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**By Fax – 2869 6794**

4 November 2003

Clerk to Bills Committee  
(Attn.: Ms. Rosalind Ma)  
Legislative Council Secretariat  
Legislative Council Building  
8 Jackson Road  
Central  
Hong Kong

Dear Ms Ma,

**Bills Committee on  
Public Officers Pay Adjustments (2004/2005) Bill**

**Follow-up to the meeting held on 24 October 2003**

Thank you for your letter of 27 October 2003. The Administration's response in relation to the follow-up actions arising from the last Bills Committee meeting held on 24 October 2003 is set out below –

- Item 1        Please refer to the note at **Annex A** (to follow).
- Item 2        Please refer to the note at **Annex B**.
- Item 3        Please refer to the note at **Annex C** (to follow).
- Item 4        **On the adjustment of the salary of the Director of Audit (clause 12), please provide information on how the pay for the post was set initially, in particular, whether there is any linkage or reference to the Directorate Pay Scale of the civil service.**

Response from the Administration

Since October 1989, the salary of the Director of Audit post has been set at the level of Directorate Pay Scale (DPS) point 6 plus a quarter of the difference in the salary level between DPS point 6 and DPS point 7, having regard to the functional responsibilities of the post and other relevant factors. Over the years, the rate of salary of the post has been adjusted in line with the annual civil service pay adjustment to the DPS of the civil service.

Yours sincerely,

(Eddie Mak)  
for Secretary for the Civil Service

c.c. Department of Justice (Attn.: Mr. Ian Wingfield)  
(Attn.: Mr. David Morris)  
(Attn.: Ms. Betty Cheung)

**Annex A of LC Paper No. CB(1)247/03-04(02)**

**List of Judicial Officers specified in Schedule 1 of the  
Judicial Officers Recommendation Commission Ordinance (Cap.92)**

Chief Justice (Added 79 of 1995 s. 50)  
Judge of the Court of Final Appeal (Added 79 of 1995 s. 50)  
Chief Judge of the High Court (Added 121 of 1997 s. 8)  
Justice of Appeal (Added 42 of 1984 s. 2)  
Judge of the Court of First Instance  
Recorder of the Court of First Instance (Added 80 of 1994 s. 12)  
Chief District Judge (Added L.N. 7 of 1995)  
District Judge  
Coroner (Added 49 of 1980 s. 8)  
Chief Magistrate (Added L.N. 7 of 1995)  
Principal Magistrate (Added L.N. 268 of 1986)  
Magistrate  
Special Magistrate (Added L.N. 268 of 1986)  
President, Lands Tribunal  
Presiding Officer, Lands Tribunal (Added 49 of 1982 s. 18)  
Member of the Lands Tribunal  
(being a member who is in the full-time service of the Government) (Added 42 of  
1984 s. 2. Amended 25 of 1998 s. 2)  
Principal Presiding Officer, Labour Tribunal (Added L.N. 7 of 1995)  
Presiding Officer, Labour Tribunal  
Principal Adjudicator, Small Claims Tribunal (Added L.N. 7 of 1995)  
Adjudicator, Small Claims Tribunal (Added 79 of 1975 s. 40)  
Registrar of the High Court  
Deputy Registrar, High Court (Added L.N. 268 of 1986)  
Assistant Registrar, High Court (Added L.N. 268 of 1986)  
Registrar of the District Court (Added 28 of 2000 s. 45)  
Deputy Registrar, District Court (Added 28 of 2000 s. 45)  
Assistant Registrar, District Court (Added 28 of 2000 s. 45)

The above list together with the following comprises all the judicial officers intended to be excluded from the scope of application of the Public Officers Pay Adjustments (2004/2005) Bill:

- (a) Senior Deputy Registrar, High Court, which is specified in clause 3(1)(b)(i)(B);

- (b) Registrar, Court of Final Appeal, which for clarity will be covered by a new clause 3(1)(b)(i)(C); and
- (c) judicial officers appointed by the Chief Executive or by the Chief Justice, who are covered by clause 3(1)(b)(ii) (as amended by a proposed Committee Stage Amendment).

**Clause 6 and Schedule 3 to the Bill provide for the adjustment of the Hospital Authority (HA) pay scales applicable to civil servants serving in HA. In this connection, please provide the following information:**

- (a) Please clarify whether there are two different sets of HA pay scales, one applicable to civil servants serving in HA and the other to staff employed by HA.**
- (b) In connection with item (a) above, please advise when the HA pay scales were introduced. Please also advise whether the civil servants serving in HA have been consulted on the arrangement for them to be paid in accordance with the HA pay scales applicable to civil servants serving in HA instead of the civil service pay scales, and if not, whether they are aware of the change.**
- (c) Please clarify the source of authority for the Government to create and adjust the HA pay scales applicable to civil servants serving in HA.**
- (d) Please provide information on the pay adjustment mechanism for staff employed by HA, in particular, whether their pay is adjusted in accordance with civil service pay adjustments.**

Response from the Administration

When the HA was set up in 1991 to take over the management and control of all public hospital services from the then Hospital Services Department (HSD), all related departmental and common grades posts in HSD were deleted and replaced by shadow posts created in the corresponding civil service ranks to accommodate civil servants working in HA. The pay scales of these shadow posts are equivalent to the pay scales of the corresponding civil service ranks. Civil servants concerned therefore continue to be remunerated on the relevant civil service pay scales. As spelt out in the letters issued to these civil servants in 1991 on the arrangements for them to work in the HA, they would retain their civil service terms and conditions of service and be subject to all rules and regulations issued by the Government. Accordingly, their pay has all along been adjusted in line with the annual civil service pay adjustment.

2. Under a Shadow Promotion Scheme which was established to preserve the promotion prospects of civil servants of the departmental and common grades working in HA, further shadow posts may be created to enable civil servants selected for promotion by HA to be promoted substantively

within the civil service, offset by the deletion of corresponding shadow posts in the civil service ranks concerned. Civil servants promoted under the Shadow Promotion Scheme are to be remunerated on the relevant HA pay scales as specified in their promotion letters. These officers maintain their civil service status upon promotion and their pay continues to be adjusted annually in accordance with the adjustment percentages for the relevant salary bands<sup>1</sup> as with other civil servants working in HA.

3. The HA pay scales were introduced in 1991. They were presented to the Finance Committee (FC) in August 1991 when the Administration sought FC's approval for the financial implications of the recurrent expenditure of the remuneration package for HA employees. The HA is not bound to follow the annual pay adjustments for the civil service. Under section 10(1)(a) of Schedule 3 to the Hospital Authority Ordinance (Cap.113), the HA shall determine the remuneration, and the terms and conditions of employment of its employees. In practice, the pay adjustment for HA employees is determined by the HA Board. The above notwithstanding, we understand that over the years, the HA has in fact adjusted its pay scales in accordance with the adjustment percentages for the relevant civil service salary bands<sup>2</sup>. Thus, the same set of HA pay scales apply to relevant civil servants working in HA and HA's own employees alike.

4. For the current pay adjustment exercise, the Chief Executive in Council's decision to restore the pay pertaining to each pay point to the level it was at on 30 June 1997 in dollar terms will result in different adjustment percentages for different civil service pay points. The previous approach of applying a uniform adjustment percentage to all pay points in each of the three salary bands is thus not feasible. For clarity and accuracy, we have set out all the civil service pay scales/ICAC pay scale as adjusted from 1 January 2004

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<sup>1</sup> The three civil service salary bands are:

- (a) Lower salary band: below Master pay Scale (MPS) Point 10 or equivalent (including Model Scale One Pay Scale);
- (b) Middle salary band: MPS Point 10-Point 33 or equivalent; and
- (c) Upper salary band: above MPS Point 33 to General Disciplined Services (Officer) Pay Scale (GDS(O)) point 38 or equivalent

The salary adjustment for directorate officers (Directorate Pay Scale (DPS) point 1 and above) normally follows the same adjustment rate as the upper salary band, except in 1998/99 whereby officers at DPS point 1 and DPS point 2 were granted a pay increase of 6.03% in line with that for the upper salary band while the pay for officers at DPS point 3 and above was frozen.

<sup>2</sup> There is one exception to this arrangement. In 1998, officers on Directorate Pay Scale (DPS) points 1 and 2 received a pay increase of 6.03% but the pay for officers at DPS point 3 and above was frozen. Accordingly, the pay of HA staff on HA Management Pay Scale (HAMPS) point 37 (which was regarded by HA as being equivalent to DPS point 3 in the civil service) and above was frozen that year. For officers at HAMPS point 36 (which was regarded by HA as being equivalent to DPS point 2 in the civil service), their pay would have exceeded the pay level of HAMPS point 37 had it been adjusted upwards by 6.03% in line with the rate of adjustment for the upper salary band. To avoid such an anomaly, HA decided to adjust the pay for HAMPS point 36 to the same level as HAMPS point 37 (i.e. an increase of around 3% only).

and 1 January 2005 respectively in Schedules 1, 4 and 5 to the Bill. For the same reason, we have set out in Schedule 3 the HA pay scales applicable to relevant civil servants working in the HA.

Civil Service Bureau  
November 2003

Annex C of LC Paper No. CB(1)247/03-04(02)

**To address members' concerns about the adjustment of pay of certain public officers who are not civil servants or ICAC officers (clause 11), please provide the following information:**

- (a) Please advise how the term "public officers" is defined.**
- (b) Please provide the number of public officers covered by clause 11(1), (2), (3) and (4) respectively.**
- (c) Please provide the number of public officers who are not covered by clause 11 or other clauses of the Bill, hence falling outside the scope of application of the Bill and will not be subject to pay reductions as other public officers. Please provide a breakdown of the number by the public bodies concerned.**
- (d) Please provide the updated progress of the Administration's review of remuneration of senior executives of statutory and other bodies.**

Response from the Administration

*Definition of public officers*

Under section 3 of the Interpretation and General Clauses Ordinance (Cap.1), "public officer" is defined as "any person holding an office of emolument under the Government, whether such office be permanent or temporary." According to this definition, a person who takes up a remunerated appointment made directly by the Government is a public officer. To illustrate, the chairman of a statutory board who is directly appointed by the Government and receives emoluments for such appointment is a public officer, but employees engaged by the statutory board itself are not public officers.

*Number of public officers covered by clause 11 of the Bill*

2. In paragraphs 4 to 9 of the paper entitled "Application to different categories of public officers (other than civil servants or ICAC officers)" (LC paper no. CB(1)2427/0203(10)) submitted to the Bills Committee, we have explained the different categories of public officers who are covered by clause 11(1), (2), (3) and (4) respectively.

3. As at 27 October 2003, the estimated numbers of officers covered by clause 11 are as follows:-



Clause 11(1) – Public officers whose pay is determinable in accordance with or by reference to, directly or indirectly, a point on the civil service pay scales or the ICAC pay scale (e.g. Graduate Trainees appointed by departments under the Environment, Transport and Works Bureau<sup>1</sup>) : around 150.

Clause 11(2) – Public officers whose pay is adjustable in accordance with or by reference to, directly or indirectly, adjustments to the civil service pay scales or the ICAC pay scale (e.g. Ex-Council contract staff in Food and Environmental Hygiene Department) : around 4 300.

Clause 11(3) – Public officers whose pay is adjustable on a biennial basis in accordance with or by reference to, directly or indirectly, adjustments to the civil service pay scales (e.g. members of Auxiliary Medical Service, Auxiliary members of the Civil Aid Service and Auxiliary members of the Government Flying Service) : around 8 100.

Clause 11(4) – Public officers whose pay is determinable and adjustable in accordance with or by reference, directly or indirectly, a point on the civil service pay scales or the ICAC pay scale (e.g. Curriculum Officers in Education and Manpower Bureau) : around 600

*Public officers who are not covered by the Bill*

4. The focus of the Bill is to clearly stipulate those categories of public officers that are subject to the pay reduction decision. We do not readily have an exhaustive list of all public officers who are outside the scope of application of the Bill. The compilation of such a list would involve considerable time and efforts across all bureaux and departments. For illustration purpose, we set out below some examples of public officers who are not subject to the pay reduction decision as their remuneration is not determinable or adjustable in accordance with or by reference to civil service pay-

- (a) Principal Officials under the accountability system receive a remuneration package as approved by the Finance Committee of the Legislative Council in June 2002. The remuneration package for these Principal Officials is not linked to civil service pay. With effect from 1 April 2003, the Principal Officials have voluntarily accepted a pay reduction by 10%; and

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<sup>1</sup> The graduate trainees are engaged for a period of two to three years and the training honoraria for graduate trainees appointed before 19 July 2003 are pegged to certain points on the civil service pay scales. On 18 July 2003, the Finance Committee of the Legislative Council approved the proposal to delink the training honoraria from civil service pay and to have the rates of training honoraria revised by the Secretary for Environment, Transport and Works in future having regard to the results of the relevant salary surveys and other relevant factors. Thus, graduate trainees appointed after 18 July 2003 will not be subject to pay reduction under the Bill.

- (b) Chairmen/vice-chairmen/members of statutory/non-statutory bodies, boards and committees (e.g. Liquor Licensing Board, Labour Advisory Board, Telecommunications (Competition Provisions) Appeal Board, Insider Dealing Tribunal, Independent Police Complaints Council) who receive remuneration (in the form of a daily/monthly rate or a fixed rate for each meeting/hearing or an annual retainer) which is not determinable or adjustable in accordance with or by reference to civil service pay.

*Progress of the review of remuneration of senior executive of statutory and other bodies*

5. The consultant completed the Study on the Review of Remuneration of Senior Executives of Statutory and Other Bodies in June 2002. The Administration briefed the LegCo Panel on Public Service on the study findings in July 2002. The Administration intends to brief the LegCo Panel on Public Service on the ten bodies' responses to the study's recommendations at its coming meeting to be held on 17 November 2003.

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