

立法會
Legislative Council

LC Paper No. LS201/98-99

**Paper for the House Committee Meeting
of the Legislative Council
on 4 June 1999**

**Legal Service Division Report on
Volunteer and Naval Volunteer
Pensions (Amendment) Bill 1999**

Object of the Bill

To specifically empower the Secretary for Health and Welfare to amend the amounts of pensions, gratuities and allowances payable in respect of the death or disablement of members of the 2 volunteer forces namely the Hong Kong Volunteer Defence Corps and Hong Kong Naval Volunteer Force (both now defunct) in accordance with increases in civil service pensions.

LegCo Brief Reference

2. HW CR 8/3231/92 Pt. 14 issued by the Health and Welfare Bureau in May 1999.

Date of First Reading

3. 2 June 1999.

Comments

4. Under the Volunteer and Naval Volunteer Pensions Ordinance (Cap. 202) (the Ordinance), disablement pension, minor disablement gratuity, various allowances, pension for surviving spouses and age allowance for elderly surviving spouses are payable in respect of the death or disablement of members of the Hong Kong Volunteer Defence Corps who were on actual military service on or after 7 December 1941 and members of the Hong Kong Naval Volunteer Force who were on actual service on or after 30 August 1939.

5. Since July 1997, such pension, gratuity and allowances have been

adjusted in line with civil service pension increases as determined by the Chief Executive under section 4 of the Pensions (Increase) Ordinance (Cap. 305).

6. The Bill now proposes to specifically empower the Secretary for Health and Welfare to make future adjustments in accordance with such civil service pension increases and to make them effective from the same date.

7. It is also proposed that since the adjustments will only reflect the increases approved under the Pensions (Increase) Ordinance, the tabling of the adjustments before the Legislative Council for separate scrutiny will be dispensed with.

Public Consultation

8. According to the LegCo Brief, various organisations of war veterans have no objection to the proposal.

Consultation with LegCo Panel

9. The Welfare Panel was consulted on 11 January 1999.

Recommendation

10. The amendments proposed in the Bill do not appear to involve any policy change. The proposal not to table the future adjustments before the Council would mean that the legislature's approval therefor could be taken as given when it approves any increases under the Pensions (Increase) Ordinance.

11. On the technical drafting aspect, the Administration has been asked to clarify the need for empowering the Secretary to update the amounts of minor disablement gratuities (letter to the Administration attached) because supposedly, claims for such gratuities, being one-off payments to members of the volunteer forces who suffered disablement during actual service in the war years, could have been fully disposed of by now, 54 years after the end of the Second World War.

12. In the Administration's response, it is confirmed that as late as 1994-1999, 9 new claims under the Ordinance have been received and the latest claim for which disablement gratuity was paid under Schedule 4 was approved in 1995 (Administration's reply attached).

13. Unless Members have other views, the Bill is ready for resumption of Second Reading debate.

Prepared by

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Legislative Council Secretariat
3 June 1999

HW CR 8/3231/92 Pt. 14
LS/B/87/98-99
2869 9283
2877 5029

By Fax (2840 0467) and By Post

31 May 1999

Secretary for Health and Welfare
Health and Welfare Bureau
(Attn: Miss Victoria TANG
Prin AS (HW) W 2)
19/F, Murray Building
Garden Road
Hong Kong

Dear Madam,

**Volunteer and Naval Volunteer
Pensions (Amendment) Bill 1999**

I refer to the telephone conversation with your Mr David YIP this morning.

The query I have raised relates to the proposed new section 35(2)(b) and (c) to be made under clause 2 of the Bill.

It is understood that the proposed provisions empower the Secretary for Health and Welfare to amend the amounts of disablement gratuity set out in Schedule 4 and payable in respect of disablement due to service. Service is defined in section 2(2)(a) of the principal Ordinance as -

- “(i) in the case of an officer or volunteer, actual military service under the Volunteer Ordinance 1933 (10 of 1933) of that officer or volunteer with the Hong Kong Volunteer Defence Corps constituted under that Ordinance, on or after 7 December 1941;
- (ii) in the case of a member, actual service under the Naval Volunteer Ordinance 1933 (30 of 1933) of that member with the Hong Kong Naval Volunteer Force constituted under that Ordinance, on or after 30 August 1939;”

Paragraph 2 of the LegCo Brief, also specifies that “[the] Ordinance provides for the payment of pensions, gratuities or other allowances in respect of the death, disablement or sickness of members of the two volunteer forces who fought in the defence of Hong Kong during the Second World War”.

With the lapse of time (54 years after the end of the Second World War), it would appear that all claims for the disablement gratuity should have already been disposed of.

I would be grateful if you could confirm the need for empowering the Secretary to update the rate of disablement gratuity payable. Information as to whether claims are still being made for the disablement gratuity specified in Schedule 4 and when was the last claim made would be helpful.

As a report on the Bill has to be made to the House Committee this Friday, could I have your written response (in English and Chinese) by close of play tomorrow?

Yours faithfully,

(Arthur CHEUNG)
Assistant Legal Adviser

c.c. Mr Michael LAM,
Law Drafting Division,
Department of Justice

中華人民共和國香港特別行政區政府總部衛生福利局的信頭
Letterhead of Health and Welfare Bureau Government Secretariat, Government of the
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2 June 1999

Mr Arthur Cheung
Legislative Council Secretariat
Legal Service Division
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8 Jackson Road
Central
Hong Kong

Dear Mr Cheung,

Volunteer and Naval Volunteer Pensions Ordinance

Thank you for your letter of 31 May, regarding the rationale for the Bill to cover the revision of the rates of disablement gratuities in Schedule 4 to the Ordinance.

I would first like to explain the payment in relation to disablement. According to Sections 7 and 8 of the Ordinance, the form of payment depends on the degree of disablement. Where the degree is less than 20%, a gratuity is payable. The relevant rates are specified in Schedule 4. Where the degree is 20% or above, a monthly pension is payable, and the rates are specified in Schedule 3.

The Ordinance does not specify any deadline for making claims for pensions, gratuities or other payments, as not all members of the volunteer forces were aware of the scheme and could make claims

immediately after the War. There is no restriction on the timing for making a claim under the Ordinance, and in fact some of them have only done so in recent years. In 1994-1999, 9 new claims under the Ordinance have been received. Five of them have been approved and four rejected. The latest claim for which disablement gratuity was paid under Schedule 4 was approved in 1995.

You may also wish to note that there are 67 beneficiaries at present. We cannot preclude the possibility that other members of the volunteer forces may make claims under the Ordinance in future.

It is our policy that payments under the Ordinance should keep up with changes in the cost of living. It is therefore necessary for the Secretary for Health and Welfare to regularly adjust the rate of various payments, including the disablement gratuity specified in Schedule 4, in line with the civil service pension increase, which is inflation-adjusted.

Yours sincerely,

(David Yip)
for Secretary for Health and Welfare

cc. The Law Draftsman (Attn: Mr Michael Lam)