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Dear Miss Cheng,

Public Officers Pay Adjustments (2004/2005) Bill

Thank you for your letter of 21 October 2003. We have consulted the Law Draftsman on your further comments on the Chinese term “改爲” in clause 3 of the Bill. Our response is set out below.

We note that you have drawn a distinction between “改爲” and “變爲” in that the former involves some kind of action or a positive act while the latter bears the connotation of conversion or transformation without any particular action. We reiterate that “改” means “改變” according to 《現代漢語詞典》 (i.e., becoming different from what was before). Further, depending on the context, “改爲” may be used even when no positive act is involved, and “變爲” can be used to connote some kind of action or a positive act. The meaning of a term should be looked at in the context of the legislation. This view is illustrated by the following examples taken from the laws of Hong Kong:-

- (a) Section 22(2) of the Merchant Shipping (Registration) Ordinance (Cap. 415):

“Where the registrar has served a notice under subsection (1) in respect of a ship, he may refuse to register the ship unless within the period of 30 days commencing on the date of service of the notice, he has become satisfied (rendered as “改爲信納”) that the ship is registrable.”

- (b) Section 7 of the First Pacific Bank Limited Ordinance (Cap. 1146):

“Without prejudice to the generality of any other provision of this Ordinance but subject to any provision of this Ordinance to the contrary effect, the following provisions of this section shall have effect –

- (i) Any judgment or award obtained by or against Far East Bank and not fully satisfied before the appointed day shall on that day, to the extent to which it is enforceable by or against Far East Bank, become enforceable (rendered as “判決或仲裁裁決改爲可... 強制執行”) by or against First Pacific Bank.”

- (c) Section 14(1)(a) of the Traffic Wardens (Discipline) Regulations (Cap. 374 sub. leg. J):

(1) A superintendent may, of his own motion within 14 days from the date of any finding or punished awarded by an inspector sitting as the tribunal, or upon any appeal under regulation 13(1)(a) –

- (a) confirm any finding or vary any finding from guilty to not guilty (rendered as “將原先裁斷爲有罪變爲無罪”); and...”

In examples (a) and (b) above, the Chinese term for “become” is “改爲” and the meaning in their respective context does not involve any kind of action or positive act. In example (c) above, “變爲” is used to connote some kind of action or positive act.

Clause 3 (2) of the Bill provides that “Where the pay of a public officer referred to in subsection (1)(a) becomes payable in accordance with a civil service pay scale or the ICAC pay scale, it is payable in accordance with the relevant scale as adjusted by this Ordinance.” As explained in the paper entitled “Impact of the pay reduction decision on civil servants on delinked starting salary” (LC Paper No. CB(1)2427/02-03(9)), an officer who was offered

appointment before 26 February 2003 to a basic rank on a delinked starting salary or an officer who was promoted to a basic rank on a delinked starting salary before that date will not be subject to the pay reductions under the Bill. However, once such an officer qualifies for an increment, which will normally be after one year's service subject to satisfactory performance, he will be remunerated at the next higher pay point on the relevant civil service pay scale as adjusted in accordance with the legislation from 1 January 2004 and 1 January 2005 respectively.

Having regard to the meaning of "改" being "改變", the context of the provision under clause 3(2) and the use of "改爲" and "變爲" in other legislation, we do not consider it necessary to change "改爲" to "變爲" in the Bill.

Yours sincerely,

(Eddie Mak)
for Secretary for the Civil Service

c.c. Ms. Rosalind Ma, Legislative Council Secretariat
Mr. Ian Wingfield, Department of Justice
Mr. David Morris, Department of Justice
Ms. Betty Cheung, Department of Justice