

Ref : AP 295/47-C IV

GOVERNMENT SECRETARIAT
HONG KONG

12 July 1995

CIVIL SERVICE ~~BRANCH~~ BUREAU CIRCULAR NO. 13/95

Acceptance of Outside Appointments After Retirement

To : Heads of Departments

c.c. ~~Branch~~ Bureau Secretaries
Judicial Administrator
Secretary, PSC

(Note : Distribution of this Circular is Scale B : it should be read by ~~Branch~~ Bureau Secretaries, Heads of Departments, Departmental Secretaries, officers dealing with personnel matters and brought to the attention of all officers nearing retirement. A Chinese translation is attached.)

The purpose of this Circular is to implement recent advice and recommendations submitted by the Advisory Committee on Post-retirement Employment* and accepted by the Governor/Chief Executive, updating CSRR 326** and 559 and the arrangements spelt out in Civil Service ~~Branch~~ Bureau Circular No. 22/90, which is hereby superseded.

OVERALL OBJECTIVE

2. The rules governing outside employment during pre-retirement leave and post-retirement are designed to make sure that officers leaving the service do not enter into any employment which may compromise them or the Government, whether through a conflict of interest or by taking up a job which could reflect badly on or otherwise embarrass the Government. The basic principle is that there should be no impropriety in the proposed employment.

* Retitled as Advisory Committee on Post-service Employment of Civil Servants

** CSR 326 has been transferred to the CSR 398, with minor amendments mainly consequential upon the making of a separate regulation for directorate officers in CSR 397.

RELEVANT PENSIONS LEGISLATION

3. Under the provisions of the Pension Benefits Ordinance (Section 30 of Cap 99) and the Pensions Ordinance (Section 16 of Cap 89), within two years of retirement after expiry of final leave, or such longer period as may be determined by the ~~Governor~~Chief Executive, a retired officer requires the ~~Governor's~~Chief Executive's prior approval before taking up any post-retirement employment or engaging in any business activity the principal part of which is carried on in Hong Kong. In respect of pensioners re-employed in the civil service, the policy is that the time limit will normally be extended to cover the period of their re-employment after retirement, and the two years period immediately following cessation of such re-employment after expiry of their final leave. Non-compliance with this requirement may result in the suspension of an officer's pension.

Clarification of "Principal Part" referred to in the pensions legislation and CSRR

4. Under CSR 326** and the pensions legislation, the ~~Governor~~Chief Executive is the arbiter of whether a particular employment falls within the definition of "principal part" being carried on in Hong Kong. It is therefore intended that, in addition to existing requirements under CSRR 326** and 559 for seeking approval to undertake outside work, with immediate effect and in order to ensure that the rules are complied with, all civil servants on pre-retirement leave and during the first two years of retirement, or such longer period as may be determined by the ~~Governor~~Chief Executive, should write to their respective approving authority (vide paragraph 11 below) informing it of any intended paid part-time or full-time work which involves duties outside Hong Kong, if they are based in Hong Kong or are to work overseas for a company that has any business connections at all with Hong Kong, to see whether permission is required.

NOTIFICATION SYSTEM FOR DIRECTORATE OFFICERS

5. In the light of recent public concern over the post-retirement employment of former senior officials, the Advisory Committee on Post-retirement Employment* has recommended a notification system which will help Civil Service ~~Branch~~Bureau make quite sure that there are no potential conflicts of interest arising from a retiree wrongly assuming that by simply working abroad there is no potential conflict of interest. A requirement to notify would ensure a double check on that assumption and, if necessary, the retiree would be asked to provide further details.

6. Accordingly, all retired directorate officers are now required to inform Civil Service ~~Branch~~Bureau of any paid employment undertaken anywhere during the first two years of retirement, or such longer period as may be determined by the ~~Governor~~Chief Executive, giving the name and address of the employer and a brief description of their duties.

CLARIFICATION OF CSR 559(4)

7. CSR 559(4) has also been amended to make it clear that for outside work during pre-retirement leave permission is required under CSR 559 in all cases except where the work is to extend from pre-retirement leave into retirement and is to be undertaken in Hong Kong, in which case the provisions of CSR 326** would apply.

PRINCIPLES OF POST RETIREMENT EMPLOYMENT

8. The basic principle is that there should be no impropriety in the proposed employment, for example, there should be no conflict with the public interest. Account will be taken of

- (i) whether the officer had been involved in policy formulation or decision, the effects of which could have benefitted his prospective employer;
- (ii) whether the prospective employer might gain an unfair advantage over competitors because of the officer's previous knowledge and experience;
- (iii) the public perception of the officer taking up the proposed employment; and
- (iv) especially for senior officers whether the proposed employment would result in an undesirably high public profile, embarrass the Government or give rise to any suggestions of impropriety.

ADVISORY COMMITTEE ON POST-RETIREMENT EMPLOYMENT *

9. In addition to advising the ~~Governor~~ Chief Executive on the principles and criteria to be adopted to deal with applications for post-retirement employment, as in this case, the Advisory Committee on Post-retirement Employment* also considers and advises the ~~Governor~~ Chief Executive on all applications from directorate officers, ~~Secretaries and above~~, and on other applications which may be referred by the Secretary for the Civil Service.

REVISED PROCEDURES FOR POST-RETIREMENT EMPLOYMENT UNDER CSR326**

(I) Standard Application Form

10. All applicants should complete a Standard Application Form (CSB/PRA/1(Revised ----1990), specimen attached).

(II) Approving Authorities

11. Authorities to approve applications are vested as follows

- | | |
|---|---|
| (a) The Governor personally
<u>Secretary for the Civil Service</u> | - Secretaries and Heads of Departments
<u>Administrative Officer Staff Grade A1</u> |
| (b) The Chief Secretary/Secretary/Permanent Secretary/Deputy Secretary for the Civil Service | - Directorate officers other than Heads of Departments and Secretaries
<u>Administrative Officer Staff Grade A1</u> |
| (c) Head/Deputy Head/ Assistant Head of Department or Grade, and Departmental Secretary | - Non-directorate officers |

(III) Processing Arrangements

12. (a) An applicant should complete Parts I and II of the form, and forward to his Head of Department or Grade, as appropriate.
- (b) The Head of Department/Grade will complete Part III of the form after consulting the applicant's former supervisors. For applications from a Head of Department or a ~~Secretary~~ Administrative Officer Staff Grade A1, Civil Service Branch Bureau will arrange for completion of Part III of the form.
- (c) Applications from non-directorate officers should then be submitted to the relevant approving authority for a decision having due regard to the principles set out in paragraph 8 above.
- (d) Applications from directorate officers should be forwarded to Civil Service ~~Branch Bureau~~ Bureau (Attn : CEO(Pensions)) for referral to the Advisory Committee prior to submission to the approving authority. To facilitate the Advisory Committee's consideration, departments should provide comprehensive information under Part III of the form including an assessment of –
- (i) the risk of disclosure of commercially sensitive information to competitors; and
 - (ii) whether the applicant was in a position to exercise unfair influence within Government in favour of the prospective employer.

The advice tendered by the Advisory Committee will be referred to the approving authority for a decision.

(IV) Sanitisation Period

13. For directorate officers there is a minimum sanitisation period of 6 months from the cessation of active service. During this period, approval will not normally be given for them to take up post-retirement employment. However, if it can be established that there will be no conflict of interest, a shorter sanitisation period may be agreed to.

(V) Decisions

14. Decisions by the approving authority may include the following -
- (a) unqualified approval;
 - (b) approval subject to a waiting period;
 - (c) approval subject to conditions, e.g. a ban on involvement by the applicant in dealings between the prospective employer and the Government, either absolute or with reference to a stated issue or issues, or in dealings between the prospective employer and a named competitor;

- (d) approval subject to a ban on public speeches and statements or other measures to minimise the individual's public profile;
- (e) approval in principle, e.g. in the case of consultancies, subject to a requirement to seek official approval before accepting any specific commission from any company;
- (f) extension of the sanitisation period; and
- (g) rejection.

15. In conveying approval, it should be made clear to the applicant that any material change of the purpose of his employment should be reported to the approving authority.

(VI) Blanket Approval for MOD I Staff

16. Blanket approval is given for all staff remunerated on the Model Scale I Pay Scale to take up outside appointments after retirement. Such officers are therefore excluded from the procedures set out above.

CSR AMENDMENTS

17. CSR 326** and CSR 559(4) have been amended to reflect the new arrangements. Amendment Sheets No. 47(a)-(c)/95 and 48/95 (attached) should replace existing pages in the Civil Service Regulations.

ENQUIRIES

18. Enquiries on the contents of this Circular should be directed to the Departmental Secretary in the first instance, who in case of doubt, may contact CEO(Pensions) of the Pensions and Provident Fund Section Development Division (Tel. 2810 29523842).

M.J.C. WATERS
for Secretary for the Civil Services

(CSR326D5)

(Rev Sept 2008)

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FORM CSB/PRA/1 (Revised 1990)

APPLICATION FOR PERMISSION TO ACCEPT AN OUTSIDE APPOINTMENT FOLLOWING RETIREMENT FROM GOVERNMENT SERVICE

PART I : PARTICULARS OF THE APPLICANT (To be completed by the applicant)

1. Name _____
2. Address and Telephone _____
3. Date of birth _____
4. Date of last day in Government Service
(on expiry of final leave) _____
5. Date of commencement of final leave
on cessation of active service _____
6. Retired under New Pension Scheme/Old Pension Scheme (Delete as appropriate)
7. Service history during the last two years of Government Service

Title of post held	Dates		Substantive rank	Brief description of duties
	From	To		

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PART II : INFORMATION ON THE PROPOSED APPOINTMENT (To be completed by the applicant)

8. Regarding the prospective employer :

(a) Company's name _____

(b) Company's address _____

(c) Nature of Company's business _____

(d) Company's parent company or group _____

9. Regarding the prospective appointment :

(a) Job title and description of duties of the proposed appointment

(b) Proposed commencement date of appointment

(c) Is the proposed appointment full time or part time ?

full time part time _____ days per week/month/year one-off assignment

(d) Will the appointment be paid ?

salary

Fee

unpaid

Approximate amount
of remuneration

(e) How the offer of the appointment arose ?

in response to an
advertisement

through other means
(please specify
and give name of
introducer)

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10. The applicant's previous contacts with the prospective employer during his last two years of service

- (a) Any direct or indirect involvement in contractual dealings between the Government and the prospective employer
- Yes No

If the answer to (a) is 'Yes', please elaborate on your involvement (e.g. receipt and awarding of contracts, administering and monitoring contracts, giving professional/technical advice before or after the contracts were awarded, the number, value and nature of the contracts etc.).

- (b) Any official but non-contractual contact with the prospective employer ?
- Yes No

If the answer is 'Yes', please give details with indication of frequency of contact.

- (c) Any involvement in decisions (other than those about contracts) which might affect the employer's business with the Government
- Yes No

If the answer is 'Yes', please give details.

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11. Contacts with other companies in the last two years of service

(a) Any contacts with companies which may be considered as competitors of the proposed employer

Yes

No

If the answer is 'Yes', please give details

(b) (a) Any access to commercially sensitive information about these competitors ?

Yes

No

If the answer is 'Yes' please give details of this information

Signature of applicant

Date

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PART III ASSESSMENT OF THE APPLICATION (To be completed by an officer designated by the Head of Department in which the applicant last served prior to retirement, or the Head of Grade as appropriate; and to be completed by an officer designated by the Secretary for the Civil Service if the applicant was a Head of Department or Secretary.)

12. Do you have any doubts on the information provided in Parts I and II ?

Yes (please give reasons)

No

13. If the applicant had previous involvement in contractual dealings with the company, please give an assessment of how much influence he had in decisions affecting his prospective employer.

14. If the applicant had access to information which could be regarded as commercially sensitive, please give an assessment of the risk of disclosure of such information to competitors.

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15. Please give your recommendations on the application.

16. Do you consider any sanitisation period necessary ?

Yes : for _____ months

No

Signature	Name	Rank/Post	Date
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PART IV DECISION ON THE APPLICATION

17. Decision :

Signature of approving authority	Name	Rank/Post	Date
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CHAPTER II - TERMINATION OF SERVICE

NORMAL RETIREMENT AND VOLUNTARY PREMATURE RETIREMENT

(a) GENERAL

Replacement for a retiring officer

- 325 (1) When approval has been given for an officer to retire, his Head of Department should take the necessary action to ensure that a replacement will be available at the appropriate time.

Acceptance of outside appointments after retirement

- July 95 326** (1) Section 16 of the Pensions Ordinance, Cap. 89, and Section 30 of the Pension Benefits Ordinance, Cap. 99 provide that any pension or allowance granted to a person may be suspended if such person has, within 2 years of his retirement, or such longer period as may be determined by the Governor, without the prior permission of the Governor in writing -

- (a) entered business on his own account;
- (b) become a partner in a partnership;
- (c) become a director of a company; or
- (d) become an employee,

if the principal part of such business or of the business of such partnership or company or of his employment is, in the opinion of the Governor, carried on in Hong Kong.

- 326** (2) All civil servants on pre-retirement leave and during the first two years of retirement, or such longer period as may be determined by the Governor, should write to their approving authority (referred to in CSR 326**(4) below) informing it of any intended paid part-time or full-time work which involves duties outside Hong Kong, if they are based in Hong Kong or are to work overseas for a company that has any business connections at all with Hong Kong, to see whether permission is required.

Amendment No. 47(a)/95

** CSR 326 has been transferred to the CSR 398, with minor amendments mainly consequential upon the making of a separate regulation for directorate officers in CSR 397.

- 326**
- (7) (i) After completion of Part III of the form, an application from a non-directorate officer should then be submitted to the relevant approving authority for a decision in accordance with the criteria set out in CSR 326**(3).
 - (ii) An application from a directorate officer should be referred to Civil Service Branch (Attn : CEO Pensions). In forwarding such an application, (other than from a Head of Department or a Secretary) the Head of Department or Grade should complete Part III of the application form. Civil Service Branch will obtain the advice of the Advisory Committee on Post-retirement Employment before submitting the application to the approving authority.
 - (8) The decision on an application should be conveyed to the applicant in writing.
 - (9) Officers remunerated on Model Scale 1 are exempted from the provisions of CSR326**(1)(8).
 - (10) All directorate retirees should inform Civil Service Branch of any paid employment undertaken anywhere during the first two years of retirement, or such longer period as may be determined by the Governor, giving the name and address of the employer and a brief description of their duties.

CHAPTER III - CONDUCT AND DISCIPLINE

- July 95 559 (4) Except where specifically exempted, prior approval is required for an officer to take up (Cont'd) paid outside work whilst on pre-retirement leave, irrespective of whether such work is undertaken in Hong Kong or elsewhere. Where the paid outside work commences during pre-retirement leave and continues after the date of retirement and is undertaken in Hong Kong, the application procedure and approving authorities will be as set out in CSR 326**. If the work whilst on pre-retirement leave is to be undertaken outside Hong Kong approval should be sought under CSR 559) After completion of Part III of the form, an application from a non-directorate officer should then be submitted to the relevant approving authority for a decision in accordance with the criteria set out in CSR 326**(3)

560-561

III. Outside work with the Auxiliary Forces

- 562 (1) Government employees should be given every encouragement to join the Auxiliary Forces and, having joined, to fulfil their training and other commitments. However, all officers who are members of the Auxiliary Forces must conform with Regulations 550 to 559 and obtain permission from their Head of Department when they wish to perform duties with Auxiliary Forces, except when this is done out of working hours for no remuneration.
- (2) For the purposes of Regulations 562 to 564, the following organisations are considered to be Auxiliary Forces : the Royal Hong Kong Regiment (the Volunteers); the Royal Hong Kong Auxiliary Air Force, the Royal Hong Kong Auxiliary Police Force, the Auxiliary Medical Service, the Civil Aid Services and the Royal Naval Reserve (Naval Control of Shipping).