

ITEM FOR ESTABLISHMENT SUBCOMMITTEE OF FINANCE COMMITTEE

VARIOUS HEADS OF EXPENDITURE

Members are invited to recommend to Finance Committee the delegation to Controlling Officers the authority to create supernumerary posts, to be held against permanent posts of lower pay scales, to enable a maximum of 47 Insurance Officers, whose posts will be abolished following the establishment of an independent Insurance Authority, to take up alternative employment within the civil service.

PROBLEM

We need to make suitable arrangements to enable Insurance Officers (IOs) of the Office of the Commissioner of Insurance (OCI), whose posts will be abolished following the establishment of an independent Insurance Authority (IIA), to find alternative employment within the civil service.

PROPOSAL

2. In the event that the affected IOs who wish to remain in the civil service are unable to find alternative jobs with the same or higher pay scales in other Government bureaux/departments, they may have to take up employment in posts with lower pay scales while retaining their current salaries. In line with established government policy to absorb displaced staff as far as possible, the Secretary for Financial Services and the Treasury, with the support of the Secretary for the Civil Service, proposes that Controlling Officers employing the affected IOs under these circumstances should have the delegated authority to create supernumerary posts, to be held against permanent posts of lower pay scales, to accommodate the IOs concerned for retention of their existing personal pay scales while taking up the alternative jobs, provided that the criteria set out in paragraph 7 below are met.

/JUSTIFICATION

JUSTIFICATION

3. The Insurance Companies (Amendment) Ordinance 2015 (the Amendment Ordinance) which provides for a legal framework for the establishment of IIA was enacted on 10 July 2015. Our target is for IIA to replace OCI by taking over its regulatory functions by the end of 2016. Since IIA will recruit its own staff, the civil service posts of IOs will be abolished after the transfer of the regulatory functions from OCI to IIA. The 47 affected IOs¹ who are all pensionable civil servants will be compulsorily retired on abolition of office (AOO) terms (see paragraph 13 below) upon the hiving off of OCI.

4. Under the established policy, when an officer will be compulsorily retired due to AOO, he/she can indicate his/her preference to either retire on AOO terms or accept redeployment to posts in other Government bureaux/departments. If an affected officer has indicated preference for redeployment, the Government will make every effort to absorb him/her within the civil service. He/she will also be given priority in filling vacancies in other Government bureaux/departments as appropriate. If redeployment is unsuccessful (or the officer subsequently opts out redeployment), he/she will be compulsorily retired on AOO terms.

5. The following is a breakdown by rank of the 47 affected IOs in OCI –

Rank	No.
Senior Insurance Officer	9
Insurance Officer	24
Assistant Insurance Officer	14
Total	47

6. Since 2007, OCI has conducted several rounds of consultation with IOs regarding the exit arrangements. The majority of IOs indicated that they would take the AOO option. The latest survey in August 2015 indicates that around ten IOs intend to seek redeployment within the civil service. IOs are required to make a final decision about three to six months before the discharge date. We will start to invite IOs to indicate preference for retirement on AOO terms or redeployment within the civil service around six months before the hiving off of OCI. If redeployment arrangement cannot be made when they have exhausted their final leave after the disbandment of OCI, they will have to retire compulsorily on AOO terms.

/7.

¹ At present, there are 48 IOs in OCI. As one IO will have reached the normal retirement age in mid-2016 (i.e. before the target date of end 2016 for the hiving off of OCI), only 47 IOs will be affected by the AOO exercise.

7. We have been and shall be assisting affected IOs who wish to stay in the civil service to find suitable posts in the Government. In case they are unable to find alternative jobs of the same or higher pay scales in other Government bureaux/departments and have to take up posts with a lower pay scale, in line with established policy, we propose that they be allowed to retain their personal pay scales and other non-job related benefits, provided that such retention will not lead to serious staff management/staff relations problems being caused to the receiving grade/department. Upon transfer to a post with a lower pay scale, an IO holding personal pay scale will continue to receive salaries in accordance with his/her current pay scale until he/she is transferred/promoted to a post with a higher pay scale or leaves the Government. He/she will continue to be entitled to non-job related benefits such as medical and dental treatment, leave of absence (e.g. vacation leave, sick leave, and maternity/paternity leave), education allowances, housing benefits, school passages and retirement benefits, where applicable, while staying in the alternative job.

ALTERNATIVES CONSIDERED

8. To effect the arrangement to allow affected IOs on transfer to posts with lower pay scales to receive salaries in accordance with their current pay scales, Controlling Officers will need authority to create supernumerary posts at the appointees' rank, to be held against permanent posts of lower pay scales. There is no other viable alternative.

FINANCIAL IMPLICATIONS

9. There will be additional expenditure arising from the proposal to allow the affected IOs to retain their personal pay scales if they are redeployed to posts of lower ranks. We are unable to ascertain the amount required as this will depend on the actual number of IOs involved, the differences between their personal salaries and the salaries of the lower ranks to which they may be appointed and how long they will remain on personal pay scales before their promotion, transfer to another grade or leaving the service. However, if they manage to secure alternative employments in the Government, they will no longer be required to retire on AOO terms, resulting in government savings under the proposed exit arrangements in paragraph 13 below.

PUBLIC CONSULTATION

10. The Legislative Council Panel on Financial Affairs was consulted on 7 December 2015. The Panel supported the submission of the proposal to the Establishment Subcommittee.

/BACKGROUND

BACKGROUND

11. The policy objectives of the establishment of IIA are to modernize the insurance industry regulatory infrastructure to facilitate the stable development of the industry, provide better protection for policyholders, and comply with the requirement of the International Association of Insurance Supervisors that insurance regulators should be financially and operationally independent of the government and industry. We plan to commence the Amendment Ordinance in three stages to allow for a smooth transition of regulatory powers from OCI and the Self-Regulatory Organizations (SROs) (i.e. the Insurance Agents Registration Board established under the Hong Kong Federation of Insurers, the Hong Kong Confederation of Insurance Brokers and the Professional Insurance Brokers Association) to IIA –

Stage 1 – To establish IIA² (without regulatory functions and co-exists with OCI);

Stage 2 – PIA becomes IIA to replace OCI by taking over its regulatory functions such as the prudential and conduct regulation of insurance companies and enforcing the anti-money laundering regulatory regime (the self-regulatory regime for insurance intermediaries remains unchanged); and

Stage 3 – IIA to implement the statutory licensing regime and take over the regulation of insurance intermediaries from the three SROs.

We estimate that the whole process will take at least two to three years. We have appointed members to IIA. Our current target is for IIA to be ready to replace OCI and take over its functions by the end of 2016.

12. At present, there are 152 staff members in OCI, including the Commissioner of Insurance³, 48 IOs, 21 officers of the general grades and 82 non-civil service contract (NCSC) staff members. After the transfer of the regulatory functions from OCI to IIA, the civil service posts of IOs will be abolished. The affected IOs will be compulsorily retired on AOO terms upon the hiving off of OCI. However, he/she can indicate his/her preference to either retire on AOO terms or accept redeployment to posts in other Government bureaux/departments. Officers of the general grades will be redeployed to other Government bureaux/departments as in normal posting arrangements. As for the NCSC staff, their contracts will be mutually resolved or terminated as appropriate.

/13.

² The new section 4AAA added by section 9 of the Amendment Ordinance provides that when IIA is established, it will be automatically renamed as Provisional Insurance Authority (PIA) for the period from its inception to the disbandment of OCI.

³ The incumbent Commissioner of Insurance is an Administrative Officer Staff Grade B1 officer who will be redeployed as in normal posting as with other general grades officers upon the hiving off of OCI.

13. Given all IOs are pensionable officers under the New Pension Scheme, they will be eligible, upon retirement on AOO terms, for the statutory entitlement based on the terms under the Pension Benefits Ordinance (Cap. 99), including an enhanced lump sum pension gratuity totaling about \$186.2 million and an enhanced monthly pension totaling about \$13.3 million per annum. On top of the statutory entitlement, we propose to include a non-statutory ex-gratia payment in the exit arrangement for the affected IOs as follows –

- (a) a one-off ex-gratia payment of six months' last substantive monthly salary totaling about \$24 million; and
- (b) a special lump sum payment, on a pro rata basis, of one month's last substantive monthly salary for every five years before an officer reaches his/her normal retirement age of 60, totaling about \$7.2 million.

The non-statutory payment at item (a) above seeks to compensate the affected IOs for the loss of non-job related benefits; and item (b) is to recognize their unwavering dedication and commitment during the time when the plan of establishing IIA was contemplated, even with increasing workload during and after the global financial crisis in 2008, and their role in ensuring a smooth transition to IIA. The necessary provision for the non-statutory payment has been approved by the Legislative Council in the context of the 2016-17 Estimates.

CIVIL SERVICE BUREAU COMMENTS

14. The Civil Service Bureau supports the proposal outlined above to offer personal pay scales and non-job related benefits to the affected IOs who are appointed on transfer to other posts within the civil service with lower pay scales.

Financial Services and the Treasury Bureau
May 2016