

政府總部
公務員事務局
香港下亞厘畢道



CIVIL SERVICE BUREAU
GOVERNMENT SECRETARIAT
LOWER ALBERT ROAD
HONG KONG

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立法會大樓
《公職人員薪酬調整條例草案》委員會秘書
(經辦人：陳美卿女士)

陳女士：

《公職人員薪酬調整條例草案》委員會

關於六月十八日來信提出的問題，現答覆如下：

1. 根據職方代表指出，適用於一九七六年前聘任的人員的服務條件說明書並不包含更改條文，容許政府保留權力以更改有關人員的任何聘用條款及／或服務條件。請提供有關服務條件說明書的文本，並闡明政府是否有法律依據調低按照這類服務條件說明書聘任的人員的薪酬。

我們的記錄顯示，一九七六年以前的服務條件說明書樣本訂有一般更改條文。隨信夾附以下三份樣本，供議員參考：

- (a) 適用於按試用條款聘用的本地人員的服務條件說明書
(通用表格第301號 — 一九六四年二月)
- (b) 適用於按合約條款聘用的本地人員的服務條件說明書
(通用表格第303號 — 一九六七年七月)
- (c) 適用於按臨時聘用條款聘用的人員的服務條件說明書
(通用表格第305號 — 一九七四年五月)

《公職人員薪酬調整條例草案》如獲通過，政府便有明確法律權力落實指定的減薪。

2. 《基本法》第三十九條訂明，國際勞工公約適用於香港的有關規定繼續有效，通過香港特別行政區的法律予以實施。政府聲稱立法調低公務員薪酬的建議，並不違反國際勞工公約有關係文和《基本法》第三十九條，請詳細解釋其中理據。

《基本法》第三十九條訂明，《公民權利和政治權利國際公約》、《經濟、社會與文化權利的國際公約》和國際勞工公約適用於香港的有關規定繼續有效，通過香港特別行政區的法律予以實施。

相關的國際勞工公約是《1978年勞資關係（公職）公約》。公約第7條訂明應採取適當措施，鼓勵並提倡充分發展利用僱用條款和條件的商討制度，或採用其他方法，讓公務人員的代表參與訂定僱用條款和條件。本港公務員的每年薪酬調整機制下職方代表可參與訂定薪酬調整，符合第7條的規定。

政府在進行今年的公務員薪酬調整工作時，已按照既定程序諮詢四個中央評議會的職方。具體來說，我們在二零零二年四月底邀請職方就今年的薪酬調整提出要求。在收到職方的要求後，我們把要求提交行政長官會同行政會議審議，以訂定薪酬建議。二零零二年五月二十二日，我們把薪酬建議轉達職方，徵詢他們的意見。二零零二年五月二十八日，行政長官會同行政會議在考慮過職方對薪酬建議的意見和其他有關因素後，就今年的薪酬調整作出最後決定。我們認為，在整個決策過程中，職方對今年薪酬調整的意見已得到全面而公正的考慮。

公約第8條訂明，在訂定僱用條款和條件的問題上如出現爭議，應通過有關方面的商討，或經由獨立而中立的制度，如調解、和解和仲裁等方法解決。可引用第8條處理的爭議，必須與僱用條款和條件的訂定而非其落實方法有關。只要薪酬調整是按照符合第7條規定的制度釐定，任何與其落實方法有關的爭議，第8條概不適用。因此，立法減薪的建議沒有違反《1978年勞資關係（公職）公約》和《基本法》第三十九條。

3. 請提供海外司法管轄區以一次過形式立法調低公務員薪酬的案例。

海外司法管轄區以一次過形式立法調低公務人員薪酬的例子有兩個，詳情如下：

- (a) 《1994年加拿大愛德華王子島省的公共機構減薪法令》

這條法令的目的是由一九九四年五月十七日起調低加拿大愛德華王子島省政府所有公共機構僱員的薪酬，作為一項減低赤字的措施，另外又落實若干節省公共機構成本的規定。法令訂明所實施的減薪不會有任何賠償。

- (b) 《2002年美國伊利諾伊州州政府領導層減薪法令》

這條法令的目的是在二零零二年對美國伊利諾伊州政府若干領導層人員實施一次過的暫時減薪措施。

公務員事務局局長

(馮泳萍 馮泳萍 代行)

二零零二年六月二十日

HONG KONG GOVERNMENT

(35) in POL/FORM/6 I

MEMORANDUM OF CONDITIONS OF SERVICE FOR
LOCAL OFFICERS ON PROBATION

1. Terms of Appointment

The appointment is on probation for a period of years with effect from the date of assumption of duty, at the end of which probationary period the officer will be eligible for confirmation to the permanent and pensionable establishment provided that his conduct and service have been satisfactory and that he has acquired all the qualifications necessary for confirmation.

2. General Conditions of Service

(1) The duties of the officer include the usual duties of the office in which he is engaged, and any other duties which his Head of Department or the Colonial Secretary may call upon him to perform. Such duties may include the training and instruction of other officers. Officers may be required before taking up their appointments or at any time during their service to attend prescribed courses of instruction.

(2) The officer shall not, either directly or indirectly, engage or be concerned in any other service or business whatsoever or receive commissions or profits of any kind, but shall devote the whole of his time and attention to the service of the Government, and shall use his utmost exertions to promote the interests of the Government.

(3) The officer is subject to the Orders and Regulations of the Government and to Departmental Instructions for the time being in force; to any special Ordinances or Regulations (whether administrative or statutory) which apply to the office or to the department to which he is appointed; and to Colonial Regulations. These Regulations do not constitute a contract between the Crown and its servants. The Government reserves the right to alter the terms and conditions of service as may become necessary from time to time.

3. Incremental Date

Increments of salary, if any, will be payable from the officer's incremental date which is determined as follows:—

- (a) If he assumes duty in Hong Kong between the 1st and the 15th of the month, his incremental date will be the 1st of that month.
- (b) If he assumes duty in Hong Kong between the 16th and the end of the month, his incremental date will be the 1st of the following month.

No increment will be granted unless the Head of Department certifies that the conduct and diligence of the officer have been satisfactory during the preceding year.

4. Salary

- (1) Full salary will be payable from the date of assumption of duty.
- (2) Salaries are payable in local currency, namely Hong Kong dollars.
- (3) Salaries are paid monthly in arrears.
- (4) The salary of an officer may be liable to deductions under paragraphs 5, 8 and 12.

5. Medical and Dental Attention in the Colony

(1) Medical attention whilst in the Colony is provided free of charge for officers and their families, but hospital maintenance charges are made. Dental treatment (extractions and fillings) is also provided free of charge, but charges are made for dentures and dental appliances.

(2) For the purposes of this Section, "family" means the officer's wife, dependent sons under the age of 18 years and unmarried daughters under the age of 21 years.

5. Leave of Absence

(1) *Vacation leave* may be granted at the following rates:—

	<i>Number of days of leave for each month of resident service.</i>	<i>Number of days of leave which may be accumulated and taken at any one time.</i>
(a) Officers occupying posts which carry an initial monthly salary of \$930 or more (\$690 or more in the case of women officers):		
(i) with effect from the date of completing ten years' service.	3	180
(ii) less than ten years' service.	2	120
(b) Officers occupying posts which carry an initial monthly salary of less than \$930 (less than \$690 in the case of women officers):		
(i) with effect from the date of completing ten years' service.	2	120
(ii) less than ten years' service.	1	60

(2) *Casual leave* may be granted at the rate of 1 day for every month of resident service and may be accumulated up to 42 days.

(3) Casual leave and vacation leave may not normally be combined. Leave is normally approved subject to the exigencies of the service.

Note: Teaching staff of the Education Department who enjoy school holidays are not eligible for vacation leave or casual leave.

(4) *Sick leave* is granted at the following rates:—

<i>Category of Officer</i>	<i>Nature of Illness</i>	<i>Full Pay</i>	<i>Half Pay</i>	
Officers with less than 4 years' service	Tuberculosis	6 months	6 months	} In any period of four years.
	Other than Tuberculosis	3 "	3 "	
Officers with 4 years' service or more	Tuberculosis	12 "	6 "	
	Other than Tuberculosis	6 "	6 "	

7. Termination of Appointment

(1) The Government may at any time during the period of probation terminate the officer's services without any reasons being given, by giving him one month's notice or by paying him one month's salary. In that event the officer may, at the discretion of the Governor, be allowed any vacation leave that he may have earned.

(2) In accordance with the provisions of the Pensions Ordinance (Cap. 89), any officer may be invalided from the Service on receipt of medical evidence that the officer is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent. An officer's service is not usually terminated on account of ill-health if there is a definite prospect of his being able to perform his duties satisfactorily within a reasonable period of time, after receiving medical treatment and being granted sick leave in accordance with Establishment Regulations.

(3) When an officer has been recommended for invaliding from the Service by a Medical Board or other authority, he will be granted sick leave until he is notified that his retirement on medical grounds has been approved or provisionally approved in the case of officers whose invaliding is subject to the approval of the Secretary of State.

(4) When a local officer is invalided he is granted all earned vacation leave as from the day following the date of approval of invaliding (whether provisional or otherwise); if he has a vacation leave balance of less than one month, or if he is ineligible for vacation leave, he is granted 30 days ex-gratia leave on full pay.

8. Resignation

(1) While he is still on probation the officer may, at any time after the expiry of one month from the date of assumption of duty terminate his services by giving the Government at least one calendar month's notice in writing of his intention to resign, or by paying to Government one month's salary. (Three months notice or the payment of one month's salary is required if he has been confirmed to the permanent establishment).

Note: Leave may not be included in a period of notice.

(2) An officer who resigns from the service and fails to serve the requisite period of notice, or who pays salary in lieu of notice, forfeits his leave.

(3) An officer who, in the opinion of the Establishment Officer, resigns in order to avoid disciplinary proceedings will not be granted any leave.

(4) On resignation all casual leave is forfeited with effect from the date upon which Government requires notice of resignation to be given.

9. Dismissal or Punishment for Misconduct, etc.

An officer who has been confirmed to (or is on probation to) the pensionable establishment may be dismissed or punished for misconduct in accordance with the provisions of Colonial Regulations 55, 56, 57, 58 and 60, or in the case of an officer appointed to a disciplined service, in accordance with the local ordinance governing that service. On dismissal, such an officer forfeits all rights and advantages of his appointment, and no retiring benefits are granted to him.

10. Marriage of Women Officers

A woman officer on probation or on the permanent and pensionable establishment is required to retire on marriage. If she wishes to continue in the service, she may apply to be reappointed on temporary month-to-month terms.

11. Pensions and Retirement

(1) Retiring benefits are granted in accordance with the provisions of the Hong Kong pensions legislation. Pension is earned at the rate of 1/600th of pensionable emoluments (towards which only 90% of salary will count) for each complete month of pensionable service, subject to a maximum rate of two-thirds of the highest pensionable emoluments drawn at any time during service. For the purpose of pension computation, the actual pensionable emoluments drawn at the date of retirement are taken unless a change of office occurs within the period of three years prior to retirement when the pensionable emoluments fall to be averaged over that period. Pension is payable only consequent upon confirmation in appointment, the completion of ten years continuous public service, and retirement in approved circumstances, such as age or ill-health grounds. Pension may be converted, at the officer's option exercisable on or before the date of retirement, into a reduced pension of 75%, 80%, 85%, 90% or 95% of the full pension together with a gratuity of $12\frac{1}{2}$ times the amount of annual reduction. An officer who retires and is in every respect qualified for pension save for the fact that he has not completed ten years qualifying service, is eligible for a gratuity only of an amount equal to five times the annual pension for which he would have been eligible had there been no qualifying period for the award of a pension. Provisions also exist for the award of injury and dependants pensions in respect of officers injured or killed on duty and death gratuities in respect of confirmed officers dying in the Service. Marriage gratuities may also be paid to confirmed female officers with not less than five years continuous service at the date of retirement (see also Section 10).

(2) The normal age of retirement is 55 years and an officer is allowed to serve after attaining that age only in special circumstances. An officer may, however, at present retire, subject to the prior approval of the Governor (and in some cases of the Secretary of State) between the ages of 45 and 50 on the following grounds:—

- (a) grounds of ill-health not sufficient to warrant invaliding, on production of such evidence by way of medical report or otherwise as may be required by the Governor;
- (b) adequate compassionate or personal grounds acceptable to the Governor, provided the public interest is not affected in any unduly adverse manner.

The retirement of officers who are aged 50 years or more but are under the age of 55 will normally be allowed unless the Governor considers that it would not be in the public interest to allow the officer to retire.

Note: The rules regarding retirement between 45 and 55 are subject to change from time to time.

(3) An officer may be called upon to retire (in some cases with the approval of the Secretary of State) on or after attaining the age of 45 years. A female officer is required to retire on marriage (see also Section 10).

12. Widows and Orphans Pension Contributions

Every male officer under the age of 49 appointed on probation (except Police Constables, Constables of the Hawker Control Force, Firemen Class II, Warders, Detective District Watchmen, District Watchmen and Assistant Revenue Officers) is required to contribute to the Hong Kong Widows and Orphans Pension Scheme, with effect from the date of his appointment, at one of the following rates:—

- (a) 4% of 90% of his salary per month; or
- (b) \$125 p.m. if (a) should exceed \$125 p.m., and if he so elects.

13. Application of this Memorandum

Wherever in this memorandum the context so requires by virtue of the fact that the person engaged is a woman, 'he' or its derivatives shall be construed as meaning 'she' or its derivatives.

MEMORANDUM OF CONDITIONS OF SERVICE FOR
LOCAL OFFICERS APPOINTED ON AGREEMENT1. Term of Engagement

The term of engagement is for years with effect from the date of assumption of duty. The date of appointment will be the date on which the officer assumes duty.

2. General Conditions of Service

(1) The duties of the officer include the usual duties of the office in which he is engaged, and any other duties which his Head of Department or the Colonial Secretary may call upon him to perform. Such duties may include the training and instruction of other officers. Officers may be required before taking up their appointments or at any time during their service to attend prescribed courses of instruction.

(2) The working week for the officer is normally $5\frac{1}{2}$ days, the normal hours of work being from 9 a.m. to 5 p.m. from Monday to Friday with one hour for lunch and 9 a.m. to 1 p.m. on Saturday. In addition to Sundays there are approximately 16 gazetted public holidays in a year.

(3) The officer shall not, either directly or indirectly, engage or be concerned in any other service or business whatsoever or receive commissions or profits of any kind, but shall devote the whole of his time and attention to the service of the Government, and shall use his utmost exertions to promote the interests of the Government.

(4) The officer is subject to the Orders and Regulations of the Government, and to Departmental Instructions, for the time being in force; to any special Ordinances or Regulations (whether administrative or statutory) which apply to the office or to the department to which he is appointed; and to Colonial Regulations. These Regulations do not constitute a contract between the Crown and its servants. ~~The Government reserves the right to alter the terms and conditions of service as may become necessary from time to time.~~

3. Incremental Date

Increments of salary, if any, will be payable from the officer's incremental date which is determined as follows :-

(a) If he assumes duty in Hong Kong between 1st and the 15th of the month, his incremental date will be the 1st of that month.

(b) If he assumes duty in Hong Kong between the 16th and the end of the month, his incremental date will be the 1st of the following month.

No increment will be granted unless the Head of Department certified that the conduct and diligence of the officer have been satisfactory during the preceding year.

4. Salary

(1) Full salary will be payable from the date of assumption of duty.

(2) Salaries are payable in local currency, namely Hong Kong dollars.

(3) Salaries are paid monthly in arrears.

(4) The salary of the officer may be liable to deductions under paragraphs 5, 8 and 11.

5. Medical and Dental Attention in the Colony

(1) Medical attention whilst in the Colony is provided free of charge for officers and their families but hospital maintenance charges are made. Dental treatment (extractions and fillings) is also provided free of charge, but charges are made for dentures and dental appliances. Spectacles are not provided by Government.

(2) For the purpose of this Section, "family" means the officer's wife, dependent sons under the age of 18 years and unmarried daughters under the age of 21 years.

6. LEAVE OF ABSENCE

(1) Vacation leave may be granted at the following rates:-

	<u>Number of days of leave for each month of resident service</u>	<u>Number of days of leave which may be accumulated and taken at any one time</u>
(a) Officers occupying posts which carry an initial monthly salary of \$1,070 or more (\$800 or more in the case of women officers):		
(i) With effect from the date of completing ten years' service	2½	180
(ii) less than ten years' service	1½	120
(b) Officers occupying posts which carry an initial monthly salary of less than \$1,070 (less than \$800 in the case of women officers):		
(i) With effect from the date of completing ten years' service	1½	120
(ii) less than ten years' service	¾	60

(2) Casual leave may be granted at the rate of 1 day for every month of resident service and may be accumulated up to 42 days.

(3) Casual leave and vacation leave may not normally be combined. Leave is normally approved subject to the exigencies of the service.

Note : Teaching staff of the Education Department who enjoy school holidays are not eligible for vacation leave or casual leave.

(4) Sick leave is granted at the following rates:-

<u>Category of officer</u>	<u>Nature of illness</u>	<u>Full pay</u>	<u>Half pay</u>	
Officers with) less than 4) years' service)	Tuberculosis or leprosy	6 months	6 months	} In any period of four years
	Other than Tuberculosis or leprosy	3 "	3 "	
Officers with) 4 years' ser-) vice or more -)	Tuberculosis or leprosy	12 "	6 "	
	Other than Tuberculosis or leprosy	6 "	6 "	

7. Termination of appointment

(1) The Government may at any time terminate the services of the officer without any reasons being given on giving him three months' notice in writing or by paying him one month's salary in lieu of notice.

(2) If at any time a Government medical officer certifies that an officer on agreement is incapable by means of any infirmity of mind or body (such incapacity not being caused by his own misconduct) of rendering further efficient service his case will be dealt with in accordance with the regulations governing the invaliding of non-pensionable local officers.

8. Resignation

(1) The officer may, at any time after the expiry of three months from the date of assumption of duty terminate his service by giving the Government at least three calendar months' notice in writing of his intention to resign or by paying to Government one month's salary.

Note: Leave may not be included in a period of notice.

(2) An officer who resigns from the service and fails to serve the requisite period of notice or who pays salary in lieu of notice, forfeits his leave.

(3) An officer who, in the opinion of the Establishment Officer, resigns in order to avoid disciplinary proceedings will not be granted any leave.

(4) On resignation all casual leave is forfeited with effect from the date upon which Government requires notice of resignation to be given.

9. Dismissal or Punishment for Misconduct, etc.

(1) If an officer on agreement at any time neglects or refuses or for any reason (except ill health not caused by his own misconduct) becomes unable to perform any of his duties or to comply with any order, or discloses any information concerning the affairs of the Hong Kong Government to any unauthorised person, or in any manner misconducts himself, he may be dismissed and on such dismissal all rights and advantages of his appointment shall cease.

(2) Any officer may be punished for misconduct in accordance with the provisions of Colonial Regulations 55, 56, 57, 58 and/or 60.

10. Marriage of Women Officer

A woman officer on agreement is required to resign her appointment on marriage. If she wishes to continue in the service, she may apply to be reappointed on temporary month-to-month terms.

11. Widows and Orphans Pension Contributions

(1) Every male officer under the age of 49 appointed on probation is required to contribute to the Hong Kong Widows and Orphans Pension Scheme, with effect from the date of his appointment, at one of the following rates:-

- (a) 4% of his salary per month; or
- (b) \$125 p.m. if (a) should exceed \$125 p.m. and if he so elects.

(2) A male officer appointed on agreement for a period of three years or more is required to contribute at the same rate, unless he informs the Accountant General in writing within a month of the date of assumption of duty (i.e. the date of arrival in Hong Kong) that he does not desire to contribute.

12. Retirement

Local Officers appointed on agreement are not eligible for the grant of a contract gratuity under Establishment Regulations. They may however be eligible in certain circumstances for the grant of retiring benefits as "non-pensionable" officers, i.e. an annual allowance and/or lump-sum gratuity under the Pensions Ordinance, Chapter 89, and the Regulations made thereunder. The rate of annual allowance is 1/800th of salary on retirement (actual or average as appropriate) for each completed month of service up to 25 years, with an addition thereto of 1/600th of such salary for each completed month of service in excess of 25 years. An annual allowance is payable on retirement on grounds of age, ill-health or redundancy subject to completion of 10 years service. A gratuity may be granted if the officer retires on account of age, ill-health or redundancy before completion of 10 years' service.

13. Further employment

Three months prior to the completion of the term of engagement, the officer shall give notice in writing to the Government whether he desires to remain in its employment, and the Government shall thereupon decide whether it will offer him further employment, and, if so, will communicate the terms of the further employment to the officer.

14. Application of this Memorandum

(a) Wherever in this memorandum the context so requires by virtue of the fact that the person engaged is a woman, 'he' or its derivatives shall be construed as meaning 'she' or its derivatives.

(b) Wherever in this memorandum the word "salary" appears it should be construed as meaning "substantive salary".

HONG KONG GOVERNMENT

MEMORANDUM OF CONDITIONS OF SERVICE FOR OFFICERS ON TEMPORARY TERMS



5/11/74

1. Terms of Appointment

The appointment is on temporary month to month terms. If the post is made pensionable at a later date, the officer will be eligible for consideration for appointment on probation to the permanent establishment.

2. General Conditions of Service

(1) The duties of the officer include the usual duties of the office in which he is engaged, and any other duties which his Head of Department or the Colonial Secretary may call upon him to perform. Such duties may include the training and instruction of other officers. Officers may be required before taking up their appointments or at any time during their service to attend prescribed courses of instruction.

(2) The working week for "indoor" staff is normally 5 1/2 days, the normal hours of work being from 9 a.m. to 5 p.m. from Monday to Friday with one hour for lunch and 9 a.m. to 1 p.m. on Saturday. The working week for outdoor staff is normally 6 days, the normal hours of work being from 8 a.m. to 12 noon and 1 p.m. to 5 p.m. from Monday to Saturday. In addition to Sundays there are approximately 17 gazetted public holidays a year.

(3) The officer shall not, either directly or indirectly, engage or be concerned in any other service or business whatsoever or receive commissions or profits of any kind, but shall devote the whole of his time and attention to the service of the Government, and shall use his utmost exertions to promote the interests of the Government.

(4) The officer is subject to the Orders and Regulations of the Government and to Departmental Instructions for the time being in force; to any special Ordinances or Regulations (whether administrative or statutory) which apply to the office or to the department to which he is appointed; and to Colonial Regulations. These Regulations do not constitute a contract between the Crown and its servants. The Government reserves the right to alter the terms and conditions of service as may become necessary from time to time.

3. Incremental Date

Increments of salary, if any, will be payable from the officer's incremental date which is determined as follows:—

(a) If he assumes duty in Hong Kong between the 1st and the 15th of the month, his incremental date will be the 1st of that month.

(b) If he assumes duty in Hong Kong between the 16th and the end of the month, his incremental date will be the 1st of the following month.

No increment will be granted if the Head of Department certifies that the conduct and diligence of the officer have been unsatisfactory during the preceding year

4. Salary

(1) Full salary will be payable from the date of assumption of duty.

(2) Salaries are payable in local currency, namely Hong Kong dollars.

(3) Salaries are paid monthly in arrears.

(4) The salary of an officer may be liable to deduction under paragraphs 5 and 8.

5. Medical and Dental Attention in the Colony

(1) Medical attention whilst in the Colony is provided free of charge for officers and their families but hospital maintenance charges are made. Dental treatment (extractions and fillings) is also provided free of charge, but charges are made for dentures and dental appliances. Spectacles are not provided by Government.

(2) For the purpose of this Section "family" means the officer's wife, dependent sons under the age of 19 years and unmarried daughters under the age of 21 years.

6. Leave of Absence

(1) Vacation leave may be granted at the following rates:—

	Number of days of leave for each month of resident service.	Number of days of leave which may be accumulated and taken at any one time
(i) less than ten years' service	Nil	Nil
(ii) with effect from date of completing ten years' service (Offices with initial salary under/over Point 18 of the Master Scale)	1 1/2	120/180

(2) Casual leave may be granted at the rate of 1 day for every month of resident service and may be accumulated up to 30 days.

(3) Casual leave and vacation leave may not normally be combined. Leave is normally approved subject to the exigencies of the service.

Note: Teaching staff of the Education Department who enjoy school holidays are not eligible for vacation leave or casual leave.

(4) Sick leave is granted at the following rates:—

Category of Officer	Nature of Illness	Full Pay	Half Pay	
Officers with less than 4 years' service	Tuberculosis or leprosy	6 months	6 months	} In any period of four years
	Other than Tuberculosis or leprosy	3 "	3 "	
Officers with 4 years' service or more	Tuberculosis or leprosy	12 "	6 "	
	Other than Tuberculosis or leprosy	6 "	6 "	

7. Termination of Appointment

(1) The Government may at any time terminate the officer's services without any reasons being given, by giving him one month's notice or by paying him one month's salary. In that event the officer may, at the discretion of the Governor, be allowed any vacation leave that he may have earned.

(2) In accordance with the provisions of the Pensions Ordinance (Cap. 89), any officer may be invalided from the Service on receipt of medical evidence that the officer is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent. An officer's service is not usually terminated on account of ill-health if there is a definite prospect of his being able to perform his duties satisfactorily within a reasonable period of time, after receiving medical treatment and being granted sick leave in accordance with Establishment Regulations.

(3) When an officer has been recommended for invaliding from the Service by a Medical Board or other authority, he will be granted sick leave until he is notified that his retirement on medical grounds has been approved or provisionally approved in the case of officers whose invaliding is subject to the approval of the Secretary of State.

(4) When a local officer is invalided he is granted all earned vacation leave as from the day following the date of approval of invaliding (whether provisional or otherwise); if he has a vacation leave balance of less than one month, or if he is ineligible for vacation leave, he is granted 30 days ex-gratia leave on full pay.

8. Resignation

(1) The officer may terminate his service by giving the Government at least one calendar month's notice in writing of his intention to resign, or by paying to Government one month's salary.

Note: Leave may not be included in a period of notice.

(2) An officer who resigns from the service and fails to serve the requisite period of notice, or who pays salary in lieu of notice, forfeits his leave.

(3) An officer who, in the opinion of the Establishment Secretary, resigns in order to avoid disciplinary proceeding will not be granted any leave.

(4) On resignation all casual leave is liable to forfeiture with effect from the date upon which Government requires notice of resignation to be given unless authorised by Head of Department (Secretariat Circular Memo (129) in PR 4304/52 of 10.5.68).

9. Dismissal or Punishment for Misconduct, etc.

(1) If an officer at any time neglects or refuses or for any reason (except ill-health not caused by his misconduct) becomes unable to perform any of his duties or to comply with any order, or discloses any information concerning the affairs of the Hong Kong Government to any unauthorised person, or in any manner misconducts himself, he may be dismissed and on such dismissal all rights and advantages of his appointment shall cease.

(2) An officer may be punished for misconduct in accordance with the provisions of Establishment Regulations, or if a member of a disciplined service, the disciplinary provisions of the local ordinance.

10. Annual Allowance and/or Gratuity

(1) The award of annual allowances and/or gratuity is governed by the Pensions Ordinance, Cap. 89 and Regulations made thereunder. The rate of annual allowance is 1/800th of salary on retirement (actual or average as appropriate) for each completed month of service up to 25 years, with an addition thereto of 1/600th of such salary for each completed month of service in excess of 25 years. An annual allowance is payable on retirement on grounds of age, ill-health or redundancy subject to completion of 10 years service. A gratuity may be granted if the officer retires on account of age, ill-health or redundancy before completion of 10 years' service.

(2) The officer may elect at the time of retirement to have his annual allowance converted into a reduced annual allowance of 75%, 80%, 85%, 90% or 95% of the full annual allowance together with a lump sum gratuity of 12½ times the amount of annual reduction so made in the full annual allowance. *The normal age of retirement is 55.*

11. Application of this Memorandum

(a) Wherever in this memorandum the context so requires by virtue of the fact that the person engaged is a woman, "he" or its derivatives shall be construed as meaning "she" or its derivatives.

(b) Wherever in this memorandum the word "salary" appears it should be construed as meaning "substantive salary".