he or she is declared by the President of LegCo to be no longer qualified for the office under Article 79<sup>2</sup>, except under Article 79(1) (when he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons), or under Article 79(4) (when he or she accepts a government appointment and becomes a public servant);
- (c) LegCo Members should be provided with the gratuity if their membership ceases due to the dissolution of LegCo under Article 50 of the Basic Law<sup>3</sup>;

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<sup>2</sup> Article 79 of the Basic Law stipulates the following circumstances under which the LegCo President shall declare that a Member is no longer qualified for LegCo office –

- “(1) When he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons;
- (2) When he or she, with no valid reason, is absent from meetings for three consecutive months without the consent of the President of the Legislative Council;
- (3) When he or she loses or renounces his or her status as a permanent resident of the Region;
- (4) When he or she accepts a government appointment and becomes a public servant;
- (5) When he or she is bankrupt or fails to comply with a court order to repay debts;
- (6) When he or she is convicted and sentenced to imprisonment for one month or more for a criminal offence committed within or outside the Region and is relieved of his or her duties by a motion passed by two-thirds of the members of the Legislative Council present; and
- (7) When he or she is censured for misbehaviour or breach of oath by a vote of two-thirds of the members of the Legislative Council present.”

<sup>3</sup> Under Article 50 of the Basic Law, the Chief Executive may dissolve LegCo if he refuses to sign a bill passed the second time by LegCo or LegCo refuses to pass a budget or any other important bill introduced by the Government, and if consensus still cannot be reached after consultations.

- (d) if the LegCo President is satisfied, if necessary after consulting a body comprising LegCo Members, that a LegCo Member resigns as a result of serious illness or any other valid reasons, the LegCo President should have the discretion to have the gratuity paid to the Member; and
- (e) the amount of gratuity payable under the circumstances in (a) to (d) above should be determined on a pro-rata basis for the time he or she has served.

4.7 The Independent Commission deems it difficult to prescribe all possible exceptional circumstances in addition to health reasons, under which a LegCo Member may be provided with a gratuity on a pro-rata basis when he or she does not serve out a whole LegCo term. The arrangement proposed in paragraph 4.6(d) above aims to allow a certain degree of flexibility in the handling of such cases while the principles of fairness and transparency should be upheld. The Independent Commission hence considers that the LegCo President should have the discretion to decide whether gratuity should be paid to a LegCo Member for reasons other than those specified in paragraph 4.6(a) to (c) above.

## **CHAPTER 5: MEDICAL BENEFITS AND OPERATING EXPENSES REIMBURSEMENT**

### **Medical Benefits**

5.1 As set out in Chapter 2, in its original submissions in June and August 2006, the LegCo Subcommittee requested that civil service medical benefits be made available to LegCo Members, both during and after their service with LegCo. At its meeting with the Independent Commission on 18 September 2007, the LegCo Subcommittee confirmed that the present review should focus on whether medical benefits should be made available for serving LegCo Members only. The Independent Commission has therefore proceeded on this basis.

5.2 During the meeting on 18 September 2007, the Independent Commission suggested to the LegCo Subcommittee that further consideration be given to the feasibility of procuring an insurance package for all 60 LegCo Members during their service. The LegCo Subcommittee then commissioned an agent to source a group medical and dental policy which could cover all serving LegCo Members and irrespective of their medical history. Having considered an insurance plan presented by the agent at its meetings on 12 and 18 October 2007, the LegCo Subcommittee decided that they would not further pursue the option in view of the comparatively high premium of the plan quoted and that they would continue to request for civil service medical benefits.

5.3 The Independent Commission recognises that the physical well-being of LegCo Members is important given the heavy demands placed on them. It considers that while LegCo Members should take personal responsibility over their own health and are eligible for the heavily subsidised public health care services just as any other members of the public, certain forms of medical benefits should be made available to them so as to help them maintain better health and better serve the community during their tenure of office. The Independent Commission has studied various options of medical benefits for LegCo Members, including medical insurance, medical expenses reimbursement, and civil service medical benefits.

5.4 The Independent Commission notes that civil service medical benefits are made available to eligible civil servants as a type of staff benefits. However, LegCo Members have no employment relationship with the Government and hence it might not be appropriate to extend civil service benefits to LegCo Members.

5.5 The Independent Commission considers that a lump sum allowance would give LegCo Members the greatest flexibility to decide on the quantity and quality of the medical services they need. Indeed, LegCo Members are at present allowed to reimburse the costs of their medical and dental insurance policies from the OER, but only six LegCo Members did so in 2004-05<sup>4</sup> and the amount claimed was small. The LegCo Subcommittee argues that most LegCo Members gave priority to other demands on the OER such as the expenses in operating offices and engaging staff and accordingly did not spare resources for their personal medical and dental insurance policies.

5.6 Noting the LegCo Subcommittee's submissions, the Independent Commission recommends that the present arrangement be strengthened by the provision of a separate, additional annual accountable medical allowance with effect from the fourth-term LegCo. To provide the greatest flexibility, LegCo Members should be allowed to pay for the premium of their personal medical and/or dental insurance policies, either procured individually or jointly with other LegCo Members (in which case the premium should be apportioned evenly amongst all the Members and charged to their respective accounts), or to pay for their actual medical and dental expenses, or both. The Independent Commission notes that the range of insurance products and their pricing vary a great deal, depending on how the plans are structured (e.g. groups or individual plans, age profile, individual health conditions, coverage of the insurance scheme, etc). Having considered the premiums of insurance plans generally available in the market which provide a comprehensive hospitalisation and out-patient coverage, the Independent Commission recommends that the allowance be pitched at \$25,000 per annum. It further recommends that the amount be subject to the same annual price adjustment mechanism applicable to the

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<sup>4</sup> Information for subsequent legislative sessions is not readily available to the Independent Commission.

monthly remuneration, the OER and the ETA.

5.7 Since a separate annual provision will be made available to LegCo Members for paying the premium of their medical and/or dental insurance policies or their actual medical and dental expenses or both, the Independent Commission recommends that the premium of LegCo Members' personal medical and dental insurance policies no longer be reimbursable under the OER with effect from the fourth-term LegCo.

### **Operating Expenses Reimbursement (OER)**

5.8 The LegCo Subcommittee requested in mid-2006 to increase the OER by 20% on the grounds that the OER level was inadequate for the majority of LegCo Members and the OER level did not allow LegCo Members to recruit adequate or quality staff to operate offices and to conduct policy research. As detailed in Chapter 2, the Independent Commission had considered this request in the previous review. The Independent Commission noted that the need amongst LegCo Members and the cost of running a Member's office varies greatly. It affirmed the view made by the former Independent Commission in 2001 that it was difficult, if not impossible, to devise an objective yardstick to determine the optimum number of assistants and district offices for LegCo Members, having regard to their different background and different modes of operation. With these caveats, the Independent Commission adopted a holistic approach and considered a basket of factors. It recommended a 10% increase in the OER, which took effect from 1 October 2006 following the Finance Committee's endorsement.

5.9 During the visit on 11 September 2007 to the district offices operated by the two LegCo Members, and at the meeting with the LegCo Subcommittee on 18 September 2007, LegCo Members requested that consideration be given to a further increase in the OER notwithstanding the increase of 10% with effect from 1 October 2006. In its latest submission dated 31 October 2007, the LegCo Subcommittee requested that the OER be increased to such a level that enables a LegCo Member to operate four district offices, in the light of the fact that "in most cases", the number of District Council constituencies in geographical constituencies is four.



5.10 The Independent Commission has examined the utilisation rate of the OER after October 2006. As LegCo Members have three months to tidy up their accounts for the purpose of claiming reimbursement under the OER, at the time of the review, the LegCo Subcommittee provided the utilisation rate of the OER only up to 31 May 2007.

5.11 Since the OER is an annual provision, LegCo Members' spending may fluctuate from month to month. The Independent Commission considers it more reliable to compare the utilisation rate for the same period in the 2005-06 legislative session. The Independent Commission has examined the statistics at **Annex F**. It notes that the average utilisation rate is slightly on the decline after the 10% increase in October 2006. The average utilisation rate is 86.6% in the period from October 2006 to May 2007, compared with 92.6% in the period from October 2005 to May 2006. Particularly, 28 out of 60 LegCo Members spent 90% or above of the OER from October 2006 to May 2007 while 38 spent 90% or above in the same period in the 2005-06 legislative session.

5.12 The Independent Commission is therefore not convinced that the OER should be increased further at this stage. The Independent Commission will keep in view the position and, if deemed appropriate, revisit the level of the OER some time during the course of the fourth-term LegCo.

## **CHAPTER 6: OTHER COMPONENTS**

### **Entertainment and Travelling Allowances (ETA)**

6.1 At present, an annual ETA of \$157,310 is provided for each LegCo Member. The LegCo President is entitled to an additional \$157,460. Up to 50% of the ETA may be deployed for meeting staff expenses. Except for this portion, the ETA is non-accountable, i.e. LegCo Members may claim reimbursement without the need to produce receipts or supporting documents.

6.2 The Independent Commission has considered the rate of utilisation of the ETA in the 2003-04, 2004-05 and 2005-06 legislative sessions (**Annex G**). The Independent Commission notes that on average, the rate stood slightly below 92%, and that the LegCo Subcommittee has not made submissions on its level. As the ETA has not been fully exhausted, the Independent Commission considers that it is largely adequate and recommends that no change be made to its current level.

### **Annual Adjustment Mechanism**

6.3 The monthly remuneration, the OER and the ETA are adjusted in October every year in accordance with movements of the CPI(C). Compared with the other CPI indices, the CPI(C) reflects the price movement of the basket of goods and services generally purchased by households in the relatively high expenditure range. This is an easily measurable and objective index for that purpose. The current adjustment mechanism ensures that the purchasing power of three components in the remuneration package remain more or less stable over the years. The Independent Commission therefore recommends that the existing annual adjustment mechanism should continue.

## One-off Provisions

6.4 At present, a newly-elected LegCo Member is entitled to a setting-up allowance of \$150,000<sup>5</sup>. A LegCo Member may also claim reimbursement of up to \$100,000 for the purchase or upgrading of information technology and communication equipment in each term. Furthermore, a LegCo Member may claim winding up expenses reimbursement when he ceases to be a LegCo Member, either because he does not seek re-election or for reasons over which he has no control (e.g. death, defeat in re-election or dissolution of LegCo). On these occasions, he may claim up to one-twelfth of the annual OER. No ceiling is set for the expenses to cover actual severance payments paid to staff employed with funds reimbursed from the OER and the ETA and in accordance with the provisions of the Employment Ordinance.

6.5 The Independent Commission has considered the statistics at **Annex H** on the utilisation of these one-off provisions. The Independent Commission notes that on average, the current level of provisions is largely adequate for LegCo Members to meet their needs. In this light, the Independent Commission recommends no change to the levels of the three provisions.

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<sup>5</sup> A re-elected Member may claim up to \$75,000 if he has claimed any setting-up expenses reimbursement in the previous term, but if he has to close down an existing office to set up a new one as a result of the expiry of tenancy agreement or other valid reasons, he may claim up to \$150,000.

**Terms of Reference of the Independent Commission**

The Independent Commission –

- (a) considers the system of remuneration for Executive Council (ExCo) and Legislative Council (LegCo) Members of the Hong Kong Special Administrative Region (HKSAR), taking into account any factor that may affect the level of such remuneration and allowances;
- (b) carries out periodic review of the remuneration package for LegCo Members of the HKSAR, say once every three to five years and normally about a year before the start of a new LegCo term;
- (c) considers the appropriate level of remuneration for those with multiple membership on ExCo and LegCo of the HKSAR in deliberating on the above issues; and
- (d) advises the Administration on any matter relating to the remuneration package for ExCo and LegCo Members of the HKSAR which the Administration may refer to the Independent Commission from time to time.

**Membership of the Independent Commission**

**Chairman**

Mr Vincent CHENG Hoi-chuen, G.B.S., J.P.

**Members**

Mr CHUNG Pui-lam, S.B.S., J.P.

Professor LIU Pak-wai, S.B.S., J.P.

Mr Nicky LO Kar-chun, J.P.

Mr LUI Tim-leung, J.P.

Mr NG Leung-sing, S.B.S., J.P.

**GDP and LegCo Members' Remuneration  
from 1991 to 2006**

**(I) Nominal**

	Remuneration for LegCo Members		Nominal GDP	Nominal GDP per employed person	Per capita Nominal GDP
	per month	Annual	Annual	Annual	Annual
	HK\$	HK\$	HK\$million	HK\$	HK\$
1991	36,000	432,000	690,324	250,690	120,015
1992	39,400	472,800	805,082	294,084	138,795
1993	43,250	519,000	927,996	331,416	157,261
1994	48,525	582,300	1,047,470	364,618	173,554
1995	53,380	640,560	1,115,739	384,067	181,241
1996	57,330	687,960	1,229,481	400,048	191,047
1997	60,830	729,960	1,365,024	431,478	210,350
1998	63,870	766,440	1,292,764	414,080	197,559
1999	62,590	751,080	1,266,702	407,019	191,736
2000	59,400	712,800	1,314,789	409,936	197,268
2001	58,210	698,520	1,298,813	399,480	193,440
2002	56,870	682,440	1,276,757	396,477	189,315
2003	55,220	662,640	1,233,983	385,933	183,334
2004	54,170	650,040	1,291,425	394,147	190,377
2005	54,390	652,680	1,382,675	413,874	202,941
2006	55,420	665,040	1,474,319	432,327	215,006

Note : The value of nominal GDP is as at October 2007.

(II) Indices (1991 as base year)

	<b>Remuneration for LegCo Members</b>	<b>Nominal GDP</b>	<b>Nominal GDP per employed person</b>	<b>Per capita Nominal GDP</b>
1991	100.0	100.0	100.0	100.0
1992	109.4	116.6	117.3	115.6
1993	120.1	134.4	132.2	131.0
1994	134.8	151.7	145.4	144.6
1995	148.3	161.6	153.2	151.0
1996	159.3	178.1	159.6	159.2
1997	169.0	197.7	172.1	175.3
1998	177.4	187.3	165.2	164.6
1999	173.9	183.5	162.4	159.8
2000	165.0	190.5	163.5	164.4
2001	161.7	188.1	159.4	161.2
2002	158.0	185.0	158.2	157.7
2003	153.4	178.8	153.9	152.8
2004	150.5	187.1	157.2	158.6
2005	151.1	200.3	165.1	169.1
2006	153.9	213.6	172.5	179.1
	<b>Difference compared with monthly remuneration for LegCo Members (%)</b>	<b>38.7</b> (rounded to one decimal place)	<b>12.0</b> (rounded to one decimal place)	<b>16.4</b> (rounded to one decimal place)

**Monthly Income from Main Employment of Working Population<sup>1</sup> at Selected Percentiles, 2006**

Percentile	Monthly Income from Main Employment <sup>2</sup> (HK\$)
95.0	45,000
95.1	45,000
95.2	45,000
95.3	45,000
95.4	45,000
95.5	45,000
95.6	45,000
95.7	48,000
95.8	50,000
95.9	50,000
96.0	50,000
96.1	50,000
96.2	50,000
96.3	50,000
96.4	53,000
96.5	55,000
96.6	55,000
96.7	55,000
96.8	55,000
96.9	55,000
97.0	55,000
97.1	56,000
97.2	60,000
97.3	60,000
97.4	60,000
97.5	65,000
97.6	65,000
97.7	65,000
97.8	65,000
97.9	70,000



Percentile	Monthly Income from Main Employment <sup>2</sup> (HK\$)
98.0	70,000
98.1	75,000
98.2	75,000
98.3	75,000
98.4	80,000
98.5	83,000
98.6	85,000
98.7	85,800
98.8	95,000
98.9	95,000
99.0	100,000
99.1	100,000
99.2	110,000
99.3	110,000
99.4	120,000
99.5	135,000
99.6	150,000
99.7	175,000
99.8	225,000
99.9	325,000

Notes: Given that the 2006 Population By-census is a one-tenth sample enquiry on the population, it should be noted that estimates at very fine breakdowns or detailed level of the population may be subject to greater sampling errors.

- (1) The figures exclude unpaid family workers.
- (2) For employers or self-employed persons, monthly income from main employment is the amount earned excluding expenses incurred in running their main business(es). For employees, monthly income from main employment is the total amount earned from their main employment including salary or wage, bonus, commission, overtime, housing allowance, tips and other cash allowances. End-of-contract gratuity, New Year bonus and

double pay are excluded. The amount recorded refers to the income for June 2006.

Source: 2006 Population By-census

## Annex E

### **Remuneration for Legislators in Hong Kong, Singapore, New South Wales of Australia and the United Kingdom**

	Annual Remuneration for Members <sup>(1)</sup>	Average Monthly Remuneration for Members <sup>(2)</sup>
The House of Commons, the United Kingdom	£ 60,675	HK\$ 76,200
The New South Wales Legislative Assembly, Australia	AU\$ 126,560	HK\$ 64,650
The Singapore Parliament	S\$ 158,400	HK\$ 66,530
HKSAR LegCo (as at 1 October 2007)	HK\$ 681,000	HK\$ 56,750
HKSAR LegCo (recommended level for fourth-term)	HK\$ 783156	HK\$ 65,263

#### Notes:

- (1) Not including allowances and bonuses (if applicable).
- (2) Exchange rates (average rates for the period from July 2006 to June 2007):  
£ 1 : HK\$15.07, S\$1 : HK\$6.13, and AU\$1 : HK\$5.04.

#### Sources:

United Kingdom: “Members’ pay, pensions and allowances: Factsheet M5 (Revised in April 2007)”, House of Commons Information Office, United Kingdom.  
(<http://www.parliament.uk/factsheets/factsheets/m05.cfm>)

Singapore: Ministerial Statement delivered by Mr Teo Chee Hean, Minister In-Charge

of the Civil Service, on Civil Service Salary Revisions at Singapore Parliament on 9 April 2007.

(<http://app.sprinter.gov.sg/data/pr/20070409992.htm>)

New South Wales: “Parliamentary Salaries and Allowances as from 1 July, 2007”, The Legislative Assembly, The Parliament of the New South Wales.

(<http://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/key/ParliamentarySalariesandAllowances>)

**Utilisation of the Operating Expenses Reimbursement****(I) Overall Utilisation Rates of the Operating Expenses Reimbursement**

	Oct 2003 to Sep 2004	Oct 2004 to Sept 2005	Oct 2005 to Sep 2006	Oct 2005 to May 2006	Oct 2006 to May 2007
Maximum claim amount (per month per Member)	\$113,078	\$110,930	\$111,374	\$111,374	\$124,839
Average claim amount (per month per Member)	\$102,603	\$101,573	\$103,942	\$103,155	\$108,072
Average utilisation rate	90.7%	91.6%	93.3%	92.6%	86.6%

Source: Statistics of the utilisation rates of the Operating Expenses Reimbursement are provided by the LegCo Secretariat (LC Papers No. AS21/07-08 and AS278/06-07).

(II) Utilisation Rate of Individual LegCo Members

Utilization rate (%) \ No. of Members	Oct 2003 to Sep 2004	Oct 2004 to Sept 2005	Oct 2005 to Sep 2006	Oct 2005 to May 2006	Oct 2006 to May 2007
Over 100 (*)	--	--	--	18	7
100	20	12	18	--	--
99 to <100	7	13	16	1	2
90 to <99	13	17	12	19	19
80 to <90	7	10	7	13	15
70 to <80	8	2	3	5	8
60 to <70	4	3	3	3	6
50 to <60	--	2	--	--	2
40 to <50	1	1	1	1	1
Total no. of Members	60	60	60	60	60

\* Members' expenditure can be higher than the pro rata provision for a period, so long as the annual reimbursement ceiling is not exceeded.

(III) Major Expenditure Components for the Annual Allowances

	Oct 2003 to Sep 2004	Oct 2004 to Sept 2005	Oct 2005 to Sep 2006	Oct 2005 to May 2006	Oct 2006 to May 2007
Staff expenses	64.8%	68.6%	73.5%	73.6%	69.2%
Office accommodation	8.9%	7.8%	8.0%	8.2%	7.5%
Furniture and equipment	0.7%	1.5%	0.3%	0.2%	0.3%
Others	16.3%	13.7%	11.5%	10.7%	9.6%
Average reimbursement total	90.7%	91.6%	93.3%	92.6%	86.6%

**Utilisation of the Entertainment and Travelling Allowance**

(I) Overall Utilisation Rates of the Entertainment and Travelling Allowance

	Oct 2003 to Sep 2004	Oct 2004 to Sept 2005	Oct 2005 to Sep 2006
Maximum claim amount (per month per Member)	\$12,756	\$12,513	\$12,563
Average claim amount (per month per Member)	\$11,745	\$11,406	\$11,464
Average utilisation rate	92.1%	91.2%	91.2%

Source: Statistics of the utilisation rates of the Entertainment and Travelling Allowance are provided by the LegCo Secretariat (LC Paper No. AS278/06-07).

(II) Utilisation Rate of Individual LegCo Members

Utilization rate (%) \ No of Members	Oct 2003 to Sep 2004	Oct 2004 to Sept 2005	Oct 2005 to Sep 2006
100	38	40	39
99 to <100	8	7	4
90 to <99	5	3	6
80 to <90	1	1	3
70 to <80	3	2	3
60 to <70	1	--	--
50 to <60	1	3	1
40 to <50	--	1	--
30 to <40	--	--	--
20 to <30	--	--	2
10 to <20	1	--	--
0 to <10	2	3	2
Total no. of Members	60	60	60

(III) Major Expenditure Components for the Annual Allowances

	Oct 2003 to Sep 2004	Oct 2004 to Sept 2005	Oct 2005 to Sep 2006
Entertainment and travelling expenses	88.5%	87.1%	84.4%
Staff remuneration	3.6%	4.1%	6.8%
Average reimbursement total	92.1%	91.2%	91.2%



**Utilisation of the Setting-up, Winding-up,  
and Information Technology and Communication Allowances**

Utilization rate \ No. of Members	Setting-up Allowance		Information Technology and Communication Allowance		Winding-up Allowance <sup>(2)</sup>	
	2 <sup>nd</sup> LegCo (Oct 2000 – Sept 2004)	3 <sup>rd</sup> LegCo (Oct 2004 – Sept 2008)	2 <sup>nd</sup> LegCo (Oct 2000 – Sept 2004)	3 <sup>rd</sup> LegCo (Oct 2004 – Sept 2008)	1 <sup>st</sup> LegCo (July 1998 – Sept 2000)	2 <sup>nd</sup> LegCo (Oct 2000 – Sept 2004)
<b>100%</b>	32	6	10	1	1	4
<b>90% to &lt;100%</b>	6	12	4	6	1	2
<b>80% to &lt;90%</b>	0	2	3	4	0	1
<b>70% to &lt;80%</b>	3	3	1	8	1	1
<b>60% to &lt;70%</b>	1	6	3	9	2	1
<b>50% to &lt;60%</b>	5	5	1	4	0	2
<b>40% to &lt;50%</b>	3	6	2	6	5	2
<b>30% to &lt;40%</b>	3	2	2	6	0	2
<b>20% to &lt;30%</b>	1	2	3	5	1	0
<b>10% to &lt;20%</b>	0	2	2	2	0	0
<b>0% to &lt;10%</b>	0	3	1	0	1	4
<b>0%</b>	7	11	29	9	1	2
<b>Total</b>	<b>61<sup>(1)</sup></b>	<b>60</b>	<b>61<sup>(1)</sup></b>	<b>60</b>	<b>13</b>	<b>21</b>

Source: Statistics of the utilisation rates of the Setting-up, Winding-up, and Information Technology and Communication Allowances are provided by the LegCo Secretariat (LC Paper No. AS278/06-07).

<sup>(1)</sup> A Member resigned in July 2001 and a new Member was elected in the by-election held in September 2001.

<sup>(2)</sup> Winding up expenses other than severance payments (which are reimbursed on actual basis without a ceiling).