

LEGISLATIVE COUNCIL BRIEF

Fire Services Ordinance
(Chapter 95)
Police Force Ordinance
(Chapter 232)
Prisons Ordinance
(Chapter 234)
Immigration Service Ordinance
(Chapter 331)
Customs and Excise Service Ordinance
(Chapter 342)

DISCIPLINED SERVICES WELFARE FUNDS LEGISLATION (AMENDMENT) BILL 1999

INTRODUCTION

At the meeting of the Executive Council on 26 January 1999, the Council ADVISED and the Chief Executive ORDERED that the Disciplined Services Welfare Funds Legislation (Amendment) Bill 1999, at the Annex, should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

General Background

2. The Fire Services Ordinance, the Police Force Ordinance, the Prisons Ordinance, the Immigration Service Ordinance and the Customs and Excise Service Ordinance have to be amended in order to regularize the sources of income and formalize the operational arrangements for the welfare funds of these disciplined services.

Regularization of Sources of Income

3. Following a review of the sources of income for the disciplined services welfare funds, the Administration proposes that fines and forfeitures imposed on members of the disciplined services for disciplinary offences, and sums of money arising from their normal course of duties should cease to be credited to the disciplined services welfare funds concerned but instead to general revenue. It is considered inappropriate for those so disciplined to be able to enjoy eventually in part the benefits of their own fines.

4. The Administration also proposes other existing sources of income, such as money voted by the Legislative Council, fees paid for hire of officers or special services performed by them, money derived from investment of the funds, donations, gifts of money disposed under the Acceptance of Advantages (Governor's Permission) Notice 1992, and others, should continue to be credited to the relevant disciplined services welfare funds and be formalized in the legislation.

Formalization of Operational Arrangements

5. Welfare funds are provided in the disciplined services for the purpose of promoting staff welfare and providing relief in the form of financial assistance to members and dependants of deceased members who are in need.

6. To formalize the current practices on the use of the welfare funds of the five disciplined services, and to introduce improvements to their operation, the Administration proposes the following -

- (a) constitute the heads of disciplined services concerned as corporations sole (or the corporations) in whom the funds are vested, and who are empowered to delegate their functions and enter into contracts and other transactions for the purposes of the funds;
- (b) extend the range of benefits that may be provided from the funds and the classes of beneficiaries who may receive benefits from those funds;

- (c) formalize the practice to credit the fees paid for the hire of members of the Auxiliary Police Force to the Police Welfare Fund, and extend some of the benefits of the Police Welfare Fund to the auxiliaries; and
- (d) repeal all references to police cadets who no longer exist.

THE BILL

7. The main provisions of the Bill are as follows -
- (a) Clause 1 specifies the short title of the Bill and provides for the commencement of its provisions.
 - (b) Clauses 2-9 give effect to the Schedules to the Bill, which provide for the amendments to individual Ordinances concerned [details at (d) to (i) below].
 - (c) Clause 10 validates certain property transactions involving the use of money derived from the Police Welfare Fund.
 - (d) Schedule 1 replaces Part IV of the Fire Services Ordinance which relates to the Fire Services Department Welfare Fund.
 - (e) Schedule 2 replaces Part IV of the Police Force Ordinance which relates to the Police Welfare Fund.
 - (f) Schedule 3 replaces section 22 of the Prisons Ordinance which relates to the Correctional Services Department Welfare Fund and adds to that Ordinance a new Part III dealing with the same subject matter.
 - (g) Schedule 4 replaces Part IV of the Immigration Service Ordinance which relates to the Immigration Service Welfare Fund.
 - (h) Schedule 5 replaces Part IV of the Customs and Excise Service Ordinance which relates to the Customs and Excise Service Welfare Fund.

- (i) Schedule 6, 7 and 8 respectively make amendments to the Royal Hong Kong Auxiliary Police Force Ordinance, the Rehabilitation of Offenders Ordinance and the Sex Discrimination Ordinance that are consequential to the amendments provided for in Schedule 2.

8. In respect of Schedules 1 to 5, each of the new parts on the Welfare Funds contains the following provisions to -

- (a) specify the definitions of certain expressions, including “amenities”, “beneficiaries”, “dependant”, and “Fund”;
- (b) constitute the head of the relevant disciplined service as a corporation sole (the corporation), with perpetual succession and power to acquire, hold and dispose of land and other kinds of property;
- (c) continue the existence of the Fund and provide for that Fund to be vested in the corporation;
- (d) specify what sources of income the Fund is to consist of;
- (e) specify the principal function of the corporation as being the administration of the Fund, and the property derived from its application, for the benefit of the beneficiaries;
- (f) specify the purposes for which the Fund can be used, which include providing amenities for beneficiaries, making loans to beneficiaries, granting financial assistance for certain funeral expenses, making or acquiring souvenirs for sale to beneficiaries and others, and undertaking transactions in connection with staff purchase schemes;
- (g) enable the corporation to establish a staff purchase scheme where such a scheme is provided for under (f) above;
- (h) enable the corporation to make donations from the Fund to charities and community organizations;
- (i) empower the corporation to employ staff and engage agents in connection with its administration of the Fund;

- (j) empower the corporation to delegate certain of its functions;
and
- (k) enable the corporation to enter into contracts and other transactions for the purposes of the Fund.

LEGISLATIVE TIMETABLE

9. The legislative timetable is -

Publication in the Gazette	29 January 1999
First Reading and commencement of Second Reading debate	10 February 1999
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

HUMAN RIGHTS IMPLICATIONS

10. The Department of Justice advises that the proposed legislation has no human rights implications.

FINANCIAL AND STAFFING IMPLICATIONS

11. The proposals have no staffing implications. The crediting to general revenue of the sources of income described in paragraph 3 above will increase Government revenue by an insignificant amount each year.

PUBLIC CONSULTATION

12. The former Legislative Council Panel on Security was briefed in December 1996 and supported improvements to the welfare funds of the five disciplined services.

PUBLICITY

13. The Bill will be published in the Gazette on 29 January 1999.

ENQUIRIES

14. For enquiries, please contact Mr. K W Leung, Chief Assistant Secretary for Security at 2537 7343.

Security Bureau
28 January 1999