

## **ITEM FOR FINANCE COMMITTEE**

### **HEAD 120 - PENSIONS**

#### **Subhead 021 Ex-gratia pensions, awards, allowances and increases**

Members are invited to -

- (a) approve increases of the pensions of the four existing auxiliary forces pensioners and lump sum awards, by 6% with effect from 1 April 1997, a further 5.4% with effect from 1 April 1998 and a further 1% with effect from 1 April 1999, on an ex-gratia basis under the above subhead; and
- (b) delegate to the Secretary for the Treasury the authority to grant future ex-gratia pension increases to these four pensioners and lump sum awards annually in line with the civil service pension increases under the Pensions (Increase) Ordinance.

### **PROBLEM**

The pensions of four existing pensioners under the Essential Services Corps Ordinance (Cap. 197) and the former Royal Hong Kong Regiment Ordinance (Cap. 199), and the lump sum awards for 15 cases under Cap. 197 have not yet been adjusted since April 1997 in line with the rates of inflation.

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## PROPOSAL

2. We propose to increase these pensions and lump sum awards on an ex-gratia basis by 6% with effect from 1 April 1997, a further 5.4% with effect from 1 April 1998 and a further 1% with effect from 1 April 1999 which are the same rates for civil service pension increases for 1997-98, 1998-99 and 1999-2000 respectively. We further propose that Members delegate to the Secretary for the Treasury the authority to approve future increases annually in line with civil service pension increases under the Pensions (Increase) Ordinance (Cap. 305).

## JUSTIFICATION

3. Regulation 17 of the Essential Services Corps (General) Regulations (Cap. 197 Sub. Leg.) and section 15 of the former Royal Hong Kong Regiment Ordinance (Cap. 199) provided for the payment of pensions, gratuities and other grants in respect of the death or disablement of members of the Civil Aid Service, the Auxiliary Medical Service and the then Royal Hong Kong Regiment (The Volunteers). Payments under these provisions were calculated by reference to the UK Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order (UK Order) with regard to the rates of pensions payable. Prior to reunification, pensions and lump sum awards granted under these provisions were adjusted in April each year in line with the revised pension rates promulgated in the Amendment Orders to the UK Order, which basically followed the rate of inflation in UK.

4. As part of the localisation of laws exercise, the above-mentioned provisions relating to the granting of pensions and awards to eligible members of the auxiliary forces were repealed by the Auxiliary Forces Pensions (Miscellaneous Amendments) Ordinance 1997 (the Amendment Ordinance). Under the Amendment Ordinance which came into effect on 9 May 1997, a new unified pension scheme is introduced for all auxiliary forces. The new pension scheme provides also for statutory adjustments to any pension benefits granted by reference to any increase authorised under the Pensions (Increase) Ordinance (Cap. 305) for retired civil servants. While payments to eligible recipients in respect of injuries and death sustained **before** the commencement of the Amendment Ordinance on 9 May 1997 continue to be authorised by law, there is no statutory basis or an express administrative arrangement (upon severance of any link with the UK Order) since then for adjusting the payments in line with inflation so as to maintain their purchasing power.

5. At present, there are four pensioners receiving pensions under Cap. 197 and Cap. 199 (three former members and one widow of a deceased member). These pension payments amounted to a total of £9,078 per annum as at 8 April 1996, as detailed at Enclosure 1. In addition, there are 15 cases of approved lump sum awards under Cap. 197 (totaling £26,560 as at 8 April 1996), 13 of which are pending payment to the members at the time when their services with the Civil Aid Service or the Auxiliary Medical Service terminate while two of which have already been paid in 1997-98. A list of these 15 awards is at Enclosure 2. While all such cases originated from injuries sustained before May 1997, determination of the awards took time and the formality of the final case was only completed in July 1999<sup>Note</sup>. These 19 cases are not covered by the new pension scheme, and the inflation adjustment mechanism, mentioned in paragraph 4 above.

Encl. 1

Encl. 2

6. In view of the past practice of making annual adjustments to pensions granted under Cap. 197 and Cap. 199, and given that pensions granted to members of the auxiliary forces under the new unified pension scheme will be increased in line with civil service pension increases, we consider that the pensions of the four existing pensioners and the 13 lump sum awards pending payment should continue to be adjusted annually and that such adjustments should follow local inflation rates. We intend, therefore, that with retrospective effect from 1 April 1997 the adjustments of pensions of these pensioners and lump sum awards pending payment should be pegged to the civil service pension increases, which are linked to local inflation rates and awarded annually. As for the two lump sum award cases already paid in 1997-98, the increase of 6% for 1997-98 in line with the civil service pension increase in that year should be restored to maintain the value of the lump sum payment.

7. As the number of pensioners involved is small and will diminish over time, it is proposed that these annual adjustments be made administratively on an ex-gratia basis with the express approval of the Finance Committee.

8. The civil service pension increases for 1997-98, 1998-99 and 1999-2000, which took effect from 1 April 1997, 1 April 1998 and 1 April 1999, are 6%, 5.4% and 1% respectively. We propose therefore to increase the pensions of the four auxiliary forces pensioners and the lump sum awards by the same rates with effect from 1 April 1997, 1 April 1998 and 1 April 1999 respectively.

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<sup>Note</sup> In fact, injured AMS and CAS members may opt for compensation under the Employees Compensation Ordinance (Cap. 282) instead of an award under Cap. 197. For all the cases in which injuries were sustained before May 1997, the last and final exercise of such an option took place in August 1999.

9. Since the principle and basis for adjusting these payments have been established subject to Members' approval, future adjustments are routine matters. We therefore propose that the authority for granting future increases to the pensions of the four pensioners and the 13 lump sum awards be delegated to the Secretary for the Treasury. These ex-gratia increases will follow strictly those awarded to civil service pensions under the Pensions (Increase) Ordinance (Cap. 305) and take effect on the same date as increases under Cap. 305 become effective.

## **FINANCIAL IMPLICATIONS**

10. The financial implications for adjusting in 1999-2000 the pensions payable to the four pensioners who are at present in receipt of a pension on a cumulative basis since 1 April 1997 amount to about £2,775 (about HK\$34,690). A further £3,187 (about HK\$39,835) will be involved in adjusting the 13 lump sum awards payable at the time of termination of the members' services and the two awards already paid in 1997-98. There is sufficient provision in the 1999-2000 Estimates under Head 120 Pensions Subhead 021 Ex-gratia pensions, awards, allowances and increases to meet the cost of this proposal.

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Security Bureau  
January 2000

**Enclosure 1 to FCR(1999-2000)62**

**Pensioners receiving pensions under the Essential Services Corps (General) Regulations  
(Cap. 197 Sub. Leg.) and the former Royal Hong Kong Regiment Ordinance (Cap. 199)**

Case No.	Force/Rank	Degree of Disablement	Date of Injury/Death	Annual Pension under UK Order (w.e.f. 8.4.96) GBP	Exgratia Increase (see Note) GBP
Cap. 197					
1	AMS/ Senior Auxiliary Dresser	N/A	18.4.90	4,150.57	1,268.62
2	CAS/ Grade III Member	30%	31.12.68	1,642.50	502.04
Cap. 199					
3	RHKR/ Sergeant	30%	7.2.87	1,642.50	502.04
4	RHKR/ Gunner	30%	12.11.52	1,642.50	502.04
				9,078.07	2,774.74
				(about	(about
				HK\$113,500)	HK\$34,690)

Note: The figures represent the accumulated pension increases calculated up to 31 March 2000.

**Enclosure 2 to FCR(1999-2000)62**

**Approved lump sum awards cases under the Essential Services Corps (General) Regulations  
(Cap. 197 Sub. Leg.)**

Case No.	ESC Unit	Date of Injury	Indeterminate Injury Description	%	Amount of Lump Sum as at 8.4.96 GBP	Exgratia Increase (see Notes) GBP
1	AMS	20.3.85	Right index finger	1	1,637.00	210.21
2	AMS	29.4.91	Low back pain	8	3,636.00	466.91
3	AMS	3.4.88	Dislocation of left elbow	2	1,644.00	211.11
4	AMS	12.12.93	Right shoulder injury with residual pain	0.5	1,637.00	210.21
5	CAS	5.8.90	Left heel injury with residual pain	1	1,644.00	211.11
6	CAS	18.11.89	Forehead with suturing of laceration wound	1	1,635.00	209.95
7	CAS	14.5.89	Slightly limited flexion of the lumbosacral spine	1	1,635.00	209.95
8	CAS	16.12.90	Left Pott's fracture	1	1,640.00	210.60
9	CAS	22.11.90	Right shoulder, right wrist, left knee injury	1	1,635.00	209.95
10	CAS	24.12.88	Contusion of right chest and left leg with residual pain	1	1,635.00	209.95
11	CAS	30.10.94	Fracture of the left distal radius	0.5	1,640.00	210.60
12	CAS	7.4.96	Bilateral elbow injury	1	1,635.00	209.95
13	CAS	11.10.92	Right ankle fracture	3	1,635.00	209.95
14	CAS	23.5.90	Sprained right chest wall with residual pain	1.5	1,635.00	98.10
15	CAS	30.10.90	Fracture of the distal phalanx of left middle finger	1	1,637.00	98.22
					<hr/>	<hr/>
					26,560.00	3,186.77
					=====	=====
					(about HK\$332,000)	(about HK\$39,835)

Notes: (1) The figures represent the accumulated pension increases calculated up to 1 April 1999 except the two cases mentioned in Note (2).

(2) For the last two cases, the figures are calculated up to 1 April 1997 as the two members have terminated their service on 1 July 1997 and 12 January 1998 respectively and received payments at that time.