

**LegCo Panel on Public Service  
Follow-up to the meeting on 23 May 2002**

**List of information to be provided by the Administration**

1. Justifications to implement civil service pay reduction by legislation  
Please provide the legal advice on the full justifications for the Administration's proposal to implement civil service pay reduction by legislation.
2. Memorandum on Conditions of Service (MCOS)
  - (a) Please provide various versions of MCOS applicable to civil servants and highlight the differences in their provisions. In particular, please set out whether the following clauses are included in each of the versions:
    - ***General clause (Clause 1.1 in MCOS (June 2000 version))***  
"The officer is subject to Executive Orders issued from time to time by the Chief Executive for the administration of the public service and to regulations and directions made under these Orders."
    - ***Clause relating to salary and increments (Clause 4.7 in MCOS (June 2000 version))***  
"Subject to Civil Service Regulations 451 and 452, the officer will move to the appropriate pay scale on completion of one year's service. The pay scale will be subject to review in accordance with the annual pay adjustment exercise. Such adjustment may take the form of pay increase, pay freeze or pay reduction."
    - ***Variation clause (Clause 23 in MCOS (June 2000 version))***  
"Notwithstanding anything contained in this Memorandum or in the covering letter of offer of appointment, the Government reserves the right to alter any of the officer's terms of appointment, and/or conditions of service set out in this Memorandum or the said covering letter should the Government at any time consider this to be necessary."
  - (b) Please provide the details of the legal advice on the reasons why the variation clause in MCOS is not sufficient for enabling the Government to reduce the pay of civil servants. In this connection, please also provide details of the relevant court decisions mentioned by the Law Officer (Civil Law) of the Department of Justice at the Panel meeting.

- (c) In connection with item (b) above, if the variation clause in MCOS is not sufficient for enabling the Government to reduce the pay of civil servants, please advise whether this means that there is no legal basis for the Government to reduce the pay of civil servants, and whether such reduction in pay would contravene Article 100 of the Basic Law.
3. Basic law implications  
Please provide the legal advice on the interpretation of "*no less favourable than before*" under Article 100 of the Basic Law.
4. Independent Committee of Inquiry
- (a) Please consider other alternatives to implement the pay reduction, e.g. by using the existing mechanism provided under the 1968 Agreement between the Hong Kong Government and the Main Staff Associations (the 1968 Agreement) to appoint an independent Committee of Inquiry to deal with the issue.
- (b) If the Chief Executive so decides or the main staff associations so request to appoint an independent Committee of Inquiry to deal with the issue, please confirm whether the Government would defer the introduction of the proposed Public Officers Pay Adjustment Bill into LegCo.
- (c) Please confirm whether the recommendations of a Committee of Inquiry are binding on the Government and all civil servants.
5. Draft Public Officers Pay Adjustment Bill
- (a) Please explain the intent and effect of clause 9 (Compensation, remedies etc.) of the Draft Bill.
- (b) Please provide the justifications for not allowing amendments to the Bill.