

THIS DOCUMENT IS THE PROPERTY OF HER BRITANNIC MAJESTY'S GOVERNMENT

C(80) 71

12 November 1980

COPY NO

82

CABINET

THE REMUNERATION OF JUNIOR MINISTERS
IN THE HOUSE OF LORDS

Memorandum by the Lord President of the Council

INTRODUCTION

1. When we discussed the pay of Ministers in July (CC(80) 26th Conclusions and CC(80) 27th Conclusions, Minute 4), much concern was expressed over the relatively poor salaries of Junior Ministers in the House of Lords (see Annex A). In a statement to the House of Commons on 7 July, the Prime Minister said:

"Junior Ministers in the House of Lords ... do not receive any salary specifically in respect of their parliamentary duties. This is a very real problem, and we propose to consider how the arrangements for their remuneration should be revised to take account of it."

2. Officials were asked to report on the best way of dealing with this problem. Their report is attached (Annex B). They conclude that, if additional remuneration is to be paid, it should logically be paid to all Ministers and Office holders in the House of Lords; that it should be introduced by means of an amendment to the Ministerial and Other Salaries Act 1975; and that the opportunity should be taken to amend this Act in other ways.

THE CASE FOR MORE PAY

3. I am convinced that Junior Ministers in the Lords should get more money, for the following reasons:-

i. Present pay (£16,400 for Ministers of State and £12,500 for Parliamentary Secretaries) bears no relation to the responsibility. There are some in real financial difficulties.

ii. Lords Ministers have similar departmental duties to Commons Ministers but they also have to undertake a good deal of work in the Lords on behalf of other Departments. I doubt there is any significant difference in work-load between the two after taking account of constituency work for Commons Ministers.

CONFIDENTIAL

- iii. Lords Ministers who live elsewhere are obliged to spend the week in London. They get no help towards this.
- iv. When a Lords Minister relinquishes his post his salary ceases immediately whereas a similarly placed Commons Minister continues to receive his salary as an MP. Even if defeated at an Election a former MP gets a severance grant equal to at least 6 months' full salary.
- v. Junior Ministers in the Lords expect additional remuneration as a result of the Prime Minister's statement on 7 July.

METHOD, AMOUNT AND SCOPE

4. I accept the conclusion in the paper by officials that the best way to effect an increase in remuneration is by an amendment to the 1975 Ministerial and Other Salaries Act. I also agree that a figure of £3,500 is about right (ie the equivalent of around half of a Commons Minister's Parliamentary salary).

5. I am mainly concerned to improve the remuneration of Junior Ministers but do not dispute the logic in the official paper of making an increase payable to all Ministers and Office holders in the Lords. I would welcome the views of colleagues on this point. I for my part would forego any such increase in my own salary as a Cabinet Minister at present.

MACHINERY OF GOVERNMENT CONSIDERATIONS

6. The Bill to increase the remuneration of Lords' Ministers could be used to deal with some anomalies in the 1975 Act which can - and have - constrained the freedom of Prime Ministers to determine the composition and size of their Cabinets, as well as, if thought right, to make it possible to pay increases in Ministerial salaries retrospectively. The anomalies, and a suggested way of removing them, are discussed in the Appendices to the report by officials. The inclusion of these provisions would have the incidental, but politically significant, effect of enabling us to present the Bill primarily as a machinery of government measure, with Lords' Ministers' pay as its secondary purpose.

DIFFICULTIES

7. I foresee two sources of difficulty. The first is the timing of this in terms of public opinion. The second is the reaction of the House of Commons, whose members might be unhappy with legislation to increase the remuneration of Lords' Ministers when their own pay has been restrained.

8. We would also be further rejecting the recommendation of the Top Salaries Review Body. If we are to proceed we should need to give Lord Boyle a full explanation, before any public announcement is made, of why we feel it necessary to improve the lot of Lords' Ministers.

CONFIDENTIAL

CONCLUSION

9. It will never be the "right time" to do this, but I believe that the arguments for going ahead are strong. I therefore invite the Cabinet:-

- i. To agree that Junior Ministers in the Lords should be given additional remuneration to the extent of £3,500 per year and that this should be done as a matter of urgency by amending the 1975 Ministerial and Other Salaries Act.
- ii. To consider whether the additional remuneration should also be paid to other Ministers and Office holders in the Lords.
- iii. To agree that the opportunity should be taken to amend the 1975 Act in other ways, permitting Ministerial salary increases to be paid retrospectively and giving Prime Ministers greater freedom to determine the composition and size of Cabinets.
- iv. To agree that the measure should be presented primarily as a machinery of government Bill.

C S

Civil Service Department

12 November 1980

SALARIES AND ALLOWANCES OF MINISTERS AND OFFICE HOLDERS IN
THE HOUSE OF COMMONS AND THE HOUSE OF LORDS

		HOUSE OF COMMONS			HOUSE OF LORDS
		Ministerial Salary £ pa.	Parliamentary Salary £ pa	Total £	Ministerial Salary (Total) £ pa
SALARIES (taxable)	Cabinet Members	23,500	6,930	30,430	23,500
	Leader of the Opposition	20,950	6,930	27,880	11,900
	Government Chief Whip	19,300	6,930	26,230	16,100
	Opposition Chief Whip	16,250	6,930	23,180	9,950
	Minister of State	16,250	6,930	23,180	16,400
	Parliamentary Secretaries	12,350	6,930	19,280	12,500
	Junior Whips	10,250	6,930	17,180	10,550
	London Supplement (taxable)	£709 pa			£709 pa
SUBSISTENCE ALLOWANCE		Maximum £4903 pa (non-taxable)			NONE
RESEARCH AND SECRETARIAL ALLOWANCE		Maximum £8000 pa (non-taxable)			£1175 (non-taxable)
TRAVEL ALLOWANCES		1. Reimbursement of all travel within UK on Parliamentary business. 2. Reimbursement for 15 journeys a year to Westminster for MP's spouses.			Reimbursement of costs of travel from main place of residence to London NONE
SEVERANCE GRANT		Up to £10,000 (non-taxable)			NONE
PENSION		Parliamentary Pension			NONE

REMUNERATION OF JUNIOR MINISTERS IN THE HOUSE OF LORDS

Note by Officials

Introduction

1. The Government has decided that the remuneration of junior Ministers in the House of Lords should be revised to take account of their parliamentary duties. In her statement to the House of Commons on 7 July (repeated by the Lord President in the Lords), the Prime Minister said:

"Although junior Ministers in the House of Lords now receive a secretarial allowance of £1,000, which we propose to increase to £1,100 [now £1,175], they do not receive any salary specifically in respect of their parliamentary duties. This is a very real problem, and we propose to consider how the arrangements for their remuneration should be revised to take account of it."

2. This paper sets out the conclusions of a small group of officials, led by CSD, who were asked to consider the problem. The group included the First Parliamentary Counsel, the Accountant of the House of Lords and a representative of the Cabinet Office. It deals first with the reasons for increasing the remuneration of Ministers in the House of Lords, the recipients of the increase and the amount involved, and goes on to consider possible methods of effecting the increase and the presentational aspects.

Reasons for additional remuneration

3. Two distinct views can be taken of the reasons for increasing the remuneration of Ministers in the Lords. The first is that, because they do not receive a parliamentary salary, unlike Commons Ministers, the total amount they are able to earn as Ministers is too low and inadequately compensates them for the loss of other earnings opportunities. On this view the purpose of the additional payment is both to ensure that existing Ministers are not penalised financially by their acceptance of office and to ensure that Peers of ability are not dissuaded from becoming Ministers by low rates of pay. Additional remuneration can in effect be seen as giving Lords Ministers the "market rate" for the job.

4. The other view is that Lords Ministers do certain types of work, which may be loosely described as "Parliamentary duties", for which they are not at present remunerated, but ought to be. The work in question falls into two categories. First, there is the job of speaking for departments other than their own in the House of Lords, for which there is no equivalent in the Commons. Second, there is the need to deal with correspondence from the public which the Top Salaries Review Body recognised when they recommended a secretarial allowance of £1,000 for Lords Ministers in their Report No. 13. This work may be broadly compared with the constituency work of Commons Ministers but, unlike Commons Ministers, those in the Lords receive no remuneration for what they do.

5. These two views are not mutually exclusive but different conclusions might be reached on the most appropriate way of dealing with the problem depending on which of them is taken as the primary reason for increasing Lords Ministers remuneration. We have made the assumption that the Government is chiefly interested in ensuring that the total remuneration of Lords Ministers is adequate (the first view). There would in fact be considerable difficulty in basing a case for across the board increase mainly on the existence of "Parliamentary duties" because these duties fall unevenly between different Ministers. For example some Ministers do a lot of work for departments other than their own, whereas others do relatively little. Furthermore, it does not follow that Ministers who speak for several departments necessarily have more onerous Parliamentary duties than those who speak only for

Recipients

6. The Prime Minister's statement referred to the remuneration only of junior Ministers in the Lords. We presume that this should be taken to include Ministers of State, Parliamentary Secretaries, all Government Whips and, possibly, the Lord Advocate. There are however other Ministers and paid office holders in the Lords, namely the Lord Chancellor, other Cabinet Ministers, the Leader of the Opposition, the Opposition Chief Whip and the Chairman and Principal Deputy Chairman of Committees. If it is accepted that the main reason for increasing remuneration is to ensure that the total income of Ministers is enough to compensate them for loss of other earnings opportunities, then the argument applies to Cabinet Ministers as well as to others. Further to increase the remuneration of Ministers not in the Cabinet only would overturn the pattern of relativities between different groups of Ministers that the Government have hitherto thought appropriate. It would be invidious to give additional remuneration to Ministers but to deny it to non-Government office holders. We would therefore recommend that any increase in remuneration should be paid to all Ministers and paid office holders in the Lords.

Amount

7. Ministers in the Commons receive a Parliamentary salary of £6,930 per annum. We presume that the Government will wish to maintain some difference between the total remuneration of Lords and Commons Ministers to take account of the constituency work performed by the latter. We consider that the additional remuneration for Lords Ministers might be around £3,500, roughly half the Parliamentary salary of Commons Ministers.

Method

8. Broadly, there are four ways in which the pay of Lords Ministers might be increased:

- a. Using the Ministerial and Other Salaries Act 1975. In principle an Order could be drafted which listed in its schedule salaries for Ministers which corresponded to the rates the Government would pay to those in the Lords. These rates would be treated as maxima and Commons Ministers would in practice be paid so much less. However this would be in conflict with the spirit, if not the letter, of the 1975 Act which does not make provision for separate Lords and Commons salaries. It would also be misleading as the salaries quoted in the Order would not correspond to those paid to the majority of Ministers. In any case, we understand that a proposal on this particular point was put to Cabinet by Sir Robert Armstrong and we do not find favour with them.

b. Amending the 1975 Act. A new Act could permit different salaries to be paid to Lords and Commons Ministers. It could also solve some other problems of the present legislation, for example by allowing retrospective payment of increases in Ministerial salaries. An indication of further useful changes that might be made is given in the annex to this paper. However there are likely to be problems of Parliamentary time and, possibly, a hostile reception by the House of Commons to any proposed legislation benefiting Lords Ministers.

c. Allowing Lords Ministers to claim the Peers' expenses allowance in full. Between 1975 and early this year, Peers who were office holders were allowed to draw £700 per annum of Peers' expense allowance, of which £100 was tax free. Report No. 13 of the Top Salaries Review Body recommended against the practice on the ground that the payment was more in the nature of pay than reimbursement and was inconsistent with the system of categorising eligible items in the Peers' expenses allowance (ie into subsistence and secretarial costs). As an alternative the Review Body recommended that Lords Ministers should get a secretarial allowance up to a maximum of £1,000. The Government accepted and implemented these recommendations. Quite apart from the inconsistency of the Government reversing its decision on Lords Ministers' allowances within a few months, the argument of principle against treating the Peers' expenses allowance as a form of remuneration (and hence taxable) remains.

d. Giving Ministers some other "allowance". There are two main variants to this option:

i. Giving Lords Ministers the same sort of "additional costs allowance" as MPs. Essentially this would mean allowing Lords Ministers to claim reimbursement for the cost of a second home outside London. As an allowance for expenses actually incurred, this would only be payable to Ministers who had to move to London on appointment, and not those already living or working in London. It would hence be unsatisfactory as a means of increasing the remuneration of all Lords Ministers. A further objection is that MPs receive a second home allowance because they necessarily have to work in two places - Westminster and their constituency - whereas this does not apply to Lords Ministers.

ii. Creating a special and entirely new "parliamentary duties" payment. This would be in the nature of remuneration rather than reimbursement of expenses and would therefore be payable to all Lords Ministers (despite the varying burden of Parliamentary duties as we define them in paragraphs 4 and 5 above). New allowances have been introduced by way of resolutions in the past. For example, the secretarial allowance for Lords Ministers was introduced in this way. However the propriety of increasing the pay of Lords Ministers as opposed to reimbursing their expenses, without recourse to legislation would be highly dubious. The Ministerial and Other Salaries Act 1975 puts a limit on the remuneration of Ministers. Any attempt to increase this limit (whether or not the increase was called an "allowance") without amending

the Act would certainly be challenged in the Commons, irrespective of whether it was introduced by means of a resolution in that House. The Government would have difficulty in putting forward a convincing defence. If legislation is required this option effectively becomes the same as option above.

9. Options (a) - using the 1975 Ministerial Salaries Act - and (c) - allowing Lords Ministers to claim the Peers expenses allowance - are undesirable for the reasons given. The choice therefore is between amending the 1975 Act and introducing one or other of the allowances set out in (d). The disadvantage of the first of these allowances (a second home allowance) is that it would not be payable to all Lords Ministers and that it would not be justified in terms of place of work. The second allowance would be an amendment of the 1975 Act in all but name and hence should not be introduced except by way of legislation. We therefore recommend amending the 1975 Act. This would have the further advantage that the power to make increases in Ministerial pay retrospective could be taken and some or all of the changes discussed in the annex could also be made.

Presentation

10. Whatever means are used to increase the remuneration of Lords Ministers there will be difficult presentational problems. Although the argument that the total remuneration of Lords Ministers is too small in relation to their loss of earnings opportunities is quite tenable, it would be difficult to stress publicly. The case is likely to rely to a significant extent on the argument that Lords Ministers perform duties over and above their normal departmental duties (or duties as Whips) for which they are remunerated. Unfortunately (apart from the points made in paragraph 5) this argument is vulnerable to the criticism that the Top Salaries Review Body have already specifically considered the point. In their Report No. 12 (June 1979) the Review Body said:

"The Parliamentary salary of Ministers and other paid office holders in the House of Commons recognises their responsibility, as Members of Parliament, for their constituents as distinct from their Ministerial or other responsibilities; a responsibility that is not borne by Members of the House of Lords. Consequently the holder of an office in the House of Lords that is equivalent to an office in the House of Commons will be paid less because no Parliamentary salary is received. The salary can only be the same if, despite the equivalent nature of the job, it does in practice carry a heavier responsibility or a greater workload either directly or because additional duties are added to it. Where these have been identified we have made allowance for them in our recommendations." (paragraph 29)

For the Government to give further increases to Lords Ministers therefore would be to go directly against the Review Body's recommendation and is likely to be resented by MPs who have had their own pay restrained.

Tax Position

11. Any additional remuneration for Lords Ministers would of course be taxable. The Inland Revenue advise us that an allowance for the cost of a second home would also be taxable since Peers do not have constituency responsibilities. In addition they have told us that if the additional payment were described as being for "parliamentary duties" the present tax-free treatment of Lords Ministers' travel expenses between their homes and Westminster would be jeopardised. On the other hand if these payments were described as being for Ministerial duties the reimbursed travel expenses would not be in jeopardy.

Conclusion

12. We recommend that, if additional remuneration is to be paid, it should be paid to all Ministers and office holders in the House of Lords; that it should be introduced by means of an amendment to the Ministerial and Other Salaries Act 1975; and that the opportunity should be taken to amend this Act in other ways. We suggest that a sum of around £3,500 might be an appropriate amount.

16 September 1980

OTHER POSSIBLE AMENDMENTS TO THE MINISTERIAL AND OTHER SALARIES ACT 1975

1. If legislation were introduced to amend the 1975 Act so as to deal with the pay of Ministers in the Lords, the opportunity could also be taken to give the Prime Minister greater flexibility in determining

- a. the composition; and
- b. the size

of the Cabinet.

COMPOSITION OF THE CABINET

2. Schedule 1 of the Act assumes that Prime Ministers will always include certain Ministers in their Cabinets. As a result, the Schedule provides for the holders of these named offices only to receive a Part I salary: they cannot be paid under any other part of the Schedule. In addition to the Premiership itself, these named offices are:

- i. Chancellor of the Exchequer;
- ii. All Secretaries of State;
- iii. Minister of Agriculture, Fisheries and Food.

3. This arrangement can cause difficulties. For example:

- i. In the last Labour Government, because the size of the Cabinet exceeded the limit on the number of Part I salaries that may be paid, Mr John Silkin could not receive a Part I salary; and because there is no provision to pay the Minister of Agriculture at any other rate, Mr Silkin could not be paid a Part II salary either.
- ii. In the present Government, the limit on the number of Part I salaries would again have been exceeded if Mr Norman Fowler had been appointed Secretary of State for Transport; and as a Secretary of State he could not have been paid at any other rate. The title of his office had to be changed, therefore, to "Minister of Transport" and he had to be excluded from the Cabinet so that he could be paid a Part II salary.

4. Comparable difficulties do not arise in the case of other offices whose holders are often but not invariably included in the Cabinet and about which the 1975 Act makes no assumption. The Act provides that the holders of the following offices may receive a Part I salary so long as they are members of the Cabinet and a Part II salary if they are not included in the Cabinet. The offices are:

CONFIDENTIAL

- a. Lord President
- b. Lord Privy Seal
- c. Chancellor of the Duchy
- d. Paymaster General
- e. Chief Secretary to the Treasury
- f. Parliamentary Secretary to the Treasury
- g. Minister of State

5. Difficulties of the kind mentioned in paragraph 3 above might be avoided in future if the offices of the Secretary of State and Minister of Agriculture were treated in the same way as the offices listed in paragraph 4 above. This might be done by amending Schedule 1 of the 1975 Act:

- a. to add "Minister in charge of a public department" to the list in Part I (so avoiding any further need to make express mention of the Minister of Agriculture); and
- b. to provide that Secretaries of State and Ministers in charge of public departments shall be eligible for a Part I salary for so long as they are members of the Cabinet and for a Part II salary for so long as they are not.

Appendix II illustrates what changes might be required to Parts I and II of Schedule I if this approach were adopted.

THE SIZE OF THE CABINET

6. Part V of Schedule I to the 1975 Act imposes limits on the number of Ministerial salaries that may be paid in total and under the various Parts of the Schedule. In particular, it specifies that not more than 21 salaries may be paid at the Part I rate. This effectively limits the size of the Cabinet to 22 (ie the 21 who may receive Part I salaries plus the Lord Chancellor, for whose salary provision is made separately) unless some Cabinet Ministers are to be paid no salary at all (eg Mr John Silkin); and it can lead to the exclusion from the Cabinet of Ministers who might otherwise have been included (eg Mr Norman Fowler). If it were considered that Prime Ministers should have greater flexibility in determining the size of their Cabinets, this might be achieved:

- a. either by amending Schedule V to specify a higher but fixed upper limit on the number of Part I salaries or
- b. by providing that the upper limit may be varied from time to time by order subject to affirmative resolution

7. While Parliament might regard it as reasonable to give Prime Ministers greater flexibility in determining the size of their Cabinets, it might be less willing to provide scope for increases in the total number of Ministers to whom salaries may be paid. This may suggest that any amendment should be confined to changing the limit on the number of Part I salaries.

CSD
16 September 1980

CONFIDENTIAL

ILLUSTRATION OF HOW PARTS I AND II OF SCHEDULE I TO THE
1975 ACT MIGHT BE AMENDED

PART I

Prime Minister and First Lord of the Treasury ...

Chancellor of the Exchequer ...

Any of the following offices for so long as the holder
is a member of the Cabinet:

- a. Secretary of State
- b. Minister in charge of a public department of
Her Majesty's Government in the United Kingdom
and who is not eligible for a salary under any
other provision of this Act;
- c. Lord President of the Council;
- d. Lord Privy Seal;
- e. Chancellor of the Duchy of Lancaster;
- f. Paymaster General;
- g. Chief Secretary to the Treasury;
- h. Parliamentary Secretary to the Treasury;
- i. Minister of State.

PART II

1. Any of the offices listed in (a) to (i) above for so long
as the holder is not a member of the Cabinet.
2. Financial Secretary to the Treasury.