



Salaries and Allowances Tribunal
Government of Western Australia

Cook Islands Members of Parliament Remuneration Report

“The labourer is worthy of his reward” 1 Timothy 5:18 (King James Version)

September 2012

FOREWORD

This work undertaken to prepare this Report was instigated by the Government of the Cook Islands and undertaken by my colleague and I with the support of the Parliament and Government of Western Australia.

The cooperation between the peoples of the Cook Islands and Western Australia has a long history. For around 20 years, the Western Australian Parliament has been assisting the Cook Islands Parliament in a range of ways, usually through advice, but occasionally lending staff for short periods to help with events such as seminars or conferences.

In the last five years, the parliaments of Western Australia and the Cook Islands have been officially twinned under the auspices of the Commonwealth Parliamentary Association.

I am pleased to have been part of the ongoing history of cooperation with the Cook Islands and trust this Report makes a useful contribution to the good governance of parliamentary remuneration.

The Report has been written in good conscience and in a spirit of fairness and equity to those who serve and have formerly served in the Parliament of the Cook Islands. The Report has the strength of having been written by impartial “outsiders”, however I acknowledge that it has been written without the cultural understanding and history which a local born Cook Islander might bring to it. I trust you will forgive any misconceptions which might have arisen from the perspective of an outsider.

This report has been prepared on the premise that “The labourer is worth his reward”. Members of Parliament are not “employees” in the usual sense of that word, however they labour long and hard to fulfill important obligations under the democratic system of Government in the Cook Islands.

The recommendations in this report are intended to respect the processes established in the Cook Islands to remunerate Members of Parliament and to fairly reward those who labour for the good government of the Cook Island people.

W S (Bill) Coleman AM
CHAIRMAN, SALARIES AND ALLOWANCES TRIBUNAL

19 September 2012

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In acknowledging the assistance of Members of Parliament who made themselves available to us at short notice and whose courtesy and assistance we will always remember, we pay special tribute to the late Speaker of the Parliament, Sir Geoffrey Henry whose recent sudden passing has saddened all who have known him. Our deepest sympathy goes to his family, his parliamentary colleagues and to the people of the Cook Islands.

W S (Bill) Coleman AM
CHAIRMAN

J C (John) Lukin
EXECUTIVE OFFICER

SALARIES AND ALLOWANCES TRIBUNAL OF WESTERN AUSTRALIA

EXECUTIVE SUMMARY

The *Cook Islands Member of Parliament Remuneration Report* was prepared at the request of the Cook Islands Government following a visit to Perth by the Hon Tom Marsters, Deputy Prime Minister, for the 2011 Commonwealth Heads of Government Meeting.

The Report examines the legislative framework within which remuneration is determined in the Cook Islands and notes some overlap in the mechanisms for determination. The benefits of an independent remuneration process are discussed, in particular, the importance of maintaining the integrity of the process and the reputation of Members of Parliament.

Concerns have been raised in the Report regarding the amount of time that has elapsed since the last determination on the remuneration of Members of Parliament. Similarly, the Report notes that the remuneration of the staff of the Parliament has also remained unchanged for many years and should be adjusted at the same time as adjustments are made to the remuneration of Members of Parliament. Annual adjustments to remuneration have been recommended.

A brief overview of the work of Members of Parliament has been provided in the Report and in addition to parliamentary and parliamentary party work, the Report notes the significant community expectations of Members having to meet certain social obligations. These obligations were considered to be part of the constituency work of Members of Parliament in the context of the Cook Island cultural setting.

When considering the remuneration of Members of Parliament, the Report distinguishes between the salaries paid to Members of Parliament in consideration of their services rendered, the entitlements and allowances provided for them to effectively represent their constituencies, and expenses of office.

High level economic and labour market data has been analysed indicating that increases in the cost of living in the Cook Islands since 2006 have eroded the value of the remuneration paid to Members of Parliament.

This Report makes a number of recommendations in relation to work to be conducted in the context of future inquiries into the remuneration of Members of Parliament. While it is considered important that this work is undertaken in the longer term, there is a compelling case for an immediate adjustment to the salary component of Members of Parliament on the basis of existing economic and labour market data, and public sector salary comparisons.

In considering the range of entitlements and allowances paid to Members of Parliament, the Report focuses on the constituency allowance and constituency travel which were the subject of concern to most Members of Parliament interviewed as part of this Inquiry. The Report has recommended a study of the costs associated with Members meeting their social obligations in their constituencies and an assessment of travel costs.

In regard to the superannuation payable to Members of Parliament upon their retirement, consideration was given to the impact of the changes to parliamentary remuneration introduced in 2003 when entitlements under the pre-existing superannuation scheme were repealed. The Report notes that many Members of Parliament had their superannuation reduced and that this resulted in humility and poverty for some Members. Subject to actuarial and financial advice, an ex gratia payment has been recommended for former Members of Parliament resident in the Cook Islands and a modest increase to superannuation benefits has been recommended based on a matched contributory scheme.

The following recommendations have been made.

RECOMMENDATIONS

1. That the intent of the *Remuneration Tribunal Act* and *Civil List Act* and the division of powers between the acts be clarified both in respect to the scope of “remuneration” and the timing of inquiries so that the Remuneration Tribunal recommends those elements of remuneration that are a reward for services pursuant to the *Remuneration Tribunal Act*, while the Government determines expenses of office under the *Civil List Act*.
2. That appointments to the Remuneration Tribunal or a Commission of Inquiry be made following consultation between the Government and Opposition and giving due consideration to the avoidance of conflicts of interest.
3. That the remuneration, including salaries, allowances and expenses of Members of Parliament be the subject of regular inquiries and determinations which provide for annual salary adjustments.
4. That the remuneration of the staff of the Parliament be the subject of regular reviews with adjustments in line with salary adjustments provided for Members of Parliament.
5. That a future inquiry into the remuneration of Members of Parliament includes the conduct of a survey to assess the Parliamentary, constituency and Parliamentary party demands on the time of members.
6. That consideration be given to whether additional remuneration should be paid to the Deputy Leader of the Opposition, the Leader of the House and Whips on account of the additional duties a Member of Parliament undertakes when appointed to these offices.

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7. That consideration be given to whether the present remuneration of a Speaker who is not a Member of Parliament should at least be the same as a back bencher given the Speaker's role and responsibilities, restrictions which apply to the office holder and the expectations of members of the general public.
 8. That any consideration of remuneration for Parliamentary Committee work take into account the distribution of work load between Members and administrative efficiencies in making payments to Members.
 9. That future Remuneration Tribunals and inquiries into the remuneration of Members of Parliament publish their findings and reasons for decisions.
 10. That as a matter of urgency, consideration be given to economic and labour market factors since 2006 with a view to determining increased salaries for Members of Parliament.
 11. That urgent consideration be given to an immediate adjustment to the salaries of Members of Parliament through an increase in the base rate of a back bencher's remuneration to an amount within the Public Service Band L range. The rate would reflect the work value of a Member of Parliament within the community and general economic and labour market movements since 2006. On this basis it is recommended that the rate be determined at NZ\$62,000 per annum with effect from a current date pursuant to the authority under an Order in Executive Council to amend Order 2009/04 with respect to section 4 of the CL Act and section 15 of the RT Act.
 12. That in preparation for an inquiry by the Remuneration Tribunal to determine the adequacy of the constituency allowance, Cabinet direct the relevant government body to conduct surveys of Members' claims against the constituency allowance and a study of the costs of meeting social obligations in constituencies on Rarotonga relative to the outer islands.
 13. That any future inquiry into the constituency travel allowances provided to Members include consultation with Members, a survey of constituency travel claims and an assessment of travel costs to better understand the needs of Members to properly represent their constituencies.
 14. That remuneration including allowances properly determined pursuant to the *Civil List Act* and the *Remuneration Tribunal Act*, be paid strictly in accordance with the relevant Order in Executive Council.
 15. That subject to actuarial and financial advice, and advice from the board of the National Superannuation Fund, a modest cost of living increase be applied to superannuation or pension benefits payable to former Members of Parliament, and that the NZ\$10,000 payments ceiling be adjusted accordingly. Furthermore, that Members of Parliament be entitled to make additional superannuation contributions matched by Government to a fund under the aegis of the National Superannuation Fund.

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16. That as a matter of urgency, the Government undertake a review of the circumstances of retired Members of Parliament permanently resident in the Cook Islands who are eligible for superannuation as a former Member of Parliament, with a view to determining an ex gratia payment of NZ\$10,000 either as a one off payment or a series of periodic payments over a 12 month period totaling that amount, to restore some semblance of equity.

1.0 BACKGROUND

While visiting Perth for the 2011 Commonwealth Heads of Government Meeting, the Hon Tom Marsters, Deputy Prime Minister of the Cook Islands, requested assistance through the Parliament of Western Australia, to review the remuneration of their Members of Parliament.

The Chairman and Executive Officer of the Salaries and Allowances Tribunal of Western Australia were pleased to respond to this request, with the support of the Parliament and Government of Western Australia.

One of the reasons for requesting assistance with the review of remuneration for Members of Parliament was a concern regarding the length of time since adjustments had been made to the remuneration of Members of Parliament.

The *Civil List Act 2005* and the *Remuneration Tribunal Act 2005* are the enabling legislation in the Cook Islands for payment of salaries and allowances to Members of the Cook Islands Parliament. Parliamentary remuneration was last adjusted in the Cook Islands in 2009.

Parliamentary remuneration has been reviewed only twice in the last 20 years and there is no standing remuneration Tribunal or Commission to address the current concerns of the Government.

2.0 TERMS OF REFERENCE

The terms of reference for this Inquiry were developed in draft form in the first instance in consultation between the Hon Speaker of the Cook Islands Parliament and Members of the Parliament. They were finalised by the Hon Tom Marsters on 14 April 2012. The agreed terms of reference are as follows.

On behalf of the Parliament of the Cook Islands, the Salaries and Allowances Tribunal of Western Australia, through the Chairman and Executive Officer are requested to:

- (1) inquire into, report on and make recommendations regarding:
 - (a) the process by which remuneration of Members of Parliament of the Cook Islands is undertaken under the provisions of the *Civil List Act 2005* and the *Remuneration Tribunal Act 2005*; and
 - (b) the appropriateness of the remunerations of Members of Parliament of the Cook Islands with particular reference to superannuation arrangements and entitlements.
- (2) Furnish a report on the above matters with recommendations to the Deputy Prime Minister of the Cook Islands for distribution by 30 April 2012.

There was a significant body of information that needed to be gathered and provided to the Inquiry team long after the anticipated completion date for the report. The Inquiry team's brief 5 day visit to the Cook Islands was not sufficient to allow all the research and data gathering to be completed. Accordingly, a deliberate decision was made to go beyond the deadline of 30 April to allow sufficient time for information to be gathered and sent to Western Australia so that a well-informed report and recommendations could be prepared.

3.0 METHODOLOGY

The methodology employed for this Inquiry combined desktop research and interviews with key stakeholders in the Cook Islands. Interviews were undertaken from January 9 to 13, 2012.

A range of economic data was sought from the Australian Department of Foreign Affairs and Trade and the New Zealand Ministry of Foreign Affairs and Trade.

Applicable Cook Islands legislation was sourced and reviewed.

Interviews were conducted with:

- Speaker of the Cook Islands Parliament
- Deputy Prime Minister
- Minister for Finance and Economic Management
- Government Caucus
- Opposition Members of Parliament
- Clerk, Deputy Clerk and staff of the Parliament
- Public Service Commissioner
- Secretary and staff of the Ministry of Justice
- Deputy Ombudsman and Secretary, Office of the Ombudsman
- Finance Operations Manager, Cook Islands National Superannuation Fund
- Head of Governance and Oversight Unit
- President, Cook Islands Workers' Association
- Four Former Members of Parliament

3.1 Legislative Framework

The Inquiry reviewed the legislation which enables the payment of remuneration to members of the Cook Islands Parliament and establishes the statutory authority of the Tribunal tasked with determining remuneration. Considerations included the procedures of any inquiry, timeframes which must be observed, specific factors which must be taken into account, the scope of remuneration and the capacity to provide benefits to the family of Members of Parliament.

3.2 Mechanisms for Determining Remuneration

Current mechanisms for determining parliamentary remuneration were reviewed. Considerations included the process by which a review of remuneration is initiated, the relationship between the various legislative instruments, the status of its reports and decisions and the integrity of the process which ensures independence and relevance to the economic social and cultural mores of the country.

3.3 Work of Members of Parliament

The work of Members of Parliament was reviewed. Considerations included the number of parliamentary sitting days, committee work, work of office holders of the parliament and expectations placed on a member of parliament by their constituents in representation and advocacy for their electorates.

3.4 Remuneration of Members of Parliament

To provide context and ensure appropriate comparisons, the remuneration of Members of Parliament was reviewed within the framework of the salaries of other public office holders (e.g. judiciary, independent statutory office holders, senior executives in government departments) and parliamentary remuneration in other jurisdictions. Considerations included social and cultural values related to the status of Members of Parliament in the community, the capacity of the Government to pay salaries, economic and labour market indicators, cost of living in the Cook Islands and movement in salary and wages over time.

In a small community where cultural and historical relationships bind every social, commercial and political contact, the determination of a Members of Parliament's remuneration, in our view, cannot be assessed in isolation from other institutional processes of public sector remuneration and the economic circumstances of the wider community. Indeed the terms of the relevant legislation make this an imperative.

3.5 Allowances Payable to Members of Parliament

The Inquiry reviewed the allowances payable to Members of Parliament in consideration of their obligations to effectively represent the needs of an electorate and to undertake parliamentary duties. Considerations included community expectations of a parliamentary member in the Cook Island cultural setting, significant geographic and population variables, the varying needs of electorates in terms of the cost of travel and communication, and identification of the "tools of trade" required to properly undertake the work.

3.6 Superannuation

Superannuation benefits applicable to current and former Members of Parliament were examined with a view to considering their adequacy. Consideration was also given to the applicability of the benefits to residents and non-residents of the Cook Islands.

4.0 LEGISLATIVE FRAMEWORK

There are two significant pieces of legislation governing the remuneration of Members of Parliament in the Cook Islands. These are the *Cook Islands Remuneration Tribunal Act 2005* (“the RT Act”) and the *Cook Islands Civil List Act 2005* (“CL Act”).

4.1 Remuneration Tribunal Act

The Cook Islands Remuneration Tribunal (“the Tribunal”) is constituted under the RT Act. The Tribunal consists of three members to be appointed by the Queen’s Representative by Order in Executive Council with one member being appointed as Chairman. (It was noted there were no appointees to the Tribunal at present.)

In accordance with section 11 of the RT Act, staff of the Ministry of Finance and Economic Management will be seconded from time to time to support the Tribunal.

Members of the Tribunal and staff have an obligation to maintain the secrecy of all matters which come to their knowledge when carrying out their functions.

4.1.1 Functions

Section 13(1) of the RT Act as passed in 2005 sets out the functions of the Tribunal as follows:

- (a) To consider and determine the salaries and allowances required to be fixed by this Act as set out in Schedule [1] of this Act;
- (b) To carry out such other functions as may be conferred or imposed on it by this Act or any other Act.

Amendments to the RT Act in 2007 changed the role of the Tribunal from *determining* to *recommending* salaries and allowances. Section 13(1)(a) currently states that the first function of the Tribunal shall be to:

- (a) Consider and make recommendations to the Minister as to the salaries and allowances of office holders listed in Schedule 1 of this Act.

Interestingly, section 13(1)(a) uses the terms “salaries and allowances” whereas the Interpretation section of the Act defines the term “remuneration” more broadly. For the purposes of the Act “remuneration” includes -

- (a) salary, wages, fees and other payments, whether in the form of bonuses or otherwise, in return for services; and
- (b) benefits and other emoluments (whether in money or not) in return for services.

The Tribunal has the powers of a Commission of Inquiry for the purposes of carrying out its functions.

Every recommendation of the Tribunal must be placed before the Cabinet in its original form or as modified by the Minister. Cabinet shall forward the same to the Executive Council for promulgation.

The 2007 amendments also resulted in previous determinations of the Tribunal being regarded as recommendations to the Minister.

4.1.2 Public Offices under the Jurisdiction of the Tribunal

Salaries and allowances (and presumably “remuneration”) are fixed by the Tribunal under the RT Act for the following public offices:

- Queen's Representative
- Speaker of Parliament
- Prime Minister
- Deputy Prime Minister
- Ministers
- Parliamentary Under-secretary
- Leader of the Opposition
- Deputy Leader of the Opposition
- Members of Parliament

Section 19(5) of the RT Act states that, “the Tribunal shall review and advise the Minister of a determination for each position that is subject to its jurisdiction at intervals of not more than 3 years.”

Section 21 of the RT Act prevents the remuneration of existing office holders from being reduced.

4.1.3 Criteria to be given regard by the Tribunal

Section 18 of the RT Act requires the Tribunal to have regard for certain criteria when determining the remuneration of office holders.

“(1) In making recommendations for any remuneration under section 13(1)(a) of this Act, the Tribunal shall have regard in particular to -

(a) the need to achieve and maintain fair relativity with the levels of remuneration received elsewhere; and

(b) the need to be fair both -
(i) to the persons or group of persons whose remuneration is being determined; and
(ii) to the taxpayer; and

(c) the state of –
(i) the Cook Islands economy;
(ii) Government finances; and

(d) the need to recruit and retain competent persons; and

(e) the requirements of the position concerned; and

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- (f) the conditions of service enjoyed by the persons whose remuneration is being determined, and those enjoyed by the persons or members of the group of persons whose remuneration and conditions of employment are, in the opinion of the Tribunal, comparable with those of the persons or members of the group of persons, whose remuneration is being determined.”

Under section 17 of the RT Act, the Tribunal also has a responsibility to consult with the Collector of Inland Revenue regarding the taxation consequences of a proposed determination and the consult with the Speaker of the Parliament and the Minister responsible for the Legislative Service regarding the services over which each of them has jurisdiction.

4.2 Civil List Act

The CL Act provides for the salary, allowances and expenses of the Queen’s Representative and Members of Parliament. Persons may be appointed to one or more of the following offices specified in the CL Act:

- (a) Speaker of Parliament;
- (b) Prime Minister;
- (c) Deputy Prime Minister;
- (d) Ministers;
- (e) Leader of the Opposition; or
- (f) Deputy Leader of the Opposition;

In 2007 an amendment to the CL Act included the following Parliamentary offices:

- (g) Deputy Speaker;
- (h) Leader of the House;
- (i) Whips
- (j) Associate Minister.

The CL Act seems effectively to increase the number of Parliamentary offices from eight to ten, but does not include the Parliamentary Under-secretary mentioned in the RT Act.

If a Minister holds more than one office they receive only one salary and allowance.

The definition of “remuneration” in the CL Act is the same as the definition in the RT Act.

Section 8 of the CL Act requires the Tribunal to “fix the salaries and allowances to be paid to an office holder and to other members of the Parliament” in accordance with the RT Act. It allows the Tribunal to differentiate remuneration on the basis of the office held and the electorate represented. However, section 24 of the CL Act allows the Queen’s Representative on the recommendation of the Cabinet to appoint a Commission of Inquiry to make recommendations as to the adequacy or otherwise of the salaries specified in the Act.

Section 9 of the CL Act states that, “There shall be provided to each member and the Speaker such principal allowances, and traveling allowances and expenses as may be fixed from time to time by Order in Executive Council.”

“Principal allowances” means basic allowances, representation allowances, clothing, communication, housing, member's office, transport allowances, and office holders allowance or entitlements (not being traveling expenses or other incidental allowances)”.

“Traveling expenses” means “payments for accommodation and incidentals incurred while traveling on official business or official duty.”

“Incidental allowances” means “out of pocket expenses incurred while traveling away from the Cook Islands on official business or duties.”

"Official business" means “the undertaking of any task or function that a member could reasonably be expected to carry out in his or her capacity as a member of Parliament and that complements the business of Parliament and includes the following -

- (a) attending a sitting of Parliament; or
- (b) attending a meeting of a select committee of Parliament of which the member is a member; or which the member is required to attend because of being in charge of a Bill or other matter under consideration by the committee or because of any other valid reason relating to the business of the committee; or
- (c) undertaking research or administrative functions that relate directly to the business of Parliament; or
- (d) attending meetings for the purpose of representing electors or explaining the application of policy or to receive representations; or
- (e) attending caucus meetings that are expressly for the purpose of enhancing the Parliamentary process; or
- (f) attending meetings of his or her party; or
- (g) attending any ceremony or official function or national or international conference as a representative of Parliament or Government.”

5.0 MECHANISMS FOR DETERMINING REMUNERATION

Together, the RT Act and the CL Act provide mechanisms by which Members of Parliament can be paid a salary for their services and by which various allowances and expenses of office can be paid.

The RT Act provides for a three person Remuneration Tribunal appointed by the Governor to review and recommend remuneration for a prescribed list of Parliamentary office holders and the Queen's Representative. Under the RT Act the Tribunal is provided with the necessary powers and resources to conduct its inquiries and is required to take into account relativities with remuneration elsewhere, economic factors as well as the responsibilities and conditions applying to each position. The interpretation section of the RT Act defines remuneration in terms of payments "in return for service". Essentially, the RT Act appears to be intended to enable an independent body to recommend to the Minister how much the relevant office holders should be paid for their labour or services to the citizens of the Cook Islands. The various allowances and expenses that enable Members of Parliament to discharge their responsibilities and serve their electorates are the subject of the CL Act.

Notwithstanding the view expressed above that the RT Act is intended to focus on the salary component of a Member of Parliament, in practice, the Remuneration Tribunal reporting on 27 April 2006, determined various allowances and expenses including travel and accommodation allowances.

The CL Act acknowledges the role of the Remuneration Tribunal in section 8 as being the body responsible for fixing the salaries for office holders and other Members of the Parliament. The CL Act then describes certain allowances - principal allowances, traveling allowances and other expenses - which are to be fixed by an Order in Executive Council.

It is via the Executive arm of Government that an Order is sent to Executive Council for approval, hence the Government of the day effectively sets the principal and other allowances under the CL Act. The current authority for payment of remuneration for Members of Parliament is set out in the Order in Executive Council 2009/04 (dated 2 April 2009) pursuant to sections 4, 8 and 9 of the CL Act and section 15 of the RT Act.

5.1 Dual Powers to Recommend Remuneration

The Government has powers under the RT Act to appoint a Remuneration Tribunal to recommend remuneration for Members of Parliament and powers under the CL Act to appoint a Commission of Inquiry into the remuneration of Members of Parliament. Why powers exist at the discretion of the Government under both Acts, is not a question that

has been addressed in this report. It does however, give rise to the prospect of duplicated effort and possible inconsistencies in determinations.

If the intent is that the Remuneration Tribunal should determine salary and any other components of remuneration that are a reward for services, while the Government determines expenses of office, it may be prudent to clarify this division of powers. With this clarification, both elements of the payments can be addressed in a timely manner having regard to periodic movements in salaries within the public sector and the community generally on the one hand, and if necessary, more regular changes in the costs of goods and services and expenses of office on the other.

Furthermore, if there are concerns about the effectiveness or the efficiency of the Remuneration Tribunal, it would be beneficial to address these issues as soon as possible. This would give greater integrity to the remuneration process and avoid any inference of the politicisation of the process. An independent remuneration process should be seen as an advantage to government in terms of maintaining the reputation and standing of Members or Parliament.

RECOMMENDATION 1: That the intent of the RT Act and CL Act and the division of powers between the acts be clarified both in respect to the scope of “remuneration” and the timing of inquiries so that the Remuneration Tribunal recommends those elements of remuneration that are a reward for services pursuant to the RT Act, while the Government determines expenses of office under the CL Act.

5.2 Issues of Independence

In the relatively small population of the Cook Islands, there are many close family, financial and work related links between people. It is to be acknowledged that these links have the potential to give rise to conflicts of interest in the context of making appointments to either a Remuneration Tribunal or a Commission of Inquiry for the purposes of remunerating Members of Parliament. It might therefore be prudent for an external party such as a retired judicial officer from New Zealand with experience in the Cook Islands, to chair a Remuneration Tribunal in order to establish a high level of confidence in the independence of the Tribunal.

A mechanism that might assist in ensuring non-partisan representation on the Remuneration Tribunal or a Commission of Inquiry, would be for the Government to consult with opposition parties prior to the appointment of persons to the Tribunal or Commission.

The fact that the RT Act only provides for the Remuneration Tribunal to make recommendations rather than determinations about Parliamentary remuneration, leaves both the Government and the Parliament open to inferences of “feathering their own

nesses”. This perception could be avoided if a non-partisan and independent Tribunal could be appointed.

RECOMMENDATION 2: That appointments to the Remuneration Tribunal or a Commission of Inquiry be made following consultation between the Government and Opposition and giving due consideration to the avoidance of conflicts of interest.

5.3 Frequency of Reviews

The RT Act and the CL Act provide for the review of remuneration, allowances and expenses periodically, however the timeframes are not consistent.

Section 9 of the CL Act requires the allowances and expenses payable to Members of Parliament to be fixed “from time to time”, however Section 19 of the RT Act requires the Tribunal to make recommendations on remuneration of office holders “at such time or times as the Minister may direct and in any event, at intervals of not less than 3 years.” The RT Act provides for a regular cycle of review by the Remuneration Tribunal, however it is understood that no Members have been appointed to the Tribunal for some years.

Given the relationship between remuneration, allowances and expenses; the benefits of reviewing these elements holistically; and the efficiencies that can be gained in a single inquiry process; there is merit in aligning reviews of salaries for Members of Parliament with reviews of allowances and expenses.

For remuneration of Members of Parliament to be current and appropriate, it needs to be the subject of regular review. Annual review rather than triennial review would be more consistent with wider community practice, enable the vagaries of economic change to be considered in a timely manner and avoid the political odium of large increases in Members’ remuneration when adjustments are made infrequently. Alternatively it might be possible to make recommendations every three years which include incremental annual adjustments over the triennium to take account of cost of living adjustments.

RECOMMENDATION 3: That the remuneration, including salaries, allowances and expenses of Members of Parliament be the subject of regular inquiries and determinations which provide for annual salary adjustments.

The Inquiry ascertained that Members of Parliament and indeed, the staff of the Parliament, had not received regular reviews of remuneration and it is understood the staff have received no pay increase since 2001.

The management, advisory, administrative and research roles of the Parliamentary staff are critical to the effective and efficient operation of the Parliament. Their independence to serve the Government of the day must also be assured. Appropriate remuneration is

an important factor in attracting and retaining competent staff with the capacity to serve the Parliament well. It would seem appropriate to have salaries of Parliamentary staff considered and adjusted in line with salary adjustments provided to Members of Parliament given their responsibilities to serve the Parliament. The factors relevant to the Parliamentary duties of a Member of Parliament impact directly on the Parliamentary staff.

It is understood that the salaries of parliamentary staff are presently linked to those of public servants whereas they were previously separate from public service salary negotiations and determinations. The parliamentary staff form an integral part of the work of the Parliament and it would seem appropriate that the remuneration of staff is linked to the remuneration of Members of Parliament rather than public servants.

Criteria similar to those prescribed in section 18 of the RT Act should be given regard when determining the remuneration of the staff of the Parliament. This would ensure that a fair and consistent approach is applied to both staff and Members of Parliament.

RECOMMENDATION 4: That the remuneration of the staff of the Parliament be the subject of regular reviews with adjustments in line with salary adjustments provided for Members of Parliament.

6.0 WORK OF MEMBERS OF PARLIAMENT

The work of Members of Parliament has a direct relationship to the remuneration paid. The definition of “official business” in the CL Act (see section 4.2 above) sets out many of the functions which represent the work of a Member. Broadly speaking the work of Members can be divided into three roles consisting of the Member’s:

- role in the Parliament (including parliamentary committees);
- role in the constituency; and
- role in the parliamentary party.

These roles are distinct from electioneering work which is not something for which remuneration is appropriate in the context of this Inquiry.

The roles of office holders varies considerably in the Parliament depending on the office held, the constituency and the Party. Part 3 of the CL Act sets out the functions of various Parliamentary office holders. Essentially the Act provides for the Prime Minister to prescribe the functions of the Deputy Prime Minister and the Leader of the House, while the relevant Minister can prescribe the functions of an Associate Minister. The functions of Ministers will vary according to the acts and statutes they are required to administer.

For the purposes of this Inquiry, Members of Parliament are Members of the Legislative Assembly and not members of the House of Ariki.

There are 24 Members of Parliament and the list of office holders identified in the CL Act has been taken into account including the role of both an elected and a non-elected Speaker.

6.1 Parliamentary Work

Members contribute to the formal work of the Parliament in the development of policy and legislation, through involvement in accountability processes such as answering parliamentary questions and by participation and committee work. In addition, Members participate in informal discussions and negotiations. This work contributes to the development of public policy, prioritisation of Government expenditure and introduction of legislation.

Office holders have a variety of leadership roles as part of their parliamentary work. These roles come with increased accountability, complexity and demands on their time. It should also be recognised that some Opposition Members hold shadow portfolio responsibilities over and above those of a backbencher.

While some of the parliamentary work of Members occurs while the Parliament is sitting, some of it occurs in Cabinet meetings or various *ad hoc* committees.

In 2011 there were only 21 parliamentary sitting days in the Cook Islands. The Government has decided to address this issue and is committed to increasing the number of sitting days to 100 days per year.

6.2 Constituency Work

The work of a Member in their constituency includes representation at official occasions, keeping abreast of Government services and facilities within the constituency, attendance at community forums and functions and meetings with local constituents. This work contributes to the Member's role in advocacy for his or her constituency.

The Inquiry heard much about the additional constituency work of Members arising from community expectations of a Member having certain social obligations. These included attendance at significant cultural ceremonies and community events such as weddings, funerals, birthdays, baptisms, anniversaries and hair cutting ceremonies. There is an expectation that the Member will take an active role in or preside over such occasions when asked. Not only is there a community expectation of participating in such events, Members are expected to provide gifts on such occasions including food and cash. This could range from boxes of chicken or lamb chops to a NZ\$50 or NZ\$100 note in an

envelope. Members are also expected to visit constituents who are in hospital, sometimes involving travel from outer islands and the Member's own expense.

The demands on the time of Members outside of the Parliament are clearly much greater than the time spent debating and deliberating in the Parliament itself.

In addition, the Inquiry heard that Members are expected to make donations to church groups, Boy Scout and Girl Guide groups, youth groups and people in need. Examples of donations provided by members included sewing machines for a sewing club, a lawn mower for a sports club and a contribution to an airfare to send a constituent to hospital in New Zealand. Examples were also cited of commitments expected of Members of Parliament to contribute to house repairs for constituents.

In a close knit community, the interface between political life, cultural involvement, religious observances and social commitments make it difficult to draw boundaries between the responsibilities and expectations of a Member of Parliament and those of a member of his or her community. These relationships are made even more complex when kinship relationships and land ownership comes into play.

6.3 Parliamentary Party Work

All Members of Parliament are expected to contribute to the work of their parliamentary parties and are involved in party caucus meetings as well as various *ad hoc* parliamentary party meetings and policy development processes. This work is distinct from lay party political business such as fund raising activities, electioneering or the development of local party branches.

Parliamentary party work is necessary to ensure that there is a strong and coordinated approach to the work of both government and opposition Members of Parliament.

Much of the constituency and party work of a Member of Parliament might be expected to take place outside of normal working hours. While it was not possible to conduct surveys to verify this assumption, such surveys may be a useful addition to the current remuneration process for Members of Parliament. It would provide stronger base line data regarding the hours of work undertaken by Members of Parliament relative to a standard 40 hour week.

In preparation for that inquiry, Members of Parliament should maintain a record of all commitments, including financial and social in discharging their responsibilities as elected representatives. These records should be available to a Remuneration Tribunal with the assurance of confidentiality.

RECOMMENDATION 5: That a future inquiry into the remuneration of Members of Parliament includes the conduct of a survey to assess the parliamentary, constituency and parliamentary party demands on the time of members.

7.0 REMUNERATION OF MEMBERS OF PARLIAMENT

In considering the adequacy of the remuneration of Members of Parliament, this Inquiry has made the following distinctions:

- salaries are paid to Members as compensation for their labour or services rendered;
- certain entitlements and allowances are provided to Members so they can undertake their Parliamentary duties and effectively represent their constituencies (e.g. travel allowances and constituency allowances); and
- expenses of office are paid so that Members have the facilities and equipment to undertake their duties (e.g. the provision of office space, office equipment and cell phones).

In addition, the Inquiry's terms of reference include consideration of superannuation.

7.1 Salaries

The current salaries of Members and office holders of the Parliament are set out in the Order in Executive Council dated 2 April 2009. The salaries have been determined under section 8 of the CL Act. This Order sets remuneration for 11 categories of Members and office holders, namely:

- Prime Minister
- Deputy Prime Minister
- Ministers
- Speaker who is an MP
- Speaker who is not an MP
- Leader of the Opposition
- Deputy Leader of the Opposition
- Leader of the House
- Whips
- Associate Ministers
- Members of Parliament.

The taxable cash components of salary are shown on Table 1 below compared with the salary of a back bencher.

Table 1: Salaries of office holders compared with the salary of a back bench Member of Parliament

MP and office holders' salaries			
Office	Salary NZ\$	\$ above base MP salary	% above base MP salary
Prime Minister	105000	55000	110.00%
Deputy Prime Minister	95000	45000	90.00%
Ministers	85000	35000	70.00%
Speaker who is MP	85000	35000	70.00%
Speaker who is not MP	35000	-15000	-30.00%
Leader of the Opposition	85000	35000	70.00%
Deputy Leader of the Opposition	50000	0	0.00%
Leader of the House	50000	0	0.00%
Whips	50000	0	0.00%
Associate Ministers	50000	0	0.00%
Members of Parliament	50000	0	0.00%

Source: Order in Executive Council 2 April 2009

It is noted that in accordance with section 14 of the CL Act, an Associate Minister is not “entitled to any additional salary or allowance other than that which he or she is entitled to as a member.” While there is a statutory reason for not providing additional salary for Associate Ministers, there does not appear to be the same rationale for not providing additional salary to other office holders. Nevertheless, the Deputy Leader of the Opposition, the Leader of the House and Whips have not been awarded any additional salary. Essentially any additional responsibilities attributable to these offices have not been recognised financially.

RECOMMENDATION 6: That consideration be given to whether additional remuneration should be paid to the Deputy Leader of the Opposition, the Leader of the House and Whips on account of the additional duties a Member of Parliament undertakes when appointed to these offices.

For the purposes of remuneration, a distinction is made in both the CL Act and the RT Act between a Speaker who is a Member of Parliament and a Speaker who is not. The salary currently determined for any person who is appointed Speaker, but is not a Member of Parliament, is NZ\$35,000 per annum. The Inquiry heard that the salary had previously been NZ\$65,000 per annum, but was reduced to NZ\$35,000 per annum in 1996. Clearly, a Speaker who is not a Member of Parliament is not required to undertake responsibilities related to representing and advocating for a constituency, however it is not clear that this distinction is recognised by the general public. Furthermore, for someone to take up the role of Speaker, whether they be a Member of Parliament or not,

they would be restricted in their capacity to undertake other work to supplement their income, due to time constraints and potential conflicts of interest. Accordingly, it is recommended that some consideration be given to the adequacy of the current remuneration applicable to a Speaker who is not a Member of Parliament taking into account the restrictions which apply to a person taking up this important public office.

A cross section of Members of Parliament, both government and non-government, drew attention to the remuneration determined for a Speaker who is not a Member of Parliament and supported an adjustment to the salary above that applicable to a back bencher.

RECOMMENDATION 7: That consideration be given to whether the present remuneration of a Speaker who is not a Member of Parliament should be at least the same as a back bencher given the Speaker's role and responsibilities, restrictions which apply to the office holder and the expectations of members of the general public.

In relation to the Parliamentary Committee work undertaken by Members of Parliament, the Inquiry heard that Members formerly received sitting fees of NZ\$75 while Chairmen of Select Committees received a sitting fee of NZ\$100. The Inquiry also heard that the role of the Select Committee had declined in the Cook Islands.

The Inquiry has not given consideration to the extent of committee work undertaken by Members or whether the committee system is in decline. Nevertheless, Parliamentary Committees are acknowledged to be a fundamental part of the work of the Parliament in the Cook Islands and there is an expectation that all Members should actively participate in the more detailed inquiries and discussion that can take place at a committee level.

Any consideration of whether committee work should be remunerated separately or additionally should take into account whether the work is considered to be "part of the job" and has been factored into the salary of every Member. Consideration should also be given as to whether the work is shouldered equally by all Members or whether the lion's share falls to a select few.

There are two common methods for making additional payments to Members for committee work. They are payment of sitting fees and payment of an additional percentage of base salary while ever a Member of Parliament is also a member or chair of a committee. Both methods carry administrative overheads in terms of certifying which Members of Parliament were sitting in meetings on specific dates or over particular periods of time.

In a relatively small Parliament like that of the Cook Islands with 24 Members, it is arguable that committee work should be equally shared in order to cover the full gamut of

responsibilities and issues to be deliberated upon by any sovereign nation. That being the case, any further inquiry into the remuneration of Members of Parliament could include the value of committee work as a consideration for the base salary of a Member. This approach would be administratively more efficient than the payment of sitting fees or the periodical payment of additional percentages of base salary.

RECOMMENDATION 8: That any consideration of remuneration for Parliamentary Committee work take into account the distribution of work load between Members and administrative efficiencies in making payments to Members.

The last determination report of the Cook Islands Remuneration Tribunal was issued on 27 April 2006 under the RT Act. Under this determination salaries were determined for 7 categories of Members and office holders, namely:

- Prime Minister
- Deputy Prime Minister
- Ministers
- Speaker who is an MP
- Speaker who is not an MP
- Leader of the Opposition
- Ordinary Member of Parliament.

The salaries determined in 2006 for Members and office holders under the RT Act are the same as those determined in 2009 for the corresponding Members and office holders under the CL Act. There has been no adjustment since that time.

This Inquiry is not aware of any additional work having been undertaken to determine the quantum of salaries in 2009 and it has been concluded that they are based on the work of the Remuneration Tribunal reported in its 2006 determination.

7.1.1 Determining the Quantum of the Salaries

The current salaries of the different Members and office holders of the Parliament take into account the varying responsibilities of a backbencher compared with those of the Leader of the Opposition, the Prime Minister and so on. Understandably, the skills and abilities needed to undertake these roles vary considerably. Members of Parliament need no particular qualification to undertake their duties and the current Members are drawn from a cross section of society with a diverse range of skills and qualifications.

This Inquiry has been asked to consider the process by which the remuneration of Members of Parliament is undertaken. To this end, there is some evidence in the 2006 report of the Remuneration Tribunal which is helpful in reflecting on previous practice. Data considered by the Remuneration Tribunal at that time included comparative salary and allowance information as well as evaluation formulae provided by the Hays Consulting Group.

The Remuneration Tribunal indicated in its report that it received advice and assistance from the New Zealand Remuneration Tribunal. In accordance with its statutory obligations, the Cook Islands Remuneration Tribunal also consulted with the Collector of Inland Revenue, the Speaker of the Parliament and the Minister responsible for the Legislative Service.

There is little in the Remuneration Tribunal's report to indicate what insights or conclusions it drew from the comparative remuneration data it received or what economic and labour market data it may have considered on advice from the Collector of Inland Revenue.

For the sake of transparency and understanding it would have been helpful had the Remuneration Tribunal reported on more of the data it took into account and its deliberations. Most Tribunals, regardless of their jurisdiction, ordinarily publish their findings and reasons for decisions. This is regarded as good practice and increases public confidence in the decision making process.

RECOMMENDATION 9: That future Remuneration Tribunals and inquiries into the remuneration of Members of Parliament publish their findings and reasons for decisions.

The 2006 report of the Remuneration Tribunal indicated that advice had been taken from the Public Service Commission and other Government agencies regarding the application of the "PWC formula". It is understood that the PWC formula referred to the methodology adopted by the Cook Islands public service to classify and remunerate offices. The Tribunal concluded that "it was impossible to come up with an acceptable adaptation for the purposes of the work of the Tribunal".¹

This Inquiry team has some sympathy with the conclusions drawn by the Remuneration Tribunal in this regard. In our experience, we consider that commercially available methodologies employed to compare the relative size of one job with another (particularly public service jobs), have limited capacity to take account of the intrinsic value of certain jobs to the State and its democratic institutions. This applies to Members of Parliament as it does in varying degrees to certain independent statutory offices such as the Ombudsman or Government Auditor.

However, such methodologies may be useful to establish relativities between different Parliamentary office holders rather than to make comparisons with public service positions. For instance, a methodology such as the PWC formula might be useful in determining what additional proportion of a back bencher's salary should be applied to various Parliamentary office holders. At present it is not clear what methodology has

¹ *Report by the Cook Islands Remuneration Tribunal, 27 April 2006. p.7*

been employed to arrive at the salary of the Prime Minister being 110% more than the salary of a back bencher.

The fact that the current remuneration of Members of Parliament is based on an inquiry and determination issued in 2006 is a matter of concern. While other public officers have received salary adjustments over the past six years, Members of Parliament have not.

The Inquiry heard that Members of the Cook Island Parliament were well respected in the community and worked hard for their constituents and the nation as a whole. Persons both outside the Parliament and within the Parliament generally considered that the remuneration and allowances payable to Members of Parliament were inadequate.

7.1.2 Economic and Labour Market Data

As set out in section 4.1.3 above, under the RT Act the Tribunal is required to take into account the state of the Cook Islands economy and Government finances when making determinations. The Tribunal is also required to take into account the need to recruit and retain competent persons. This essentially recognises the need to consider the capacity of the public purse to pay what the market is demanding for the particular job at hand.

Such factors are important considerations particularly given that the Cook Islands have not been quarantined from the global financial and economic volatility experienced over recent years. This Inquiry was not in a position to undertake detailed analysis of current economic conditions or a wide range of labour market data showing trends in wages and salaries particular to the Cook Islands. However the following observations are relevant.

During the years 2008 to 2010, the Cook Islands experienced negative growth in Gross Domestic Product (GDP) and only in 2011 did it return to modest positive growth in the order of 1.1% per annum. Nevertheless, the Cook Islands GDP is considered to be relatively high when compared with that of other Pacific island countries.² On the face of it, this is a good indication that the Cook Islands economy has the capacity to pay competitive salaries and some consideration could be given to pay increases for Members of Parliament.

Since 2006, which is the base line for current Parliamentary salaries, inflation has been reported as 3.4% (2006), 2.5% (2007), 7.8% (2008), 6.6% (2009), 4.0% (2010) and an estimated 3.5% (2011).³ Given there has been no increase in parliamentary salaries over this period, the cumulative effect of the inflation rate represents a significant erosion of the present value of the pay rates recommended in 2006.

² Market Information and Research Section, Australian Department of Foreign Affairs and Trade.

³ *Ibid.*

It is acknowledged that the inflation rate is an indicator of increases in the cost of living rather than increases in wages and salaries generally, however it is reasonable to expect that the salaries of Members of Parliament should keep pace with the cost of living if they are going to be adequate to attract a high calibre of person to work in the Parliament.

RECOMMENDATION 10: That as a matter of urgency, consideration be given to economic and labour market factors since 2006 with a view to determining increased salaries for Members of Parliament.

7.1.3 Public Service Comparators

The work of Members of Parliament differs significantly from that of any other jobs either in the public or private sector. It is therefore considered virtually impossible to identify jobs which might be considered comparators for the purpose of determining an appropriate rate of remuneration. However, it is the view of this Inquiry that parliamentary remuneration sits within the framework of public service remuneration. The pay scales for public servants and Members of Parliament are similarly constrained by the capacity to pay from the public purse and the perceptions of tax payers and the wider community regarding the status of their jobs.

Accordingly, it is regarded as appropriate to consider the salaries of Members of Parliament (the legislators) alongside the salaries of senior public servants (the administrators), in particular the 14 Heads of Ministries and 10 Secretaries of Island Administration.

The salary range data in Table 2 below has been provided by the Cook Islands Public Service Commission.

Table 2: Salary ranges for Heads of Ministry and Secretaries of Island Administration as at May 2012.

ORGANISATION	Band	SALARY RANGES		
		Min	Mid	Max
Health	O	67,363		97,142
Education	O	67,363		97,142
Finance and Economic Management	O	67,363		97,142
Foreign Affairs	O	67,363		97,142
Justice	O	67,363		97,142
Agriculture	N	62,642		84,142
Marine Resources	N	62,642		84,142
Internal Affairs	N	62,642		84,142
MOIP	N	62,642		84,142
NHRD	M	54,166		77, 548
OPM	M	54,166		77, 548
Transport	M	54,166		77, 548

ORGANISATION	Band	SALARY RANGES		
		Min	Mid	Max
Culture	L	41,749		64,272
Office of the Public Service Commissioner	M	54,166		77,548
Aitutaki SIA	L	41,749		64,272
Atiu SIA	L	41,749		64,272
Mangaia SIA	L	41,749		64,272
Mauke SIA	L	41,749		64,272
Mitiaro SIA	L	41,749		64,272
Manihiki SIA	L	41,749		64,272
Penrhyn SIA	L	41,749		64,272
Palmerston SIA	L	41,749		64,272
Pukapuka SIA	L	41,749		64,272
Rakahanga SIA	L	41,749		64,272

Source: Cook Islands Public Service Commission, 7 May 2012

The salary ranges stated in Table 2 above represent the full breadth of salaries that might be awarded to the positions classified in each Band rather than the salaries actually paid. For instance, while the full salary range for Band O is NZ\$67,363 to NZ\$97,142 per annum, the actual salaries paid to office holders in Band O are in the range of NZ\$78,000 to NZ\$96,500 per annum.

For comparative purposes, within this framework of senior public service salaries, the salary paid to the Prime Minister (NZ\$105,000 per annum) is NZ\$8,500 per annum more than the salary of the highest paid public servant in the Cook Islands.

The salaries paid to the Deputy Prime Minister, Ministers, the Speaker (if the Speaker is a Member of Parliament) and the Leader of the Opposition are within the Band O range. A Ministerial salary of NZ\$85,000 per annum is similar to (within NZ\$5,000 of) the salaries paid to Band O Secretaries of the Ministries of Foreign Affairs and Immigration, Health and Education.

At NZ\$50,000 per annum, the salaries paid to other office holders of the Parliament and to back benchers, fall within Band L being the classification applicable to Secretaries of Island Administration (SIAs).

The comparison between the work and remuneration of SIAs and back benchers is useful inasmuch as the work of the office holders might be considered to share some similarities. For example, SIAs have an important role in monitoring the progress and status of Government initiatives in their respective locations just as Members of Parliament monitor projects and issues related to their own constituencies. The roles of SIAs and back benchers might both be described as “middle management” and the office

holders would not be expected to hold any specific professional qualifications. While acknowledging the similarities in functions and qualifications in some respects, the unique responsibilities of Members of Parliament must also be considered.

Comparisons with other jurisdictions are equally limited in application to the Cook Islands situation. In Australian jurisdictions there are significant differences between the salaries paid to Government Ministers and the departmental heads who report to them. For example in Western Australia, the Directors General of major departments are paid approximately 45 to 55 per cent more than their Ministers. Such differences in salary are largely historical and there are no apparent principles of remuneration which can be transferred to a different context. The salary differences might be regarded as being particular to the culture and history of the State. In that sense they are not instructive for determining an appropriate salary for a Member of Parliament in the Cook Islands.

This Inquiry has concluded that there is a reasonable case for the salaries of back benchers to fall within the Band L salary range applicable to Island Administrators, however there is also a case for a salary adjustment within that Band to take account of economic factors such as the cost of living changes which have occurred in the Cook Islands since the 2006 inquiry of the Remuneration Tribunal. If the salary of a back bencher is taken as a base line, then the salaries of office holders could be adjusted proportionally.

This Report makes a number of recommendations in relation to work to be conducted in the context of future inquiries into the remuneration of Members of Parliament. While it is considered important that such work is undertaken in the longer term, there is a compelling case for an immediate adjustment to the salary component of Members of Parliament on the basis of existing economic and labour market data, and public sector salary comparisons set out above. Conservatively, since 2006 there has been an increase of around 30 per cent in the cost of living (as reflected in the inflation rates quoted in section 7.1.2 above). On this basis alone a significant increase in the base salary would be justified and any further delay in providing an increase in pay would compound the existing problem. If an adjustment to the base salary of a Member of Parliament were to be made within the Band L range, it would not prejudice any future inquiries and determinations.

Any such adjustment should be subject to advice from the Ministry of Finance and Economic Management in relation to the capacity of the economy to sustain the payment of a salary increase. It must also be determined in accordance with the relevant legislation. At the same time, consideration should be given to any flow on to the salaries of Parliamentary staff.

RECOMMENDATION 11: That urgent consideration be given to an immediate adjustment to the salaries of Members of Parliament through an increase in the base rate of a back bencher's remuneration to an amount within the Public Service Band L range. The rate would reflect the work value of a Member of Parliament within the community and general economic and labour market movements since 2006. On this basis it is recommended that the rate be determined at NZ\$62,000 per annum with effect from a current date pursuant to the authority under an Order in Executive Council to amend Order 2009/04 with respect to section 4 of the CL Act and section 15 of the RT Act.

7.2 Entitlements and Allowances

There are a range of entitlements and allowances payable to Members of Parliament to enable them properly to undertake their Parliamentary and constituency duties.

During the Inquiry, Members and former Members were largely concerned with the constituency allowance and constituency travel. These two matters are considered in sections 7.2.1 and 7.2.2 below. A summary of other entitlements and allowances provided to Members of Parliament is included in the sections following, however they have not been considered in detail in the scope of this report.

7.2.1 Constituency Allowance

A constituency allowance of NZ\$8,000 per annum can be drawn upon by each Member to provide support for community groups and individuals within the Member's constituency. Some Members referred to it as a social responsibility fund. The allowance is accounted for by the production of receipts. Where cash is provided to constituents or community groups, it is drawn from the Member's own salary.

In section 6.2 above dealing with the constituency work of a Member of Parliament, reference has been made to some of the community expectations that Members are supposed to meet. These include attendance at significant cultural ceremonies and community events where there is an expectation that the local Member of Parliament will contribute materially or financially to the occasion.

Members and former Members of Parliament spoke of obligations to provide food and monetary gifts for ceremonies and events. They also spoke of obligations to provide equipment to sporting and community groups, assist with house maintenance and repairs for those who could not afford them, provide loans to constituents, contribute to wedding and funeral expenses, provide meals for the elderly and pay the medical expenses of people who are unwell. The Inquiry heard that such obligations were not restricted to an older generation of Members of Parliament, but were ongoing obligations that must also be met by younger Members of Parliament. It is reasonable to conclude that the constituency allowance serves an important social function in the Cook Islands and to some extent, is a safety net for those less fortunate.

It was universally stated that the constituency allowance was inadequate. One Member indicated that they had spent their constituency allowance within 3 months. Another Member indicated that they only spent a certain proportion of the allowance each month to ensure there were some funds remaining for the latter part of the financial year. To determine the adequacy of the constituency allowance, it would be necessary to consider the usage patterns of Members of Parliament in greater detail than this Inquiry has allowed. This might be achieved by surveying Members of Parliament and examining their claims against the constituency allowance.

The constituency allowance is currently set at the same rate for every Member of Parliament regardless of whether they represent an island with less than a hundred constituents or an electorate with thousands of constituents. In determining whether a flat rate for the constituency allowance is appropriate, some consideration should be given to both the number of constituents and the additional costs associated with meeting obligations in the outer islands.

The Inquiry heard from several Members and former Members that a can of Palm brand corned beef was a commonly accepted indicator of the relative cost of living on the islands. Other indicators relevant to the expenses of Member when supporting community events were the cost of a frozen chicken or a box of lamb chops. A frozen chicken in Rarotonga costs NZ\$4 or \$5, but the price increases to about NZ\$15 on the northern islands. A 10 kilogram carton of lamb chops costs approximately NZ\$125 in Rarotonga, but the freight to an outer island costs an additional NZ\$2.55 per kilogram. A more comprehensive survey of costs would need to be conducted to determine the relative cost of living in each constituency, particularly the costs associated with the outer islands.

While the increased costs of meeting obligations in the outer islands are acknowledged, so too is the fact that the population on these outer islands is generally much smaller than on Rarotonga. It would therefore be appropriate to correlate the number of constituents for each Member with the additional costs associated with the outer islands in order to arrive at an equitable rate for the constituency allowance. The Government Statistics Office may be in a position to assist with the provision of relevant cost of living data.

RECOMMENDATION 12: That in preparation for an inquiry by the Remuneration Tribunal to determine the adequacy of the constituency allowance, Cabinet direct the relevant government body to conduct surveys of Members' claims against the constituency allowance and a study of the costs of meeting social obligations in constituencies on Rarotonga relative to the outer islands.

7.2.2 Constituency Travel

Members of Parliament are provided with a range of travel and accommodation allowances for the purpose of conducting constituency business.

In general terms, Members residing in Rarotonga who represent a constituency outside Rarotonga are entitled to 4 trips to and from their constituency per annum at Government expense. Members who reside in their constituency and who represent a constituency outside Rarotonga are entitled to 6 trips to and from their constituency. Members can be accompanied by their spouse at Government expense on two travels each year.

Where the Member represents a constituency in the Southern Group they are allowed 10 days of accommodation allowance, whereas Members representing a constituency in the Northern Group is allowed 20 days of accommodation allowance. The allowance is \$50 per day in private accommodation and up to \$160 per day in commercial accommodation.

The Inquiry heard from one Member that the allowance of 4 trips to and from the outer islands was not adequate, however constituency travel was not a matter which was specifically canvassed in interviews with Members and former Members. Further consultation with Members on this subject would be beneficial before drawing too many conclusions.

Nevertheless, there are two key factors to consider in relation to the adequacy of constituency travel. These are:

- the amount of time that the Member is required to be in their constituency (on an island other than Rarotonga) to attend to constituency matters; and
- the cost and accessibility of transport.

It is fundamental to a representative democracy that elected Members of Parliament should be able to represent and advocate for the needs of their constituents. To properly undertake this role, it is reasonable to expect that the Members will meet with their constituents and spend time in their communities in order for their views on local matters to be current and relevant. For Members who reside in Rarotonga, but represent other island constituencies, the challenge is to get the balance right between spending time in their constituencies and time in the national capital and seat of the Parliament. Given the Parliament's relatively short number of sitting days each year, this should not be a difficult time management issue. It might therefore be concluded that it is a matter of judgement for the relevant Members to decide how long they spend in their constituency.

The Inquiry did not have access to the travel claims made by Members returning to their constituencies and is not aware of the extent to which the existing allowance of 4 or 6 trips per annum has been utilised. Before any adjustment is made to the existing allowance, a survey of travel claims is recommended to give some indication of existing usage patterns and the extent to which the allowance meets the needs of Members to properly represent their electorates.

Travel to the outer islands is expensive where air services are available and the frequency is variable. For example, a one way flight from Rarotonga to Manahiki in the

northern group costs approximately NZ\$1,350 per person and it is available only once a week. Travel to some islands can involve a two or three day journey on a sea going cargo vessel. Given the potentially high costs associated with constituency travel and accommodation, it is reasonable that there be a limit on the number of trips that can be taken at Government expense.

RECOMMENDATION 13: That any future inquiry into the constituency travel allowances provided to Members include consultation with Members, a survey of constituency travel claims and an assessment of travel costs to better understand the needs of Members to properly represent their constituencies.

7.2.3 Travel and Accommodation in the Cook Islands on Official or Parliamentary Business

For travel to Rarotonga to attend to Cabinet, Parliamentary, committee or Government caucus business, Members of Parliament receive actual travel costs, rent free Government accommodation where available, \$50 per day if in private accommodation and up to \$160 per day in commercial accommodation.

There are limitations on the length of stay after a meeting – 10 days for Northern Group Members and 3 days for Southern Group Members.

For travel from Rarotonga to other islands on official business there is an allowance of \$50 per day for private accommodation and up to \$160 per day for commercial accommodation. Where a Member or spouse is hosted by a Government representative, public servant, Island Council or other person, \$40 of the daily allowance is paid direct to the host.

7.2.4 Travel and Accommodation outside the Cook Islands

The Order of Executive Council of 2 April 2009 specifies the class of travel and expenses for travel outside the Cook Islands. Spouses may accompany Members on such travel once a year. With the prior consent of Cabinet, Members can be paid an entertainment allowance while travelling.

7.2.5 Office Allowance

The following office holders all receive an annual office allowance of NZ\$5,000.

- Deputy Leader of the Opposition
- Deputy Speaker
- Leader of the House
- Whips
- Associate Ministers

The Leader of the Opposition is provided with an office comparable to that provided to a Minister. The office is fully equipped and staffed with electricity, information technology, communications and stationery costs covered.

7.2.6 Housing

Fully furnished and staffed Government accommodation is provided to the Prime Minister and the Deputy Prime Minister. Where they choose private accommodation, the Prime Minister receives NZ\$5,000 per annum allowance and the Deputy receives NZ\$4,500 per annum.

Where available, Government residences are provided to the Speaker, Ministers and Leader of the Opposition. Where they choose private accommodation, they receive NZ\$4,000 per annum allowance.

Other Members of Parliament all receive NZ\$3,500 per annum housing allowance.

7.2.7 Transport Allowances

The Prime Minister is entitled to a Government car and driver, the Deputy Prime Minister, Leader of the Opposition and Ministers are provided with a car from their Office Support Budgets (rather than from the Civil List), and all other Members of Parliament receive a non-taxable transport allowance of NZ\$3,000 per annum.

7.2.8 Telephones

All Members of Parliament are provided with a telephone or mobile phone free of rent charges. Call charges are also covered for the Prime Minister, Deputy Prime Minister, Ministers, Speaker and Leader of the Opposition.

7.2.9 Clothing Allowance

At the beginning of a Member's term, he or she receives a non-accountable clothing allowance of NZ\$5,000.

The Inquiry heard that this entitlement had not been paid in accordance with the Order in Executive Council of 2 April 2009 which stipulates the amount is payable when the Member has been sworn in.

It is understood that there is no other authority by which this Order in Executive Council has lawfully been varied. If this is correct, it is a concern that the clothing allowance is not being paid as prescribed and it calls into disrepute decisions made pursuant to the CL Act and the RT Act. For the integrity of the remuneration system for Members of Parliament to be maintained and for both Members and the wider community to have confidence in the remuneration system, payments must be made in accordance with the relevant Order in Executive Council. If there is a need to change some benefit or allowance, whether it be for budgetary reasons or otherwise, such a change should be made in accordance with legal framework.

RECOMMENDATION 14: That remuneration including allowances properly determined pursuant to the CL Act and the RT Act, be paid strictly in accordance with the relevant Order in Executive Council.

7.3 Superannuation

The terms of reference for this Inquiry require consideration of the appropriateness of the remuneration of Members of Parliament with particular reference to superannuation.

In order to take into account superannuation matters, the Inquiry met with Ms Angela Charlie, Finance Operations Manager of the Cook Islands National Superannuation Fund, and former Members of Parliament including the late Sir Geoffrey Henry, the Hon Norman George, Mr Rei Jack, Mr Kura Strickland and Pastor John Tangi.

7.3.1 Establishment of the Current Scheme

The former superannuation scheme for Members of Parliament was found to be financially unsustainable and the Government of the day took action to remedy the situation. This resulted in the passage of the *Members of Parliament Act 2003* which closed the pre-existing superannuation scheme and removed any right to an entitlement under the repealed act. Members of Parliament became members of the Cook Islands National Superannuation Fund with similar superannuation entitlements to those of the general community.

Existing beneficiaries of the Legislative Assembly Superannuation Scheme who received more than NZ\$10,000 per annum in superannuation had their benefits reduced in stages to 75% for six months, 50% for a further period of six months and then 25% of the benefit for life. Under Part III section 6 of the new Act, the superannuation for existing beneficiaries was capped at NZ\$10,000 per annum. Those existing beneficiaries under the age of 60, had their benefits ceased altogether until they reached the age of 60.

It is understood that the superannuation payments made to Members of Parliament are a retirement allowance rather than a social security pension. Qualified former Members receive their retirement allowances in addition to any aged pension for which they are eligible as the aged pension is not means tested.

The drastic action taken in 2003 in respect of parliamentary superannuation payments reflects the severity of the crisis faced in 2003. However, it is now time to revisit these arrangements.

7.3.2 Impact of the Current Scheme on Former Members

Former Members of Parliament told the Inquiry that the new superannuation scheme has resulted in humility and poverty for former Members. The late Sir Geoffrey Henry

illustrated the point by citing the example of the first Prime Minister of the Cook Islands who “went to his grave a pauper”.

Social obligations continue after Members leave the Parliament. The Inquiry heard that former Members are expected to contribute gifts for birthdays, baptisms, anniversaries and weddings as if they were still working Members of Parliament. The Inquiry was also advised that former Members who have a traditional title have additional cultural responsibilities. However former Members receive no constituency fund from which to draw funds to meet community expectations.

One former Member told the Inquiry that he had met with two former colleagues who said that their parliamentary superannuation payments had not been adjusted for 11 years. This may be because the payments reached the NZ\$10,000 ceiling established in 2003. Whatever the case may be, with the passage of time, there has been an erosion of the value of superannuation benefits which have not kept pace with cost of living increases.

There are 21 former Members in receipt of parliamentary superannuation as at 7 March 2012. Collectively they are paid superannuation to the value of NZ\$198,291 per annum. The financial impact of a relatively modest cost of living increase applied to this sum would not be a great impost on the public purse of the Cook Islands and would be regarded as consistent with community standards. However any adjustment to superannuation or pension benefits must be considered carefully in the light of actuarial and other advice from the board of the National Superannuation Fund and the Ministry of Finance and Economic Management.

RECOMMENDATION 15: That subject to actuarial and financial advice, and advice from the board of the National Superannuation Fund, a modest cost of living increase be applied to superannuation or pension benefits payable to former Members of Parliament, and that the NZ\$10,000 payments ceiling be adjusted accordingly. Furthermore, that Members of Parliament be entitled to make additional superannuation contributions matched by Government to a fund under the aegis of the National Superannuation Fund.

RECOMMENDATION 16: That as a matter of urgency, the Government undertake a review of the circumstances of retired Members of Parliament permanently resident in the Cook Islands who are eligible for superannuation as a former Member of Parliament, with a view to determining an ex gratia payment of NZ\$10,000 either as a one off payment or a series of periodic payments over a 12 month period totaling that amount, to restore some semblance of equity.