

LEGISLATIVE COUNCIL BRIEF

Pensions (Increase) Ordinance
(Cap. 305)

Widows and Orphans Pension (Increase) Ordinance
(Cap.205)

DECLARATION OF INCREASE IN PENSIONS NOTICE 2009

WIDOWS AND ORPHANS PENSION (INCREASE) NOTICE 2009

INTRODUCTION

At the meeting of the Executive Council on 26 May 2009, the Council ADVISED and the Chief Executive ORDERED that -

- (a) the Declaration of Increase in Pensions Notice 2009, at Annex A, should be made under section 4(1B) of the Pensions (Increase) Ordinance [P(I)O] (Cap. 305), to declare a 2.5% increase in basic pension^{Note 1} payable to ex-officers and dependants eligible for pension under the various pension Ordinances^{Note 2} as specified in Schedule 1 of the P(I)O; and

^{Note 1} Basic pension means the yearly amount of any pension or other allowance payable by way of periodical payments under any of the ordinances governed by the P(I)O and, where part of such pension or allowance has been commuted, means the yearly amount of the pension or allowance as reduced by the commutation. In case of deferred pension benefits, the proposed pension increase will also be applicable to the commuted pension gratuity in the same manner as a basic pension as regards the period from the date the deferred pension benefits are granted to the date when the commuted pension gratuity is paid.

^{Note 2} Pensions Ordinance (Cap. 89), Pension Benefits Ordinance (Cap. 99), Pension Benefits (Judicial Officers) Ordinance (Cap. 401), Surviving Spouses' and Children's Pensions Ordinance (Cap. 79), Auxiliary Forces Pay and Allowances Ordinance (Cap. 254), Police Force Ordinance 1932 and Police Officers (Special Cases) Pensions Ordinance 1954.

- (b) the Widows and Orphans Pension (Increase) Notice 2009, at Annex B, should be made under section 3(3) of the Widows and Orphans Pension (Increase) Ordinance [WOP(I)O] (Cap. 205), to specify a 2.5% increase in dependant pensions payable to widows and orphans as defined under the Widows and Orphans Pension Ordinance (Cap. 94),

with effect from 1 April 2009.

JUSTIFICATIONS

Pension Increase Mechanism

2. Civil servants and judicial officers appointed on pensionable terms are granted pension benefits^{Note 3} on retirement from the service in specified circumstances under the respective pension legislation. The two dependent pension schemes, namely the Surviving Spouses' and Children's Pensions Scheme (SSCPS) and Widows' and Orphans' Pension Scheme (W&OPS), provide for dependant pension benefits to the surviving spouses and children of officers who were contributors of one of the schemes, on the death of the officers^{Note 4}.

3. The Government policy is to increase pensions and dependant pensions annually according to the increase in the CPI(A) over the specified period should such an increase be registered; and independently of any adjustment in civil service salaries. The objective is to maintain the purchasing power of pensions and dependant pensions. Since 1993, the current mechanism for determining pension increase has been enshrined in the P(I)O and WOP(I)O. Sections 4(1A) to 4(1C) of the P(I)O provide that if in any year, the average monthly CPI(A) of the period of 12 months beginning

^{Note 3} The amount of an officer's pension entitlement is determined at the time he leaves the service, and on the basis of his highest pensionable emoluments and length of service.

^{Note 4} The level of benefits awarded for SSCPS is based on the deceased member's actual length of contributory service and his highest pensionable emoluments subject to the minimum benefit provision. The basic pension under the W&OPS is calculated with reference to the date of entry to the scheme, rate of contribution, date of marriage and ages of the contributor and his wife.

on 1 April of the previous year and ending on 31 March of the year in question exceeds the average monthly CPI(A) of the period of 12 months immediately preceding that period by more than 0.1%, the Chief Executive shall declare a percentage of increase in basic pension equal to the excess expressed as a percentage as soon as practicable by notice in the Gazette, and to specify in the notice the effective date for such an increase. Sections 3(2) to 3(5) of the WOP(I)O contain similar provisions for an increase in dependant pensions payable under the Widows' and Orphans' Pension Scheme. Extracts of the relevant sections of the two Ordinances are at Annex C.

The Making of Notices on Pension Increase in 2009

4. The Commissioner for Census and Statistics has recently announced that the average monthly CPI(A) for the period from 1 April 2008 to 31 March 2009, as compared with the average monthly CPI(A) for the previous 12 months, has increased by 2.5%. In accordance with the relevant provisions in the P(I)O and WOP(I)O, we propose that the Chief Executive should make notices in the Gazette as soon as practicable to declare/specify a 2.5% increase in pensions and dependant pensions granted under the various pension legislation referred to by the two Ordinances, and to specify in the notices 1 April 2009 as the effective date for the increase. The proposed effective date is in accordance with the usual practice, adopted administratively since 1982, of effecting a pension increase from 1 April of a year. Subject to the advice of this Council and in accordance with the legislative timetable set out in paragraph 9 below, we plan to pay the increased pensions and dependant pensions from June 2009.

THE NOTICES

5. The Declaration of Increase in Pensions Notice 2009 and the Widows and Orphans Pension (Increase) Notice 2009 seek to declare/specify a 2.5% increase in pensions and dependant pensions payable under the relevant legislation with effect from 1 April 2009.

LEGISLATIVE TIMETABLE

6. The legislative timetable will be -

Publication in the Gazette	12 June 2009
Tabling at the Legislative Council for negative vetting	17 June 2009

IMPLICATIONS OF THE PROPOSAL

7. We estimate that the 2.5% increase in pensions and dependant pensions would result in additional pension payments amounting to about \$266 million for around 94 000 pensioners and dependants in 2009-10. The Administration has taken into account this possible requirement for additional pension payments when preparing the 2009-10 Estimates. There are no staffing implications. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the existing binding effect of the P(I)O and WOP(I)O. It has no productivity, environmental or sustainability implications, and also has no significant economic implications.

PUBLIC CONSULTATION

8. No consultation with pensioners and dependants is required as pension increase in accordance with increase in CPI(A) is a statutory entitlement for pensioners and dependants, and the proposed notices are made in accordance with the relevant statutory provisions as well as established policy and procedures.

PUBLICITY

9. We will publish the notices in the Gazette. All pensioners and relevant dependants, as well as the staff sides of the Central Staff Consultative Councils, will be notified of the pension increase and related arrangements.

ENQUIRIES

10. For enquiries, please contact Miss Vivian Ko, Administrative Assistant to Secretary for the Civil Service at telephone number 2810 2358.

Civil Service Bureau

5 June 2009

DECLARATION OF INCREASE IN PENSIONS NOTICE 2009

(Made by the Chief Executive under section 4(1B) of the Pensions (Increase) Ordinance (Cap. 305) after consultation with the Executive Council)

1. Declaration of increase in pensions

- (1) An increase of 2.5% is declared for the purpose of section 4(1A) of the Ordinance.
- (2) The effective date of this declaration is 1 April 2009.

Chief Executive

2009

Explanatory Note

Under the Pensions (Increase) Ordinance (Cap. 305), if the average monthly Consumer Price Index (A) (“Average Index”) of a period of 12 months ending on 31 March of a year exceeds the Average Index of the immediately preceding 12 months by a percentage that is more than 0.1%, the basic pension to which the Ordinance applies has to be increased by the same percentage.

2. The Average Index of the 12 months ending on 31 March 2009 exceeds the Average Index of the immediately preceding 12 months by 2.5%. Accordingly, this Notice declares that the percentage of increase in respect of the basic pension is 2.5% with effect from 1 April 2009.

**WIDOWS AND ORPHANS PENSION (INCREASE)
NOTICE 2009**

(Made by the Chief Executive under section 3(3) of the Widows and Orphans Pension (Increase) Ordinance (Cap. 205) after consultation with the Executive Council)

1. Increase in pension

The following are specified –

- (a) the date from which the increase in pension pursuant to section 3(2) of the Ordinance is effective is 1 April 2009;
- (b) the percentage of the increase as determined in accordance with section 3(2) of the Ordinance is 2.5%.

Chief Executive

2009

Explanatory Note

Under the Widows and Orphans Pension (Increase) Ordinance (Cap. 205), if the average monthly Consumer Price Index (A) (“Average Index”) of a period of 12 months ending on 31 March of a year exceeds the Average Index of the immediately preceding 12 months by a percentage that is more than 0.1%, the pensions described in that Ordinance have to be increased by the same percentage.

2. The Average Index of the 12 months ending on 31 March 2009 exceeds the Average Index of the immediately preceding 12 months by 2.5%. Accordingly, this Notice specifies a 2.5% increase in respect of those pensions with effect from 1 April 2009.

Extract from Chapter 305 Pensions (Increase) Ordinance

Section 4 Authorised increases

(1A) A basic pension to which this Ordinance applies (including any adjusted pension) shall, in respect of any period beginning on or after 1 April 1993, be increased or further increased, as the case may be, by such percentage ("percentage of increase") declared by the Chief Executive under subsection (1B) from time to time after the period in which the salary in force is the salary on which the pension is based. (Added 3 of 1993 s. 58. Amended 63 of 1999 s. 3)

(1B) If, in any year after 1992 ("the succeeding year"), the average monthly Consumer Price Index (A) of the period of 12 months beginning on 1 April of the previous year and ending on 31 March of the succeeding year, exceeds the average monthly Consumer Price Index (A) of the period of 12 months immediately preceding that first mentioned period by an amount which when expressed as a percentage exceeds 0.1%, the Chief Executive shall, for the purpose of subsection (1A), declare a percentage of increase equal to the excess expressed as a percentage. (Added 3 of 1993 s. 58. Amended 63 of 1999 s. 3)

(1C) A declaration under subsection (1B) shall be made as soon as practicable by notice in the Gazette and shall take effect on a date specified in such notice, which date shall not be later than the date of the notice. (Added 3 of 1993 s. 58)

**Extract from Chapter 205 Widows and Orphans Pension (Increase)
Ordinance**

Section 3 Increase in pension

(2) If, in any year after 1992 ("the succeeding year"), the average monthly Consumer Price Index (A) of the period of 12 months beginning on 1 April of the previous year and ending on 31 March of the succeeding year, exceeds the average monthly Consumer Price Index (A) of the 12 months immediately preceding that first-mentioned period by an amount which when expressed as a percentage exceeds 0.1%, the pensions described in subsection (4) shall be increased by a percentage equal to the excess expressed as a percentage with effect from the date specified under subsection (3)(a) in respect of such increase. (Added 3 of 1993 s. 54)

(3) Where, pursuant to subsection (2), any pension becomes subject to an increase, the Chief Executive shall, as soon as practicable, by notice published in the Gazette specify- (Amended 63 of 1999 s. 3)

- (a) the date, which shall not be later than the date of the notice, from which such increase shall be effective; and
 - (b) the percentage of the increase as determined in accordance with subsection (2). (Added 3 of 1993 s. 54)
- (4) The pensions referred to in subsection (2) are-
- (a) in the case of the first increase under that subsection-
 - (i) any pension calculated on the total contributions up to 31 March 1992 together with the total increases in pension; and
 - (ii) any pension calculated on the contributions from 1 April 1992, up to the date immediately preceding the specified date of such first increase; and
 - (b) in the case of any subsequent increase under subsection (2)-
 - (i) any pension calculated on the contributions up to the date immediately preceding the specified date of the last increase under that subsection together with the total increases in pension; and
 - (ii) any pension calculated on the contributions from the specified date of the last increase under that subsection, up to the date immediately preceding the specified date of such subsequent increase. (Added 3 of 1993 s. 54)

(5) In subsection (4) "specified date" (指定日期), in relation to an increase under subsection (2), means the date specified under subsection (3)(a) as the date from which that increase shall be effective. (Added 3 of 1993 s. 54)