

**For discussion on
21 April 2008**

LEGISLATIVE COUNCIL PANEL ON PUBLIC SERVICE

STATUS OF MODEL SCALE 1 STAFF

PURPOSE

This paper informs Members of the Administration's proposal to allow serving Model Scale 1 (MOD 1) staff to opt to become Category A officers, with improvement in leave accumulation limit; and to grant the same status to new recruits to the MOD 1 grades.

BACKGROUND

Staff Side Request

2. In May 2006, the staff side requested that MOD 1 staff should be converted from Category B to Category A status without changing their pay or conditions of service. The Administration undertook to consider the staff side's request after completion of the 2006 Pay Level Survey and implementation of its findings. In January and February 2008, the staff side further requested that the leave earning rate of serving MOD 1 staff converted to Category A status should be enhanced by phases to align with that applicable to junior civil servants remunerated on the Master Pay Scale and that such staff's leave accumulation limit should also be increased.

Current Arrangement

3. According to the Public Service (Administration) Order, a civil servant appointed to and confirmed in an established office¹ is classified as a Category A officer. A civil servant who holds a non-established office, or an established

¹ An established office means an office declared to be such by an Order made by the Chief Executive and published in the Gazette, as defined under section 2 of the Pensions Ordinance (Cap. 89) and the Pension Benefits Ordinance (Cap. 99). An office which has been declared an established office under section 2 of Cap. 99 is an established office for the purpose of both Cap. 89 and Cap. 99.

office on month-to-month or probationary terms, or an office on agreement terms, is classified as a Category B officer. MOD 1 grades² are non-established offices. Therefore all serving MOD 1 civil servants are Category B officers.

4. Compared with a Category B officer, a Category A officer enjoys greater job security, more favourable arrangements upon in-service appointment to another grade³, and better safeguard in respect of disciplinary and related procedures in the sense that the Public Service Commission (PSC) should be consulted before a decision is made on the punishment of a Category A officer or before requiring a Category A officer to retire in the public interest⁴.

5. Due to the open recruitment freeze and outsourcing of various government services in recent years, the establishment of MOD 1 grades has reduced from 24 838 on 31 December 1996 to 11 601 on 31 December 2007. The number of serving MOD 1 staff on 31 December 2007 was 10 715.

Future Manpower Requirements of MOD 1 Grades

6. We have assessed the long-term manpower requirements for MOD 1 grades in consultation with bureaux and departments. We believe there is a need to retain a core civil service MOD 1 workforce to perform duties containing law enforcement or security elements and meet service needs during crises and emergencies. While we assess that the longer-term service-wide manpower requirement would fit well with the scheduled retirement of serving MOD 1 staff, we think there would be a mis-match between demand and supply of staff at the individual departmental level. This is because under the existing terms of employment, MOD 1 staff (being appointed and managed by individual Heads of Department) are not subject to inter-departmental posting except the MOD 1 general grade of Supplies Attendant. So the Administration cannot post surplus staff in the MOD 1 common grades (e.g. Workman I and Workman II) in a department to fill vacant posts in the same grades in other departments.

² There are 11 MOD 1 grades, comprising six common grades (i.e. Car Park Attendant II, Ganger, Property Attendant, Ward Attendant, Workman I and Workman II), four departmental grades (i.e. Explosives Depot Attendant, Gardener, Workshop Attendant and Barber) and one general grade of Supplies Attendant.

³ Category A officers are appointed on trial terms upon in-service transfer. They may revert to the parent grade if they fail to pass the trial bar. Category B officers are appointed on probation terms upon in-service transfer. They have to leave the civil service altogether in the event they fail to pass the probation bar.

⁴ In accordance with section 18 of the Public Service (Administration) Order, the Chief Executive shall not inflict any punishment upon a Category A officer under sections 9 to 11 of the Order or require an officer to retire under section 12 of the Order without first consulting the PSC. Pursuant to section 6(2)(d) of the Public Service Commission Ordinance (Cap. 93), this requirement to consult the PSC does not apply to cases of disciplinary punishment / retirement in the public interest involving Police officers in the rank of Chief Inspector of Police and below.

Assessment of the Staff Side Request

7. The request of the staff side for conversion to Category A status stems from a desire for greater security in employment and better safeguard in terms of disciplinary and related procedures. We understand this standpoint, even though the Administration has never in practice treated MOD 1 staff – who are appointed on month-to-month terms – as temporary staff. Other than the oversight of the PSC, the disciplinary mechanism applicable to MOD 1 staff are generally the same as for Category A officers. In view of the *de facto* situation and having regard to the long-term service needs for a core workforce of MOD 1 staff, we are in favour of granting Category A status to MOD 1 staff.

8. As the grant of Category A status will involve a change in the conditions of employment (i.e. from month-to-month to permanent appointment), we consider it reasonable to give an option to serving MOD 1 staff to decide whether or not to convert from Category B to Category A status.

9. We have assessed the request of the staff side as stated in paragraph 2 above. Our considered view is that, in principle, the conversion proposal should not lead to any substantial change in the pay and conditions of service of MOD 1 staff, having regard to the fact that the change in status would not give rise to any major change to their duties and skills.

10. However, we agree that the leave accumulation limit of serving MOD 1 staff on local terms⁵ and converted to Category A status should be increased by around 10% to 50 days (for staff with less than 10 years' service) or 100 days (for staff with 10 years' service or more) in order to encourage more staff to opt for conversion, which would in turn provide more flexibility to the Administration to deal with an anticipated mismatch of supply and demand at the departmental level in the medium term. The proposed moderate increase to the leave accumulation limit has no financial implication as there is no enhancement to the leave earning rate. For background information, the existing leave accumulation limit for staff on various terms of appointment is summarised at **Annex A**.

A

11. The impact of conversion from Category B to Category A status for serving MOD 1 staff in respect of appointment and disciplinary matters, as well as eligibility for fringe benefits, is summarised at **Annex B**.

B

⁵ 99.6% of serving MOD 1 staff are on local terms and some 21% of them have accumulated leave of 80 days or more as at 31 March 2007 according to our sample survey.

PROPOSAL

Serving Staff

12. We propose that all serving MOD 1 staff (including those mentioned in paragraph 14 below) will be given a one-off irrevocable option within a specified period of time to convert from Category B to Category A status, subject to no change to their salary, pay scale, leave earning rate, conditioned hours of work⁶ and education benefit. The leave accumulation limit for MOD 1 staff on local terms and converted to Category A status will be increased to 50 days (for staff with less than 10 years' service) or 100 days (for staff with 10 years' service or more) as appropriate. Staff belonging to the MOD 1 common grades who opt for and are converted to Category A status will be subject to inter-departmental posting at the discretion of the Administration to fill posts in the same grades. Staff allowed to convert to Category A status will be offered permanent terms of appointment from a uniform specified date, without being subject to the probation requirement.

13. Staff who do not take up the conversion option within the specified period of time will remain on Category B status, even if they are later recruited to fill another MOD 1 post of either the same or a different grade through an in-service recruitment exercise.

14. MOD 1 staff who are undergoing invaliding procedures (or against whom relevant procedures have been initiated), or have been given a disciplinary punishment of which the debarring effect is still in force, or are under disciplinary/criminal investigation or proceedings, or are being considered for retirement in the public interest, or are being considered for termination of appointment under existing rules will not be allowed to convert to Category A status until the relevant procedures are disposed of or the relevant debarring period expires and the staff concerned are allowed to remain in the service.

New Outside Recruits

15. For new outside recruits to the MOD 1 grades, we propose to include the inter-departmental posting condition (see paragraph 12 above) in their terms of appointment without increasing the leave accumulation limit. The new outside recruits will be subject to the prevailing terms of appointment for Category A officers appointed to basic ranks, i.e. three-year probation followed by three-year agreement before being considered for appointment on permanent terms.

⁶ MOD 1 staff are required to work 45 hours net per week. The same conditioned hours of work also apply to some 16 000 staff paid on the Master Pay Scale.

Views of the Standing Commission

16. We have consulted the Standing Commission on Civil Service Salaries and Conditions of Service (Standing Commission) on the Administration's proposal. Noting that the proposal would give the Administration greater flexibility in staff deployment and facilitate aspiring staff in maximising their potential through in-service transfer, the Standing Commission supports it as being a step in the right direction in improving human resource management in the civil service.

Views of the Staff Side

17. We have consulted the staff side on our proposals in January and February 2008. Whilst the staff side has indicated acceptance of the conversion proposal and expressed the wish for its early implementation, they continue to seek improvement to the leave benefits of MOD 1 staff who convert to Category A status and remain concerned about the inter-departmental posting condition.

18. We have impressed upon the staff side that in the absence of any major change in the duties and skills required of MOD 1 staff, we are not in a position to support any proposal that would increase their leave earning rate. We have also explained that the Administration will give due regard to the work experience, skills and qualifications of the serving MOD 1 staff when arranging inter-departmental transfer to address mismatch in demand and supply of MOD 1 common grade staff at the departmental level. We believe the staff side will welcome the Administration's proposal, which provides for an increase in the leave accumulation limit of MOD 1 staff on local terms converted to Category A status.

LEGISLATIVE AMENDMENT

19. Implementation of the conversion proposal requires an order by the Chief Executive to amend the schedules to the Pension Benefits Ordinance (Established Offices) Order (Cap. 99J) to declare MOD 1 grades as established offices. We aim to table the amendment order before this Council within the current legislative session for approval. Subject to the approval of this Council, our target is to implement the proposal in the last quarter of 2008.

ADVICE SOUGHT

20. Members are invited to note our plan to seek this Council's approval for the necessary amendment order to implement the conversion proposal set out above.

Civil Service Bureau
March 2008

Leave Accumulation Limit for Civil Servants

At present, civil servants are provided with full-pay vacation leave which can be accumulated up to a stipulated limit depending on their rank, terms of appointment and years of service. The leave earning rate and leave accumulation limit for different categories of officers are set out below –

Terms of Appointment	Leave earning rate per year (rates in brackets are for those with 10 or more years of service)		Leave accumulation limit (rates in brackets are for those with 10 or more years of service)	
Local terms (officers offered appointment before 1 January 1999)	MOD 1	14 (22)	MOD 1	45 (90)
	Below MPS 14	22 (31)	Below MPS 14	60 (120)*
	MPS 14 to D3	31 (40.5)	MPS 14 to D3	120 (180)*
Common terms (officers offered appointment between 1 January 1999 and 31 May 2000)	MOD 1	14 (21)	MOD 1	28 (42)
	Below MPS 14	21 (27)	Below MPS 14	42 (54)
	On or above MPS 14	27 (34)	On or above MPS 14	54 (68)
New terms (officers offered appointment on or after 1 June 2000)	Below MPS 14 (including MOD 1)	14 (18)	Below MPS 14 (including MOD 1)	28 (36)
	MPS 14 to 49	18 (22)	MPS 14 to 49	36 (44)
	Directorate	22 (26)	Directorate	44 (52)

* Officers appointed before 1 August 1987 may put aside up to 30 days of leave balance as at 1 August 1987 into a sinking balance.

2. Leave accumulation limits for different categories of civil servants are set with reference to their respective leave earning rates. For local terms officers on D3 and below, the leave accumulation limit represents around 2½ to 4½ years of an officer's leave entitlement. Under the common terms and new terms introduced on 1 January 1999 and 1 June 2000 respectively, leave accumulation limits were reduced and standardised to allow for accumulation of two years of leave entitlement only, to be more in line with the provision in the private sector.

**Implications of Model Scale 1 Staff Converting from
Category B to Category A Status**

Appointment matters

- (a) Model Scale 1 (MOD 1) staff who are converted to Category A status will be appointed on permanent and pensionable terms, and occupy an established office in a similar manner as other Category A officers, subject to the relevant MOD 1 grades being declared as established offices in an order made by the Chief Executive under the Pension Benefits Ordinance (Cap. 99) and published in the Gazette.
- (b) Termination of service by a Head of Department (HoD) by giving one month's notice without the need to consult the Public Service Commission (PSC) will no longer be applicable to MOD 1 staff who are converted to Category A status.
- (c) Three months' notice (instead of one month's) or one month's salary in lieu is required for resignation tendered by MOD 1 staff on Category A status.
- (d) Upon conversion to Category A status and appointment on permanent and pensionable terms, if these MOD 1 staff wish to transfer to established posts in other grades by in-service appointment, they would be engaged on trial terms under the existing policy. In other words, they may, as with other permanent staff, revert to their original grade (rather than leave the civil service) if they fail to pass the trial bar.

Disciplinary and related matters

- (e) On the staff discipline front, MOD 1 staff who are converted to Category A status will be subject to the prevailing disciplinary mechanism for Category A officers. For those who have opted to remain as Category B officers, they will continue to be subject to the prevailing disciplinary mechanism for Category B MOD 1 staff. Specifically, the following should be noted -
 - (i) Section 17 of the Public Service (Disciplinary) Regulation stipulates that Category B officers on the MOD 1 Pay Scale are subject to a summary fine for unpunctuality and absence without reasonable excuse. The same punishment is not applicable to MOD 1 staff converted to Category A status.

- (ii) Pursuant to section 18 of the Public Service (Administration) Order (PS(A)O) and as a matter of established practice, the PSC is consulted before a decision is made to punish a Category A officer or to require him/her to retire in the public interest, but no such consultation has been undertaken in respect of a Category B officer.
- (iii) To dismiss (under sections 10 and 11 of the PS(A)O) a MOD 1 staff converted to Category A status requires the approval of the Secretary for the Civil Service (SCS)/Permanent Secretary for the Civil Service (PSCS) but to award the same punishment to one remaining on Category B status requires the concerned HoD's approval.
- (iv) To compulsorily retire (in the public interest under section 12(2) and (3) of the PS(A)O) a MOD 1 staff converted to Category A status requires SCS's approval but to similarly remove one remaining on Category B status requires PSCS's approval.

Fringe benefits

- (f) The leave accumulation limit of serving MOD 1 staff on local terms converted to Category A status will be increased to 50 days (for staff with less than 10 years' service) or 100 days (for staff with 10 years' service or more) as appropriate.
- (g) For those MOD 1 staff on the Old Pension Scheme (OPS) who have been converted to Category A status, the pension factor for service up to 25 years will be increased from 1/800 to 1/600 whilst the pension factor for service beyond 25 years will remain unchanged at 1/600. However, only three-quarters of their pensionable service in a non-established office would be taken into account for the calculation of pensions. As a result, only MOD 1 staff on the OPS with service of less than 25 years may stand to gain upon conversion to Category A status. MOD 1 staff on the OPS with more than 25 years of service will suffer reduction in pension benefits upon conversion. For MOD 1 staff on the New Pension Scheme (NPS) converted to Category A status, the pension factor for service on or after 1 April 1987 will remain unchanged at 1/675. For service before 1 April 1987, the pension factor will be increased from 1/800 to 1/675 but only 675/800 of their pensionable service in a non-established office before 1 April 1987 would be taken into account for the calculation of pension. As a result, the pension benefits of MOD 1 staff on the NPS will not be affected upon conversion to Category A status.

- (h) Depending on their years of service at the time of conversion and/or death, the death gratuity payable to MOD 1 staff on the OPS who have been converted to Category A status may be higher or lower than before.

- (i) Upon conversion to Category A status, MOD 1 staff will be eligible for housing benefits under the Co-operative Building Society Scheme in a similar manner as other Category A officers, subject to their meeting all other eligibility criteria for the scheme. Such MOD 1 staff will, however, need to forego their eligibility for Overseas Education Allowance even if they joined the civil service in response to an offer dated before 1 August 1996, because the Government considers this is an outdated allowance and is being phased out.