

## **ITEM FOR FINANCE COMMITTEE**

### **HEAD 170 – SOCIAL WELFARE DEPARTMENT**

#### **Subhead 179 Comprehensive social security assistance scheme**

#### **Subhead 180 Social security allowance scheme**

Members are invited to approve new residence requirements in the eligibility for assistance under the Comprehensive Social Security Assistance Scheme and the Social Security Allowance Scheme with effect from 1 January 2004 based on a seven-year residence rule and at least one year's continuous residence immediately prior to application together with special arrangements for children aged below 18 and those who have become Hong Kong residents before the changes come into effect.

### **PROBLEM**

We need to revamp the existing residence requirements for our major social security benefits, namely, assistance under the Comprehensive Social Security Assistance (CSSA) Scheme, and the Old Age Allowance (OAA) and the Disability Allowance (DA) under the Social Security Allowance (SSA) Scheme, to ensure a rational basis on which our public resources are allocated and to address the current discrepancies in the residence rules governing eligibility for these benefits.

**/PROPOSAL .....**

**PROPOSAL**

2. In line with “the principle of seven-year residence requirement” for providing social benefits heavily subsidized by public funds as recommended by the Task Force on Population Policy, we propose to adopt the following residence requirements for CSSA, OAA and DA **from 1 January 2004** –

(a) CSSA

To be eligible for CSSA, a person must have been a Hong Kong resident for at least seven years and have resided in Hong Kong continuously for at least one year immediately before the date of application (absence from Hong Kong up to a maximum of 56 days during the one-year period is treated as residence in Hong Kong).

Children aged below 18 are exempted from any prior residence requirement.

Current Hong Kong residents (i.e. those who have become Hong Kong residents before the seven-year residence rule comes into effect) need only to satisfy the requirement of one year’s continuous residence in Hong Kong immediately before the date of application.

In exceptional circumstances, assistance may be granted at the discretion of the Director of Social Welfare (DSW) to a person who does not meet the residence requirement.

(b) OAA

To be eligible for OAA, a person must have been a Hong Kong resident for at least seven years and have resided in Hong Kong continuously for at least one year immediately before the date of application (absence from Hong Kong up to a maximum of 56 days during the one-year period is treated as residence in Hong Kong).

Current Hong Kong residents (i.e. those who have become Hong Kong residents before the seven-year residence rule comes into effect) need only to satisfy the requirement of one year’s continuous residence in Hong Kong immediately before the date of application.

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## (c) DA

To be eligible for DA, a person must have been a Hong Kong resident for at least seven years and have resided in Hong Kong continuously for at least one year immediately before the date of application (absence from Hong Kong up to a maximum of 56 days during the one-year period is treated as residence in Hong Kong).

Children aged below 18 are exempted from any prior residence requirement.

Current Hong Kong residents (i.e. those who have become Hong Kong residents before the seven-year residence rule comes into effect) need only to satisfy the requirement of one year's continuous residence in Hong Kong immediately before the date of application.

Encl. 1 A summary comparing the proposed changes with the existing requirements is at Enclosure 1.

**JUSTIFICATION****Existing residence requirements**

3. In general, eligibility for Hong Kong's social security benefits is based on length of residence in Hong Kong and need. At present, apart from meeting other need-related eligibility requirements, a person must be a Hong Kong resident<sup>1</sup> and have lived in Hong Kong for a specified period of time in order to qualify for CSSA, OAA or DA.

4. To be eligible for CSSA, a person must have resided in Hong Kong for at least one year. Absence from Hong Kong up to a maximum of 56 days prior to the date of application is treated as residence in Hong Kong. The one-year residence does not have to be immediately prior to application. Also, the one-year residence requirement does not apply to persons born in Hong Kong who have acquired the right of abode since birth. In cases of genuine hardship, the DSW has the discretionary power to grant assistance to a person who does not meet the residence requirement.

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<sup>1</sup> Persons whose presence in Hong Kong are unlawful and persons admitted to Hong Kong for a purpose other than residence (i.e. those who are subject to conditions of stay prescribed in Regulation 2 of the Immigration Regulation Cap. 115A, such as imported workers and visitors) are excluded from the CSSA Scheme and the SSA Scheme.

5. To be eligible for OAA (i.e. Normal OAA for elders aged 65 to 69 and Higher OAA for elders aged 70 and over), a person must have resided in Hong Kong for at least five years since attaining the age of 60. The residence requirement for DA is one year's continuous residence in Hong Kong immediately before the date of application, or in the case of a child under one year of age, continuous residence in Hong Kong since birth. Absence from Hong Kong up to a maximum of 280 days and 56 days during the requisite five-year and one-year periods is treated as residence in Hong Kong for OAA and DA respectively.

### **Discrepancies in existing arrangements**

6. As can be seen, although CSSA, OAA and DA all have residence requirements governing eligibility, there are some discrepancies in the rules.

7. While there is a one-year residence requirement for both CSSA and DA, a CSSA applicant need not have resided in Hong Kong continuously for at least one year *immediately* before the date of application as in the case of a DA applicant. For example, a Hong Kong resident who has resided outside Hong Kong for many years will be entitled to apply for CSSA immediately on his return by virtue of his previous residence in Hong Kong.

8. As for OAA, a person is considered to have met the five-year residence requirement for OAA if he has resided in Hong Kong continuously or intermittently for a total of not less than five years since attaining the age of 60. For example, a 75-year-old Hong Kong permanent resident who has emigrated to a foreign country for ten years will be entitled to claim OAA immediately on his return by virtue of his five years' residence in Hong Kong before emigration.

9. The existing policy exempts persons born in Hong Kong who have acquired the right of abode since birth but not those born outside Hong Kong who enjoy the right of abode under Article 24 of the Basic Law from the one-year residence requirement for CSSA. Children under one year of age are entitled to claim DA if they were born in Hong Kong and have resided in Hong Kong continuously since birth, but those born outside Hong Kong must meet the one-year residence requirement.

**/Recommendations .....**

**Recommendations of the Task Force on Population Policy on eligibility for public benefits**

10. The Task Force on Population Policy recommends, inter alia, the adoption of a seven-year residence rule for providing all heavily subsidized social services including CSSA.

11. As far as CSSA is concerned, the Task Force recommends that we tighten the residence requirement so that CSSA should, from a future date, be available only to residents having satisfied the seven-year residence rule except for children aged below 18, for whom the rule will be waived. The Task Force also recommends that those who have become Hong Kong residents before the seven-year residence rule comes into effect should not be affected by the new rule.

**Changes to the residence requirements for CSSA**

12. As at the end of December 2002, 14.9% of total CSSA recipients were new arrivals<sup>2</sup>, compared with 12% at the end of March 1999. Between March 1999 and December 2002, the number of CSSA cases involving new arrivals increased significantly by 48%, while the CSSA caseload grew by 14% over the same period. The estimated CSSA expenditure on new arrivals increased from \$1,467 million (or 10.8% of total CSSA expenditure) in 1999-2000 to \$1,728 million (or 12% of total CSSA expenditure) in 2001-02.

13. While we are committed to providing an effective and sustainable safety net for the financially vulnerable, we also need to strike a reasonable balance among the interests of various sectors of the community, having regard to the long-term sustainability of our social services and the need for a rational basis on which our public resources are allocated in the light of fiscal constraints and ever-rising demands.

*A seven-year residence requirement for people aged 18 and above*

14. We consider that there is a strong case for extending the residence requirement for CSSA from one year to seven years except for children under 18 years of age (see paragraphs 22-24 below). There are a number of reasons for the change.

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<sup>2</sup> New arrivals in this paper are defined as those with less than seven years' residence in Hong Kong.

15. First, CSSA is entirely financed by taxation. Eligibility based on a seven-year residence requirement reflects the contribution a resident has made towards our economy over a sustained period of time in Hong Kong. A seven-year residence is also normally required for the grant of permanent resident status in Hong Kong, for which additional rights, including the right to vote and to stand for election, are prescribed in the laws of Hong Kong.

16. Secondly, a stricter residence requirement for CSSA would encourage new arrivals who can work to try their best to stand on their own feet before turning to welfare assistance. Experience shows that once people are on CSSA, it is doubly difficult to move them out of the safety net, despite intensive employment assistance offered.

17. Thirdly, while we will continue to facilitate the reunion of Hong Kong residents with their Mainland spouses and children through the One Way Permit (OWP) Scheme<sup>3</sup>, a stricter residence requirement for CSSA would send a clear message to potential migrants that they should plan carefully and ensure that they have sufficient means to support themselves in Hong Kong.

18. Fourthly, while the Government has an obligation to uphold the right of everyone to a standard of living adequate for the health and well-being of himself and of his family, CSSA is not the only form of assistance for people in need. Other forms of assistance and support, such as employment support services, emergency relief, grants from charitable trust funds, medical waivers, assistance in kind, referrals to singleton hostels for accommodation and day relief centres for meals, are available to new arrivals who are able-bodied adults.

19. Lastly, CSSA will always be available to the financially vulnerable in the absence of other options. The DSW will continue to exercise her discretionary power as she does now to waive the residence requirement in cases of genuine hardship. As at the end of December 2002, there were some 700 cases involving recipients who did not meet the one-year residence requirement.

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<sup>3</sup> The OWP Scheme is operated by the Mainland authorities, which govern the exit of people from other parts of China to Hong Kong for settlement in accordance with Article 22(4) of the Basic Law. From 1997 to 2001, new arrivals under the scheme were equivalent to some 93% of the population growth in Hong Kong.

*A period of continuous residence before application*

20. In addition to the seven-year residence rule, we propose that a person aged 18 or above applying for CSSA must have resided in Hong Kong continuously for at least one year *immediately* before the date of application. Absence from Hong Kong up to a maximum of 56 days within that one-year period prior to the date of application will be treated as residence in Hong Kong.

21. This additional requirement aims to discourage people who have lived outside Hong Kong for a long time from relying on CSSA as soon as they return to Hong Kong.

*Exempting children aged below 18 from any prior residence requirement*

22. We propose to exempt children aged below 18 who are Hong Kong residents from any prior residence requirement. This measure means a relaxation of existing arrangements for those born outside Hong Kong and aims to facilitate early integration of migrant children into our community.

23. According more favourable treatment to minors is in keeping with the spirit of the United Nations Convention on the Rights of the Child to provide children with special care and protection. The Department of Justice has advised that exempting children under 18 years of age but not other age groups from the residence requirement for CSSA would not constitute age discrimination.

24. As at the end of December 2002, of those CSSA recipients with less than seven years' residence in Hong Kong, about 36 000 or 52% were under 18 years of age.

*Exempting current Hong Kong residents from the seven-year residence rule*

25. As CSSA is a safety net of last resort and Hong Kong people are aware that they can resort to it when the need arises, we propose to exempt those who are already members of our community from the seven-year residence rule. In other words, those who have become Hong Kong residents before this rule comes into force need only to satisfy the requirement of one year's continuous residence in Hong Kong immediately before the date of application for CSSA. Appropriate steps will be taken to ensure that the seven-year residence rule is brought to the attention of potential migrants so that they may take into account the new policy in deciding whether to migrate to Hong Kong.

**Changes to the residence requirements for OAA and DA**

26. The number of SSA recipients who are new arrivals is relatively small. As at the end of December 2002, only 0.1% of total OAA recipients and 1.5% of total DA recipients were new arrivals. However, as the SSA Scheme is broadly non-means-tested and is not meant to provide assistance needed for subsistence, the residence requirements for OAA and DA should be no less stringent than that for CSSA. The opportunity is therefore taken to rationalize the arrangement based on the same principle of seven-year residence rule.

*A period of continuous residence before application*

27. In addition to the seven-year residence rule, we propose that a person applying for OAA or DA must have resided in Hong Kong continuously for one year *immediately* before the date of application. For OAA, absence from Hong Kong up to a maximum of 56 days during the one-year period prior to the date of application will be treated as residence in Hong Kong. The proposed requirement of one-year continuous residence in Hong Kong before the date of application and the proposed 'absence' allowance during the one-year period are necessary to tie in with the proposed arrangements for CSSA and DA. As for DA, as is the existing practice, absence from Hong Kong up to a maximum of 56 days during the one-year period prior to the date of application will be treated as residence in Hong Kong.

*Exempting children aged below 18 from any prior residence requirement for DA*

28. We propose to exempt children aged below 18 who are Hong Kong residents from any prior residence requirement for DA, as in the case of CSSA. Such an exemption will also accord more favourable treatment to minors, in keeping with the spirit of the United Nations Convention on the Rights of the Child.

29. As at the end of 2002, of those DA recipients aged below 18, 637 (or 7.2%) were those with less than seven years' residence in Hong Kong.

*Exempting current Hong Kong residents from the seven-year residence rule*

30. As the SSA Scheme is the other mainstay of our social security system, most current Hong Kong residents will expect that they can receive OAA and DA when the need arises and the existing criteria are met. Therefore, we propose to also exempt those who are already members of our community from the seven-year residence rule, as in the case of CSSA. In other words, those who have become Hong Kong residents before this rule comes into force need only to satisfy the requirement of one year's continuous residence in Hong Kong immediately before the date of application for OAA or DA.



## FINANCIAL IMPLICATIONS

31. In 2001-02, CSSA expenditure on new arrival recipients accounted for \$1,728 million or 12% of total CSSA expenditure. Of this, \$764 million was paid to recipients aged 18 and above, and \$964 million to persons aged under 18. On the other hand, as at the end of December 2002, only 0.1% of total OAA recipients and 1.5% of total DA recipients were new arrivals.

32. The proposed seven-year residence rule for persons aged 18 and above will not apply to current Hong Kong residents, and will therefore not lead to savings in expenditure on CSSA and SSA on these residents. The adoption of the seven-year rule will affect future new arrivals aged 18 and above, and any reduction in additional expenditure on such persons will only start one year (for CSSA and DA) or five years (for OAA) after the adoption of the rule.

33. On the other hand, the proposed exemption from any prior residence requirement for persons aged below 18 in respect of CSSA and DA, and the proposed relaxation from 'five-year residence since attaining the age of 60' to 'one-year continuous residence immediately prior to application' in respect of OAA, as well as the proposal that current Hong Kong residents need only to satisfy the requirement of one year's continuous residence in Hong Kong immediately prior to application for OAA, may lead to additional CSSA and SSA expenditure. In 2002, some 16 000 or 35% of the new arrivals admitted into Hong Kong under the OWP Scheme were under 18 years of age.

34. Under the seven-year residence requirement, it is inevitable that DSW may have to resort more to her discretionary power to grant assistance under CSSA to those who are not qualified for assistance under the residence requirement, but are in genuine hardship. These are however determined on a case-by-case basis. It is therefore difficult to estimate the potential additional expenditure arising from the above exemption/relaxation.

## BACKGROUND INFORMATION

### The Social Security System

35. The CSSA Scheme and the SSA Scheme are the mainstays of our social security system. Both schemes are funded entirely from General Revenue, and there is no contributory element. In 2002-03, the Government spent a total of \$21.41 billion on CSSA and SSA. Provision for 2003-04 amounts to \$22.38 billion.

Encl. 2      36.            An explanatory note on the social security system is at  
Enclosure 2.

37.            We briefed the Legislative Council Panel on Welfare Services on  
9 June 2003 on the details of the proposal.

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Health, Welfare and Food Bureau  
June 2003

**Summary of existing and proposed residence requirements  
Under the CSSA Scheme and the SSA Scheme**

	Existing requirements	Proposed requirements
CSSA	<p>(a) <u>Hong Kong resident status</u> The person must be a Hong Kong resident<sup>(Note)</sup>.</p> <p>(b) <u>Residence in Hong Kong before application</u> The person must have resided in Hong Kong for at least one year. The one-year residence need not be continuous or immediately before the date of application. Absence from Hong Kong up to a maximum of 56 days before the date of application is treated as residence in Hong Kong.</p> <p>(c) <u>Exemption</u></p> <ul style="list-style-type: none"> <li>➤ The one-year residence requirement in (b) does not apply to persons born in Hong Kong who have acquired the right of abode since birth.</li> <li>➤ DSW has the discretion to waive the requirements in (a) and (b) above in cases of genuine hardship.</li> </ul>	<p>(a) <u>Hong Kong resident status</u> The person must have been a Hong Kong resident<sup>(Note)</sup> for at least seven years.</p> <p>(b) <u>Residence in Hong Kong before application</u> The person must have resided in Hong Kong continuously for at least one year immediately before the date of application. Absence from Hong Kong up to a maximum of 56 days before the date of application is treated as residence in Hong Kong.</p> <p>(c) <u>Exemption</u></p> <ul style="list-style-type: none"> <li>➤ Children under 18 are exempted from any prior residence requirements (i.e. (a) and (b) above).</li> <li>➤ The seven-year residence rule in (a) above does not apply to persons who have become Hong Kong residents before the effective date of the new policy.</li> <li>➤ DSW has the discretion to waive the requirements in (a) and (b) above in cases of genuine hardship.</li> </ul>

/OAA .....

<sup>(Note)</sup> Persons whose presence in Hong Kong are unlawful and persons admitted to Hong Kong for a purpose other than residence (i.e. those who are subject to conditions of stay prescribed in Regulation 2 of the Immigration Regulation Cap. 115A, such as imported workers and visitors) are excluded from the CSSA Scheme and the SSA Scheme.

	Existing requirements	Proposed requirements
OAA	<p>(a) <u>Hong Kong resident status</u> The person must be a Hong Kong resident<sup>(Note)</sup>.</p> <p>(b) <u>Residence in Hong Kong before application</u> The person must have resided in Hong Kong for at least five years since attaining the age of 60. Absence from Hong Kong up to a maximum of 280 days before the date of application is treated as residence in Hong Kong.</p> <p>(c) <u>Exemption</u> Nil.</p>	<p>(a) <u>Hong Kong resident status</u> The person must have been a Hong Kong resident<sup>(Note)</sup> for at least seven years.</p> <p>(b) <u>Residence in Hong Kong before application</u> The person must have resided in Hong Kong continuously for at least one year immediately before the date of application. Absence from Hong Kong up to a maximum of 56 days before the date of application is treated as residence in Hong Kong.</p> <p>(c) <u>Exemption</u> The seven-year residence rule in (a) above does not apply to persons who have become Hong Kong residents before the effective date of the new policy.</p>

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	Existing requirements	Proposed requirements
DA	<p>(a) <u>Hong Kong resident status</u> The person must be a Hong Kong resident<sup>(Note)</sup>.</p> <p>(b) <u>Residence in Hong Kong before application</u> The person must have resided in Hong Kong continuously for at least one year, or in the case of a child below one year of age, have resided in Hong Kong continuously since birth. In either case, absence from Hong Kong up to a maximum of 56 days before the date of application is treated as residence in Hong Kong.</p> <p>(c) <u>Exemption</u> Nil.</p>	<p>(a) <u>Hong Kong resident status</u> The person must have been a Hong Kong resident<sup>(Note)</sup> for at least seven years.</p> <p>(b) <u>Residence in Hong Kong before application</u> The person must have resided in Hong Kong continuously for at least one year immediately before the date of application. Absence from Hong Kong up to a maximum of 56 days before the date of application is treated as residence in Hong Kong.</p> <p>(c) <u>Exemption</u></p> <ul style="list-style-type: none"><li>➤ Children under 18 are exempted from any prior residence requirements (i.e. (a) and (b) above).</li><li>➤ The seven-year residence rule in (a) above does not apply to persons who have become Hong Kong residents before the effective date of the new policy.</li></ul>

## Social Security System

### Introduction

Our social security system provides a safety net for individuals or families who are unable to support themselves financially because of age, disability, illness, low earnings, unemployment or family circumstances. The aim of the Comprehensive Social Security Assistance (CSSA) Scheme is to bring the income of such individuals or families up to a prescribed level to meet their basic and essential needs. The aim of the Social Security Allowance (SSA) Scheme is to help the severely disabled and the elders to meet the special needs arising from disability or old age. A person can receive either assistance under the CSSA Scheme or one of the allowances under the SSA Scheme.

### Eligibility

2. Both schemes are non-contributory. The CSSA Scheme is means-tested. Applicants for SSA are not subject to means test except that persons aged between 65 and 69 applying for the Old Age Allowance have to declare that their income and assets do not exceed the prescribed levels.

3. There are residence requirements for both Schemes. In addition, able-bodied CSSA applicants who are unemployed or working part-time but available for full-time work are required to actively seek work and participate in the Support for Self-reliance Scheme as a condition of receiving assistance.

4. Elderly persons aged 60 or above who have been in receipt of CSSA continuously for three years may join the Portable CSSA Scheme whereby they are allowed to continue to receive their monthly standard payments and annual long-term supplement should they choose to retire permanently in Guangdong.

### Payment

#### CSSA Scheme

5. The amount of assistance is determined by the monthly income and needs of a family. The difference between the total assessable monthly income of a family and its total monthly needs as recognized under the Scheme in terms of various types of payment will be the amount of assistance payable. When assessing a family's monthly income, earnings from employment and training/retraining allowance can be disregarded up to a prescribed level so as to provide an incentive to work and training/retraining.

6. The Scheme embraces different standard payments to meet the basic and essential needs of broad categories of recipients. In addition, an annual long-term supplement is paid to those who are old, disabled or medically certified to be in ill-health and who have been receiving assistance continuously for more than 12 months for the replacement of household and durable goods. A monthly supplement is also paid to single parents in recognition of the special difficulties they face in bringing up families on their own without the support of spouses. Apart from these standard payments, non-standard payments in the form of special grants are payable to cover rent, water charge, schooling expenses, child care centre fees and burial expenses. Recipients who are old, disabled or medically certified to be in ill-health are also entitled to other special grants to meet their special needs such as medically recommended diets and appliances.

#### SSA Scheme

7. Four allowances are payable under this Scheme as follows –

(a) Normal Disability Allowance

For severely disabled persons who, broadly speaking, suffer from a 100% loss of earning capacity, or who are profoundly deaf.

(b) Higher Disability Allowance

For severely disabled persons who require constant attendance from others in their daily life but are not receiving such care in a government or subvented institution or a medical institution under the Hospital Authority.

(c) Normal Old Age Allowance

For persons aged between 65 and 69 whose income and assets do not exceed the prescribed levels.

(d) Higher Old Age Allowance

For persons aged 70 or above.