

**立法會**  
*Legislative Council*

LC Paper No. LS 227/98-99

**Paper for the House Committee Meeting  
of the Legislative Council  
on 25 June 1999**

**Legal Service Division Further Report on  
Hong Kong War Memorial Pensions (Amendment) Bill 1999**

Members may recall that the Legal Service Division made a report to the House Committee on 23 April 1999 on the Bill (LegCo Paper No. LS155/98-99 refers). To recap, the Bill amends the Hong Kong War Memorial Pensions Ordinance (Cap. 386) (“the Ordinance”) to make former members of The Hong Kong Independent Battalion of the Dongjiang Column (“the Independent Battalion”) eligible for pension and other benefits under the Ordinance.

2. At the House Committee meeting, we informed members that we were seeking clarification from the Administration on certain drafting points and a further report would be issued.

3. After the House Committee meeting and on the instructions of Hon James TO Kun-sun, we had further written to the Administration asking for clarification on whether there was independent evidence of the establishment of the Independent Battalion and the applicants’ eligibility, other than that provided by the Society of the Veterans of the Original Hong Kong Independent Battalion of the Dong Jiang Column (“the Society of the Independent Battalion Veterans”).

4. As a result of our queries on the drafting aspects of the Bill, the Administration is now prepared to move Committee Stage amendments to the Bill to make the Chinese text of new section 7(2)(da) consistent with that of section 7(2)(f)(ii) of the Ordinance. The draft Committee Stage amendments are at Annex A.

5. The Administration has also given its reply to Hon James TO's questions. The gist of the Administration's reply is as follows :
- (a) Although the Garrison does not have information on the establishment and activities of the Independent Battalion, the activities of the Independent Battalion, as a local guerrilla force contributing to the defence of Hong Kong in the War, are well documented by local historians;
  - (b) the Hong Kong War Memorial Pensions Advisory Committee ("the Advisory Committee"), which considers applications for pension benefits under the Ordinance and submits recommendations to the Secretary for Health and Welfare, has obtained information from independent sources about the organization and activities of the Independent Battalion during the War; and
  - (c) the Advisory Committee has agreed on the framework for the assessment of applications for pension benefits. This framework includes seeking clarification from the Society of the Independent Battalion Veterans, interviewing the applicant about his involvement in the Battalion's activities, cross-examination of witnesses regarding the nature and duration of the applicant's service, medical examination of evidential proof such as scars or disablement, etc.
6. Mr. To is satisfied with the Administration's reply and has raised no further queries on the Bill.
7. Members may also note that the Society of the Independent Battalion Veterans has requested the Administration to expand the range of eligible beneficiaries to include all former members of the Independent Battalion irrespective of whether those members had sustained injuries, were killed in action, or were captured by the Japanese authority during the War. The Society has also suggested that the operation period of the Independent Battalion should be between 8 December 1941 and 28 September 1945 instead of between 3 February 1942 and 1 September 1945 as proposed in the Bill.

8. The Administration has explained to the Society of the Independent Battalion Veterans that the object of the Ordinance is to make provision for the payment of pensions and other benefits to persons who have contributed to and suffered in the defence of Hong Kong. As a matter of policy, service in the relevant units alone is not a sufficient ground for the award of a pension. Moreover, the operation period proposed in the Bill is based on the establishment of the Independent Battalion on 3 February 1942 in Sai Kung and the surrender of the Japanese forces on 1 September 1945.

9. As a result of the Administration's explanation, the Society of the Independent Battalion Veterans has raised no further queries on the Bill.

10. With the proposed Committee Stage amendments at Annex A, we are satisfied that the legal and drafting aspects of the Bill are in order. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

Encl.

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HONG KONG WAR MEMORIAL PENSIONS (AMENDMENT) BILL 1999

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for Health and Welfare

<u>Clause</u>	<u>Amendment Proposed</u>
2(d)	In the proposed section 7(2)(f) -
(a)	in subparagraph (ii), by deleting "服役於附表2指明的隊伍" and substituting "屬附表2指明的隊伍的成員":
(b)	in subparagraph (C), by adding "或在從事該等隊伍行動期間 (視屬何情況而定)" after "服役期間".