Legislative Council Panel on Public Service

Management-Initiated Retirement Scheme

Purpose

This paper provides information to Members regarding the implementation progress of the Management-Initiated Retirement (MIR) Scheme.

Background

2. The MIR Scheme was first proposed as part of the Civil Service Reform in March 1999 to allow the management to initiate early retirement of individual directorate civil servants who have difficulties in meeting the changing requirements of the organization or the job. We consulted Members on the Scheme as part of the Civil Service Reform package on 15 March 1999 (LC Paper No. CB(2)1436/98-99). We first presented the detailed proposals of the MIR Scheme for consultation within the Administration in April 2000 and then reported on the consultation feedback to Members on 15 May 2000 (LC Paper No. CB(1)1549/99-00(04)). The proposed implementation framework of the MIR Scheme and retirement benefits for officers concerned were set out in the paper. In addition, we also proposed that, subject to necessary funding approval, an ex-gratia payment at a rate of six months of the officer's final substantive salary should be granted similar to the normal practice for redundancy for loss of fringe benefits.

3. After the Chief Executive in Council approved the Scheme on 30 May 2000, we issued a Legislative Council (LegCo) Brief to all LegCo Members on 9 June 2000 (CSBCR/AP/5-090-005/11 Pt.4/99) [***Annex A***]. Members will note that para. 14-16 of the paper outline the criteria and procedures for invoking the MIR Scheme. Para. 22 of the paper makes clear the proposal that officers to be retired under the MIR Scheme should be granted immediate and enhanced pension on the same basis on abolition of office in accordance with the pensions legislation. We then sought the approval of the Finance Committee (FC) on 16 June 2000 for the grant of an ex-gratia payment to civil servants who retired under the Scheme (FCR(2000-01)33) [***Annex B***]. Para. 3 to 5 of the FC paper explain clearly the proposal to grant immediate and enhanced pension to officers concerned under the pensions legislation as well as an ex-gratia payment equivalent to 6 months of their final substantive salary. On 21 May 2001, we briefed Members again on the implementation progress of the Scheme.

Retirement Package

4. Under the MIR Scheme, an officer will lose his earning capacity in respect of both salaries and pensions which he otherwise would have received upon normal retirement. A comparison on the retirement benefits of a directorate officer

under the MIR Scheme and upon normal retirement is at ***Annex C*** for Members' reference. As provided for in the pensions legislation, the enhanced pension will not exceed the pension entitlement of an officer under normal retirement.

5. It can be seen from the papers we submitted to Members and the FC that the justifications for the entire retirement package, including the grant of ex-gratia payment, was clearly explained. Members may recall that the proposed MIR Scheme attracted considerable attention and discussion not only within the LegCo but also in the community at the time. The Secretary for the Civil Service and his colleagues spent a lot of time to address enquiries whenever asked, including the detailed calculations of the enhanced pensions.

6. Members may also recall that upon enquires of the media, we explained in detail the objective and retirement package of the Scheme which was widely reported by the printed media on 8 April 2000. A list of the papers which carried reports on 8 April 2000 on the calculations of the enhanced pension under the Scheme is at ***Annex D***. Some of these papers also reported that the amount of immediate and enhanced pension under the MIR Scheme would fall short of the normal pension were the officer allowed to retire at his or her normal retirement age. Full extract of these reports are kept in the Civil Service Bureau and can be made available for Members' reference.

Implementation Progress

7. When we last briefed Members about the implementation progress of the Scheme in May 2001, we undertook to provide information on the number of cases at a future date as the total number of retired directorate officers at that time was small. Release of data then might lead to speculations and increase the risk of exposing the identity of officers concerned. As many more directorate officers have retired since then, we are prepared to disclose now that since the implementation of the Scheme in September 2000, we have retired 10 directorate officers under the Scheme. The total amount of ex-gratia payment and enhanced lump sum pension gratuity involved is about $7.9 million and $11.4 million respectively.

Way Forward

8. We will continue to implement the Scheme with a view to safeguarding and enhancing the quality of the Civil Service at the directorate level. Also, as set out in para. 20 of ***Annex A***, we will continue to observe strictly the rule of confidentiality and to protect the personal data of officers affected by the Scheme; and we will maintain our policy of not commenting on the personal circumstances or information of any officer who may leave the service early.

Civil Service Bureau
February 2002
(Ref.: CSBCR/AP/5-090-005/11 Pt.6)

Annex A

File Ref. : CSBCR/AP/5-090-005/11 Pt.4/99

LEGISLATIVE COUNCIL BRIEF

MANAGEMENT INITIATED RETIREMENT SCHEME

INTRODUCTION

At the meeting of the Executive Council on 30 May 2000, the Council ADVISED and the Chief Executive ORDERED that -

(a) a management-initiated retirement (MIR) scheme should be introduced as a management tool to provide for the retirement of directorate civil servants on permanent and pensionable terms to facilitate improvement in the Government organisation; and

(b) the approval of the Finance Committee of the Legislative Council should also be sought for the payment of an ex-gratia compensation pitched at the level of six months' final substantive salary of civil servants retiring under the scheme.

BACKGROUND AND ARGUMENT

Existing Exit Mechanisms

2. At present, civil servants who are appointed on permanent and pensionable (P&P) terms can be compulsorily removed from service in the following circumstances -

(a) dismissal or compulsory retirement on grounds of discipline due to serious misconduct;

(b) compulsory retirement on grounds of public interest due to poor performance or loss of confidence in the officer concerned;

(c) compulsory retirement on medical grounds due to permanent incapacity; or

(d) compulsory retirement on grounds of redundancy due to abolition of office.

3. In addition, it is provided in Civil Service Regulation (CSR) 383(b)[1] that an officer may be compulsorily retired at any time during his service to facilitate improvement in the organisation of the department or grade to which he belongs in order to effect greater economy or efficiency.

Need for an MIR Scheme

4. In order to serve the community better and to respond to its changing needs effectively, the Civil Service has responded by embracing changes, promoting a culture of openness and encouraging a customer-oriented approach in service delivery. As in all organisations, these changes need to be led by the senior management which should have the vision, leadership and skills to shape policies, adjust operation modalities, articulate plans and motivate staff to collectively achieve organisational objectives.

5. While we have put in much efforts to this end, there are occasions that we feel constrained by the lack of a management tool to deal with the following situations -

(a) a directorate officer has difficulties in meeting the changes in the requirements of the job or the department or grade and his continued service would hinder organisational improvement to the department or grade; or

(b) despite posting attempts, a directorate officer in a general grade is found to have severe problems in postability. He could hence no longer function effectively as a general grade officer, and his retirement is considered to be in the interest of the grade.

6. The existing exit mechanisms for P&P civil servants as set out in paragraph 2 above cannot be invoked in the circumstances described in paragraph 5. We see a need to invoke CSR 383(b) by formulating an MIR scheme to retire individual P&P civil servants in these circumstances, as **an exit mechanism to cater for**

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[1] CSR 383 –

"An officer may be compulsorily retired at any time during his service –

(a) if the office which he occupies is to be abolished; or

(b) to facilitate improvement in the organisation of the department to which he belongs in order to effect greater economy or efficiency.

If a Head of Department considers that an officer is redundant for either of these reasons he should forward recommendations to the Secretary for the Civil Service together with all relevant supporting data, stating whether there is any other office in the service elsewhere for which the officer might be suitable."

management needs and on terms reasonable and fair to the officers affected. The proposed scheme will allow the injection of new blood by creating space at the directorate ranks, and help to maintain the quality of management, particularly at the senior echelons. This is surely in the public interest.

Consultation within the Civil Service

7. The MIR scheme was first proposed as part of the Civil Service Reform announced in March 1999. We have since followed up by drawing up detailed proposals on the criteria and procedures of the scheme for consultation with the Staff Sides and departmental/grade management.

8. The Staff Sides expressed objection in principle because they considered that a civil servant faithfully and dutifully performing his duties should not be removed compulsorily. They were also concerned that the scheme might be abused. On the other hand, departmental/grade management supported the proposed scheme as an additional management tool to facilitate organisational improvement.

Areas of Concerns

9. The major areas of concerns or comments expressed by the Staff Sides, individual directorate officers and departmental/grade management over the proposed scheme and our responses are summarised in the following paragraphs.

Negotiated or voluntary scheme

10. The Staff Sides opined that the MIR scheme should only be invoked on a negotiated or voluntary basis. Quite a few individual respondents considered that an option for voluntary retirement under the scheme should be introduced, so as to reduce the potential resistance as well as the negative perception towards the scheme. Some respondents even suggested replacing the MIR scheme with a voluntary retirement scheme.

11. We do not support the proposal that the MIR scheme should be replaced by a voluntary retirement scheme for directorate officers. We also cannot agree that the scheme should be proceeded with only on a negotiated basis or only when the officer concerned accepts retirement. The objective of the MIR scheme is to provide an exit mechanism as a management tool to be invoked to cater for organisational improvement. We consider it essential that the authority and decision to retire individual officers under the scheme should be reserved to the management.

12. However, we agree that it would be appropriate to take into account the views of the officer concerned in the processing of potential compulsory retirement cases under the scheme. The officer will be informed of the management's intention to apply the MIR scheme to him in the first instance and his views or representation will be fully reflected to a high-level assessment panel which is to deliberate on each case of proposed compulsory retirement under the MIR scheme.

Upholding fairness in the procedures

13. While many of the respondents acknowledged or accepted in principle the need for a retirement scheme to be initiated by the management on organisational improvement grounds, they were concerned whether the scheme could be applied on a fair and objective basis in practice, and would not be abused for resolving personal conflicts or dislikes. They suggested that the criteria be elaborated to set out circumstances under which the scheme could be invoked.

14. It is unrealistic to exhaustively list out all the management circumstances that warrant invoking the MIR scheme. However, in the light of the feedback particularly from the Staff Sides, we have reaffirmed the criteria for invoking the scheme that the retirement is required in the interest of organisational improvement of a department or grade, and only if there are severe management difficulties to accommodate the officer elsewhere in the service. We have also clarified that no promotion over a period of time or lack of potential to advance are not in themselves reasons for invoking the MIR scheme.

15. In addition, we have built in procedural safeguards in the detailed procedures to ensure that the scheme is invoked only when necessary and justified. The initiation, consideration, assessment and approval of retirement under the scheme will be processed on a fair and objective basis. The scheme will be initiated only at policy secretary or head of departments level, subject to initial checks by the Secretary for the Civil Service (SCS). We have also elaborated that management considerations for retirement have to be supported by organisational development and improvement plans, directorate succession plans and/or posting records.

16. A recommendation to retire an officer compulsorily will be subject to stringent scrutiny by an assessment panel chaired by the Chief Secretary for Administration (CS) with members comprising the Financial Secretary (FS), SCS and other senior officials as appropriate. A representative of the Department of Justice will attend as legal adviser. The recommendation of the panel will be subject to advice by the Public Service Commission (PSC). The Chairman or Members of the PSC will be invited to attend the panel as observers.

17. A decision to retire a directorate P&P officer compulsorily on management grounds is a serious one and the authority to approve the compulsory retirement should be reserved to the highest level. The approving authority should be reserved to the Chief Executive in respect of officers who are serving as principal officials, and CS for other directorate officers.

Labelling effect and confidentiality

18. Many respondents considered that the negative perception of the MIR might mean that officers retiring under the scheme would be labelled negatively.

19. While we acknowledge the difficulty to remove the negative perception completely, there is a clear distinction between officers retiring under the MIR scheme and non-performers. The latter should be removed under the existing mechanism and do not deserve compensation in terms of immediate and enhanced pensions and ex-gratia payment.

20. To address the concern on negative labelling and in line with our established policy and legal requirements for privacy of personal data, we shall observe confidentiality for all actions and proceedings related to the scheme.

Application to Principal Officials

21. The MIR scheme is proposed as a civil service management tool to be applicable to all P&P civil servants at directorate level. It therefore may be applied to **civil servants who are appointed as principal officials**, subject to the provisions regarding their removal under Article 48(5) of the Basic Law (BL 48(5)) being fulfilled and adjustment to the detailed procedures as appropriate.

Retirement Package

22. Under the pensions legislation, an officer who retires under CSR 383(b) is entitled to be granted immediate and enhanced pension on the same basis as redundancy on abolition of office.

23. In addition to the pension benefits, we propose that an additional ex-gratia payment at the rate of six months of the officer's final substantive salary should be granted, similar to the normal practice for redundancy, to cater for the loss of fringe benefits. The grant of this ex-gratia payment will be subject to necessary funding approval by the Finance Committee.

Detailed Proposals for the MIR Scheme

24. We have formulated detailed proposals for the MIR scheme with the following key features –

(a) the scheme should apply to **permanent and pensionable civil servants at directorate level** who form the core management of the civil service, and should be **initiated at top management level by policy secretaries or heads of department**;

(b) the scheme should be invoked only if **the retirement of an officer from his present office is in the interest of organisational improvement of a department or grade AND there would be severe management difficulties to accommodate the officer elsewhere in the civil service**;

(c) **alternative management measures such as posting, redeployment, secondment or demotion should be considered**, and only when they are found not appropriate or practicable should the scheme be invoked;

(d) the officer **may voluntarily accept the management's initiative to retire early**, and if not, will be given the opportunity to **make representations against the recommendation to retire him**;

(e) each case will be considered and approved by a **high-level panel chaired by CS, with members comprising FS, SCS** and other senior officials;

(f) each case of retirement of an officer will **require the advice of the PSC**. **The Chairman or Members of the PSC will also be invited to attend the panel as observers** to ensure fairness and impartiality of the process of consideration;

(g) **the retirement of an officer under the scheme will be in accordance with the established CSR 383(b)** which provides that an officer may be compulsorily retired to facilitate improvement in organisation to effect greater efficiency; and

(h) an officer may make **further representations to the Chief Executive under section 20 of the Public Service (Administration) Order** against a decision to retire him under the scheme. The Chief Executive shall consider and act upon such representations as public expediency and justice to the individual may require.

BASIC LAW IMPLICATIONS

25. Article 48(7) of the Basic Law (BL) provides the Chief Executive the power to “remove holders of public office in accordance with legal procedures”. The Department of Justice has advised that this power can be exercised by way of the long-established CSR 383(b), subject to the inclusion of suitable procedural safeguards.

FINANCIAL AND STAFFING IMPLICATIONS

26. Implementation of the MIR scheme will have additional financial implications in terms of the enhanced pension element and the proposed ex-gratia payment. The exact quantum of compensatory payments will vary from officer to officer, depending on their rank and years of service. Pension payments are a statutory charge. As and when needed, the additional pension expenditure for officers retired under the MIR scheme will be paid out from the pensions vote in the Annual Estimates of Expenditure. Ex-gratia payments for officers retired under the MIR scheme are additional funding commitments that require funding approval of the Finance Committee. Given the nature of the MIR scheme as a standing management tool, we will make a submission to the Finance Committee at its meeting on 16 June 2000 to seek its approval of the financial implications for paying six months’ final substantive salary to an officer who retires under the scheme on an ex-gratia basis.

Civil Service Bureau
File Ref.: CSBCR/AP/5-090-005/11 Pt.4/99
9 June 2000

For discussion **FCR(2000-01)33**
on 16 June 2000

ITEM FOR FINANCE COMMITTEE

HEAD 120 - PENSIONS
Subhead 015 Public and judicial service pension benefits and compensation
Ex-gratia payment for management-initiated retirement scheme

Members are invited to approve the grant of an ex-gratia payment to officers who retire under the management-initiated retirement scheme at the rate of six months' of the officer's final substantive salary.

PROBLEM

The Administration has decided to introduce a management-initiated retirement (MIR) scheme for the retirement of directorate civil servants on permanent and pensionable terms. Officers will be retired with the same retirement arrangement under the pensions legislation as in redundancy on abolition of office. We need to grant an ex-gratia payment to officers who retire under the MIR scheme in line with the normal practice for staff retiring on abolition of office terms.

PROPOSAL

2. We propose to grant to officers who retire under the MIR scheme an ex-gratia payment at the rate of six months' of the officer's final substantive salary.

/JUSTIFICATION ....

JUSTIFICATION

3. Under the Civil Service Regulations[1], a permanent and pensionable civil servant may be required to retire on redundancy on abolition of office, or to facilitate improvement in the organisation of the department or grade to which he belongs in order to effect greater economy or efficiency. An officer who is required to retire in these circumstances will be granted immediate and enhanced pension benefits in accordance with the pensions legislation. Apart from the entitled pension benefits, it is the normal practice in cases of redundancy on abolition of office that an ex-gratia payment amounting to six times an officer's final monthly salary would be granted to the officers affected for loss of fringe benefits.

4. The Chief Executive in Council has decided that an MIR scheme should be introduced in the Civil Service as a management tool to provide for the retirement of directorate civil servants on permanent and pensionable terms to facilitate improvement in the government organisation. The officers will be retired in accordance with the Civil Service Regulations as set out in paragraph 3 above and will thus be eligible to be granted immediate and enhanced pension benefits on the same basis as redundancy on abolition of office in accordance with the pensions legislation.

5. Apart from the pension entitlements, we also propose that, in line with the prevailing policy in respect of redundancy on abolition of office, an ex-gratia payment at the same rate of six months' of an officer's final substantive salary should also be granted to the officers who are directed to retire under the MIR scheme for the same consideration, that is, the consequent loss of fringe benefits.

6. The MIR scheme is intended to be invoked only if it can be established that the retirement of an officer from his present office is in the interest of organisational improvement of a department or a grade, and there are severe management difficulties to accommodate the officer elsewhere in the service.

/FINANCIAL ….

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[1] CSR 383 provides that –

"An officer may be compulsorily retired at any time during his service –

(a) if the office which he occupies is to be abolished; or

(b) to facilitate improvement in the organisation of the department to which he belongs in order to effect greater economy or efficiency.

If a Head of Department considers that an officer is redundant for either of these reasons he should forward recommendations to the Secretary for the Civil Service together with all relevant supporting data, stating whether there is any other office in the service elsewhere for which the officer might be suitable."

FINANCIAL IMPLICATIONS

7. The implementation of the MIR scheme will give rise to pension payments (including the enhancement) as prescribed under the pensions legislation. Given the very small number of retirees under the Scheme, the pension expenditure will be met from the approved provision under Head 120 Pensions Subhead 015 Public and judicial service pension benefits and compensation as needed. As regards the one-off ex-gratia payments calculated on the basis of the retiree's six months of final substantive salary, subject to Members' approval, we will charge them to non-recurrent commitments to be created under delegated authority as and when needed.

BACKGROUND INFORMATION

8. The MIR scheme was first proposed as part of the Civil Service Reform announced in March 1999, as an exit mechanism to allow pensionable civil servants to be directed by the management to retire early to cater for management needs. The scheme is considered necessary as an exit avenue in addition to the existing ones which are limited to specific circumstances mainly relating to serious misconduct, non-performance, medical condition or staff surplus situation. The proposed MIR scheme will provide a management tool to cater for situations where individual senior officers cannot meet the changing needs of the organisation. It will help to create space at the senior echelons for injection of new blood where necessary, and to maintain the quality of senior management.

9. We have conducted consultation with the staff sides and the departmental management on the detailed proposals regarding the objectives, criteria, procedures and compensation package of the scheme. The staff sides objected to the scheme in principle because they considered that civil servants performing faithfully and dutifully in their jobs should not be retired on management grounds. On the other hand, the majority of departmental and grade management and some individual officers supported the proposed scheme as a management tool to facilitate organisational improvement. Having regard to the comments and views reflected, the Administration has formulated detailed procedures of the scheme.

10. The proposed scheme and the detailed procedures were considered and approved by the Chief Executive in Council on 30 May 2000 for implementation. The details of the scheme are set out in a Legislative Council Brief issued to Members on 9 June 2000 (ref.: CSBCR/AP/5-090-005/11 Pt.4/99).

Civil Service Bureau
June 2000

Annex C

Illustration of Retirement Benefits under
The Management-Initiated Retirement (MIR) Scheme

Example A

Age : 45
Years of service : 20 years
Monthly salary : $130,050 (maximum salary point of D2)
Pension Scheme : New Pension Scheme

Comparison of retirement benefits :

	Retirement benefits under MIR Scheme (a)	**Accrued pension benefits at the age of 45 (b)**	**Difference between (a) and (b) (c)**	**Pension benefits at normal retirement of 60 (d)**	**Difference between (a) and (d) (e)**
Lump-sum gratuity	$4,855,200	$3,884,160	+ $971,040	$6,797,280	–$1,942,080
Ex-gratia payment	$780,300	-	+ $780,300	-	+ $780,300
Monthly pension	$28,900	$23,120	+ $5,780	$40,460	– $11,560

* If the officer remains in the service up to the age of 60, his cumulative salary earnings will be $130,050 × 12 × 15 ï $23,409,000 (on the assumption that he remains in the current rank and the salary remains unchanged throughout the period).

Example B

Age : 50
Years of service : 25 years
Monthly salary : $130,050 (maximum salary point of D2)
Pension Scheme : New Pension Scheme

Comparison of retirement benefits :

	Retirement benefits under MIR Scheme (a)	**Accrued pension benefits at the age of 50 (b)**	**Difference between (a) and (b) (c)**	**Pension benefits at normal retirement of 60 (d)**	**Difference between (a) and (d) (e)**
Lump-sum gratuity	$6,149,920	$4,855,200	+ $1,294,720	$6,797,280	– $647,360
Ex-gratia payment	$780,300	-	+ $780,300	-	+ $780,300
Monthly pension	$36,606	$28,900	+ $7,706	$40,460	– $3,854

* If the officer remains in the service up to the age of 60, his cumulative salary earnings will be $130,050 × 12 × 10 ï $15,606,000 (on the assumption that he remains in the current rank and the salary remains unchanged throughout the period).

Annex D

Press Coverage on the Management-Initiated Retirement Scheme

The following newspapers reported on 8 April 2000 about the retirement package under the Management-Initiated Retirement (MIR) Scheme.

1. **Hong Kong Economic Times**

   The paper reported that officers to be retired under the MIR Scheme would be eligible for immediate and enhanced pension, plus an ex-gratia payment of 6 months' salary. It also gave two illustrations on the retirement package of a D6 officer and a D2 officer, each with 21 years of service.

2. **Ming Pao**

   The paper reported that enhanced pension and an ex-gratia payment equivalent to 6 months' salary would be provided. It also gave a detailed comparison on the basis of calculating pension benefits under the MIR Scheme, abolition of offices and the Voluntary Retirement Scheme.

3. **Hong Kong Daily News**

   The paper reported that enhanced pension and an ex-gratia payment of 6 months salary would be provided. It also included two illustrations on the retirement packages of a D8 officer (with 27 years of service) and a D4 officer (with 31 years of service).

4. **Oriental Daily**

   The paper reported that the compensation under the MIR Scheme would be the same as that of abolition of offices. It also gave an example on the retirement benefits of a D3 officer with 25 years of service.

5. **The Sun**

The paper indicated that the retirement benefits of the Scheme would be identical with those of abolition of offices. It also set out the retirement benefits of a D8 officer with 25 years of service.

6. **Hong Kong Standard**

The paper reported that the Scheme provided for enhanced pension and an ex-gratia payment of 6 months' salary. It also carried an example on the pension benefits of a D3 officer with 25 years of service.

7. **Sing Pao**

The paper reported that the Scheme provided for enhanced pension and an ex-gratia payment of 6 months' salary. It also included a comparison of the pension benefits of a D3 officer with 28 years of service under the MIR Scheme and normal retirement.

8. **Sing Tao Daily**

The paper reported that the retirement benefits under the Scheme was the same as those under abolition of offices. It also provided a comparison of the pension benefits of a D2 officer with 30 years of service under the MIR Scheme and normal retirement.

9. **Commercial Daily**

The paper carried four illustrations on the pension benefits of four officers ranked between D3 and D8 under the MIR Scheme. It also reported that enhanced pensions and an ex-gratia payment of 6 months salary would be provided for.

10. **Ta Kung Pao**

The paper reported the formula for calculating enhanced pensions under the MIR Scheme.

11. **Hong Kong Economic Journal**

The paper provided an example on the pension benefits of a D6 officer with 30 years of service. The provision of enhanced pensions and the associated calculation formula were also covered.

12. **Wen Wei Po**

The paper listed out the formula for calculating enhanced pensions and the ex-gratia payment. It also provided an illustration on the pension benefits of a D4 officer with 25 years of service.

13. **Apple Daily**

The paper gave an illustration on the retirement package of a D1 officer with 21 years of service.