

**立法會**  
**Legislative Council**

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by the Administration)

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**Panel on Public Service**

**Minutes of special meeting  
held on Tuesday, 25 February 2003 at 4:00 pm  
in the Chamber of the Legislative Council Building**

**Members present** : Hon TAM Yiu-chung, GBS, JP (Chairman)  
Hon LI Fung-ying, JP (Deputy Chairman)  
Hon Kenneth TING Woo-shou, JP  
Hon LEE Cheuk-yan  
Hon CHEUNG Man-kwong  
Hon HUI Cheung-ching, JP  
Hon Bernard CHAN, JP  
Hon Andrew WONG Wang-fat, JP  
Hon Howard YOUNG, JP  
Hon Albert CHAN Wai-yip  
Hon LEUNG Fu-wah, MH, JP

**Members attending** : Hon Margaret NG  
Hon IP Kwok-him, JP

**Members absent** : Hon CHAN Kwok-keung  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Michael MAK Kwok-fung

**Public officers attending** : **Agenda Item I**

Mr Joseph W P WONG, GBS, JP  
Secretary for the Civil Service

Mrs Rebecca LAI, JP  
Permanent Secretary for the Civil Service

Mrs Jessie TING, JP  
Deputy Secretary for the Civil Service (2)

**Agenda Item II**

Mr Andrew WONG, JP  
Director of Administration

Ms CHANG King-yiu, JP  
Deputy Director of Administration (1)

Mr Stanley YING, JP  
Deputy Secretary for Financial Services and  
the Treasury (Treasury) 1

**Clerk in attendance** : Miss Salumi CHAN  
Chief Assistant Secretary (1)5

**Staff in attendance** : Ms Pauline NG  
Assistant Secretary General 1

Ms Rosalind MA  
Senior Assistant Secretary (1)9

Miss May LEUNG  
Legislative Assistant

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**I. Civil service pay adjustment**

- (LC Paper No. CB(1)938/02-03(01) — Transcript of the Secretary for the Civil Service's media session on 21 February 2003
- LC Paper No. CB(1)939/02-03(01) — Letter dated 22 February 2003 from the Secretary for the Civil Service to the Chairman of the Panel on Public Service
- CSBCR/PG/4-085-001/33 — Legislative Council Brief on "2003 Civil Service Pay Adjustment")

Briefing by the Administration

At the Chairman's invitation, the Secretary for the Civil Service (SCS) briefed members on the following arrangements in relation to the 2003 civil service pay adjustment exercise agreed upon at the meeting of the Executive Council held on the same day:

- (a) The dollar value of all civil service pay points below Directorate Pay Scale Point 3 (D3) or equivalent should be restored to the levels as at 30 June 1997 in cash terms by two adjustments of broadly equal amount to be implemented from 1 January 2004 and 1 January 2005 respectively. Taking account of the annual civil service pay adjustments since 1997, the pay reduction decision meant that the dollar value of these pay points would be reduced by about 3% from 1 January 2004 and another 3% from 1 January 2005.
- (b) The dollar value of all civil service pay points at D3 and above or equivalent should be restored to the levels as at 30 June 1997 in cash terms from 1 January 2004. The dollar value of these pay points would be reduced by about 0.33% from 1 January 2004.
- (c) The Government aimed to introduce legislation into the Legislative Council (LegCo) as soon as possible to implement the pay reduction referred to in items (a) and (b) above.
- (d) The pay reduction referred to in item (a) above should also apply to officers on starting salaries who were offered appointment from 26 February 2003.
- (e) As the pay and conditions of service of judges and judicial officers were determined separately from the civil service, the Judiciary should be consulted on the pay adjustment for judges and judicial officers before a decision was to be made.

- (f) As a separate exercise the Administration should in consultation with staff develop, on the basis of the existing mechanism, an improved civil service pay adjustment mechanism which should comprise the conduct of periodic pay level surveys (PLSs) to compare civil service pay levels with those in the private sector, the conduct of annual pay trend surveys (PTSs) based on an improved methodology and an effective means for implementing both upward and downward adjustments. The Administration should aim to complete this exercise, including the conduct of a PLS, within 2004.
- (g) No annual PTS should be conducted for 2002-03 and 2003-04. The 2004-05 PTS would be carried out on the basis of an improved survey methodology to be drawn up.

2. On paragraph 1(c) above, SCS pointed out that there were pending judicial review cases before the court on the lawfulness of the Public Officers Pay Adjustment (POPA) Ordinance enacted in 2002 and the court hearing for two of the cases had been scheduled for 6 to 9 May 2003. According to legal advice, the Government was not precluded from introducing a bill into LegCo, pending the judgement of the Court of First Instance, provided that the resumption of the second reading debate on the bill would be deferred until after the judgement was given.

3. On paragraph 2(e) above, SCS added that the Administration had been discussing with the Judiciary for some time the establishment of a new institutional structure and mechanism as well as the appropriate methodology for the determination and revision from time to time of the pay and conditions of service for judges and judicial officers. It was expected that a proposal from the Chief Justice would be submitted to the Administration in early 2003.

4. As a whole, SCS pointed out that in making the pay reduction decision, the Administration had taken account of the relevant factors under the prevailing civil service pay adjustment mechanism. The decision also reflected the consensus reached between SCS and the staff sides of the four central consultative councils and representatives of the four major service-wide staff unions through the Working Group on Civil Service Pay Adjustment and Related Issues. He also advised that in accordance with the pensions legislation, an officer's pension benefits which had accrued immediately before the proposed civil service pay reduction took effect would not be affected by the reduction.

## Discussion

### *Basic Law implications on the magnitude of civil service pay adjustment*

5. Pointing out that Article 100 of the Basic Law provided that public servants serving in all Hong Kong government departments before the establishment of the

Hong Kong Special Administrative Region (HKSAR) might all remain in employment and retain their seniority with pay, allowances, benefits and conditions of service no less favourable than before, Mr LEE Cheuk-yan requested SCS to confirm whether the present proposal to reduce civil service pay to the levels as at 30 June 1997 in cash terms was the baseline for civil service pay reduction allowable under the Basic Law. In response, SCS advised that while it was open to interpretation whether inflation or deflation subsequent to 30 June 1997 should be taken into account in determining if a proposed magnitude of pay adjustment complied with Article 100 of the Basic Law, a pay reduction which did not bring the pay levels below those on 30 June 1997 in cash terms would clearly be consistent with the Basic Law. As far as civil servants who were serving immediately before 1 July 1997 were concerned, it was the current Administration's policy during its term of office not to reduce their pay below the levels as at 30 June 1997 in cash terms.

6. Mr LEE Cheuk-yan asked whether the Government would also undertake not to reduce the pay levels of the civil servants appointed on or after 1 July 1997. While the pay levels of these officers were not protected by the Basic Law, Mr LEE considered it unfair and unreasonable to further reduce their pay levels, as it would result in a situation where civil servants performing the same duties in the same rank would be remunerated at different levels. SCS advised that the Government was not in a position to make the undertaking, as Article 100 of the Basic Law did not apply to the civil servants appointed on or after 1 July 1997. Nevertheless, he assured members that the Administration would adhere to the principles of lawfulness, fairness and reasonableness in dealing with civil service pay adjustment.

7. Mr CHEUNG Man-kwong pointed out that a member of the Committee for the Basic Law of HKSAR had recently commented that civil service pay levels should be compared in terms of purchasing power instead of cash value before and after 30 June 1997. As Article 158 of the Basic Law provided that the power of interpretation of the Basic Law should be vested in the Standing Committee of the National People's Congress (NPC) and that the Standing Committee should consult its Committee for the Basic Law of HKSAR before giving an interpretation of the Basic Law, Mr CHEUNG requested the Government to clarify whether it had sought from the Standing Committee of NPC an interpretation of the phrase "no less favourable than before" in Article 100 of the Basic Law. SCS advised that to the best of his knowledge, the Government had not taken such an action. Mr CHEUNG then queried whether it was appropriate for a member of the Committee for the Basic Law of HKSAR to interpret the Basic Law on his/her own. SCS replied that he was not an expert on the Basic Law and was therefore not in a position to comment on this point.

8. As the pay levels of the civil servants appointed before 1 July 1997 were protected by Article 100 of the Basic Law, Mr LEUNG Fu-wah asked how the Administration would deal with the civil service pay adjustment in 2006 and 2007 if deflation continued. In reply, SCS advised that the Administration aimed to complete the PLS within 2004 and carry out a PTS in 2004-05 on the basis of an improved

survey methodology to be drawn up. Under the established annual civil service pay adjustment mechanism, the Government would decide on the size of the annual adjustment having regard to relevant factors, including: the net pay trend indicators derived from the private sector PTS, the state of the economy, budgetary considerations, changes in the cost of living, the staff sides' pay claims and civil service morale. Hence, all the aforesaid factors would be taken into consideration in the handling of civil service pay adjustment in 2006 and 2007.

*Legislative approach for implementing the pay reduction decision*

9. Mr LEE Cheuk-yan and Mr Albert CHAN recalled that in scrutinizing the POPA Bill in 2002, Members had criticized the Administration for adopting the legislative approach to reduce civil service pay. Members had also considered it inappropriate for the Administration to legislate on a one-off basis, as was the case for the POPA Bill which catered specifically for the 2002 civil service pay adjustment. Mr LEE and Mr CHAN queried why the Administration adopted the same approach for the present proposed pay reduction. Mr LEE opined that as the Government had reached a consensus with staff representatives on the proposed pay reduction through collective bargaining, it should introduce legislation for putting in place the collective bargaining mechanism. Mr LEUNG Fu-wah also considered that the reaching of consensus between the Government and staff representatives was a good move in line with the spirit of the International Labour Convention No. 98 - "Right to Organize and Collective Bargaining Convention, 1949".

10. SCS clarified that the consensus he had reached with the staff representatives had been obtained through the existing consultative mechanism, rather than a collective bargaining mechanism. The consensus had been reached through extensive consultation with the staff sides of the central consultative councils, representatives of the major service-wide staff unions, as well as civil servants at all levels, in an amicable atmosphere. On the basis of the consensus, the Administration would introduce a bill into LegCo for implementing the pay reduction decision. The situation was different from that of last year, where no consensus had been reached between the Government and staff representatives on the pay reduction. In response to the Chairman, SCS confirmed that the staff representatives had noted that the Administration would introduce a bill into LegCo for implementing the pay reduction decision and had raised no objection.

11. Miss Margaret NG pointed out that the Administration had, in introducing the POPA Bill in 2002, put forward three reasons for adopting the legislative approach to reduce civil service pay. First, it was the only means for implementing the pay reduction decision with certainty. Second, any consensus/agreement reached between the Government and the central consultative councils/staff associations would not be legally binding on individual civil servants. Third, the implementation of the pay reduction decision without legislation would expose the Government to risks of successful legal challenge by individual civil servants. Members of the Bills

Committee on the POPA Bill had clearly expressed their views that it was inappropriate for the Administration to legislate on a one-off basis, and had urged the Administration to introduce general enabling legislation on the civil service pay adjustment mechanism, providing the legal framework for implementing upward and downward pay adjustments. Miss NG considered that after the passage of the POPA Ordinance in July 2002, the Administration should have started preparing such general enabling legislation. She queried why the Administration still proposed to introduce a piece of one-off legislation to implement the present pay reduction decision.

12. SCS advised that taking account of the need to consult staff, it would take time to draw up general enabling legislation on the civil service pay adjustment mechanism. The Government would further consider the need for such general enabling legislation in developing an improved civil service pay adjustment mechanism, which would comprise other elements such as the conduct of PLSs and PTSs. SCS also explained that since September 2002, he had started consultation with the staff representatives on the handling of the 2003 civil service pay adjustment exercise. Considerable time had been taken for both sides to reach a consensus on the issue and the discussion during the past few months had not yet focused on the improvements to be made to the existing pay adjustment mechanism. In the circumstances, the general enabling legislation was not ready in time for implementing the pay reduction decision this year. However, the Government had decided to develop within 2004 an improved civil service pay adjustment mechanism, which would comprise among others an effective means for implementing both upward and downward pay adjustments.

13. Given the consensus between SCS and the staff representatives on the pay reduction in 2004 and 2005, Ms LI Fung-ying queried the need to implement the pay reduction decision through legislation. She also enquired whether the decision could still be implemented if the lawfulness of the POPA Ordinance was successfully challenged in court. SCS responded that it would not be appropriate to speculate on the judgement to be given by the court on the judicial review cases. The Administration would take appropriate follow up actions after the court had given its judgement.

#### *Implications on the Judiciary*

14. Noting that the Chief Justice would submit a proposal on the mechanism and methodology for the determination and revision of the pay and conditions of service for judges and judicial officers in early 2003, Mr LEUNG Fu-wah enquired about the schedule for implementing pay adjustment for these officers. SCS advised that the Administration would follow up with the Chief Justice on the issue. He added that the applicability of the civil service pay adjustment decision to the judges and judicial officers would be examined in the context of the new institutional structure and mechanism to be proposed by the Chief Justice. At the Chairman's request, SCS

undertook to brief the Panel on the progress of the issue in due course.



*Pay Level Survey*

15. Mr Howard YOUNG considered that the implementation of the civil service pay reduction decision in two phases would slow down the process of reducing public expenditure. He pointed out that this was different from the expectation of the Liberal Party, which was to have effective measures for cutting down public expenditure and increasing revenue. He enquired about the schedule for conducting the PLS and whether the Administration would make reference to the findings of the PLS recently conducted by the Hong Kong General Chamber of Commerce to expedite the process of the PLS to be conducted by the Administration.

16. In response, SCS pointed out that the consensus reached with the staff representatives on civil service pay adjustment could strengthen the cohesion and partnership between management and staff, which was of paramount importance during this difficult period when the Government needed to tackle the fiscal deficit by further reducing the size of the civil service, and to maintain the quality of public service to meet the increasing public expectation at the same time. As to the conduct of PLS, SCS informed members that the Administration had taken forward the recommendation of the Task Force on the Review of Civil Service Pay Policy and System to give priority to conducting a PLS in the short term. The Administration aimed to complete the exercise on the development of an improved civil service pay adjustment mechanism, including the conduct of a PLS, within 2004. To enhance the impartiality of the conduct of a PLS and the review of the PTS methodology, the Administration would set up a steering committee under the chairmanship of SCS and comprising members from outside the civil service. A consultative group involving staff representatives would also be set up to effectively gauge their views during the review process and to provide input to the deliberations of the steering committee.

17. Mr LEE Cheuk-yan said that the Hong Kong Confederation of Trade Unions opposed to the conduct of PLS. He said that this should be discussed in further detail during the development of the improved mechanism for civil service pay adjustment.

*Civil service annual pay increment*

18. In response to Mr HUI Cheung-ching's enquiry, SCS advised that annual pay increment was part of the existing civil service pay system under which civil servants with satisfactory performance were given an incremental pay point annually until they reached the maximum pay point for their respective rank. While this annual increment arrangement could be examined under a comprehensive review of the civil service pay policy and system, SCS considered it inappropriate to tackle it under the annual pay adjustment exercise.

## II. Internal review on remuneration of senior executives of government-funded bodies

(CSO/ADMCR2/1136/01

— Legislative Council Brief on "Internal Review of Remunerations of Senior Executives of Government-funded Bodies"

LC Paper No. CB(1)992/02-03(01)

— Report on Internal Review of Remunerations of Senior Executives of Government-funded Bodies)

### Briefing by the Administration

19. At the Chairman's invitation, the Director of Administration (D of Adm) briefed members on the background and major findings of the Review of Remunerations of Senior Executives in Selected Bodies (the Review). In the light of the community's concern over the remunerations of the senior staff of government-funded bodies, the Steering Committee convened by the Chief Secretary for Administration (the Steering Committee) conducted an internal review under a two-staged approach. During the first stage, the responsible bureaux completed a stock-taking exercise for over 300 government-funded bodies or groups of bodies under their purview. Under the second stage, the Steering Committee, based on the bureaux' recommendations, selected 20 subvented bodies for detailed examination. These selected bodies received and relied on government recurrent funding as their major source of income, i.e. government subvention amounted to more than 50% of their operating income in each case; and employed their own executive staff and had devised separate remuneration packages for them. The Steering Committee concluded the Review in December 2002 with the following findings:

- (a) The number, ranking and remuneration packages of the senior executives in 13 selected bodies were in order;
- (b) Three selected bodies would be subject to separate review in 2003; and
- (c) Actions should be taken to modify the remuneration packages and practices of the senior executives in the remaining four selected bodies.

20. D of Adm advised that at the meeting of the Executive Council held on 25 February 2003, the Council took note of the above findings and the following new guidelines for the effective control and monitoring of the structure, ranking and remuneration for the top three-tier executives in subvented bodies:

- (a) Save for the exceptions in Annex B of the LegCo Brief, all subvented bodies which received more than 50% of their operating income from

the Government should review their senior staff's number, ranking and remuneration and submit to their responsible Directors of Bureaux (DoBs) annual reports on the review findings. The subvented bodies should set out the up-to-date position, explain and justify any changes over the reporting period, in their review reports.

- (b) In assessing the appropriateness of the number, ranking and of senior positions of a subvented body, DoBs would take into account the functions and overall staffing structure of the concerned body, the nature and complexity of duties being performed by each of the top three-tier executives in question, and the ranking for comparable jobs in the civil service. Where there were no comparable jobs in the civil service, reference should be made to market practices.
- (c) As a general rule, the ranking of the senior staff of a subvented body should not exceed Directorate Pay Scale D8 or equivalent.
- (d) In evaluating the appropriateness of remuneration packages for senior positions of a subvented body that had comparable civil service ranks, the responsible DoBs would compare the average total cost of remuneration for a tier of staff with that of civil servants at comparable ranks. In the absence of such comparable civil service ranks, reference should be made to market practices.
- (e) To enhance transparency, DoBs would work out with those subvented bodies under their purview suitable arrangements for public disclosure of their regular review reports.

21. D of Adm further advised that with enhanced controls at the top levels which would in turn present a broad framework for remuneration practices in subvented bodies, detailed arrangements for monitoring the remuneration practices in respect of other staff should be left to the relevant DoBs. Accordingly, the Administration had come to the view that the central subvention guideline of "no better than" for application across all subvented organizations and their subvented staff should be removed. This guideline prescribed that the terms of service for subvented staff should not be better than that for comparable staff in the civil service.

### Discussion

#### *Monitoring of remunerations in the subvented sector under the proposed new set of guidelines*

22. Mr LEE Cheuk-yan expressed concern about the removal of the central subvention guideline of "no better than" for application across all subvented bodies and their staff. He was concerned that this might result in the relaxation of control on

the remuneration practices in subvented bodies and provide flexibility for these bodies to reduce the pay levels of lower rank staff for the benefit of those in top tiers.

23. In response, D of Adm assured members that under the new set of guidelines for the control and monitoring of remunerations of senior executives of subvented bodies, the number, ranking and remuneration of these senior staff would be subject to close monitoring by respective DoBs through the annual review reports. For this purpose, comparison with civil servants at comparable ranks would continue to be made, where appropriate, in evaluating the appropriateness of the number, ranking and remuneration packages for senior positions of subvented bodies. As the Administration would be implementing enhanced arrangements for controlling and monitoring the number, ranking and remunerations of the top management of subvented bodies, there would in effect be a ceiling and broad framework governing how other staff below the top three tiers in subvented bodies would be remunerated. D of Adm also advised that under the accountability system, DoBs should be given greater flexibility in deciding suitable measures for ensuring value for money in the use of subventions by the organizations under their purview. To strike a balance between control and flexibility, detailed arrangements for monitoring the remuneration practices of subvented bodies would be left to the relevant DoBs.

24. Referring to paragraph 13 of the LegCo Brief where it was stated that DoBs might give subvented bodies a complete free hand in determining their remuneration arrangements but hold their governing boards publicly accountable, Mr Bernard CHAN asked whether DoBs would request these bodies to set up remuneration committees with independent members to oversee their remuneration arrangements. D of Adm explained that given the great variation in the establishment and nature of operation of subvented bodies, it was not practicable to request all subvented bodies to set up remuneration committees. Nevertheless, DoBs would liaise with the subvented bodies under their purview for the implementation of the new guidelines for the control and monitoring of remuneration of senior executives of these bodies.

25. Mr Bernard CHAN opined that subvented bodies should be advised to set up remuneration committees under the new guidelines but this should not be made compulsory. Mr CHAN pointed out that similar guidelines were given to listed companies by the Hong Kong Exchanges and Clearing Limited. The Deputy Secretary for Financial Services and the Treasury (Treasury)1 (DS(Tsy)1) responded that most of the subvented bodies had set up specific committees to oversee their remuneration arrangements. For statutory bodies such as the Hospital Authority, committees were formed under the Board of Directors for determination and monitoring of remuneration and personnel matters. However, these formal arrangements were not normally made for the subvented bodies with only a small number of staff.

*Impact of civil service pay adjustment on pay levels of subvented staff*

26. Mr Howard YOUNG and Ms LI Fung-ying enquired about the impact of the recent civil service pay reduction decision on the pay levels of subvented staff. Ms LI also enquired about the transitional arrangements to facilitate subvented bodies to resolve the difficulties encountered in implementing pay reduction, in particular the problems relating to the terms and conditions of the employment contracts.

27. DS(Tsy)1 explained that the established practice was that for subvention whose formula for adjustment included a factor of civil service pay adjustment, the Administration adjusted the subventions in accordance with the formula when civil service pay was adjusted. He also pointed out that remuneration for subvented staff and funding for subvented bodies were separate issues. Generally speaking, the Government would not directly impose a pay reduction in the subvented sector, as it was an established principle that pay and other appointment matters were matters between the subvented bodies as employers and their employees. Some subvented bodies might have to consider reducing the pay of their staff as a result of reduction in subvention and some might have to comply with prevailing policies requiring a link between the pay for their staff and that for civil servants. Moreover, as the subvented bodies were subject to the Employment Ordinance, they would have to comply with statutory provisions on variation of contract terms through mutual consent and on termination of contracts under prescribed conditions. He said that from the experience of the pay reduction implemented last year, 95% of the subvented bodies successfully implemented the amount of pay adjustment they considered appropriate. The Government would, through the Controlling Officers, offer appropriate assistance to individual subvented bodies which encountered management difficulties in implementing pay reduction to meet the reduction in the amount of subvention in connection with civil service pay reduction.

*Remuneration arrangement for the Chairperson of the Equal Opportunities Commission*

28. Ms LI Fung-ying declared that she was a member of the Equal Opportunities Commission (EOC). Referring to Annex A to the LegCo Brief, she expressed concern that the Secretary for Home Affairs (SHA) had decided to consider the remuneration arrangement for the Chairperson of EOC in the light of the outcome of the current proposal to legislate against racial discrimination. Ms LI sought clarification on whether it implied that the remuneration package for the Chairperson of EOC would be adjusted downward if the legislative proposal would not be pursued. D of Adm explained that the legislative proposal was under consideration by the relevant policy bureau. The Administration was of the view that such legislation might have a significant impact on the work of the Chairperson of EOC. Hence, SHA had decided to review and consider the remuneration arrangement for the Chairperson in the light of the outcome of the legislative proposal.

29. Mr Albert CHAN shared Ms LI Fung-ying's concern. He said that he would not object to review of remuneration packages for senior executives of subvented bodies provided that the Administration carried out the review in a fair and justified manner. He cautioned that the review findings should not be used to penalize any competent individuals who had been endeavouring to serve the community.

30. In response, D of Adm advised that in assessing the propriety of the number and ranking of senior posts in a subvented body, DoBs would take into account the functions and overall staffing structure of the body, the nature and complexity of duties being performed, and the ranking of comparable jobs in the civil service. It would be reasonable to take into account in the assessment the changes in the nature and complexity as well as amount of work undertaken by the senior executives in the subvented body. He assured members that the assessment would be objective and made on the posts and work requirements rather than the officers occupying the posts. In reply to Mr CHAN's further enquiry, D of Adm clarified that the Review was conducted with in-house resources and no consultant fee was involved in this regard.

Admin

31. The Chairman invited the Administration to update the Panel on the progress of the Review in due course.

32. The meeting ended at 5:40 pm.

Council Business Division 1  
Legislative Council Secretariat  
24 April 2003