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14 June 2002

Clerk to Bills Committee on
Public Officers Pay Adjustment Bill
Legislative Council Building
8 Jackson Road
Hong Kong

(Attn: Ms Rosalind Ma)

Dear Ms Ma,

**Bills Committee on
Public Officers Pay Adjustment Bill**

I refer to your letter of 12 June 2002. Our response to the questions raised are set out in the following paragraphs.

1. Please advise whether there is any precedent case in which the Administration's decision had been implemented by one-off legislation. If there is, please provide information on the relevant legislation.

There have been a number of ordinances which have temporary effect, which for convenience have been grouped according to subject matter.

(a) Temporary Building Restrictions

No. 60 of 1973 – Temporary Restriction on Building (Pokfulam and Mid-Levels) Ordinance.

To provide for the restriction for a limited period of building works in the Pok Fu Lam and Mid-levels areas of Hong Kong

No. 34 of 1989 – Temporary Control of Density of Building Development (Kowloon and New Kowloon) Ordinance.

To control temporarily the density of building development in certain areas of Kowloon and New Territories.

(b) Public Holidays

No. 39 of 1981 – Public Holiday (Prince of Wales Wedding) Ordinance.

To declare 28 July 1981 to be a public holiday.

No. 35 of 1986 – Public Holiday (Royal Visit) Ordinance.

To declare 22 October 1986 to be a public holiday.

No. 84 of 1997 – Public Holiday (Special Holidays 1997) Ordinance.

To declare 1 July 1997 and 2 July 1997 to be public holidays.

(c) Government Acquisition of Banks

No. 56 of 1983 – Hang Lung Bank (Acquisition) Ordinance.

To provide for the acquisition by the Government of the Hang Lung Bank Limited the carrying on of the business of that Bank, the compensation payable in respect of such acquisition and for connected purposes.

No. 30 of 1985 – Overseas Trust Bank (Acquisition) Ordinance.

To provide for the acquisition by the Government of the Overseas Trust Bank Limited the compensation payable in respect of such acquisition and the carrying on of the business of that Bank and for connected purposes.

(d) L.N. 62 of 1999 – Tax Exemption (1997 Tax Year) Order

To provide for exemption in respect of the payment of 10% of the amount of tax chargeable by way of property tax, salaries tax, profits tax or personal assessment under the Inland Revenue Ordinance (Cap.112) for the year of assessment 1997/98.

(e) No. 13 of 2001 – Copyright (Suspension of Amendments) Ordinance

To provide for the suspension of the operation of certain amendments to the Copyright Ordinance effected by the Intellectual Property (Miscellaneous Amendments) Ordinance 2000.

(f) United Nations Sanctions Regulations

All Regulations made under the United Nations Sanctions Ordinance Cap.537. There are twelve sets of regulations which are current, the following have already expired :

L.N. 68 of 2001 – United Nations Sanctions (Eritrea and Ethiopia) Regulation

The Regulation implements a decision of the Security Council of the United Nations in Resolution 1298 of 17 May 2000 by imposing restrictions on the sale and supply of arms and related materials, and on the provision of related technical assistance or training, to Eritrea and Ethiopia.

L.N. 194 of 2001 – United Nations Sanctions (Sierra Leone) (Prohibition Against Importation of Diamonds) Regulation

The Regulation gives effect to a decision of the Security Council of the United Nations in Resolution 1306 of 5 July 2000 on

prohibition against importation of rough diamonds from Sierra Leone.

L.N. 211 of 2001 – United Nations Sanctions (Afghanistan)
(Arms Embargoes) Regulation

The Regulation implements a decision of the Security Council of the United Nations in its Resolution 1333 of 19 December 2000. Its objects are (a) to impose restrictions on the supply or delivery of arms and related material, the provision of related technical advice, assistance and training, and the supply of acetic anhydride to the territory of Afghanistan under Taliban control; (b) to impose restrictions on flights taking off from, landing in or flying over the HKSAR if they are destined for or have taken off from the territory of Afghanistan under Taliban control; (c) to freeze assets of Usama bin Laden and any person connected with him; (d) to prohibit the making of funds available to Usama bin Laden and any person connected with him; and (e) to prohibit the establishment and maintenance of Taliban or Islamic Emirate of Afghanistan or Ariana Afghan Airlines offices.

2. Please advise whether there is any precedent case in which the legislation enacted had deprived the employees or other groups in the community of their existing rights. If there is, please provide information on the relevant legislation.

A number of ordinances impose obligations on persons by reason of their status as employees or as members of a particular group. Some employees may have their employment status affected by the introduction of a statutory registration or licensing scheme or other restrictions on their entitlement to remain in employment. In the employment field, legislation has been enacted which benefits both current and future employees at the expense of the employers.

Outside the employment field, town planning legislation affects the enjoyment of private property rights. The various trade sanctions legislation may frustrate or otherwise adversely affect existing contractual rights and obligations, without compensation.

A list of these ordinances are as follows –

(a) Taxation

Inland Revenue Ordinance, Cap. 112, Part III, Salaries Tax

(b) Retirement benefits

Mandatory Provident Fund Schemes Ordinance, Cap. 485, Part III, Employees and self-employed persons mandatory contribution.

(c) Financial obligations imposed on employers

The Public Holiday Ordinances at 1(b) above impose an obligation on employers to pay employees for one or two days' additional statutory holiday.

No. 73 of 1997 Employment (Amendment) Ordinance
Increased maternity benefits for current as well as subsequently engaged employees.

No. 75 of 1997 Employment (Amendment) (No. 3) Ordinance
Enhanced employment protection for current as well as subsequently engaged employees.

(d) Statutory requirement for professional registration

No. 28 of 1997 Social Workers Registration Ordinance (Cap. 505)
Required all social workers to be registered including those already employed in Government or the subvented sector.

(e) Town Planning Ordinance, Cap. 131

Section 4(3) provides that except in the case of resumption, no compensation shall be paid to the owner of land which under a draft plan lies within an area or is affected by any zone or district set apart for residential, commercial, industrial or other specified use.

(f) United Nations Sanctions Ordinance Cap.537

The various Sanctions Regulations made under the Ordinance prohibit trade and/or other specified commercial activity and may

frustrate or otherwise adversely affect existing contractual rights and obligations, without compensation.

The paper on the implication of a civil service pay reduction on the subvented sector will follow.

Yours sincerely,

(Angelina Fung)
for Secretary for the Civil Service