

致立法局議員及市民公開信

大標題：公務員轉職為問責司長或局長就算達到五十五歲退休時也不應該每月收數萬元退休金和退休酬金即 LUMP SUM 由數百萬元至過千萬元及每年收數百萬元薪金

星島日報、東方日報、蘋果日報、明報、成報、華僑日報及南華日報〔請譯此文為英文〕中英電台及電視台（英文電台及電視台請譯此文為英文）

總編輯、各電台總監及各電視台總監，您們好：

本人希望借 貴報、電台及電視台刊登及讀出愚見。從近日各報大家都知道董特首希望七月一日行三司司長〔政務司司長、財政司司長及律政司司長〕及十一局長制。本人指由公務員轉職為問責制三司司長或局長可以收年薪數百萬元。但達到五十五歲退休時不應該每月仍收數萬元退休金及退休酬金即 LUMP SUM 由數百萬元至過千萬元。例如曾蔭權政務司司長如離開公務員轉為問責制政務司司長他可以收每年四百多萬元但不能即時收一千二百多萬元退休酬金及每月七萬多元退休金。他可以在離任問責制政務司司長時則他才可以收做公務員其間的一千二百多萬元退休酬金及每月七萬多元退休金。根據現行《退休金條例》〔第 89 章〕任何人達到五十五歲退休公務員再重行受僱政府每月的退休金將按《退休金條例》及規例〔第 89 章〕第 11 條的規定，**暫停發放**。所有特區政府問責制三司司長及十一問責制局長每年數百萬元年薪均由政府庫房公款支付，故任何現任公務員轉任為問責制司長或局長均受制於《退休金條例》及規例〔第 89 章〕第 11 條。本人希望各位立法局議員不應批准達到五十五歲退休公務員轉任為問責制司長或局長同時收年薪數百萬元、每月退休金數萬元及數百萬元至過千萬退休酬金。他離任問責制司長或局長時則可以收他做公務員時期的每月退休金數萬元及數百萬或過千萬元退休酬金。希望各位立法局議員留意此點勿浪費公款，謝謝。

普通市民 Lincoln CHOY 謹上

2002 年 4 月 22 日

副本致：立法局主席（請影印分發每一位議員）

立法局議員（請自行影印傳閱及各自發表高見）

董建華特首（希望看後可在日報、電台及電視台回應）

鄭經翰大班（請在電台讀出與議員和市民討論）

立法會秘書處秘書長（請影印分發每一位議員）

**Legislative Council Panel on Public Service
Meeting on 17 January 2000**

**Acceptance of Outside Employment by Civil Servants
After Retirement or Completion of Agreement**

Purpose

This paper informs members of the existing policy governing acceptance of outside appointments by civil servants after retirement or completion of agreement.

The Policy

2. Under the pensions legislation, a retired civil servant who has been granted a pension, including one who retires on reaching normal retirement age or one who retires early, has to seek prior permission from the Chief Executive before he enters into business or takes up an employment within a specified period after his retirement, if the principal part of his business or employment is carried out in Hong Kong.

3. At present, retired officers at Director of Bureau rank have to seek permission within three years after retirement. Other retirees are required to seek approval within a two-year period. Blanket approval is given for all staff remunerated on the Model Scale I Pay Scale. Civil servants who wish to start their business or employment during their pre-retirement leave period and to continue with such after leave are also subject to this requirement. Failure to seek prior permission may result in the suspension of pensions.

4. Since January 1997, agreement officers ranked at D3 and above are also required to seek prior permission before they take up employment outside the Government within one year after the completion of their agreements. The requirement is written into new agreements offered since January 1997 and is enforced as a contractual obligation.

Objectives and Principles

5. The main objective of the policy is to ensure that former civil servants do not enter into any business or employment which may constitute a conflict of interest with their previous employment in the Civil Service or embarrass the Government. The policy contributes to public confidence in the integrity of the Civil Service. On the other hand, in pursuing this policy objective, we have to take into

account the right and freedom of individuals to have further pursuits in employment or business after retirement.

6. Former civil servants requiring permission to take up post-retirement/post-agreement employment have to provide information covering the details of their prospective employment (e.g. duties, remuneration, date of appointment, etc.), the nature of any previous contacts they had with the prospective employers and their accessibility to commercially sensitive information while serving in the Government. The basic principle to follow in considering applications is that there should be no impropriety in the proposed employment. In this regard, the Administration takes into account the following factors -

- (a) whether the officer, while serving in the Government, had been involved in policy formulation or decision which could have benefitted his prospective employer;
- (b) whether the prospective employer might gain an unfair advantage over competitors because of the officer's previous knowledge and experience; and
- (c) the public perception of the officer taking up the proposed business or employment.

7. When giving approval, the Administration will, having regard to the above factors, consider whether it is necessary to specify a sanitisation period during which the applicant would be barred from taking up the post-retirement/post-agreement employment. The length of sanitisation period, if any, varies from case to case.

8. Where appropriate, the Administration may also impose restrictions on the scope of activities to be undertaken by the retired officer, e.g. a ban on involvement by the applicant in dealings between the Government and the prospective employer, either absolute or with reference to a stated issue or issues, or in dealings between the prospective employer and a named competitor.

Advisory Committee on Post-retirement Employment

9. To strengthen the approving mechanism, the Government established in October 1987 the Advisory Committee on Post-Retirement Employment. The Committee advises the Administration on applications from directorate officers for post-retirement and post-agreement business engagement or employment, and on the principles and criteria to be adopted in dealing with applications in general. The current membership of the Committee comprises a High Court Judge as the chairman,

and two legal professionals and a member of the Public Service Commission as members.

Approving Authority

10. Applications from non-directorate officers are dealt with by the respective Heads of Department/Grade under delegated authority. Those from directorate officers are scrutinised by their respective Head of Department/Grade or Bureau Secretary whose recommendation would be considered and approved by the Secretary for the Civil Service under delegated authority. Applications from officers at Bureau Secretaries or above or equivalent level are considered and approved by the Chief Executive.

Pension Suspension

11. In accordance with the pension legislation, for those retired officers drawing a pension who are re-appointed to the government or are appointed to subvented organisations determined as public service (currently 18 organisations) for the purpose of pension suspension by the Chief Executive, the payment of their monthly pension will be suspended. This suspension of pension is not applicable to retired officers taking up employment with private companies.

Conclusion

12. The Government attaches great importance to ensuring post-retirement/post-agreement employment would not cause conflict of interest of the officers' previous official duties. The principles and criteria for post-retirement/post-agreement employment are clearly laid down in circulars and Civil Service Regulations. All officers concerned are aware that any post-retirement employment applications would be subject to close scrutiny and are thus conscious of the need to avoid potential conflict of interest in seeking employment post-retirement/post-agreement.

Appointments Division
Civil Service Bureau
12 January 2000

10. (由 1987 年第 36 號第 36 條廢除)

11. 再度受聘時暫停支付退休金等

如根據本條例已獲批予退休金的人再度受聘擔任公職，或受聘於補助機構服務，而該服務乃行政長官藉憲報公告決定為就本條而言屬公職服務者，則有關的退休金可在該人的同意下，於其擔任公職或在補助機構服務期間（視屬何情況而定），暫停支付。

(由 1993 年第 4 號第 8 條代替。由 1999 年第 63 號第 3 條修訂)

~~12. 退休金等不可轉付~~

(1) 除《公職人員（轉付薪俸）條例》(第 363 章) 另有規定外，根據本條例批予的退休金（包括延付退休金）、酬金或其他津貼，不得轉付或轉讓，但為以下目的則屬例外——

- (a) 償付拖欠政府的債項（全部或部分）；或
- (b) 遵從法庭的命令，向獲批予該等退休金、酬金或其他津貼的人員的配偶、前任配偶或未成年子女付款，作為其贍養，

該項退休金、酬金或其他津貼，不得為了或因應任何申索或債項（拖欠政府的債項除外）而被扣押、暫押或查押。

- (2) (a) 凡根據本條例獲批予退休金（包括延付退休金）、酬金或其他津貼的人欠下政府一筆債項，在符合 (b) 段的規定下，庫務署署長可動用該項退休金、酬金或其他津貼的全部或部分款項，以償付該人的全部或部分債項。
- (b) 凡——
 - (i) 任何人欠下政府一筆債項，而該筆債項並非因為根據《稅務條例》(第 112 章) 須繳付的稅項所引致的；及
 - (ii) 該人並未同意庫務署署長就該人獲批予的退休金（包括延付退休金）、酬金或其他津貼，行使本款所授予的權力，則在行使該項權力中運用的款額，就上述的某項退休金、酬金或其他津貼而言，不得超過該項退休金、酬金或其他津貼的 25%。

10. (Repealed 36 of 1987 s. 36)

11. Suspension of pension on reappointment, etc.

If a person to whom a pension has been granted under this Ordinance is reappointed to the public service, or appointed to service in a subvented organization which is for the purposes of this section determined to be public service by the Chief Executive by notice in the Gazette, payment of the pension may, with the person's consent, be suspended during the period of his service in the public service or the organization, as the case may be.

(Replaced 4 of 1993 s. 8. Amended 63 of 1999 s. 3)

~~12. Pensions etc. not to be assignable~~

(1) Save as otherwise provided by the Public Officers (Assignment of Emoluments) Ordinance (Cap. 363), a pension (including a deferred pension), gratuity or other allowance granted under this Ordinance shall not be assignable or transferable except for the purpose of—

- (a) satisfying (either in whole or in part) a debt due to the Government; or
- (b) satisfying an order of any court for the payment of money towards the maintenance of the spouse or former spouse or minor child of the officer to whom such pension gratuity or other allowance was granted,

and no such pension, gratuity or other allowance shall be liable to be attached, sequestered or levied upon for or in respect of any claim or debt other than a debt due to the Government.

- (2) (a) Where any person to whom a pension (including a deferred pension), gratuity or other allowance is granted under this Ordinance owes a debt to the Government, subject to paragraph (b), the Director of Accounting Services may apply that pension, gratuity or other allowance, either in whole or in part, for the satisfaction, or partial satisfaction, of the debt.

- (b) Where—
 - (i) a person owes a debt to the Government arising otherwise than on account of tax payable under the Inland Revenue Ordinance (Cap. 112); and
 - (ii) the person has not consented to the exercise, in relation to a pension (including a deferred pension), gratuity or other allowance so granted to him, of the power conferred on the Director of Accounting Services by this subsection,
 the amount applied in such exercise shall not, as regards a particular such pension, gratuity or other allowance, exceed an amount equal to 25% thereof.

(3) 任何附表人員，如為在職人員或為 1987 年 7 月 1 日或之後受聘或再度受聘任職政府者，其退休年齡為他年屆 60 歲時；或如該附表人員所屬職級或職系或所屬職級或職系的類別為附表所指明者，而就該職級或職系或該類別的職級或職系而言，一個少於 60 歲（但不少於 55 歲）的年齡已由——

(a) 行政長官（如附表人員屬首長級人員）；或（由 1999 年第 63 號第 3 條修訂）

(b) 有關的部門首長（如附表人員屬高級人員或員佐級人員），

為施行本款而在憲報刊登公告予以指明，而該公告並未有撤回，則該附表人員的退休年齡即為該如此指明的年齡：（由 1988 年第 61 號第 3 條修訂）

但任何附表人員——

(i) 可按第 11(1)(b)(ii) 或 (iii) 條的規定早於根據本款訂明的退休年齡自願退休；及

(ii) 須於根據第 (i) 段退休前，按公務員事務局局長或有關的部門首長（視屬何情況而定）所指明的通知期，向公務員事務局局長（如該附表人員為部門首長）或向有關的部門首長（如該附表人員並非部門首長）發出退休通知書。（由 1997 年第 362 號法律公告修訂）

(4) 行政長官可批准本條所適用的人員在年屆其退休年齡後繼續服務。（由 1999 年第 63 號第 3 條修訂）

(5) 於 1987 年 7 月 10 日在憲報第 206 號法律公告、第 207 號法律公告、第 208 號法律公告、第 209 號法律公告、第 210 號法律公告及第 211 號法律公告所分別刊登的 6 項命令，每一項均須視作為施行第 (3) 款而刊登的公告。（由 1988 年第 61 號第 4 條增補）

11. 可就正常服務批予退休金的情況

(1) 除非本條例另有規定，否則不得批予任何人員退休金，但就該人員以文職身分任職於政府的服務期及就下列情況而批予者，則不在此限——

(a) 除第 27(2) 條另有規定外，當該人員在年屆其退休年齡之時或之後退休，並且是在完成不少於 10 年的符合領取退休金利益資格的服務期後退休；

(b) 除第 27(2) 條另有規定外，當該人員在完成不少於 10 年的符合領取退休金利益資格的服務期後在以下時間自願提早退休——（由 1993 年第 4 號第 18 條修訂）

(3) The retirement age of a Scheduled officer, who is either a serving officer or an officer appointed or re-appointed to service under the Government on or after 1 July 1987, shall be when he attains the age of 60 years or in case he holds a rank or grade, or a class of rank or grade, specified in the Schedule and in relation to which an age, being an age less than 60 years but not less than 55 years, is specified by—

(a) in the case of a Scheduled officer of a directorate rank, the Chief Executive; or (*Amended 63 of 1999 s. 3*)

(b) in the case of a Scheduled officer of a senior rank or rank and file grade, the Head of the Department concerned,

in a notice published for the purposes of this subsection in the Gazette and not withdrawn, the age so specified: (*Amended 61 of 1988 s. 3*)

Provided that a Scheduled officer—

(i) may retire voluntarily as provided in section 11(1)(b)(ii) or (iii) earlier than the retirement age prescribed under this subsection; and

(ii) shall, prior to his retirement under paragraph (i), give to the Secretary for the Civil Service (in the case of a Head of Department) or to the Head of Department concerned (in the case of any Scheduled officer other than a Head of Department) written notice of retirement of such duration as is specified by the Secretary for the Civil Service or the Head of Department, as the case may be.

(4) The Chief Executive may approve the continued service of an officer, to whom this section applies, after he attains his retirement age. (*Amended 63 of 1999 s. 3*)

(5) Each of the 6 orders published in the Gazette on 10 July 1987 in Legal Notices Nos. 206, 207, 208, 209, 210 and 211, respectively, shall be regarded as being a notice published for the purposes of subsection (3). (*Added 61 of 1988 s. 4*)

11. Circumstances in which pension may be granted for normal service

(1) Unless otherwise provided in this Ordinance, no pension shall be granted to an officer except in respect of his service in a civil capacity under the Government and except—

(a) subject to section 27(2), upon his retirement on or after attaining his retirement age, and after completion of qualifying service of not less than 10 years;

(b) subject to section 27(2), upon his voluntary early retirement after completion of qualifying service of not less than 10 years— (*Amended 4 of 1993 s. 18*)

- (i) 如屬第 10(2) 條適用的在職人員，為他年屆 55 歲之時或之後；
 - (ii) 如屬第 10(3) 條適用的首長級或高級的附表人員，為他年屆 55 歲之時或之後；
 - (iii) 如屬第 10(3) 條適用的員佐級的附表人員，為他年屆 50 歲之時或之後；
- (c) 如該人員轉任其他公職——
- (i) 當他年屆某一年齡之時或之後退休，而該年齡為適用於他最後受僱的服務的法律或規例准許他享有退休金而退休者；或
 - (ii) 當他在任何其他情況下退休，而該等情況為適用於他最後受僱的服務的法律或規例准許他享有退休金或酬金而退休者，但對於以經已結婚或即將結婚為理由而退休的女性人員，第 (ii) 節並不適用；
- (d) 當該人員在其職位被取消時退休，並且是在完成不少於 2 年的符合領取退休金利益資格的服务期後退休；
- (e) 在符合第 (2) 款的規定下，當該人員為了公眾利益而退休，不論他是否已完成不少於 10 年的符合領取退休金利益資格的服务期；
- (f) 在符合第 (2) 款的規定下，並除第 29(1)(a) 條另有規定外，當該人員因政府行使紀律懲處權而遭迫令退休，不論他是否已完成不少於 10 年的符合領取退休金利益資格的服务期；
- (g) 當該人員遭迫令退休而退休，而該迫令退休是為利便改善其在職部門的組織，藉以提高工作效率或更符合經濟效益者，並且是在完成不少於 2 年的符合領取退休金利益資格的服务期後退休；
- (h) 當有醫學證據令行政長官信納該人員是因精神欠妥或身體衰弱而無能力執行其職責，且該種欠妥或衰弱相當可能屬永久性者，而該人員是在完成不少於 5 年的符合領取退休金利益資格的服务期後因該醫學證據而退休的； (由 1999 年第 63 號第 3 條修訂)
- (i) 當該人員按照任何補償計劃而退休，不論他是否已完成不少於 10 年的符合領取退休金利益資格的服务期；

- (i) in the case of a serving officer to whom section 10(2) applies, on or after his attaining the age of 55 years;
 - (ii) in the case of a Scheduled officer of a directorate rank or senior rank to whom section 10(3) applies, on or after his attaining the age of 55 years;
 - (iii) in the case of a Scheduled officer of the rank and file grade to whom section 10(3) applies, on or after his attaining the age of 50 years;
- (c) in the case of transfer to other public service—
- (i) upon his retirement on or after attaining the age at which he is permitted by the law or regulations of the service in which he was last employed to retire on pension; or
 - (ii) upon his retirement in any other circumstances in which he is permitted by the law or regulations of the service in which he was last employed to retire on pension or gratuity, but subparagraph (ii) shall not apply in the case of a female officer who retires for the reason that she has or is about to be married;
- (d) upon his retirement on the abolition of his office, and after completion of qualifying service of not less than 2 years;
- (e) subject to subsection (2), upon his retirement in the public interest, whether or not he has completed qualifying service of not less than 10 years;
- (f) subject to subsection (2) and section 29(1)(a), upon his compulsory retirement in exercise of disciplinary powers of punishment by the Government, whether or not he has completed qualifying service of not less than 10 years;
- (g) upon his compulsory retirement for the purpose of facilitating improvement in the organization of the department in which he is serving, by which greater efficiency or economy may be effected, and after completion of qualifying service of not less than 2 years;
- (h) upon his retirement on medical evidence that satisfies the Chief Executive 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, and after completion of qualifying service of not less than 5 years; (Amended 63 of 1999 s. 3)
- (i) upon his retirement in accordance with any compensation scheme, whether or not he has completed qualifying service of not less than 10 years;

- (j) 在符合第 (2) 款的規定下，並除第 27(2) 條另有規定外，當該人員完成不少於 10 年的符合領取退休金利益資格的服务期後，在公務員事務局局長批准之下辭職；或 (由 1997 年第 362 號法律公告修訂)
- (k) 除第 27(2) 條另有規定外，當該人員達到第 21 條所指明的最高退休金額時退休。 (由 1993 年第 4 號第 18 條修訂)

(2) 除非行政長官另有指示，否則批予第 (1)(e)、(f) 或 (j) 款適用人員的退休金是延付退休金。 (由 1999 年第 63 號第 3 條修訂)

(3) 根據第 (1)(a) 或 (b) 款退休，或根據第 (1)(j) 款辭職，須在人員將其意圖通知公務員事務局局長後，按公務員事務局局長所指明者而服務一段期間後方可退休或辭職。 (由 1997 年第 362 號法律公告修訂)

12. 可就再度受聘後的服务批予退休金的情況

任何人員，如具有資格領取退休金或獲批予退休金，並再度受聘任職於政府，一經完成再度受聘的不少於 2 年的符合領取退休金利益資格的服务期，即須就該服務期獲批予退休金。

13. 補償計劃

為施行第 11(1)(i) 條，行政長官會同行政會議可不時批准補償計劃，而該計劃—— (由 1999 年第 63 號第 3 條修訂)

- (a) 須適用於其內所指明的人員；
- (b) 可就人員在退休時獲得補償、退休金利益及額外利益的支付、退休金利益的折算、人員的受養人所獲得的死亡恩恤金的支付和其他有關事宜，作出按照本條例以外而作出的規定；及
- (c) 須規定在何種情況須根據該計劃支付補償及其他利益。

14. 就因受傷退休而批予的退休金

- (1) 任何人員，如於可供計算退休金的服務期間——

- (j) subject to subsection (2) and section 27(2), upon his resignation from the service, with the approval of the Secretary for the Civil Service, after completion of qualifying service of not less than 10 years; or
- (k) subject to section 27(2), upon his retirement on attaining the maximum pension specified in section 21. (Amended 4 of 1993 s. 18)

(2) Unless otherwise directed by the Chief Executive, a pension granted to an officer to whom subsection (1)(e), (f) or (j) applies shall be a deferred pension. (Amended 63 of 1999 s. 3)

(3) Retirement under subsection (1)(a) or (b), or resignation under subsection (1)(j), shall take place after the officer has served such period of service, as may be specified by the Secretary for the Civil Service, after the officer has notified the Secretary for the Civil Service of his intention to retire or resign.

12. Circumstances in which pension may be granted for service after re-appointment

An officer who is eligible for, or is granted, a pension and who is re-appointed to service under the Government, shall be granted a pension in respect of that service on completion of qualifying service of not less than 2 years during such re-appointment.

13. Compensation scheme

For the purposes of section 11(1)(i) the Chief Executive in Council may, from time to time, approve a compensation scheme which— (Amended 63 of 1999 s. 3)

- (a) shall apply to such officers as are specified in the scheme;
- (b) may provide for the payment of compensation, pension benefits and additional benefits to officers on their retirement, the commutation of pension benefits, the payment of death gratuities to dependants of officers, and for other matters relating thereto, other than in accordance with this Ordinance; and
- (c) shall provide for the circumstances in which compensation and other benefits are payable under the scheme.

14. Grant of pension on retirement on account of injuries

- (1) A pension shall be granted to an officer who is permanently injured—