

**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
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