

For information

Legislative Council Panel on Public Service

Supplementary information on retirement in the public interest under section 12 of the Public Service (Administration) Order

Background

At the meeting of the Panel on Public Service on 20 October 2008, Members requested the Administration to provide information on the processing time for cases concerning retirement in the public interest under section 12 of the Public Service (Administration) Order (“PS(A)O”) following the implementation of the revised procedures in 2005. The requested information is provided in the ensuing paragraphs.

Retirement in the public interest

2. The Administration has a well established system to manage civil servants’ performance. Under the system, while good performers are given due recognition and rewards, sub-standard performers are counseled, monitored and offered assistance with a view to bringing their performance up to the required standard. For persistent sub-standard performers, we have in place a procedure to retire them in the public interest under section 12 of the PS(A)O. Retirement in the public interest under this section (here below referred to as “section 12 action”) is not a disciplinary punishment. It is an administrative action taken to remove persistent sub-standard performers from the service.

3. Generally speaking, the procedures for section 12 action comprise three phases as follows –

- (a) **Management action:** Before section 12 action is taken against a civil servant, the bureau/department management concerned must advise, counsel and assist the civil servant with a view to bringing his performance up to the required standard. Formal section 12 action should only follow where such efforts have failed to produce the desired results.
- (b) **Pre-section 12 action:** Where the management action in item (a) above fails to yield the expected result, the bureau/department management concerned will call for special appraisal report(s) on the

civil servant in question and forewarn him of possible section 12 action if his performance remains at a sub-standard level during a specified observation period.

- (c) **Section 12 action:** If the special appraisal report(s) mentioned in item (b) above reveals that the performance of the civil servant concerned still fails to meet the required standard during the observation period, the bureau/department management concerned will notify the Civil Service Bureau (“CSB”). On receipt of such notification, CSB will consider whether there is adequate evidence to apply section 12 action on the civil servant. If so, CSB will institute action, including the issue of a letter of intent to the civil servant and invite his representations before a decision is taken on his case.

Last revision of procedures

4. The last revision to the procedures for handling persistent sub-standard performers under section 12 of the PS(A)O was made in October 2005. The revised procedures enable, among others¹, bureaux/departments to take swifter action to deal with sub-standard performers by lowering the threshold for invoking section 12 action from 12 months to six months of “unsatisfactory” performance.

5. As a result of the implementation of the revised procedures, the average length of time taken by a bureau/department to follow through a section 12 case from the forewarning of the civil servant concerned up to the submission of the case to CSB has been significantly shortened from the previous average of about 15 months to the current average of about ten months.

6. The revised procedures have embodied proper checks and balances to ensure due process and adherence to natural justice. These checks and balances include allowing the civil servant concerned to make representations at various stages of the process, scrutiny of the case by a panel comprising senior civil servants without direct supervisory responsibility over the civil servant concerned, personal endorsement of the decision to recommend section 12 action in the department/bureau concerned by an officer at least at the deputy head of department/grade level, etc. Furthermore, all section 12 cases are processed centrally by CSB when they reach the third phase as set

¹ The other changes include highlighting the need for supervisors to call special report without having to wait for the next annual appraisal; for civil servants placed under observation with a view to invoking section 12 action, requiring the granting of increment to them to be subject to review; and stating clearly the mandatory requirement to consult an independent panel irrespective of whether or not the civil servant makes a representation at the end of the observation period.

out in paragraph 3(c) above. The independent advice of the Public Service Commission will be sought, where appropriate, before a final decision to retire a civil servant under section 12 is made.

7. The Administration will continue to monitor the effectiveness of section 12 action, and review and improve upon the related procedures as necessary.

Civil Service Bureau
November 2008