

**Parliamentary Salaries,
Allowances and
Other Entitlements**

Final Report

July 2001

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FOREWORD

Our Interim Report (dated 21 March 2001) was concerned with the Wellington Accommodation Allowance, and its application in the cases of two Ministers. Our review of those cases revealed a range of administrative difficulties with the allowance, and significant ambiguities in the rules of eligibility.

It soon became apparent to us that the difficulties and ambiguities are not limited to the Wellington Accommodation Allowance.

The systems, policies, and procedures applying to salaries, allowances and other entitlements of MPs and Ministers have evolved over time to meet a variety of needs. Because of this, they have not always been guided by a clear set of principles or desired outcomes.

This Final Report seeks to promote transparency in the remuneration and support of MPs.

We propose five principles to guide improvements to the current regime, and we present three possible options for change. We acknowledge that other options are possible, and that Parliament itself must decide what change should take place.

However, regardless of how change is put into effect, we strongly recommend that the “five guiding principles” be embodied in the approach taken.

D J D Macdonald
18 July 2001

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Executive Summary

This report sets out our detailed review of the regime for setting and administering salaries, allowances and other entitlements for MPs and Ministers. As a result of our review, we now believe that the current arrangements are inadequate and in need of change.

In our view, there needs to be a more coherent and principled regime to ensure that:

- the policies, systems, and procedures applying to this expenditure are soundly based, transparent, effective, and efficient; and
- they are clearly seen to be so by the public.

The Parties Involved

The systems for paying salaries and other entitlements to MPs and Ministers are complex, and involve:

- the Higher Salaries Commission (HSC), which sets MPs' and Ministers' salaries and allowances;
- the Speaker and the Minister for Ministerial Services, who set other entitlements for MPs and Ministers; and
- the Parliamentary Service and the Ministerial Services branch of the Department of Internal Affairs which pay MPs' and Ministers' salaries, allowances and other entitlements.

What Do MPs and Ministers Receive?

Over time it has become accepted that MPs should be appropriately remunerated for their job, and should be reimbursed for expenses they incur in providing the services expected of them by the public. Reflecting that view, MPs and Ministers currently receive:

- a salary, which differs depending on whether the recipient is an MP, or a Minister, or Leader of the Opposition, or some similar office holder;

- a variety of allowances to reimburse actual and reasonable expenses incurred – some of which are paid on production of proof (e.g., receipts), and some which are paid without production of proof;
- the right to use certain fully-funded facilities and services – such as telecommunications, official (VIP) transport, self-drive cars, and domestic air and rail travel; and
- the right to discounted services – such as international air travel.

What Do We Think About the Current Regime?

A system of pay, allowances and other job-related entitlements needs to differentiate between:

- *remuneration*; and
- *expenses*.

We can see no reason why a conventional “remuneration and expenses” approach should not be applied to MPs and Ministers.

We base our understanding of **remuneration** on tax law, rules, and policies; and on criteria used by the State Services Commission. Remuneration includes, among other things:

- salary and wages (including taxable allowances and overtime);
- payments for a specified office holder;
- use of a motor vehicle;
- subsidised or discounted goods or services; and
- employer contributions to health and accident insurance policies or superannuation.

By **expenses**, we mean costs incurred that are directly related to the performance of a job. In paying for an employee’s job-related expenses, an employer will normally adopt one or more of the following approaches:

- meet the cost of whatever the employer accepts is needed to support the employee in doing their job (such as travel or equipment) – either by prior payment or subsequent reimbursement on an actual and reasonable basis;

- give the employee an allowance to cover the expected cost to the employee of job-related expenses, without any requirement to account for how the allowance is actually spent; or
- meet all or part of the cost by a combination of these two approaches.

In our view, the regime for MPs' and Ministers' salaries, allowances and other entitlements lacks transparency. This is illustrated by:

- the number of parties involved and the parallel nature of their roles and responsibilities;
- the lack of clarity about the nature of the allowances and other entitlements payable; and
- the likelihood that some of the allowances and other entitlements constitute taxable income.

We assessed the administration of the current system against our "remuneration and expenses" framework and found that:

- the need for an independent body to establish salaries and allowances for MPs and Ministers has been recognised, and addressed previously through the establishment of the HSC; and
- for other entitlements, the Speaker of the House and the Minister Responsible for Ministerial Services have parallel roles to the HSC.

We considered the nature of the entitlements and found that:

- while the allowances set by the HSC are intended to reimburse expenses, some have a remuneration component – particularly those allowances that do not rely on a receipt being produced;
- some of the other entitlements set by the Speaker or the Minister of Ministerial Services would be considered to be part of remuneration; and
- to the extent that allowances paid exceed expenses incurred for the same purpose, the allowance would constitute taxable income.

How the Regime Could Be Improved

We conclude that the best way forward is to restructure the framework of salaries, allowances and other entitlements so that remuneration and expenses are clearly identified and treated in a similar manner to those of any other employee.

We suggest observance of the following five guiding principles to ensure that improvements are well directed:

- (a) *A clear distinction should be established between remuneration and expense reimbursement. The basis for this separation should be a definition of remuneration that is consistent with current best practice and taxation law.*
- (b) *An independent body should determine, on the basis of clearly articulated principles, all remuneration and expenses to be reimbursed.*
- (c) *Designated agencies should be responsible for paying remuneration and reimbursing expenses.*
- (d) *All remuneration should be taxed on the same basis as that of an ordinary employee.*
- (e) *The independent body referred to in (b) above should have overall “ownership” of the system for setting and paying remuneration (as defined) by:*
 - *objectively determining the basis of actual and reasonable expenses that can be incurred;*
 - *making all eligibility decisions; and*
 - *formulating appropriate rules and guidance and issuing them to the designated paying agencies.*

Options for Improving the Regime

We offer three options for improving the regime.

Option 1: Strengthening the Internal Controls in the Current Regime

This option would involve improving:

- the current control environment of the administration of HSC determined allowances that are payable to MPs and Ministers by the Parliamentary Service and Ministerial Services;

- the advisory and information transfer processes within and between organisations, and between the organisations and their MP and Ministerial clients; and
- the transparency of the entitlements provided by the Parliamentary Service and Ministerial Services.

This option would improve the internal control environment, but it would not meet any of our suggested principles.

**Option 2:
Clarifying Ownership of the Current Regime, As Well As
Strengthening Internal Controls**

Under this option, the controls over the entitlements regime would be strengthened – as in option 1. In addition, the role of the HSC would be clarified, giving it the legislative mandate to oversee the effectiveness of the systems for administering its Determinations.

The HSC would be empowered to issue rules and guidance as to how the administering agencies should apply its Determinations in any specific circumstance. Consideration could be given to providing the HSC with power to conduct audits of aspects of the regime as required, and to make appropriate recommendations as to system improvements.

This option would address some, but not all, of our suggested principles.

**Option 3:
“First Principles”**

Option 3 would entail the HSC:

- being given the mandate and responsibility for setting MPs’ and Ministers’ remuneration, including entitlements and privileges currently set by the Speaker and the Minister Responsible for Ministerial Services;
- setting the basis for MPs’ and Ministers’ expense reimbursement; and
- considering whether the range and nature of entitlements that are not based on actual and reasonable expenditure continue to be appropriate.

The Parliamentary Service and Ministerial Services would be responsible for paying remuneration and reimbursing expenses on an actual and reasonable basis.

This option would give full effect to our suggested principles.

Eligibility for Entitlement to Accommodation Allowances

A key issue of eligibility for certain allowances – especially the Wellington Accommodation Allowance – has been determining an MP’s “primary place of residence”. The HSC has instituted a questionnaire for applicants, which is a considerable improvement on the previous approach. We encourage the HSC to consider what other practical improvements could be made to enhance how it determines individual cases of entitlement.

In addition, there is an issue about MPs claiming for the use of private accommodation. We strongly recommend that the HSC formulates a clear policy on entitlement and clarifies what is a reasonable level of claim.

Use of Air Points

MPs’ access to “loyalty rewards” – especially air points obtained from air travel – became the subject of controversy after the Speaker decided (on the recommendation of the PSC) in March 2001 to remove the requirement for MPs to surrender, when leaving Parliament, air points obtained as a result of taxpayer-funded travel.

We reiterate the principle espoused by former Auditor-General Brian Tyler in 1994 that:

Loyalty rewards arising through the expenditure of public funds on official business represent a discount on official costs. Where they accrue to a private individual through public expenditure, they should be –

- *considered the property of the funding entity; and*
- *applied as far as practicable, and in such ways, as to realise the advantage they represent for the funding entity.*

The PSC subsequently revisited its policy position. In our view the new policy is an improvement on the previous approaches

to the subject – recognising that there are no standard “best practice” approaches that are readily applicable to MPs.

Conclusion

In our view, the current regime for setting and administering salaries, allowances and other entitlements for MPs and Ministers is inadequate and in need of change.

We offer three possible options for change, the last of which would give full effect to our suggested principles. We acknowledge that other options are possible – some of which might be more radical than those we have described.

Regardless of how change is put into effect, we strongly recommend that the principles we have outlined be embodied in the approach taken.

Our proposals are not intended to add further administrative burden. Rather, the intention is to reduce long-term compliance cost while:

- increasing the transparency of the current system;
- clarifying responsibilities for setting remuneration and reimbursing expenses; and
- ensuring consistency with current taxation law.

Whichever of our options is adopted, we believe it is important that one agency is responsible for determining the correct tax treatment of allowances and other entitlements. This would necessitate clarification of the obligations under tax law of both the recipients and the administering agencies – and might involve the engagement of tax advisers and consultation with the IRD.

1 What Is the Issue?

101 The salaries, allowances and other entitlements of Members of Parliament (MPs) have drawn considerable attention in recent months. The cases of Ms Bunkle and Ms Hobbs provided an outlet for strongly held public views about MPs' entitlements. The debate also revealed some misunderstanding about what MPs are paid. Regardless of its simple appearance the issue is not straightforward, and there has been a dearth of informed comment to facilitate discussion.

102 Our Interim Report of March 2001 – *Members of Parliament: Accommodation Allowances for Living in Wellington* – looked at a specific part of the regime for salaries and other entitlements payable to MPs. In particular, it explained how Ms Phillida Bunkle MP and Hon Marian Hobbs MP could claim accommodation allowances for living in Wellington while they were registered as electors in the Wellington Central electorate.

103 Our Interim Report also considered how Ms Bunkle came to be allocated a ministerial residence in Wellington.

104 In this, our second and final report, we consider ways in which the systems, policies, and procedures for MPs' entitlement to and payment of remuneration and expenses could be made more transparent, efficient, and consistent with tax law.

105 Most commentators agree that a properly functioning, representative democracy will always come at a cost. In approaching this area of public expenditure, we identified three simple yet fundamental questions that are relevant to any discussion of MPs' salary and other entitlements:

- What does an MP do?
- How should individual MPs be paid for what they do?
- How should the system distinguish between remuneration and the expenses that MPs incur in doing their job?

106 The distinction between "remuneration" and "expenses" is important in understanding the system and our proposals for how the system can be improved.

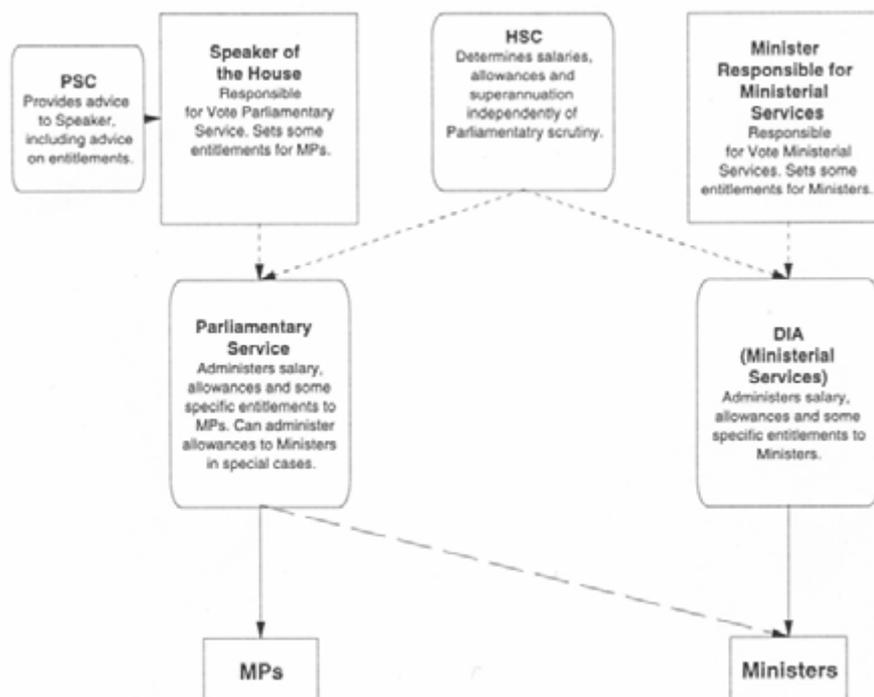
The Parties Involved

107 The system for paying salaries and other entitlements to MPs and Ministers is complex, and revolves around relationships between the following people and agencies:

- the Higher Salaries Commission (HSC);
- the Speaker;
- the Minister Responsible for Ministerial Services;
- the Parliamentary Service Commission (PSC);
- the Department of Internal Affairs (DIA), and (in particular) the Ministerial Services business unit of the Executive Government Support branch of DIA (Ministerial Services);
- the Parliamentary Service; and
- MPs and Ministers (as recipients).

108 These relationships are illustrated in Figure 1 below.

*Figure 1
Relationships Between the Parties Involved*



Part 1

Setting and Administering Salaries and Other Entitlements

2 Why MPs Are Paid

What Does an MP Do?

201 An MP's job involves a variety of roles and responsibilities. Among other things, the job involves:

- Ensuring that the interests of the people are represented in all aspects of parliamentary business, and in other domestic and international forums. This requires the identification, analysis and presentation of local and international issues in Parliament and, in some cases, outside the country.
- Contributing to the development of new laws or the amendment of existing laws, through participating in debate in the House of Representatives and in its committees. This also involves making sure that the views of their constituents or the communities of interest they represent are considered in their contributions.
- Sitting on select committees and contributing to their scrutiny of the activities of executive government, and other issues of interest to the public, and hearing any evidence on those matters as they see fit.
- Closely examining the operations and performance of the Government and government departments through –
 - the conduct of Financial Reviews, whereby select committees scrutinise departmental expenditure and activities over the preceding year, and compare this activity against what the Government said it would achieve in that year;
 - the examination of the Budget, whereby the Government's overall proposals for future expenditure are scrutinised; and
 - the examination of the *Estimates of Expenditure*, whereby select committees scrutinise departmental bids for future funding.
- Making representations to the Government on behalf of individual constituents.

202 Also as part of their job, MPs must meet the public's expectations that their MPs will, from time to time, be:¹

- *Counsellors.* People go to their MP with many different types of problems which they want to talk through.
- *Experts on the operations of the Crown.* People expect that their MP will have a good knowledge of how government agencies work, and so will be able to offer informed advice to those who come to them for assistance on how agency processes will affect them.
- *Advisers and advocates.* A constituent might ask their local MP for advice about a problem he or she may have, and to promote his or her cause with relevant agencies.

203 All of the foregoing roles require an MP to keep up with debate on public issues in order that they are able to effectively advocate in Parliament (both orally and in writing) for their constituents or communities of interest.

204 The Prime Minister and other Ministers are MPs, and also must fulfil an additional role as Ministers of the Crown. As the chief minister the Prime Minister is the public voice of the Government. In order that the country is governed in an effective and co-ordinated manner, the Prime Minister must, among other things:²

- form and maintain a government (which may involve establishing and managing a coalition between political parties);
- determine portfolio allocations – including each portfolio's area of operation, the legislation administered within the portfolio, the department(s), Crown entities and other organisations reporting within the portfolio, and (where necessary) the relevant Vote(s);
- maintain and co-ordinate the Government, by overseeing the Government's general policy direction; and
- approve the agenda for Cabinet meetings, lead the meetings, and be the final arbiter of Cabinet procedure.

¹ Base information from Parliamentary Service web site: www.ps.parliament.govt.nz

² Base information from the *Cabinet Manual*, Cabinet Office web site: www.dpmc.govt.nz/cabinet/

205 The Prime Minister is usually in charge of the New Zealand Security Intelligence Service and the other intelligence services.

206 In addition to their role as MPs, Ministers are responsible for (among other things):³

- determining policy and exercising relevant statutory powers and functions within their portfolios (e.g. health, Maori affairs);
- protecting the Crown's interest in the agencies within their portfolios, and exercising their responsibility to Parliament for ensuring that those agencies carry out their functions properly and efficiently;
- seeking parliamentary appropriations to fund outputs in their portfolio area to be supplied by departments, Crown entities or organisations outside the public sector, and to incur other expenses (such as the payment of social security benefits); and
- sponsoring new legislation throughout its passage through Parliament to enactment.

Paying MPs for What They Do

207 The level of pay and allowances necessary to secure representation of the people in Parliament has been a constant issue of debate since the establishment of Parliament in New Zealand. At first, MPs received an honorarium for each session of Parliament that they attended. This was introduced in 1854.⁴

208 However, in both New Zealand and Australia there was concern that parliamentarians should receive any payment at all for what was at that time a part-time role. The view that emerged was that, in order for elected MPs to have an equal opportunity to represent their communities in Parliament, MPs needed to be paid. In New Zealand, this was clearly expressed by Julius Vogel in 1871:

*... in the colonies payment of members would be necessary, and was necessary, to secure the best possible Government.*⁵

³ *ibid.*

⁴ von Tunzelmann, Adrienne (1985), *Membership of the New Zealand Parliament – A study of conditions 1854-1978.*

⁵ *ibid.*

209 The New Zealand view echoed similar comment in the State of New South Wales in 1861:

*... it is necessary, to the adequate representation of the people in this House that members be compensated for their attendance.*⁶

210 Over time, the notion of an honorarium – a fee for professional services nominally rendered without payment (*Concise Oxford Dictionary*) – was replaced by a recognition that being an MP is an occupation, for which an individual should be paid a salary like any other person engaged in employment.

211 However, MPs’ remuneration arrangements have always been surrounded by a system of allowances and other entitlements. It is fair to say that the status of these allowances and other entitlements – particularly in relation to what an MP is “paid” – has not always been clear.

212 Partly for this reason, we think, the public has not looked favourably upon increases to MPs’ salaries and entitlements. In 1951 the Royal Commission Upon Parliamentary Salaries and Allowances commented:

*The ordinary citizen is inclined to think that whatever his Member [of Parliament] is paid, is enough or too much, even if he does not know the amount or does not reflect upon the work that is done for the payment received.*⁷

213 This scepticism is to be expected, as the nature of MPs’ salaries and other entitlements, and the processes for setting them, are not completely clear.

⁶ NSW Parliamentary Library (1966), *Payment of members in New South Wales – Pros and Cons from 1912*.

⁷ *Report of Royal Commission Upon Parliamentary Salaries and Allowances 1951*.

3 What Are MPs Paid for What They Do?

Salaries

301 It has come to be accepted that anyone engaged in an occupation should expect to be remunerated to an extent commensurate with the work they do or the services they provide.

302 In many ways, the occupational expectations of MPs are no different. The professional and full time nature of an MP's or Minister's work cannot be underestimated.

303 The Royal Commission upon Parliamentary Salaries and Allowances of 1951 recognised this fact when it said:

We use the term "professional" in the strict ordinary sense of the word – that is, the Minister or Member gives skilled, continuous service requiring ability, training, and experience. All Ministers must abandon their private occupations so long as they hold office, and many Members must do the same.⁸

304 The influence of the 1951 and subsequent Royal Commissions in establishing principles to guide the setting of parliamentary salaries and allowances was far reaching. The 1973 Royal Commission accepted and restated the following principles, which had been variously established by previous commissions:

(a) that the occupation of a member of Parliament should be regarded as virtually full time and professional in nature;

(b) that it should be assumed that a member of Parliament has no other income;

(c) that it should be accepted that members are married with family commitments; and

(d) that regard should be had to the sacrifices a member and his wife (or husband) have to make in their enjoyment of leisure and family life.⁹

305 The HSC accepted these principles when it took over responsibility for Parliamentary salaries and allowances in 1974.

306 But the HSC's task is an unenviable one. The HSC must set remuneration having regard to the requirements of the job and

⁸ *ibid.*

⁹ Report of the Royal Commission Upon Parliamentary Salaries and Allowances 1973.

the conditions and remuneration paid to those in comparable positions. And the HSC also has to take account of the following specific statutory criteria when setting levels of remuneration:

- *the need to achieve and maintain fair relativity with the levels of remuneration received elsewhere;*
- *the need to be fair both –*
 - *to the persons whose remuneration is being determined; and*
 - *to the taxpayer; and*
- *the need to recruit and retain competent persons.*¹⁰

307 Appendix 1 on page 75 outlines some of the key developments affecting MPs' salaries and allowances since 1854.

Allowances and Other Entitlements

308 It is also generally understood that a person engaged in an occupation may need to incur certain expenses while they are working in order to carry out a particular task. These expenses could include, for example, the cost of travel to another town on business, or the cost of special equipment.

309 The range of allowances and other entitlements available to MPs and Ministers is described in the following paragraphs and summarised in Figure 2 on page 24. The rates and other details of allowances are given in Appendix 2 on pages 76-78.

Allowances Determined by the HSC

310 The Parliamentary Service and Ministerial Services administer the allowances determined by the HSC for MPs and Ministers respectively.

311 In 1990, the HSC made the following comment on the nature of the allowances it sets for MPs and Ministers:¹¹

¹⁰ Section 18, Higher Salaries Commission Act 1977. These criteria apply regardless of who is the subject of the particular determination.

¹¹ Parliamentary Salaries and Allowances Determination 1990 (Explanatory Memorandum).

The Commission distinguishes between –

(a) Benefits which are available by virtue of the type of employment or the position held:

(b) Reimbursement of the costs incurred in the course of employment.

The Commission's function being to determine the salaries and allowances of Parliamentarians, it has no jurisdiction over category (a) – which may or may not have a monetary value¹² – but with category (b).

The allowances which form part of this determination are viewed purely as reimbursements of costs incurred by Parliamentarians in providing the services electors expect of them.

312 This view of the HSC – that the allowances paid to MPs are for reimbursement of expenses incurred by them in providing the service expected of them by the electorate – has been reiterated for a number of years.

Other Entitlements Provided to MPs by the Parliamentary Service

313 The Speaker – on advice from both the PSC and the Parliamentary Service – determines the following specific entitlements for MPs, which are administered by the Parliamentary Service:¹³

- **Communications** – A variety of communications services are available to MPs, which they can also use for personal purposes.
- **Domestic air travel, and road and rail travel** – Any MP and his or her spouse (or nominee) is entitled to travel on scheduled air services throughout New Zealand, the cost of which is met fully from Vote Parliamentary Service. The cost of air travel by dependent children is also met in specified circumstances. Similar criteria apply to the cost of long-distance rail and road travel.

¹² Higher Salaries Commission Act 1977, section 12A(1).

¹³ *Members Handbook of Services*, Parliamentary Service 2001.

- **International air travel** – A rebate, on an increasing scale depending on the length of service, will be paid on international air travel by an MP (who is also a member of the Commonwealth Parliamentary Association) on a scheduled airline. An MP's spouse is also able to make use of this privilege.
- **Self-drive cars** – A self-drive car is available to the Speaker, the Deputy Speaker, the Leader of the Opposition, and other Party Leaders (depending on the number of party members).
- **VIP transport** – VIP Transport chauffeur-driven cars can be used at any time, 24 hours a day, seven days a week by the Speaker, the Deputy Speaker, the Leader of the Opposition, and (depending on the number of party members) other Party Leaders.

314 The Parliamentary Service also administers a subsidised superannuation arrangement (determined by the HSC) for MPs elected after 30 June 1992.

Other Entitlements Provided to Ministers and Members of the Executive by Ministerial Services

315 The Minister Responsible for Ministerial Services determines the following entitlements for Ministers and members of the Executive, which are administered by Ministerial Services:¹⁴

- **Ministerial residences** – A residence is available to members of the Executive (who do not live in Wellington).
- **VIP transport** – Ministers and their spouses have the use of VIP Transport chauffeur-driven cars at any time, 24 hours a day, seven days a week.
- **Self-drive cars** – Ministers are entitled to a self-drive car for use by themselves and members of their immediate family. Ministers inside Cabinet also have access to pool cars to use in Wellington.
- **Telecommunications** – Ministers have available to them a variety of entitlements (such as home fax machines and telephones), with all charges/costs incurred being met by Ministerial Services.

¹⁴ *Ministerial Services Handbook.*

Miscellaneous Other Entitlements

316 MPs and Ministers have some other entitlements. These may include, for example, membership of VIP travel clubs (e.g. Air New Zealand's Koru Club, and the former Ansett Golden Wing Lounge).

Figure 2
Summary of Entitlements of MPs and Ministers

Entitlements	Who Gets Them?		Who Sets Them?		
	MPs	Ministers	HSC	Speaker	Minister of Ministerial Services
Salary	✓	✓	✓		
Employer Superannuation Contribution	✓	✓	✓		
Basic Expenses Allowance	✓	✓	✓		
Office[-holder] Expense Allowance (a)	✓	✓	✓		
Constituency Allowance (b)	✓		✓		
House Allowance (a)	✓	✓	✓		
House and Grounds Maintenance Allowance (a)	✓	✓	✓		
Motor Vehicle Purchase Allowance (c)	✓		✓		
Security System Purchase Allowance	✓	✓	✓		
Wellington Accommodation Allowance	✓	✓(d)	✓		
Day Allowance	✓		✓		
Night Allowance	✓		✓		
Travelling Allowance	✓(e)	✓	✓		
Car Reimbursement	✓		✓		
Travel – domestic: air/rail/bus	✓	✓		✓	✓
Travel – international: air	✓	✓		✓	✓
Communications facilities	✓	✓		✓	✓
Self-drive car	✓(f)	✓		✓	✓
VIP transport	✓(f)	✓			✓
Ministerial residence		✓			✓
VIP Travel Clubs	✓	✓		✓	✓

Notes –

- (a) Limited to certain people – see Table B in Appendix 2, page 77.
- (b) Payable to Constituency MPs only.
- (c) Payable to Constituency MPs only, and offset against their Constituency Allowance.
- (d) Payable in certain circumstances.
- (e) Payable only to the Speaker and (in certain circumstances) the Leader of the Opposition.
- (f) Limited to certain people – see paragraph 313.

So What Can an MP or Minister Actually Receive?

317 Recent commentary in the media has attempted to identify the true nature of an MP's total remuneration. However, some commentators have grossly overstated "total remuneration" by including those allowances that are intended to reimburse an MP for actual and reasonable expenses incurred. In our view, these allowances should not be counted as part of an MP's total remuneration.

318 The table in Figure 3 below sets out our understanding of what salary and allowances an MP or Minister could receive in a year by way of regular fortnightly payment. The table is based on the current salary and allowances set by the HSC, and does not include any of the other entitlements described in paragraphs 314-316 and included in Figure 2. Some of these entitlements would increase the value of overall remuneration if counted as 'remuneration'.

*Figure 3
What a Constituency MP, a List MP, and a Minister
Could Expect to Receive in a Year*

	Constituency MP \$	List MP \$	Minister \$
Salary	85,000	85,000	149,200
Basic Expense Allowance (not taxed)	7,000	7,000	12,000
House and Grounds Maintenance Allowance (not taxed)	–	–	1,500
Constituency Allowance (Year 2001 Class C, not taxed – see Table C, Appendix 2, page 00)	14,000	–	–
Day Allowance (based on 84 sitting days proposed for 2001 @ \$56 a day, not taxed) ¹⁵	4,704	4,704	–
Total annual salary and allowances	\$110,704	\$96,704	\$162,700

¹⁵ This is a conservative assessment based on the day allowance being claimed for days on which Parliament sits (84 sitting days are proposed for 2001). When the House is not sitting, the day allowance can still be claimed if an MP is on Parliamentary business.

4 Who Administers What?

401 In this section of the report we discuss the people and agencies involved in financially supporting MPs and Ministers – both in setting and paying remuneration, and in providing support resources or reimbursing expenses. Figure 4 on page 27 illustrates the position.

402 The relationships between the various parties include the following activities:

- developing rules about entitlements;
- establishing MPs' and Ministers' eligibility to entitlements;
- administering the systems for paying salaries and other entitlements (including reimbursing actual and reasonable expenses); and
- providing ongoing advice to MPs and Ministers about their entitlements in the event of changes in their personal circumstances.

Roles and Responsibilities

Higher Salaries Commission

403 Under the Civil List Act 1979, the HSC promulgates yearly Determinations that set out MPs' salaries¹⁶ and a number of allowances, and the circumstances in which they can be claimed. The HSC also sets levels of superannuation subsidy provided by the Parliamentary Service to MPs who are not members of the Government Superannuation Fund.

404 The HSC's statutory role is limited to fixing levels of salaries and allowances according to prescribed statutory criteria, and to publishing its Determinations. However, in practice it also provides advice to MPs and Ministers regarding their allowances – either directly or through the Parliamentary Service or Ministerial Services.

¹⁶ The HSC only has power to determine salary, superannuation subsidy and allowances for MPs – see Higher Salaries Commission Act 1977, section 12.

Figure 4
Entitlements – Who Sets Them and Who Pays Them

Entitlements	Who Sets Them?			Who Pays Them?	
	HSC	Speaker	Minister of Ministerial Services	Parliamentary Service	Ministerial Services
Salary	✓			✓	✓
Employer Superannuation Contribution	✓			✓	✓
Basic Expenses Allowance	✓			✓	✓
Office[-holder] Expense Allowance	✓			✓	✓
Constituency Allowance	✓			✓	
House Allowance	✓			✓	✓
House and Grounds Maintenance Allowance	✓			✓	✓
Motor Vehicle Purchase Allowance	✓			✓	
Security System Purchase Allowance	✓			✓	
Wellington Accommodation Allowance	✓			✓	
Day Allowance	✓			✓	
Night Allowance	✓			✓	
Travelling Allowance	✓				✓
Car Reimbursement	✓			✓	
Travel – domestic: air/rail/bus		✓	✓	✓	✓
Travel – international: air		✓	✓	✓	✓
Communications facilities		✓	✓	✓	✓
Self-drive car		✓	✓	✓	✓
VIP transport			✓		✓
Ministerial residence			✓		✓
VIP Travel Clubs		✓	✓	✓	✓

The Speaker

405 The Speaker:

- is the ‘Vote Minister’ (under the Public Finance Act 1989) for Vote Parliamentary Service;
- is the ‘Responsible Minister’ for the Parliamentary Service; and
- sets the amounts, terms, and conditions of the entitlements referred to in paragraph 313 (funding for which is appropriated in Vote Parliamentary Service).

The Minister Responsible for Ministerial Services

- 406 The Minister Responsible for Ministerial Services:
- is the 'Vote Minister' (under the Public Finance Act 1989) for Vote Ministerial Services; and
 - sets the amounts, terms, and conditions of the entitlements referred to in paragraph 315 (funding for which is appropriated in Vote Ministerial Services).

Parliamentary Service Commission

407 The statutory functions of the PSC under the Parliamentary Service Act 2000 are:

- to advise the Speaker on –
 - the nature of the services to be provided to the House of Representatives and to members of Parliament; and
 - the objectives to be achieved by providing those services; and
- to recommend to the Speaker the adoption of criteria governing funding entitlements for parliamentary purposes.¹⁷

408 The Speaker must also establish, at least once during the term of each Parliament, a committee of independent persons to review the budgets for administrative and support services provided to the House of Representatives and MPs, and funding entitlements for parliamentary purposes.¹⁸

Department of Internal Affairs (Ministerial Services)

409 DIA administers Vote Ministerial Services. In so doing, it administers – through Ministerial Services – some specific entitlements for Ministers that have arisen through longstanding practice.

¹⁷ Parliamentary Service Act 2000, section 14. The Parliamentary Service Act 2000 replaced the Parliamentary Service Act 1985.

¹⁸ *ibid*, sections 20-22.

410 Ministerial Services exists separately from the Parliamentary Service, in recognition of the constitutional separation between the roles of MPs and Ministers of the Crown.

411 Ministerial Services:

- notifies Ministers of the HSC's Determinations of salaries and allowances;
- pays Ministers their salaries fortnightly;
- provides the additional entitlements to Ministers and members of the Executive described in paragraphs 315 and 316; and
- administers the processes for Ministers claiming allowances determined by the HSC and for paying those allowances.

The Parliamentary Service

412 The Parliamentary Service is a statutory body established under the Parliamentary Service Act 2000. Its role is to provide administrative and support services to MPs.

413 The Parliamentary Service:

- notifies MPs of the HSC's Determinations of salaries and allowances;
- pays MPs their salaries fortnightly;
- provides the additional entitlements to MPs described in paragraphs 313-314 and 316;¹⁹
- administers the processes for MPs claiming allowances determined by the HSC and for paying those allowances; and
- administers the arrangements for MPs' superannuation.

¹⁹ These entitlements are fixed by the Speaker.

414

In special circumstances the Parliamentary Service can also pay allowances to Ministers. For example, if a Minister does not either have their own home in Wellington or occupy a Ministerial residence, they could claim a Wellington Accommodation Allowance to assist them to meet costs of renting accommodation in Wellington.

5 Previous Consideration of the Issue

Concerns Raised in Our Interim Report

- 501 In our Interim Report on the administration of MPs' allowances and Ministerial housing entitlements, we concluded that there is a lack of ownership of the whole regime. Responsibility is disjointed – with the HSC, Ministerial Services, and the Parliamentary Service being predominantly concerned with their own specific roles.
- 502 This situation, coupled with a complex set of legal entitlements and an over-reliance on trust in defining eligibility, gives rise to a weak financial control environment.
- 503 The generic and specific concerns we have with the administration of allowances and other entitlements are as follows.

Generic Concerns

- 504 Our generic concerns are that:
- no single agency is responsible for the regime as a whole;
 - there is a lack of sound systems for the provision and documentation of advice on allowances and entitlements;
 - the regime is complex and potentially confusing; and
 - the residential requirements for MPs' allowances are unclear and difficult to apply.

Specific Concerns

- 505 Our specific concerns are that:
- the nature of the internal control systems over MPs' and Ministers' discretionary expenditure and allowances is inherently weak, with significant reliance placed on individual trust;

- the extent of communication between the agencies involved in the entitlements regime is variable; and
- application of the policy of reimbursement of “actual and reasonable” expenses is difficult.

506 We consider that these circumstances potentially could either:

- give rise to unwitting actions by MPs that are inconsistent with the intent of the allowances and entitlements regime; or
- contribute to actual abuse of the regime.

The Rodger Report

507 The issues that we have identified in the course of our review are not recent phenomena. Some of them were identified during the review of the Parliamentary Service Act 1985. That review was initiated by the PSC in 1998, following recognition that the role and functions of the PSC should be reconsidered in order to reflect developments in public sector accountabilities since the PSC’s establishment. The terms of reference for the review are attached as Appendix 3 on pages 79-81.

508 The 1998 Review Team (the Review Team) consisted of:

- Hon Stan Rodger CMG – a former MP and Minister;
- Mr Rex McArley – a business executive and former member of the HSC; and
- Adrienne von Tunzelmann – a public sector consultant with previous experience in senior positions in the Office of the Clerk, the Treasury, and the Department of Justice.

509 The Review Team reported its findings and recommendations in February 1999, in the *Report of the Review Team on A Review of the Parliamentary Service Act to the Parliamentary Service Commission* (the Rodger Report).

Key Principle for Administration of MPs’ Salaries and Allowances

510 The Rodger Report noted that consideration needed to be given to the process by which payments to individual members was made and how the policy behind such payments was set. In

respect of the Parliamentary Service, HSC, and Ministerial Services – and their involvement in the regime – the Rodger Report noted that the lines of responsibility and function had become “quite blurred, with the possibility of confusion over whose jurisdiction prevails”.

511 The general principle of relevance to the entitlements regime recommended in the Rodger Report was that:

Matters to do with the remuneration of members, including benefits and allowances and personal expenses, be entirely in the hands of the Higher Salaries Commission to determine; while the determination of support services be entirely in the hands of the Speaker in consultation with the Parliamentary Service Commission and with advice from the Parliamentary Service.

512 The Rodger Report noted that amendments to the Higher Salaries Commission Act (primarily section 12 which deals with the HSC’s role in respect of MPs) and the Civil List Act (to ensure consistency) would be required to implement this principle.

513 The Rodger Report also noted that Ministers’ allowances may need attention but (as the issue was outside the terms of reference of the review) it was not addressed further.

Overall Recommendations of the Rodger Report

514 In addition to the recommendation of relevance (paragraph 511 above), the Rodger Report recommended that:

- the Parliamentary Service Act 1985 should be rewritten to take account of MMP and financial accountability changes, and to redraw the relationship between the PSC and the Parliamentary Service;
- there should be a three-yearly, independent review of the resourcing of members’ support, to recommend a dollar benchmark for each Parliament;
- the method of funding members’ support should place responsibility for budget management with those who in practice spend the money (the review team favoured a system of bulk funding to achieve this); and

- the Official Information Act 1982 should apply to the Parliamentary Service.

515 The Rodger Report commented on the prospective issue of tax treatment of allowances – noting that allowances had gradually come to be seen as additional payments over and above income to meet expenses (i.e. reimbursement of expenses).

516 At the time the Rodger Report was written, the IRD was undertaking a review of the tax status of office-holder allowances across the board. This review included allowances paid to MPs and other office-holder categories within the HSC’s jurisdiction, and led to a legislative change treating certain office holders (including MPs) as if they were employees (and therefore liable to pay PAYE).

Response to the Rodger Report

517 The Rodger Report resulted in the Parliamentary Service Act 2000, which addressed two of the recommendations made:

- the need to redraw the relationship between the PSC and the Parliamentary Service, having regard to MMP and financial accountability changes; and
- providing for the triennial independent review of the resourcing of MPs support, to recommend a dollar benchmark for each Parliament (see paragraph 514 on page 33 – the first review is yet to occur).

518 The issues that were not addressed in the Parliamentary Service Act 2000 included:

- reviewing the system for funding MPs’ support in order to place the responsibility for budget management in the hands of those who, in practice, spend the money (bulk funding being the preferred option);
- achieving a clear separation between the HSC and its responsibility for all aspects of MP remuneration, and the Speaker of the House’s responsibility for the determination of entitlements and support services for MPs; and
- the application of the Official Information Act 1982 to the Parliamentary Service.

6 What Does All That Mean?

601 To make sense of the complexity of what and by whom an MP is paid, we have turned our attention to how anyone else's remuneration and job-related expense payments would be determined and treated under the law.

Framework for Analysis

602 In considering anyone's pay, allowances and other job-related entitlements it is essential to differentiate between:

- remuneration; and
- expenses.

What Is Remuneration?

603 The term "remuneration" needs some explanation. Given that remuneration may be taxable income, it is useful first to consider what payments and benefits may form components of a professional and full time employee's remuneration according to the Inland Revenue Department (IRD):

- salary and wages (including taxable allowances and overtime);
- extra emolument payments;
- withholding payments;
- payments for a specified office holder;
- interest and dividends for a major shareholder-employee;
- use of a motor vehicle;
- low interest or interest-free loans;
- subsidised or discounted goods or services; and
- employer contributions to health and accident insurance policies or superannuation.

- 604 The State Services Commission uses the following definition:
- base salary;
 - cash allowances (including fees and subscriptions);
 - bonuses and incentive payments;
 - non-monetary benefits (including superannuation, motor vehicle, medical insurance, and home telephones);
 - any fringe benefit tax (FBT) paid on an element of the remuneration package; and
 - any termination, severance or end-of-contract payments.
- 605 It is common practice to calculate the value of an individual's employment package using this "total remuneration" approach.

What Are Expenses?

- 606 As already indicated, expenses are costs incurred that are directly related to the performance by an *employee* of the functions and duties of the employee's job.
- 607 A person who is an employee can expect that their employer will adopt one or more of the following courses:
- Meet, as an expense of the business, the cost of the travel or equipment needed to support the employee in doing their job – either by prior payment or subsequent reimbursement on an actual and reasonable basis. In this case the payment to the employee is unlikely to be taxable, because the employee has not gained a personal benefit from the reimbursement.
 - Give the employee an allowance to cover the expected cost to him/herself, without any requirement to account for how he or she actually spends the allowance. In this case the payment to the employee may form part of the employee's total remuneration and be taxable (see paragraphs 709-712).
 - Meet all or part of the cost by a combination of those two courses.

608 A person who is *self-employed* is entitled to deduct the cost of the travel or equipment needed to support them in doing their job, from the income gained from the activity. But the nature of self-employment is such that the individual may derive some personal benefit from the expenditure as well.

Is a Distinction Between Remuneration and Expenses Necessary?

609 An MP's job has some specific peculiarities:

- it combines elements of public office, public service, and professional occupation; however
- there is no prior vocational requirement or occupational qualification to become an MP;
- there is no progression for MPs in their remuneration to reflect greater experience and skill;
- there is no formal system of performance measurement for Parliament as an institution;²⁰ and
- there is exceptional variety in an MP's day-to-day work in terms of both tasks (complex to basic) and the magnitude of issues the MP deals with (from high to low).

610 Other characteristics of an MP's job are that:

- While MPs are employees for tax purposes they are not "employed" (i.e. they are not employees of a specific organisation), even though they work as part of a large organisation (Parliament) and draw on the resources of that organisation to do their job. But neither are they self-employed and able to enjoy the autonomy which a self-employed person has over his or her business income.
- The job has elements of compulsion (for example, the need to attend sittings of Parliament, and to be subject to party discipline), yet in other respects MPs have a constitutional autonomy and independence to act as their conscience (or, if they choose, the will of their electors) dictates.

²⁰ See Hazell "Can we reform the constitution without reforming Parliament?" Australasian Study of Parliament Group 2001, pages 14 – 18.

- The job can be all-consuming – meaning that what little personal time MPs have must sometimes be spent while they are away from home on Parliamentary business.
- The job requires many MPs to have more than one place of residence and divide their time between the two – with or without their spouses or family members.

611 The public service aspects of the role of an MP have been an overriding influence on the public's expectation in regard to MPs' pay. These issues have tended to make it difficult to establish a "market rate" for an MP's pay. And, of course, there has always been debate about whether (and, if so, what) MPs should be paid, given the nature of their role.

612 The regime of MPs' salaries, allowances and other entitlements has, therefore, evolved to take into account:

- both the nature of an MP's occupation; and
- the public's expectation that MPs should not be paid "more than they should be" for a public service.

613 These factors have resulted in a system of salaries, allowances and entitlements for MPs that blurs the distinction between the normal forms of remuneration and expense. In some respects the distinction is clear – for example, an MP's salary (which is clearly remuneration) and the reimbursement of expenses incurred through an MP using their private car for parliamentary business.

614 In other cases the distinction is not clear – for example, an MP may receive a basic expenses allowance to cover some job-related expenses. However, the payment of this allowance does not rely on receipts (or other evidence of the expenses being incurred) being produced. If it transpires that the amount of basic expenses allowance paid exceeds the actual expenses incurred, the excess would normally be considered as remuneration.

615 This lack of distinction between expenses and remuneration is one of the main sources of public confusion and disquiet about MPs' remuneration.

Comment

616 The fairness of an employee being appropriately remunerated for their job, and being reimbursed for necessary job-related costs they have to incur, cannot be denied. We can see no reason, therefore, why this understanding should not be applied to the regime for the remuneration and support of MPs.

617 An MP is neither an employee nor self-employed. But, in the most fundamental sense, an MP is no different from other persons in employment in that he or she needs support resources and incurs expenses in doing the job of an MP. In regard to these resources and expenses, we cannot add to the principle first espoused in relation to the British House of Commons, that:

... a Member should be able to draw on public funds, or be reimbursed from them, for those essentials he needs to do his job properly.²¹

618 Clearly identifying remuneration and expenses would have two implications for the way that MPs' salaries, allowances and other entitlements are currently set and administered:

- it would increase the transparency of the regime for the public – in that the underlying basis for MPs' remuneration would more closely reflect the reality that an MP is engaged in a full-time professional occupation; and
- it would provide a clearer basis on which the tax status of MPs' and Ministers' remuneration could be determined.

²¹ von Tunzelmann op. cit.

7 What Do We Think About the Current Situation?

Overall View

701 When we apply our framework for analysis to the regime for MPs' and Ministers' salaries, allowances and other entitlements, the main observation to be made is the general lack of transparency – illustrated by:

- the variety of agencies involved and the parallel nature of their roles and responsibilities;
- the lack of clarity about the nature of the allowances and other entitlements payable (i.e. are they remuneration or reimbursement of expenses?); and
- the potential for some of the allowances and entitlements to be taxable income.

Parallel Roles Lead to Confusion of Purpose

702 The need for an independent body to establish salaries and allowances for MPs and Ministers has been recognised, and addressed previously, through the establishment of the HSC.

703 However, it appears that the Speaker of the House and the Minister Responsible for Ministerial Services each has a role that is similar to that carried out by the HSC. This is because, as the Ministers responsible for Vote Parliamentary Service and Vote Ministerial Services (respectively), they make decisions regarding the entitlements funded through these votes for MPs and Ministers – which can provide a personal benefit to the recipient.

Remuneration or Reimbursement of Expenses?

704 We have already addressed in Chapter 6 the meaning of (and the differences between) “remuneration” and “expenses”. If one considers the nature of the entitlements payable in that context the following becomes clear.

HSC-determined Allowances

705 The allowances determined by the HSC are intended as reimbursement of expenses, but it could be argued that some of them might in fact have a remuneration component – especially allowances that do not rely on a receipt being furnished to the administering agency before the allowance is paid. A good example is the Basic Expense Allowance (see Figure 2 on page 24 and paragraph 615).

706 When we came to apply our understanding of the distinction between remuneration and expenses we found that the ‘reimbursing allowances’ set out in the HSC’s 2000 Determination fell into two broad categories:

- **Allowances to reimburse expected expenses** – These are allowances that are paid to MPs and Ministers (regularly along with their usual salary payments) to meet expenses that are expected to be incurred by them as a result of their job. They are not taxed at source. The payment of these allowances does not rely on the MP or Minister producing proof (a receipt) of having incurred a corresponding job-related expense.
- **Allowances to reimburse actual and reasonable expenses incurred** – These are types of expense that, if incurred by an MP or Minister as a result of their official or Parliamentary duties, can be reimbursed on provision of a receipt (or other evidence of the expense being incurred).

707 Figure 5 on page 42 describes the allowances in both categories. Further details of the nature and amounts of allowances payable to MPs and members of the Executive under the HSC’s 2000 Determination are given in Appendix 2 on pages 76-78.

Figure 5
Types of Reimbursing Allowances

Allowances to reimburse expected expenses	Allowances to reimburse actual and reasonable expenses (on proof of expense being incurred)
Basic expenses allowance Differing levels paid to MPs and Ministers.	Travelling allowance Reimbursement to a pre-set level for accommodation costs incurred by a member of the Executive.
Office[-holder] expense allowance Differing levels paid to the Speaker, Deputy Speaker or Assistant Speaker of the House of Representatives.	Night allowance Reimbursement to a pre-set level available for MPs staying overnight over 100 km from their primary place of residence.
Constituency allowance Not paid to Leader of the Opposition, members of the Executive, the Speaker, and the Deputy Speaker.	Wellington accommodation allowance Reimbursement to a pre-set level for MPs incurring accommodation costs in Wellington.
House allowance Paid to members of the Executive and (if he or she resides in the Wellington Commuting Area) the Leader of the Opposition.	Car reimbursement Reimbursement for costs incurred by an MP in using their private car for work purposes.
House and grounds maintenance allowance Paid to members of the Executive and (if he or she resides in the Wellington Commuting Area) the Leader of the Opposition.	Security system allowance Reimbursement to a pre-set level of costs for installing a security system, and ongoing monitoring.
Day allowance Payable to all MPs [not members of the Executive] when they are away from their primary place of residence, outside their electorate, and engaged on Parliamentary business.	Allowance for purchase of a motor vehicle Payable to Constituency MPs, but offset against their Constituency Allowance.

Other Entitlements

- 708 The specific entitlements provided to MPs and Ministers by the Parliamentary Service and Ministerial Services emerge from longstanding practice. Some of the entitlements would be considered components of remuneration if provided to an employee in any institution other than Parliament.

Possible Taxation Issues

- 709 Where an allowance or other entitlement could be considered to be remuneration or have a remuneration component, the issue arises of whether it is taxable. Of relevance is that MPs are “employees” for the purpose of the Income Tax Act 1994.

- 710 In respect of allowances, section CB 12 of the Income Tax Act makes certain allowances tax-free when paid to employees. Section CB 12 applies what is essentially a “two-stage” test for the exemption. In particular:
- The allowance must reimburse the employee. In other words, the employee must have incurred the expenditure that is being reimbursed. However, this may be subject to an “averaging provision” (see paragraph 711 below).
 - The expenditure incurred by the employee must have a sufficient connection with the earning of employment income. Broadly, the employee must be able to show that the expenditure was incurred in the course of earning employment income. This is a question of fact and degree.
- 711 The “averaging” provision referred to above works in the following manner. Rather than an employer reimbursing an employee’s actual expenditure, the employer can determine an average amount likely to be incurred by an employee or group of employees and reimburse on that basis. The average amount is then tax-free.²²
- 712 To the extent that an allowance is not matched by legitimate job-related expenses, the allowance would constitute taxable income. Some MPs and Ministers may well incur legitimate job-related expenses up to or in excess of an allowance they receive – in which case, none of the allowance would be taxable income. Others may incur expenses that are less than the allowance they receive – in which case, the difference between the allowance paid and expenses incurred would be taxable income.

Conclusion

- 713 The lack of ownership and blurred roles and responsibilities of key agencies involved in the entitlements regime are clear. The problem has been recognised before – both in the Rodger report and in our Interim Report. Indeed, in our view if the recommendations of the Rodger Report had been implemented the problem of lack of ownership and blurred roles would have been largely addressed.

²² The IRD has published information on how the “average” is to be arrived at – *Tax Information Bulletin Volume 11 No. 6*, July 1999. The information discusses the general principles without providing a mathematical example.

714 We conclude that the best way forward is to restructure the regime of salaries, allowances and other entitlements so that remuneration and expenses are clearly identified and treated in a similar manner to those of “normal” employees.

715 We set out our suggestions for how the entitlements regime could be improved in Chapter 8 on pages 45-55 following.

8 How the Entitlements Regime Could Be Improved

801 Given the issues we have considered elsewhere in this report and in our Interim Report, it is clear that the systems, policies, and procedures for the determination and administration of MPs' salaries, allowances and other entitlements need to be improved. However, principles need to be identified to ensure that the improvement process is well directed.

802 We have developed a set of guiding principles based on our analysis of:

- generally accepted practice in relation to remuneration and the taxing of personal income;
- the current systems, policies, and procedures applying to such expenditure;
- the nature of current MP remuneration and expenses; and
- reports on previous considerations of the issue of MPs' remuneration and related payments.

Principles to Guide Improvement

803 Our five suggested guiding principles are:

(a) A clear distinction should be established between remuneration and expense reimbursement. The basis for this separation should be a definition of remuneration that is consistent with current best practice and taxation law.

(b) An independent body should determine, on the basis of clearly articulated principles, all remuneration and expenses to be reimbursed.

(c) Designated agencies should be responsible for paying remuneration and reimbursing expenses.

(d) All remuneration should be taxed on the same basis as that of an ordinary employee.

(e) The independent body referred to in (b) above should have overall “ownership” of the system for setting and paying remuneration (as defined) by:

- *objectively determining the basis of actual and reasonable expenses that can be incurred;*
- *making all eligibility decisions; and*
- *formulating appropriate rules and guidance and issuing them to the designated paying agencies.*

804 In developing these guiding principles, we have also had to consider their limitations. For example, we considered whether the principles would address the difficulties we identified in relation to the application of the term “primary place of residence” to MPs’ residential circumstances. We do not think the principles (of themselves) will address this difficult issue.

805 However, we have considered how the risk inherent in this definition can be minimised through other means, and our findings in this regard are dealt with in Part Two of this report (see pages 56-65).

Three Suggested Options

806 In this section we look at three options that would improve the current systems, policies, and procedures for setting and administering MPs’ and Ministers’ remuneration and expenses reimbursed:

1. strengthening the internal controls in the current system;
2. clarifying “ownership” of the current system, as well as strengthening internal controls; and
3. a “first principles” approach, which would involve –
 - reviewing the current guidelines for the setting of remuneration;
 - clarifying the roles and responsibilities of administering agencies; and

- strengthening the current systems, policies and procedures.

807 In evaluating the merits of the three options we considered the extent to which each was consistent with the guiding principles that we suggest in paragraph 803.

Option 1:
Strengthening the Internal Controls in the Current Regime

808 Option 1 would involve improving:

- the current control environment of the administration of HSC-determined allowances that are payable to MPs and Ministers by the Parliamentary Service and Ministerial Services;
- the advisory and information transfer processes within and between organisations, and between the organisations and their MP and Ministerial clients; and
- the transparency of the entitlements provided by the Parliamentary Service and Ministerial Services.

809 A number of measures could be introduced to:

- clarify the policies regarding allowances and entitlements;
- increase the transparency of the payment system;
- increase the accessibility and quality of the information available to MPs and Ministers to assist them to clarify their eligibility for allowances;
- advise MPs and Ministers of their responsibilities in providing appropriate information to justify entitlements and claiming reimbursement of expenses incurred; and
- assist key personnel involved in the processes for claiming, certifying, and paying entitlements to carry out their roles more effectively.

810 Such measures could include, as a minimum:

- Annual public disclosure of the nature and extent of publicly funded entitlements for MPs and their spouses, nominees

and dependants. This disclosure could include, for example, the types and total amounts of HSC-determined allowances claimed, and the nature and extent of air travel used.

- Provision of more comprehensive information on entitlements in both the Parliamentary Service *Members' Handbook of Services* and the Ministerial Services *Ministerial Office Handbook*.
- Promulgating to MPs and Ministers precedent-setting decisions about the circumstances in which claims to entitlements can be made. The provision of appropriately “depersonalised advice” on such issues would be an effective means of alerting claimants to matters that could affect their eligibility.
- Providing more comprehensive guidance to Whips to make it clear what their obligations are in certifying reimbursement claims.
- Providing better guidance to MPs and Whips to strengthen the process for defining eligibility to, and certifying claims to, the night allowance (when claimed to cover the costs of accommodation over 100km from an MP’s primary place of residence).
- Utilising intranet applications to facilitate access to information on the systems, relevant policies, and appropriate procedures for claiming entitlements.
- Improving internal processing of claims for allowances – including documenting the advice provided by the Parliamentary Service and Ministerial Services to MPs and Ministers in response to enquiries about eligibility or other claim-related queries.
- Developing a self-review function within both the Parliamentary Service and Ministerial Services. We understand that DIA operates an internal audit function generally over all its activities. The Parliamentary Service is currently considering how it will approach this.
- Consideration could also be given to requiring receipts (or other proof that expenditure has been incurred) for all allowances that at present do not require to be substantiated by receipts. This would require input from the HSC.

However, requiring receipts would be likely to incur a high compliance cost.

811 We note that the Parliamentary Service is effecting improvement in the following areas:

- Encouraging MPs and Ministers to tell the relevant administering agencies at the time when their residential circumstances change.
- Using better claim forms in both the Parliamentary Service and Ministerial Services – particularly in respect of the declaration MPs and Ministers make as to their eligibility to claim reimbursement of expenses.
- Giving information to MPs and Ministers on their allowance claim histories at any given time, in terms of –
 - what types of reimbursement they have claimed;
 - the level of claims made; and
 - for claims with a 6-month maximum time limit, the amounts that they can still claim in any particular period.

812 The measures described in paragraphs 810 and 811 do not necessitate changes to legislation. The implications of the Privacy Act 1993 may need to be considered should information need to be transferred between administering agencies. However, we do not see the Privacy Act as posing a significant obstacle.

To What Extent Is Option 1 Consistent with Our Suggested Principles?

813 Option 1 would improve the internal control environment by leading to more informed MPs and Ministers, and tighter monitoring of claims.

814 However, it would not change the regime so as to meet any of our five suggested principles in paragraph 803. As a result, the matters of the lack of an authoritative body to oversee and provide legal guidance on eligibility issues, the lack of clarity regarding the tax status of certain entitlements, and the relative complexity of the remuneration system, would remain.

Option 2:
Clarifying “Ownership” of the Current Regime, As Well As
Strengthening Internal Controls

- 815 In option 2, the controls over the entitlements regime would be strengthened – as in option 1 outlined above. In addition, the role of the HSC would be clarified – giving it the legislative mandate to oversee the effectiveness of the systems for administering its Determinations.
- 816 The HSC would be empowered to issue rules and guidance as to how the administering agencies should apply its Determinations in any specific circumstance. Consideration could be given to providing the HSC with power to conduct audits of aspects of the regime as required, and to make appropriate recommendations as to system improvements.
- 817 If option 2 is adopted, careful consideration would need to be given to any overlap with roles or responsibilities already held by the Speaker, the Minister for Ministerial Services, the PSC, and DIA.
- 818 Option 2 would require legislative change to clarify the role of the HSC. There may also be resource implications for the HSC, which currently operates with only a low level of administrative support.

**To What Extent Is Option 2 Consistent with
Our Suggested Principles?**

- 819 Strengthening the controls over entitlements, and clarifying the HSC’s role as the body responsible for the overall “health and welfare” of the systems for administering HSC-approved allowances, would address the “lack of ownership” and the “eligibility” issues highlighted in our suggested principles in paragraph 803.
- 820 However, option 2 would not result in an independent body overseeing all aspects of MP and Ministerial remuneration – including the entitlements administered by the Parliamentary Service and Ministerial Services. Option 2 would also not address the overall complexity of the entitlements regime (with its blurred roles and responsibilities) and the lack of distinction between remuneration and expenses.

Option 3:
“First Principles”

- 821 Option 3 would entail the HSC:
- being given the mandate and responsibility for setting MP and Ministerial remuneration, including entitlements and privileges currently administered by the Parliamentary Service and Ministerial Services;
 - setting the basis for reimbursements that MPs and Ministers could claim for expenses; and
 - considering whether the range and nature of entitlements that are not based on “actual and reasonable” expenditure continue to be appropriate.
- 822 The HSC would continue with its existing mandate of developing appropriate principles for setting remuneration – based on generally accepted practice in the public and private sectors. In so doing, the HSC would continue to set remuneration in the context of the principles of “transparency” and “appropriateness” that always accompany expenditure of public money.
- 823 Option 3 would facilitate a move away from the current, and relatively opaque, approach to setting remuneration – whereby flat salary rates apply to MPs, and tax-free allowances effectively address the variance in expenses that arises due to the differing roles between MPs. A similar issue in respect of Ministers would also be avoided.
- 824 In respect of remuneration and taxation issues, option 3 would require consultation between the HSC and the IRD.
- 825 Moving from the current “salary plus allowances” approach to more like a “total remuneration” approach (as discussed in paragraphs 603-605) would require some consideration of what would be appropriate levels of total (gross) remuneration. By way of illustration, based on the current mix of salary and allowances (as outlined in Figure 3 on page 25), total remuneration would fall into the ranges shown in Figure 6 on page 52.

Figure 6
The “Total Remuneration” Approach

	Taxable Income	
	Lower Level (1)	Upper Level (2)
Constituency MP	\$85,000	\$127,137
List MP	\$85,000	\$104,186
Minister	\$149,200	\$171,331

Notes –

- (1) Salary only (as in Figure 3 on page 25).
- (2) Salary plus allowances (as in Figure 3 on page 25), the latter assuming that no expenses are incurred. The allowances are therefore treated as taxable income and have accordingly been ‘grossed up’ at the top marginal tax rate of 39%. It is unlikely that many (if any) MPs would be in this situation. We have not considered the value of superannuation and other entitlements in this scenario.

826 We consider that Figure 6 is illustrative of the range of taxable remuneration that might be considered in moving from a “salary plus allowances” approach to a “total remuneration” approach.

827 Option 3 would mean clarifying the roles of the Parliamentary Service and Ministerial Services to ensure that they had full responsibility for:

- administering expenses reimbursement;
- paying MPs’ and Ministers’ salaries; and
- making available such other remuneration related benefits as are determined by the HSC.

828 The control environment within the Parliamentary Service and Ministerial Services would still be strengthened in the context of the new roles of the HSC and the agencies themselves.

829 Option 3 would require amendments to the Higher Salaries Commission Act (primarily section 12 which deals with the HSC’s role in respect of MPs, and section 12A which limits non-salary types of remuneration), and the Civil List Act (to ensure consistency).

To What Extent Is Option 3 Consistent with Our Suggested Principles?

830

Option 3 would give full effect to our five suggested principles in paragraph 803. The diagram in Figure 7 below demonstrates the organisational effect of option 3, and Figure 8 on page 54 shows how the current entitlements might be reclassified into “remuneration” and “expenses reimbursed”.

Figure 7
Organisational Effect of Option 3

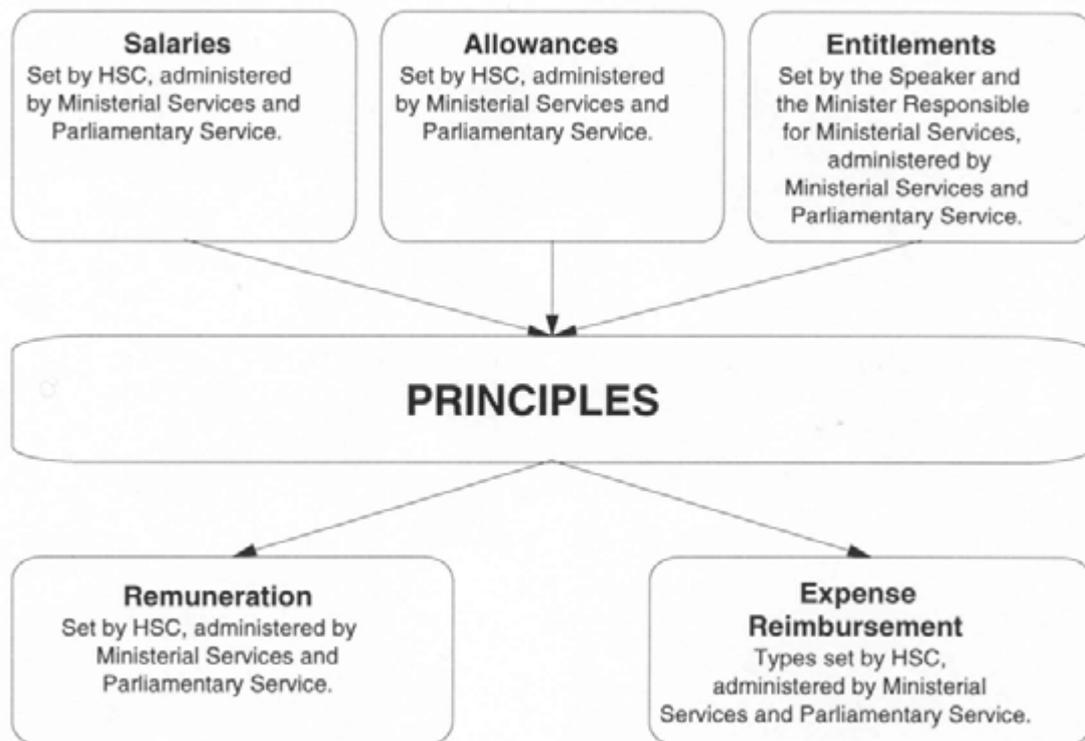


Figure 8
Entitlements – Remuneration or Expenses Reimbursed?

Entitlements	Remuneration	Expenses
Salary	✓	
Employer Superannuation Contribution	✓*	
Basic Expenses Allowance	✓*	
Office[-holder] Expense Allowance	✓*	
Constituency Allowance	✓*	
House Allowance	✓*	
House and Grounds Maintenance Allowance	✓*	
Motor Vehicle Purchase Allowance		✓
Security System Purchase Allowance		✓
Wellington Accommodation Allowance		✓
Day Allowance	✓*	
Night Allowance		✓
Travelling Allowance		✓
Car Reimbursement		✓
Travel – domestic: air/rail/bus	✓*	
Travel – international: air	✓*	
Communications facilities	✓*	
Self-drive car	✓*	
VIP transport	✓*	
Ministerial residence	✓*	
VIP travel Clubs	✓*	

* Remuneration component of the entitlement.

Concluding Comment

- 831 Our review of MPs' and Ministers' entitlements was initiated by concerns about what appeared to be a discrete aspect of the entitlements regime – accommodation allowances for MPs living in Wellington who are not ordinarily resident there.
- 832 However, the problems we have identified in relation to the setting and administration of MPs' salaries, allowances and other entitlements are fundamental. Addressing the discrete issue of whether an MP can claim an allowance to live in Wellington cannot solve these problems.
- 833 A more comprehensive approach to MPs' remuneration and expenses needs to be taken – in order that:
- the policies, systems, and procedures applying to this expenditure are soundly based, transparent, effective, and efficient; and

- they are clearly seen to be so by the public.

834 Regardless of what option (or combination of options) is ultimately adopted, we believe it is important that one agency is responsible for determining the correct tax treatment of allowances and other entitlements. This would necessitate clarification of the obligations under tax law of both MPs and the administering agencies – and might involve the engagement of tax advisers and consultation with the IRD.

835 The principles we have suggested in paragraph 803, and our observations of what improvements could be made, can form a starting point for such an approach.

Part 2

Issues of Eligibility for Allowances Based on Residence

9 The Wellington Accommodation Allowance

Introduction

901 In this part of the report we return to the Wellington accommodation allowance, which was the primary focus of our Interim Report.

902 In our interim report, we made a number of observations on the system for administering accommodation allowances and drew a number of conclusions about the management and overall control and “ownership” of the system. Part One of this report has addressed those issues in further detail.

903 The prevalence of situations in which eligibility for the Wellington accommodation allowance was difficult to assess highlighted the need for further attention to the matter of how to determine who is eligible. Therefore, that is our focus here.

The Nature of the Allowance

904 As we discussed in our Interim Report, the common element that defines eligibility to a Wellington accommodation allowance, as well as the night and travelling allowances, is where the MP lives when not on Parliamentary business.

905 The HSC has stated the underlying principle as follows:

Every member should reside in his or her primary place of residence at the member's own cost. However, when a member is required to stay away from his or her primary place of residence on Parliamentary business then that member should be able to recover the actual and reasonable costs incurred or a reasonable allowance on account of those costs.²³

906 If an MP rents a property in Wellington, the allowance entitles the MP to claim all or a portion of the monthly rent. If an MP owns a property in Wellington, the MP can claim the interest on a mortgage associated with the property. Both types of claim are subject to a 6-monthly maximum.

²³ Parliamentary Salaries and Allowances Determination 2000, Explanatory Memorandum.

907

In addition, an MP can claim some irregular monthly costs – such as rates and heating costs – as long as the overall maximum limits are not exceeded (refer Appendix 2, Table A, on page 76).

10 Basis of Eligibility – “Primary Place of Residence”

Evolving Basis

- 1001 We described in our Interim Report how the test for eligibility for the Wellington accommodation allowance had evolved over a number of years.²⁴ Since 1999, the HSC has used the term “primary place of residence” as the basis for the test.
- 1002 When the events examined in our Interim Report took place, the term “primary place of residence” meant, in relation to an MP who resided outside the Wellington commuting area,²⁵ the MP’s residence outside that area.
- 1003 Advice we received from the Crown Law Office said that the test was objective and required consideration of where an MP would be living when not on parliamentary business. However, we expressed some concern about the lack of specificity and guidance in the test, and its lack of relevance to the circumstances of List MPs.
- 1004 We also commented on the difficulties in applying the term “primary place of residence”, which can be magnified in particular circumstances. For example, an MP may have more than one residence at which he or she lives when not on parliamentary business. One of those residences may be in Wellington, which the MP uses partly for parliamentary business, as required, and partly for other (non-official) purposes.
- 1005 Alternatively, an MP’s place of residence could change completely (by, for example, the MP taking up full-time residence only in Wellington) over a period of time, or the MP could continue to own or rent two residences through the period.
- 1006 In such circumstances, the MP’s “primary place of residence” for the purpose of eligibility for an accommodation allowance can only be determined on the facts of each case – with regard to the

²⁴ Paragraph 803, page 36.

²⁵ The Wellington commuting area is defined in the Parliamentary Salaries and Allowances Determination 2000 as comprising the cities of Wellington, Lower Hutt, Upper Hutt, and Porirua and the Paraparaumu Ward of the Kapiti Coast District.

personal circumstances and domestic arrangements of the MP at the relevant time.

1007 It was for these reasons that the HSC changed the definition of “primary place of residence” in its 2000 Determination. Effective from 1 January 2001, the term means:

... such place of residence as the [HSC] approves from time to time as the [MP’s] primary place of residence in New Zealand.

Assessment Under the 2001 HSC Definition

1008 Before 1 January 2001, an MP was not required to make any formal statement as to the location of his or her primary place of residence. Nor was an MP required to provide any evidence to support their eligibility to claim. All that was needed was a signed claim form – certified in most cases by a party Whip.

1009 As we highlighted in our Interim Report, the practice of leaving an MP or Minister to establish their own eligibility in the absence of clear written guidelines places a claimant at risk of breaching the entitlement rule.

1010 The 2001 HSC definition addresses this risk and is, quite clearly, a significant improvement. Since 1 January 2001, the HSC has approached its task of making individual determinations of eligibility by:

- preparing, in consultation with the Parliamentary Service, a questionnaire to obtain details of an MP’s residential circumstances;
- sending the questionnaire to all MPs who were claiming the Wellington accommodation allowance on 26 January 2001; and
- considering the information received as the basis for an individual determination of eligibility.

1011 The HSC questionnaire is reproduced in Appendix 4 on pages 82-83.

Our Review of the HSC’s Questionnaire Approach

1012 Because of the importance of the definition of “primary place of residence”, and the controversy that had surrounded it, we decided to evaluate how the HSC was going about making individual determinations.

1013 For the purposes of our review, we identified a number of factors which we thought could be relevant to an objective determination of residence. We based the factors on relevant law (including the law relating to place of residence for tax purposes) and the two cases that we addressed in our Interim Report. We then compared those factors with the HSC’s questionnaire.

1014 The factors we identified were:

- (a) the extent of the MP’s parliamentary duties, and the amount of non-parliamentary time available to the MP to return “home”;
- (b) the locations where the MP spends most of that non-parliamentary time;
- (c) the locations where the MP’s current spouse or partner and family live, and where other dependent family members usually live (including where they spend most time, work, or attend school);
- (d) the person in whose name (whether the MP, the MP’s spouse or partner, or some other individual or legal entity) each property is owned or rented, and the utilities (e.g., electricity, telephone) are supplied;
- (e) the level of the MP’s financial commitment to meeting the financial outgoings on each residence, including property maintenance;
- (f) the type of accommodation available to the MP at each residence (e.g., boarding, flatting, or full occupation), and who else lives there (other than the MP’s family);
- (g) the availability of each residence for use by the MP at any time (e.g., whether it is rented out in periods of absence);
- (h) the nature and extent of the MP’s ties to each local community in which he or she has a residence;

- (i) the residence where the MP intends or expects to live should he or she cease to be an MP;
- (j) the residence where the MP and members of his or her family are registered for electoral purposes; and
- (k) for electorate MPs, the location of the electorate.

1015 We recognise that some of these factors may have a subjective element. Also, some factors will be more relevant, or require greater weight to be attached to them, than others – depending on the circumstances of each case.²⁶

What We Found

1016 We found a high level of consistency between the HSC’s questionnaire and the factors we identified. We conclude that the questionnaire provides a comprehensive approach to aid the HSC in determining an individual MP’s primary place of residence.

1017 However, the HSC’s questionnaire does not address two of our factors:

- consideration of the extent of an MP’s parliamentary duties, and the amount of non-parliamentary time available to that MP to return “home”; and
- the nature and extent of the MP’s ties to each local community in which he or she has a residence.

²⁶ We envisage that the HSC would take a similar approach to that now required of the courts in determining the existence of a de facto relationship in accordance with section 2D of the Property (Relationships) Act 1976:

- Under section 2D(2), all the circumstances of the relationship are to be taken into account, including any of the nine stated matters that are relevant in a particular case.
- Under section 2D(3) –
 - no finding on any of the nine matters (or any combination of them) is necessary; and
 - a court is entitled to have regard to such matters, and to attach such weight to any matter, as may seem appropriate to the court in the circumstances of the case.

1018 Either of these two factors could have an element of subjectivity. Nevertheless, in our view they could (in appropriate cases) be capable of measurement on an objective basis. Such measures could be quite significant in determining “primary place of residence”.

Concluding Comment

1019 The new approach introduced by the HSC to determine an MP’s primary place of residence is a considerable improvement on the previous approach.

1020 We understand that the HSC intends to review the new approach after its first year of operation. We encourage the HSC to consider what other practical improvements could be made – on the basis of our findings – to further enhance how it determines individual cases of entitlement.

11 Outstanding Cases of Eligibility

1101 Under our terms of reference, we agreed to look at any issues of an individual MP's eligibility for the Wellington accommodation or other 'residence-based' allowance, and Ministerial residences, should these arise in the course of our review.

1102 In addition to the cases of Ms Bunkle and Ms Hobbs, eight other cases emerged where either the residential circumstances of the MPs, or the nature of their claims, were not clear. These factors had the potential to place at risk the MP's eligibility for the allowance or other entitlement that they were receiving.

1103 Three of these cases had been addressed by the HSC and the Parliamentary Service, and we were satisfied that no further action by us was necessary.

1104 The Parliamentary Service brought three cases to our attention:

- We made our own enquiries into two of them and were satisfied that there was no irregularity.
- In the third case, the Parliamentary Service had already undertaken some preliminary investigations. However, given the nature of the issues raised by the case, the Parliamentary Service (after discussion with us) referred it to the Serious Fraud Office. Subsequently, the Serious Fraud Office decided that there was no basis for bringing a criminal prosecution.

1105 In respect of the remaining two cases, no further action was necessary or appropriate by either the Parliamentary Service or us because:

- at the time the claims were made there was no requirement for supporting receipts;
- a significant period of time had elapsed since the claims were made; and
- there was an insufficient basis on which to make further examination or enquiry.

1106

In our view, there is a particular issue about MPs claiming for the use of private accommodation. It is important that the matter is clarified. To that end, we strongly recommend that the HSC:

- formulates a clear policy on MP accommodation at private residences – addressing whether claims for such accommodation can be made and, if so, the circumstances that would apply; and
- clarifies for each type of circumstance what a reasonable level of claim for such accommodation by an MP might be.

Part 3

Loyalty Rewards Arising from the Expenditure of Public Money

12 Why We Looked At Loyalty Rewards

1201 On 27 March 2001 the Co-Leader of the Green Party, Mr Rod Donald MP, wrote to us seeking our views on whether:

- the PSC's policy on Air Points was *clearly articulated*; and
- *the rules in place are sufficiently explicit and accountability mechanisms sufficiently stringent to ensure that the policy goals are achieved.*

1202 Mr Donald's concerns arose from a March 2001 decision by the Speaker (on the recommendation of the PSC) to remove the necessity for MPs leaving Parliament to give up any Air Points they may have accumulated as a result of public expenditure for them to conduct parliamentary business.

1203 Mr Donald also sought our view on whether it was desirable for the policy and rules that apply to MPs to be consistent with the rules that are applied to public servants.

1204 The use of loyalty rewards fell outside the terms of reference for our review of MP salaries, allowances and other entitlements. Further, the Speaker subsequently reversed his March 2001 decision.

1205 Nevertheless, we considered that the use of loyalty rewards by MPs was sufficiently relevant to the issue of their remuneration to include it in our considerations.

13 What Are Loyalty Rewards?

1301 Loyalty rewards recognise a customer's faithfulness to a particular service, organisation, or company. Generally, they involve a benefit of some kind, which the customer receives for not changing between service providers.

1302 Examples of loyalty reward schemes include those for customers of an air travel service (such as Air Points), or users of the services of a particular credit card issuer.

1303 Some general observations we make of loyalty reward schemes are:

- the rewards in question tend to be in the name of the individual who is accessing the service, regardless of who has actually paid for the service (private individual or employer);
- an individual generally cannot transfer or assign their rewards to someone else or their employer; and
- in a simple transaction, multiple rewards may be accrued.

1304 As an example of multiple rewards, if an employee uses a particular airline for air travel for official business, they may earn Air Points. If that travel is paid for using the employee's personal credit card (for which the employee is reimbursed), the employee may receive further rewards. However, both sets of rewards would have resulted from the expenditure of the employer's funds in the first place.

1305 Public employees can earn loyalty rewards as a result of travel or other expenditure in the course of carrying out official business. However, the fact that the travel is paid for out of public money gives rise to some specific problems with the use of the rewards.

14 Previous Consideration of the Subject

1401 The question of how loyalty rewards should be managed by public sector agencies has been considered previously.

1402 In 1994, a former Auditor-General – Mr Brian Tyler – undertook a review of chief executive credit card expenditure. He noted that air bonus points earned in the course of official travel:

- represent a discount on official costs;
- accrue to the department; and
- are to be used by the department to its best advantage.²⁷

1403 The Institute of Internal Auditors (IIA) reiterated this position in 1996.²⁸ The IIA commented that, in order to reduce the risk of individuals benefiting at the expense of their organisations and the taxpayer, the individuals should formally agree to the organisation they work for having access to information held by airlines on their Air Points. The IIA also considered that the principle espoused by Mr Tyler was equally applicable to credit card rewards.

1404 More recently, in 1998 the State Services Commission (SSC) reaffirmed Mr Tyler's view in a circular to Chief Executives.²⁹ The SSC went further, however, to note that any employee purchasing official air travel and accommodation should be obtaining the best deal for the department, and should not be influenced by any personal considerations.

1405 The SSC's statement recognised that, where an employee is able personally to accrue Air Points, an incentive could arise whereby air travel could be purchased so as to increase personal benefits through accumulated Air Points.

1406 We consider that the fundamental premise of Mr Tyler's approach has not changed in the intervening years. The principle that we reiterate, therefore, is:

Loyalty rewards arising through the expenditure of public funds on official business represent a discount on official costs. Where

²⁷ Review of Chief Executive Credit Card Expenditure, B H C Tyler, December 1994.

²⁸ A Management Guide to Discretionary Expenditure, Institute of Internal Auditors, 1996.

²⁹ SSC circular to all Chief Executives; CE 1998/004 of 17 March 1998.

they accrue to a private individual through public expenditure, they should be –

- *considered the property of the funding entity; and*
- *applied as far as practicable, and in such ways, as to realise the advantage they represent for the funding entity.*

1407 However, the practical application of such a principle could be difficult. For example:

- In the case of Air Points, a public employee may not be able to differentiate easily between points obtained as a result of travel on official business and points obtained as a result of their own private expenditure. Hence, policing such rewards can be complex.
- When an employee who holds loyalty rewards leaves their job, they cannot assign their rewards to their employer. Practically, this means that they can take rewards with them, unless contractually bound by a policy that prevents it.
- Some rewards may not always be able to be conveniently applied to official business. For instance, Air Points might only be able to be used to gain a discount on a flight that may not be at a time that is useful for conducting official business.

1408 In the light of these possible difficulties, in our view a public entity should:

- adopt a clearly articulated policy as to how the principle in paragraph 1406 would practically apply to their staff, consistent with the nature of the entity's business;
- consider the public perceptions about the access to and use of loyalty rewards; and
- weigh up the savings that could accrue to the entity against the compliance costs and practicalities of utilising the loyalty rewards.

15 The PSC's Air Points Policy

1501 The PSC's current policy is encapsulated in the following statement:

*The Parliamentary Service Commission may authorise use of [travel industry] promotions, from time to time, to save money from the Vote. One such promotion is Air New Zealand's Air Points scheme ...*³⁰

1502 Any MP and their spouse (or nominee/dependent child) is entitled to air travel on scheduled air services throughout New Zealand and internationally (see paragraph 313) – the cost of which is met fully from Vote Parliamentary Service. (In addition, former MPs can access a rebate on domestic and international air travel.)

1503 MPs and their spouses/nominees are automatically members of the Air New Zealand Air Points Reward Programme as a benefit of the Koru Club membership provided to each MP and their spouse. Membership of the programme can be declined by specific request of the MP.³¹

1504 Until the Speaker's March 2001 decision (see paragraph 1202), the key features of the Air Points policy applying to MPs were that:

- the policy recognised that utilising Air Points should result in savings to Vote Parliamentary Service;
- MPs could use Air Points arising from their own, their spouses' or their dependants' air travel to obtain domestic air benefits (international air benefits could not be obtained);
- when an MP ceased to be an MP, they had to disclose the amount of unused Air Points derived from domestic air travel to the Speaker, and agree to their cancellation;
- in order that the Parliamentary Service could monitor whether savings were being made to Vote Parliamentary Service through utilisation of Air Points, MPs had to state on their monthly claim form whether Air Points had been used; and

³⁰ *Members' Handbook of Services*, paragraph 2.5; Parliamentary Service, 2001.
³¹ *ibid.*, paragraph 2.5.1(b).

- where MPs had accumulated Air Points to a level that enabled them to “gift” rewards under the terms and conditions of the Air New Zealand Air Points programme, such gifting could only be to the spouse or nominee of the MP or their dependent children.

1505 On 16 May 2001 the Speaker announced that the PSC had revisited its March 2001 recommendation. Subsequently, the PSC released an updated policy on Air Points.

1506 The salient points of the revised (current) PSC Air Points policy are that:

- MPs and their spouses are strongly encouraged to utilise any Air Points earned from Vote-funded activities to offset travel costs that would otherwise be a charge to Vote Parliamentary Service; and
- a condition of use of Air Points by MPs and their spouses is that, when an MP leaves Parliament, he or she (and their spouse or nominee) must –
 - agree to surrender unused Air Points derived from vote expenditure;
 - facilitate the surrender by authorising the Parliamentary Service to arrange with the airline for the cancellation of the Air Points; or
 - otherwise satisfy the Speaker that all such Air Points either have been surrendered by the MP, or will be used to offset travel costs that would otherwise be a charge to the Vote.

Consistency Between the PSC Policy and Our Loyalty Rewards Principle

1507 In attempting to assess consistency between the PSC Air Points policy and our principle for management of loyalty rewards (see paragraph 1406), the following factors become clear:

- an objective of the PSC policy is to achieve savings for Vote Parliamentary Service;

- allowing MPs to use their Air Points while they are MPs, and even on their leaving Parliament, may actually achieve some savings to Vote Parliamentary Service (given that former MPs can utilise discounted domestic air travel); and
- it would be difficult to ascertain whether an MP was always using the Air Points in a manner consistent with the policy on their leaving Parliament.

16 Conclusions

1601 The management of loyalty rewards has some inherent difficulty, particularly where the rewards arise through public expenditure. In the case of Air Points, there are no standard “best practice” approaches that are readily applicable to MPs.

1602 In our view, the new PSC Air Points policy is an improvement upon the previous approaches to the subject. We encourage the PSC to closely monitor the implementation of this latest policy, in order that its success in achieving savings to Vote Parliamentary Service through use of the Air Points can be assessed.

Appendix 1

Development of MP Salaries and Allowances ³²

The developments below represent four distinct progressions in the nature of parliamentary pay:

- from early times to the late 19th century, when MPs received an honorarium recognising that some form of payment was justified to secure the representation needed for good government, based on compensating members for being absent from their homes and 'normal' occupations;
- a period up to the 1940s when payment was established as having a salary component;
- the introduction of separate allowances in the 1940s; and
- the period over the 1950s and up to the present day when allowances have been built up around particular purposes, creating the categories we see today.

Year	Legislative authority	Payment (salary / other)	Allowances
1854	Parliamentary Privileges Act	£210 honorarium per session to meet expenses, or £140 if within 3 miles of Wellington	
1892	Payment of Members Act	£240 per annum (salary paid monthly)	
1944	Finance Act (No. 3)	£500	£250 expense allowance (tax free)
1951	Civil List Act 1950	£900	£250 - £550 expense allowance £150 sessional accommodation allowance (other than Wellington members) Special additional allowance (a simple form of electorate allowance) introduced, with £75 - £150 paid to MPs of partly rural - predominantly rural electorates respectively
1961	Civil List Act 1950	£1,500	£350 basic expenses allowance £20 - £325 special additional allowance £2.10s. accommodation allowance when in Wellington on Parliamentary duties Extra allowances for Maori MPs
1964	Civil List Act 1950	£2,150	£425 basic expenses allowance £25 - £425 special additional allowance 15s. daily allowance £2.10s overnight allowance
1978	Higher Salaries Commission Act 1977	\$18,000	\$4,600 basic expenses allowance \$475 - \$5,400 special additional allowance \$8 daily allowance \$20 night allowance

³²

von Tunzelmann, Adrienne (1985), *Membership of the New Zealand Parliament – A study of conditions 1854-1978*.

Appendix 2

Allowances available to members of Parliament and members of the Executive

The following tables outline the allowances payable to members of Parliament. They are based on information contained in the Parliamentary Salaries and Allowances Determination 2000, and Schedule E of the Report of the Representation Commission 1998.

*Table A:
Allowances to Reimburse Actual and Reasonable Expenses*

Allowances to reimburse actual and reasonable expenses	Maximum amounts claimable on production of proof of expense (receipt etc)
Travelling allowance Reimbursement to a pre-set level for accommodation costs incurred by a member of the Executive.	\$320 per day or part day. \$480 per day or part day if attending an official function and their spouse is required to attend.
Night allowance Reimbursement to a pre-set level available for MPs staying overnight over 100 km from their primary place of residence.	\$160 per night (if staying in Wellington, six month cap of \$9,100 for an MP or \$10,100 for a Whip or Party Leader applies).
Wellington accommodation allowance Reimbursement to a pre-set level for MPs, whose primary place of residence is outside the Wellington Commuting Area but who incur accommodation costs in the Wellington Commuting Area.	\$8,000 for an MP or \$8,500 for a Whip or Party Leader for each 6-month period.
Car reimbursement Reimbursement for costs incurred by an MP in using their private car for work purposes.	Rate paid is in accordance with the standard rates prescribed by the Inland Revenue Department.
Allowance for purchase of a motor vehicle Payable to Constituency MPs, but offset against their constituency allowance.	\$7,200-\$18,000, depending on electorate.
Security system allowance Reimbursement to a pre-set level of costs for installing a security system.	\$400 for installation of system. \$600 for annual costs of monitoring and call-outs.

*Table B:
Allowances to Reimburse Expected Expenses*

Allowances to reimburse expected expenses	Amounts payable:	
<p>Basic expenses allowance Members of the Executive, the Leader of the Opposition and other Party Leaders cannot claim basic allowances available to ordinary MPs, in addition to their specific allowances.</p>	<p>\$</p> <p>25,500</p> <p>13,000</p> <p>12,000</p> <p>10,500</p> <p>9,500</p> <p>12,000</p> <p>9,500</p> <p>7,000</p> <p>12,000</p> <p>7,000-10,000</p> <p>7,000</p>	<p>Members of the Executive – Prime Minister Deputy Prime Minister Ministers Other members of the Executive Council Parliamentary Under-Secretaries</p> <p>Other Members of Parliament – Speaker Deputy Speaker Assistant Speakers Leader of the Opposition Other party leaders (depending on the number of part members) Ordinary MPs (Electorate and List)</p>
<p>Office[-holder] expense allowance To provide for expenses incurred in connection with the offices of Speaker, Deputy Speaker, or Assistant Speaker of the House of Representatives. Additional allowance for Minister of Foreign Affairs and Trade, and for Deputy Leaders of Parties.</p>	<p>\$</p> <p>8,500</p> <p>7,500</p> <p>1,000</p> <p>6,000</p> <p>2,000</p>	<p>Speaker Deputy Speaker Assistant Speaker Minister of Foreign Affairs and Trade Deputy Leader of party</p>
<p>Constituency allowance Not paid to the Leader of the Opposition, members of the Executive, the Speaker, the Deputy Speaker, or List MPs.</p>	<p>\$</p> <p>8,000-20,000</p>	<p>Depending on size of electorate – see Table C</p>
<p>House allowance Paid to each member of the Executive not already allocated a residence at public cost, and (if he or she resides in the Wellington Commuting Area) to the Leader of the Opposition where the appropriate criteria are met.</p>	<p>\$</p> <p>2,000</p>	
<p>House and grounds maintenance allowance Paid to members of the Executive and (if he or she resides in the Wellington Commuting Area) the Leader of the Opposition to assist with costs of maintenance of their primary place of residence.</p>	<p>\$</p> <p>1,500</p>	
<p>Day allowance Payable to all MPs, except members of the Executive, when they are away from their primary place of residence and engaged on Parliamentary business, but not claimed by Constituency MPs when they are in their electorate.</p>	<p>\$56 for a day on which Parliamentary business is 6 hours or more, \$28 for a day on which Parliamentary business is less than 6 hours but more than 4 hours</p>	

*Table C:
Rates of Constituency Allowance*

Electorate Name	Classification³³	Rate of Allowance \$	Electorate Name	Classification	Rate of Allowance \$
Albany	A	8,000	Bay of Plenty	D	16,000
Christchurch Central	A	8,000	Karapiro	D	16,000
Epsom	A	8,000	Port Waikato	D	16,000
Ilam	A	8,000	Rotorua	D	16,000
Mangere	A	8,000	Tukituki	D	16,000
Manurewa	A	8,000	Whanganui	D	16,000
Maungakiekie	A	8,000			
Mt Albert	A	8,000	Aoraki	E	18,000
Mt Roskill	A	8,000	Coromandel	E	18,000
North Shore	A	8,000	Hauraki	E	18,000
Pakuranga	A	8,000	Northland	E	18,000
Tamaki	A	8,000	Rakaia	E	18,000
Tauranga	A	8,000	Rangitikei	E	18,000
Te Atatu	A	8,000	Wairarapa	E	18,000
Wellington Central	A	8,000			
Wigram	A	8,000	Clutha-Southland	F	19,000
			Kaikoura	F	19,000
Christchurch East	B	11,000	East Coast	F	19,000
Dunedin North	B	11,000	Otago	F	19,000
Dunedin South	B	11,000	Taranaki-King Country	F	19,000
			Taupo	F	19,000
HamiltonWest	B	11,000	Te Tai Tokerau	F	19,000
Hutt South	B	11,000	Wairariki	F	19,000
Mana	B	11,000			
Manukau East	B	11,000	Ikaroa-Rawhiti	G	20,000
New Plymouth	B	11,000	Te Tai Hauauru	G	20,000
Ohariu-Belmont	B	11,000	Te Tai Tonga	G	20,000
Palmerston North	B	11,000	West Coast-Tasman	G	20,000
Rimutaka	B	11,000			
Auckland Central	C	14,000			
Hamilton East	C	14,000			
Waitakere	C	14,000			
Hunua	C	14,000			
Invercargill	C	14,000			
Napier	C	14,000			
Nelson	C	14,000			
Otaki	C	14,000			
Banks Peninsula	C	14,000			
Rodney	C	14,000			
Rongotai	C	14,000			
Waimakariri	C	14,000			
Titirangi	C	14,000			
Whangarei	C	14,000			

³³

As classified by the Representation Commission 1998 for the purposes of the Higher Salaries Commission Act 1977.

Appendix 3

Terms of Reference for the 1998 Review of the Parliamentary Service Act 1985

1.0 BACKGROUND

1.1 It is now 13 years since the Parliamentary Service Act 1985 was enacted, establishing the Parliamentary Service Commission (the Commission) as a statutory body with powers of a separate body corporate and independent of the Executive. The primary functions of the Commission as set out in section 6 of the 1985 Act are:

- (a) To exercise budgetary control over the Parliamentary Service:
- (b) To determine the size and organisation of the Parliamentary Service and the services to be provided by the Parliamentary Service:
- (c) To supervise the administration of the services performed by the Parliamentary Service:
- (d) To provide premises for Parliamentary purposes.

1.2 The Commission occupies a unique constitutional position in so far as it, and the Parliamentary Service, are independent of the Executive Government. There are important reasons for this which remain relevant, but also aspects which bear fresh consideration.

1.3 Two factors suggest that it is both timely and appropriate to review the arrangements for determining and administering the resources available to members to support them in their roles as members:

(i) The introduction of MMP

The introduction of MMP brought many changes to the Parliamentary system and its administration.

It is recognised that MMP demands structures and systems for conducting and facilitating the business of Parliament that reflect a multi-party Parliament and Government.

With the benefit of experience under MMP, there is an opportunity now to assess more thoroughly the ongoing requirements for decision making and administration, against present arrangements which to a large extent have carried forward features of the former two-party, FPP system.

(ii) Public sector management

The establishment of the Commission and the Parliamentary Service pre-dates the introduction of comprehensive public sector reforms in New Zealand which have been applied almost universally across government. Implementation has seen a wide range of new approaches adopted in all areas of executive government and throughout its organisational structures. The framework is set in the State Sector Act 1988 and the Public Finance Act 1989.

Almost all public sector reforms in New Zealand have focused on the need to clarify accountability and responsibility, with stringent requirements for effective and efficient performance, and enhanced accountability of public activities and the associated expenditure which has in many cases included resolution of conflicts of interest.

The Commission is not fully subject to either Act so that it has not been a statutory requirement that the principles of these reforms be brought to bear on the exercise of its functions.

The Parliamentary Service on the other hand is subject to Parts V, VI and VIII of the State Sector Act 1988 as if "the Parliamentary Service were a Department of the Public Service", and, under section 82 of the Public Finance Act 1989, the Parliamentary Service is deemed to be a 'department' for the purposes of that Act. Just as significantly that section also designates The Speaker as the Responsible Minister under that Act for Vote : Parliamentary Service. As a consequence, it is the Speaker (and not the Parliamentary Service Commission) who receives and is responsible for the appropriations made to that Vote.

These developments have in many respects cut across the apparent functional responsibilities of the Commission.

1.4 Related to both these factors in the current environment is the increasing public expectation of transparency and constraint in matters of parliamentary expenditure, as in all areas of government. Public perceptions are influenced by how well the decision processes are or can be understood outside the institution, and views on whether the system seems robust, reasonable and appropriate.

1.5 Section 17 of the Parliamentary Service Act provides that the Commission may "commission any person, who in its opinion possesses expert knowledge or is otherwise able to assist it in connection with the exercise of its functions, to make such enquiries or to conduct such research or to make such reports as may be necessary for the efficient carrying out of any of its functions."

1.6 Accordingly, the Commission has decided to institute a review of the 1985 model in the light of the experience and developments of the past decade or so, and to look at the means by which the Commission is able to exercise its functions and the scope and options for enhancing or modifying these.

2.0 OBJECTIVES

2.1 The Commission's objectives in undertaking this review are to:

- (i) ensure the relevance, suitability and adaptability of the arrangements governing the Commission's exercise of its responsibilities to the current and future needs of a modern Parliament;
- (ii) identify the scope to enhance effective, efficient budgetary control and administration over the provision of services to Parliament, including appropriate accountability taking account of the Commission's independence from the Executive Government and in particular the statutory responsibilities of the Speaker of the House and the Parliamentary Service for Vote: Parliamentary Service under the Public Finance Act 1989;
- (iii) consider whether and what changes might desirably be made to the Commission's powers, authorities and responsibilities that would promote these objectives, including as appropriate the relationship between the Commission, the Speaker as the Responsible Vote Minister, and other bodies especially the Higher Salaries Commission.

3.0 TASKS

3.1 The tasks of the review are to inquire into and propose options for:

- (i) an appropriate framework for accountability requirements and processes including decision-making authorities, the delegation of these authorities and the management of jurisdictional responsibilities;
- (ii) a clearer differentiation and complementarity of responsibilities as between the Commission itself and the Higher Salaries Commission;
- (iii) an effective process for consideration of matters of policy arising within the Commission's jurisdiction;

3.2 In respect of options for change which the review may propose, it shall also report on:

- (i) its assessment of the implications, including legislative, administrative and cost implications;
- (ii) its view on priorities for and practical sequencing of actions implied by its proposals and possible avenues for implementation.

4.0 SCOPE

4.1 The scope of the review shall include:

- (i) consideration of structure, functions and process in the present system and any areas for possible future change;
- (ii) a stock-take of existing arrangements as they relate both to the effective functioning of the Commission and its accountabilities, and to meeting the needs of Parliament and its members;
- (iii) clarification of the key aspects of what would constitute a well-functioning system and the rationale these provide for any options proposed;
- (iv) the consistency of its proposals with the aims of cost effectiveness and efficiency.

4.2 The reviewers shall consider:

- (i) the extent to which the functioning of the Commission can be informed by established principles of good public sector management.
- (ii) the extent to which overseas experience in matters of parliamentary and members' support, and any parallels in New Zealand experience with governance models, might be relevant;

5.0 TIMING AND PROCESS FOR THE REVIEW

5.1 The reviewers are to report back to the chairman of the Commission by 1998 or 31 January 1999.

5.2 The reviewers may undertake such consultations and inquiries as may be necessary or appropriate to required tasks and scope of the review as set out above.

In particular, the reviewers shall consult with existing members of the Parliamentary Service Commission and the Higher Salaries Commission, the Leaders of each Parliamentary Party and such other Members as may be considered appropriate (including Independent Members) and necessary to ensure that a representative cross section of views from Members is obtained. The reviewers may, with the concurrence of the Chairman of the Commission, extend a general invitation to all Members to make written or other submissions to the reviewers, and may also consult with such other persons or organisations as may be able to contribute to the review.

5.3 Where it is considered necessary for any additional expertise to be engaged, no such engagement shall be undertaken except with the express agreement of the Chairman of the Parliamentary Service Commission.

Appendix 4

Higher Salaries Commission Questionnaire for Approval of Primary Place of Residence



The Chairman
Higher Salaries Commission
Via The General Manager
Parliamentary Service
5th Floor
Bowen House

INFORMATION GATHERING FOR APPROVAL OF PRIMARY PLACE OF RESIDENCE.

In terms of Clause 4 (2) of the Parliamentary Salaries and Allowances Determination 2000, I wish to apply for approval of my "Primary Place of Residence" for the purpose of claiming either of the two Wellington Accommodation Allowances under Clauses 16 or 17 of that determination.

The address of my Primary Place of Residence is: (Please Print)

<hr style="width: 80%; margin: 0 auto;"/> <hr style="width: 80%; margin: 10px auto 10px auto;"/> <hr style="width: 80%; margin: 10px auto 10px auto;"/>

Please answer the following questions in relation to the above property.	Yes / No
Is the residence a bach or holiday home?	
Is it owned and maintained by you or your current spouse/partner	
Is it owned and maintained by a trust established by you or your current spouse/partner? (if Trust ownership, please supply details on page 2)	
Is it rented by you or your current spouse/partner?	
Is it occupied and maintained by you or your current spouse/partner?	

	Yes / No
Is it lived in by anyone other than your own immediate family? (If "yes", please give details below)	
Is this residence the place that you would normally go to when you are not on Parliamentary business?	
Is it outside the Wellington Commuting Area, as defined in Clause 4 of the Parliamentary Salaries and Allowances Determination 2000?	
Is it being used for any Commercial purpose. (If yes, please provide details below.)	
* Is it the address in respect of which you are registered as an elector under the Electoral Act 1993?	
* State the electorate for which you are currently registered as an elector.	

* This is not currently a requirement for establishing "primary place of residence" under the Parliamentary Salaries and Allowances Determination. As the Commission has stated that it is considering reviewing the position vis-a-vis the Electoral Act, this information will assist that review.

Details of Trust ownership. <ul style="list-style-type: none"> • Name of Trust • Beneficiaries of Trust

Details of non family members living at this residence. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;">Name.</th> <th style="width: 30%;">Relationship to you.</th> <th style="width: 40%;"></th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Name.	Relationship to you.				
Name.	Relationship to you.					

Details of commercial purposes property used for:

I certify that the above information is true and correct. Name (print) _____ Signature _____ Date ____ / ____ /2001
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Received by Parliamentary Service: Signed: _____ Date: ____ / ____ /	Passed to HSC: Signed: _____ Date: ____ / ____ /	Approved By HSC Signed: _____ Date: ____ / ____ /
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