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**Paper for the House Committee meeting on 4 December 2009**

**Report of the Bills Committee on Public Officers Pay Adjustment Bill**

**Purpose**

This paper reports on the deliberations of the Bills Committee on Public Officers Pay Adjustment Bill.

**Background**

Civil Service Pay Adjustment Mechanism

2. Under the existing civil service pay adjustment mechanism, civil service pay is checked against the prevailing market situation on a regular basis through three different surveys, namely (i) a pay trend survey (PTS) conducted every year to ascertain the year-on-year pay adjustment movements in the private sector; (ii) a starting salaries survey conducted every three years to compare civil service starting salaries with those of the private sector having similar academic qualifications and/or experience requirements; and (iii) a pay level survey conducted every six years to ascertain whether civil service pay is broadly comparable with private sector pay.

*The PTS mechanism*

3. The annual PTS is commissioned by a tripartite Pay Trend Survey Committee (PTSC), comprising 10 staff sides representatives from the four central consultative councils, three management representatives from the Administration, and three members of two advisory bodies on civil service salaries and conditions of service (namely the Standing Commission on Civil Service Salaries and Conditions of Service and the Standing Committee on Disciplined Services Salaries and Conditions of Service) who are non-officials and non-civil servants. Under the supervision of the PTSC, the annual PTS is conducted by the Pay Survey and Research Unit of the Joint Secretariat for the Advisory Bodies on Civil Service and Judicial Salaries and Conditions of

Service.

4. The survey findings are collated and condensed into three gross pay trend indicators (PTIs), one each for the upper, middle and lower salary bands<sup>1</sup>. The payroll cost of increments incurred for civil servants in each salary band (expressed as a percentage of total salary payment for that particular salary band) is then deducted from the relevant gross PTI to arrive at the net PTI. This approach has been adopted by the Chief Executive (CE)-in-Council since 1989.

5. Upon the completion of a PTS, the CE-in-Council's advice is sought on the pay offers to be made to the staff sides of the four central consultative councils, having regard to the following six factors -

- (a) the net PTIs;
- (b) the state of the economy;
- (c) changes in the cost of living;
- (d) the Government's fiscal position;
- (e) the pay claims of the staff sides; and
- (f) the state of the civil service morale.

If the pay offers advised by the CE-in-Council are different from the staff sides' pay claims, the staff sides are consulted again and then the CE-in-Council's further advice is sought.

#### The 2009 Pay Trend Survey

6. The 2009 PTS, covering the 12-month period from 2 April 2008 to 1 April 2009, collected the pay adjustment data (including basic pay and variable pay such as bonuses) of 185 321 employees in 121 companies (consisting of 182 982 employees in 88 larger companies and a total of 2 339 employees in 33 smaller companies). The results of the 2009 PTS (i.e. the gross PTIs) and the resulting net PTIs, computed by deducting from the gross PTIs the relevant payroll cost of increments incurred in 2008-2009 for civil servants in each salary band, are set out below –

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<sup>1</sup> The pay ranges of the three salary bands are –

- Upper : above Master Pay Scale (MPS) 33 to General Disciplined Services (Officer) Pay Scale (GDS(O)) 38 or equivalent (which is currently \$48,401 to \$97,545);
- Middle: from MPS 10 to 33 or equivalent (which is currently \$15,785 to \$48,400); and
- Lower : below MPS 10 or equivalent (which is currently below \$15,785).

<u>Salary band</u>	<u>Gross PTI</u>	<u>Payroll cost of increments</u>	<u>Net PTI</u>
	[A]	[B]	[A] - [B]
Upper	- 4.79%	0.59%	<b>-5.38%</b>
Middle	- 1.34%	0.64%	<b>-1.98%</b>
Lower	- 0.17%	0.79%	<b>-0.96%</b>

Staff sides' pay claims

7. The 2009 pay claims from the staff sides of the four central consultative councils are summarized below –

<u>Central consultative councils</u>	<u>Pay claims</u>
(a) Senior Civil Service Council	A pay freeze for all the three salary bands
(b) Police Force Council staff side <sup>2</sup>	+0.75% for the lower salary band; +0.83% for the middle salary band; and -1.59% for the upper salary band
(c) Disciplined Services Consultative Council	Follow established mechanism
(d) Model Scale 1 Staff Consultative Council	No pay claims for the upper and middle salary bands; a pay freeze for the lower salary band

Pay offers for 2009-2010

8. On 16 June 2009, the CE-in-Council, having regard to the six factors as set out in paragraph 5 above, decided at its meeting that the following pay offers should be made to the staff sides of the four central consultative councils for further consultation –

- (a) a pay freeze for civil servants in the lower and middle salary bands; and
- (b) a pay cut of 5.38% for civil servants in the upper salary band and above<sup>3</sup> subject to the proviso that no pay point in the upper salary band should be less than \$48,700 (i.e. \$300 above the upper limit of \$48,400 of the middle salary band).

<sup>2</sup> PFC staff side has asked for strict application of the gross PTIs computed by excluding the data of the two companies code named L057 and L080 (see paragraph 23), which in its view, should not have been included in the 2009 PTS.

<sup>3</sup> According to the Administration, the coverage of the annual PTS does not include directorate civil servants. Following the practice adopted since 1990, the Administration recommends the same pay offer to these civil servants as that for the upper salary band staff for 2009-2010, namely a pay reduction of 5.38%.

### Final decision on civil service pay adjustment for 2009-2010

9. Having considered the responses of the staff sides of the four central consultative councils to the pay offers and the relevant factors under the established mechanism, the CE-in-Council decided on 23 June 2009 that the pay offers made on 16 June 2009 (see paragraph 8 (a) and (b) above) should be final.

10. The CE-in-Council also decided that the Public Officers Pay Adjustment Bill (the Bill) should be introduced into the Legislative Council (LegCo) for implementing the above civil service pay reduction from a prospective date.

### **The Bill**

11. The Bill was introduced into LegCo for First Reading and Second Reading on 8 July 2009. The Bill, which is largely modelled on the Public Officers Pay Adjustment Ordinance (Cap. 574) and Public Officers Pay Adjustments (2004/2005) Ordinance (Cap. 580) enacted in July 2002 and December 2003 respectively, seeks to reduce the pay of the following public officers by 5.38% (subject to the proviso that no pay point after reduction should be lower than \$48,700) -

- (a) civil servants remunerated on pay points on civil service pay scales/Hospital Authority (HA) pay scales and public officers remunerated on pay points of the Independent Commission Against Corruption (ICAC) Pay Scale with a dollar value exceeding \$48,400;
- (b) Director of Audit; and
- (c) other public officers with a monthly pay of more than \$48,400 who are not civil servants or ICAC officers but whose pay is determinable and adjustable in accordance with or by reference to a point on a civil service pay scale or on the ICAC pay scale.

12. As proposed under the Bill, the pay reduction will take effect from the first day of the month immediately following the month during which the Bill commences<sup>4</sup>.

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<sup>4</sup> Under the Interpretation and General Clauses Ordinance (Cap. 1), an ordinance will come into operation on the date when it is published in the Gazette.

## **The Bills Committee**

13. At the House Committee meeting on 10 July 2009, Members agreed to form a Bills Committee to scrutinize the Bill. The membership list of the Bills Committee is in **Appendix I**.

14. Under the chairmanship of Hon IP Kwok-him, the Bills Committee has held six meetings and five of which were attended by the Administration. The Bills Committee has received views on the Bill and related issues from representatives of 29 bodies (mostly staff associations in the civil service) as well as representatives of subvented bodies respectively at two of its meetings. A list of the deputations which have given views to the Bills Committee is in **Appendix II**.

## **Deliberations of the Bills Committee**

### Consistency with the established civil service pay adjustment mechanism

15. One of the major concerns of the Bills Committee is that the Government, on the one hand, decided to cut the pay of civil servants in the upper salary band and above by 5.38% which is exactly the same as the net PTI of the upper salary band this year; but, on the other hand, decided to freeze the pay of civil servants in the lower and middle salary bands notwithstanding that the net PTIs for these two salary bands were also negative (*i.e.* -0.96% and -1.98% respectively). Despite the Administration's confirmation that the CE-in-Council's decision on the 2009-2010 civil service pay adjustment was made in strict accordance with the established mechanism, members have queried why the CE-in-Council, after taking into account the same factors, decided to reduce only the pay of civil servants in the upper salary band and above without any moderation. Members have expressed concern that the differential treatment (*vis-à-vis* the pay freeze decision for the lower and middle salary bands) is unfair and divisive, and queried whether there is any departure from the established mechanism. Some members consider that the CE-in-Council has failed to consider the relevant factors in a reasonable manner. They have also queried the pay reduction given that the state of the economy is recovering and the cost of living is on the rise as reflected by the positive Consumer Price Index figures.

16. The Administration has explained that the net PTI for a salary band is not applied mechanically as the pay adjustment rate for civil servants in that salary band. The Administration has reiterated that the CE-in-Council's decisions on the civil service pay adjustment rates for the three salary bands and directorate civil servants have fully taken into account the six factors under the established mechanism. For the 2009-2010 civil service pay adjustment, the CE-in-Council has noted that the net PTIs for the lower and middle salary bands were slightly negative (around -1% to -2%). In view of the slightly negative net

PTIs, the mild inflationary environment, stability and morale (including affordability of the civil servants concerned) of civil servants in these two salary bands, the CE-in-Council decided that their pay should be frozen in 2009-2010. On the other hand, having regard to the net PTI for the upper salary band and to the other factors under the established mechanism, the CE-in-Council decided that the pay of civil servants in the upper salary band and above should be reduced by 5.38% (i.e. equal to the net PTI for the upper salary band) in 2009-2010 (subject to the proviso that no pay point after reduction should be lower than \$48,700). According to the Administration, the fact that the pay adjustment for the upper salary band and above is the same as its net PTI for the upper salary band should not be taken as the other five factors not having been fully considered.

17. The Administration has further pointed out that it has never been the Government's policy to impose a uniform pay adjustment rate for the whole civil service. According to the Administration, a uniform pay adjustment rate has seldom been imposed for the three salary bands in the past 20 years or so.

18. As regards recent improvement in the overall economic situation, the Administration has advised that they will be reflected in the next PTS covering the 12-month period from 2 April 2009 to 1 April 2010. In accordance with the established mechanism, these changes will be fully taken into account by the CE-in-Council in deciding on the civil service pay adjustment (if any) for 2010-2011. The Administration has further explained that it would be at variance with the established civil service pay policy if a Government's decision of a pay reduction/increase is to be affected by subsequent changes in the economic situation after a decision on civil service pay adjustment for that year has been made.

19. The Bills Committee notes the Administration's explanation that the consideration on staff morale includes the affordability of the staff in specific salary bands. Hon James TO has pointed out that within the upper salary band and above, there is a very large range between those earning much less than \$100,000 (say, those at MPS 34 which is currently \$50,475) and those earning more than \$100,000, and the latter can certainly cope with the proposed pay cut more readily. If affordability is a consideration, it may not be appropriate to impose a pay adjustment rate of -5.38%, which is not an insignificant reduction, for all civil servants in the upper salary band and above. Hon James TO has asked whether consideration should be given to introducing a pay reduction on a sliding scale.

20. The Administration advised that having a sliding scale as suggested is not consistent with the established civil service pay adjustment mechanism under which non-directorate civil servants are grouped into three salary bands for the purpose of determining civil service pay adjustment, both upward and downward. At the request of members, the Administration has provided information on the five-salary-band approach adopted for the conduct of the six-yearly pay level

surveys for non-directorate civilian civil servants for reference.

21. Hon TAM Yiu-chung has indicated that he has no objection to the proposed pay reduction rate as it follows the net PTI for the upper salary band. He also supports a pay freeze for civil servants in the lower and middle salary bands as the net PTIs for these salary bands are only slightly negative.

#### Controversy over the 2009 PTS

22. The Bills Committee notes that the 2009 PTS results were not unanimously accepted and validated by the 16 members of PTSC. When these results were considered by PTSC at its meeting on 8 June 2009, of the 16 PTSC members, four members, who were the two representatives of the Police Force Council (PFC) staff side and the two representatives of the Hong Kong Chinese Civil Servants' Association (one serving on the Senior Civil Service Council staff side and another on the Model Scale 1 Staff Consultative Council staff side), did not accept and did not validate the PTS results. The PFC staff side disputed the inclusion of the two companies (code named L057 and L080) in the 2009 survey field. They claimed that these two companies had not been formally endorsed by PTSC at a meeting in accordance with the established mechanism and therefore they should not have been included in the survey and hence the calculation of the PTIs. The representatives of the Hong Kong Chinese Civil Servants' Association, on the other hand, considered that the inclusion of data provided by the company code named L080 for the calculation of PTIs was not in line with certain calculation criteria of the PTS survey methodology.

23. Some members have asked whether the Administration would consider moving amendments to reduce the proposed adjustment rate in view of the fact that the results of the 2009 PTS had not been unanimously accepted and validated by the 16 members of PTSC. In this connection, Hon Mrs Regina IP has requested the Administration to consider the suggestion made by PFC staff side of strict application of the gross PTIs computed by excluding the data of the two companies code named L057 and L080, which in its view, should not have been included in the 2009 PTS.

24. The Administration has advised that the above views and concerns as expressed by some of the staff side representatives had been fully considered by the CE-in-Council. The CE has also considered the petition made by PFC staff side for a formal arbitration with a view to rectifying the results of the 2009 PTS. The Administration has informed members that the CE is satisfied that the 2009 PTS had been conducted in strict accordance with the survey methodology. As such, the Government does not see the need for moderating the results of the 2009 PTS (in the form of PTIs) by excluding the data of the two companies code named L057 and L080. The Administration has also pointed out that when the Panel on Public Service discussed the 2009-2010 civil service pay adjustment and queries from the staff sides representatives concerned about the 2009 PTS at its earlier meetings, the PTSC secretariat had provided the relevant confidential information

to address in detail the concerns about the inclusion of the two companies as well as the inclusion of them for the purpose of calculating the 2009 PTIs for members' reference.

Impact of the proposed pay cut on civil servants concerned

25. Noting that the pay cut in 2002 for the upper (including directorate), middle and lower salary bands was only 4.42%, 1.64% and 1.58% respectively and that the across-the-board pay cut for 2004 and 2005 was about 3% each, members have pointed out that the proposed pay cut of 5.38% is record high since the Reunification. Members consider that the proposed pay cut will significantly impact on the civil servants concerned. Members are of the view that the Administration should be compassionate to civil servants who will be affected, especially those remunerated at MPS 34, i.e. the lowest point in the upper salary band. Ir Dr Hon Raymond HO has pointed out that many of the civil servants remunerated at MPS 34 in the professional grades have just obtained their professional qualifications as chartered engineers, surveyors or architects. These officers in general are not affluent and might have difficulty in coping with the 5.38% pay reduction rate. Highlighting the unanimous opposition expressed by all the civil service staff associations which have provided views to the Bills Committee at an earlier meeting, some members have expressed concern that the proposed pay cut will adversely impact on staff morale and is not conducive to staff retention.

26. The Administration has explained that in conducting the annual PTS, actual pay movement data of those employees in the surveyed companies with earnings falling within the defined salary range of each salary band during the survey period were collected. Thus, the pay adjustment data collected through the annual PTS reflected the actual pay movements for the 12-month period from 2 April 2008 to 1 April 2009 of private sector employees with salaries (in actual dollar value) comparable to those of their civil service counterparts. The Administration has also drawn members' attention to the fact that as with past years, there would be a time gap between the implementation of the proposed pay adjustment and the time when the annual civil service pay adjustment is decided upon. In other words, the pay cut currently proposed under the Bill has reflected the pay trend of private sector employees with salaries comparable to those of their civil service counterparts in the past year. In response to members' comments on the impact of the pay cut on the livelihood of civil servants concerned, the Administration has further pointed out that the proposed pay cut would not affect the rate of allowance under the Home Financing Scheme (about \$15,000 per month) for eligible civil servants, and that the actual amount of proposed pay cut for those at MPS 34 would only be \$1,775 per month in accordance with the proviso referred to in paragraph 11 above.

27. As the Administration maintains that civil service pay reduction for 2009-2010 is proper and justified since it was decided in accordance with the established mechanism, members have requested the Administration to consider



various counter-proposals on the pay reduction rate made by some civil service staff associations, with a view to finding a middle ground that might be acceptable to those who would be affected. Dr Hon Margaret NG has referred to the suggestion made by the Hong Kong Senior Government Officers Association that at least the pay of those remunerated on MPS 34 to 44 should be frozen as these officers are mostly in the age of 30-40 who have just had their families and with heavy family and financial burdens. Ir Dr Hon Raymond HO has requested the Administration to consider the following proposals from the staff sides -

- (a) the pay reduction should be moderated from 5.38% to 2.91% having regard to the inflation rate (2.47%) during the period in question; or
- (b) the pay reduction should be moderated from 5.38% to 3.4%, on the grounds that the -1.98% net PTI for the middle salary band was effectively set aside in the pay freeze decision for civil servants in that salary band and, therefore, the same rate of reduction should also be set aside when determining the pay adjustment for civil servants in the upper salary band.

28. The Administration has responded that the Government should adhere to the established mechanism to reduce the pay of civil servants in the upper salary band and above by 5.38%. The Government does not consider the other proposals as suggested by members appropriate under the existing mechanism. Some members consider that compared with 2002, the current economic state and the Government's fiscal position are not as stringent as at that time. They remain of the view that the CE-in-Council should be requested to reconsider whether there is a genuine need to push through the proposed civil service pay adjustment.

#### Impact of civil service pay cut on the community and the subvented sector

29. Some members have expressed opposition to the Bill also on the grounds that the move might trigger off a spate of wage cuts in the private sector, which would dampen the propensity to spend and hence adversely affect economic recovery. They are of the view that the stability of civil service pay should be maintained as it would impact on the stability of the community as a whole. The Administration has advised that the proposed pay cut might lead to some reduction in consumption spending, but the extent should be insignificant in the overall scheme of things. It has also reiterated the need for the Government to adhere to the established civil service pay adjustment mechanism in order to uphold its credibility.

30. Members have expressed concerns about the impact of the Bill on the salaries of employees of subvented bodies. The Bills Committee is informed that with the exception of the staff in the aided school sector whose salaries are

determined according to civil service pay scales, the Government is generally not involved in the determination of the pay or pay adjustment of staff working in subvented bodies. These are matters between the concerned bodies as employers and their employees. The Government will not directly impose any pay adjustment applicable to the civil service on the employees or employers in the subvented sector. However, it has been the established practice that following a civil service pay adjustment, the Government will adjust generally the financial provisions for those subventions which are price-adjusted on the basis of formulae including a factor of civil service pay adjustment. These provisions cover the majority of bodies receiving recurrent subventions from the Government.

31. The Administration has explained that for HA, the relevant part of their subvention (e.g. the personal emolument portion) will be adjusted in accordance with the weighted average civil service pay adjustment rate (which will be -1.56% for 2009-2010 if the Bill is enacted). For subvented organisations in the social welfare sector funded on the basis of lump-sum grant, the relevant part of their subvention (e.g. personal emolument) will generally be adjusted in accordance with the snapshot staff profile of each of them taken immediately before the implementation of the lump-sum grant subvention system. As a result, some welfare subvented organizations will not be affected by the Bill as they had no staff remunerated at a level falling within the remit of the upper salary band and above of the civil service at the agreed snapshot moment; and the amount of adjustment for those subvented organizations which will be affected by the Bill also varies because of the difference in their snapshot staff profile.

32. In order to ascertain the likely impact of the Bill on employees of the University Grants Committee-funded institutions, the Bills Committee has made written enquiries with those institutions. The Bills Committee is informed in writing that, except for the City University of Hong Kong which cannot provide information until further discussion of the matter by the University Council, the rest has indicated that they would likely apply some forms of pay adjustment to its staff members following the passage of the Bill.

33. The Bills Committee also met with representatives of HA and the Hong Kong Council of Social Service (HKCSS) at one of its meetings. The Bills Committee noted that once the Bill was enacted, HA would implement pay adjustments which would apply to HA staff with a monthly pay of more than \$48,400. For contractual reasons, the consent of staff concerned to the pay cut would have to be obtained. HA indicated that it would fully consult the staff concerned and address their concerns about the proposed pay cut through the established staff consultative mechanism and HA expected that all the affected staff would give their consent to the proposed pay cut. HA assured members that no staff would be dismissed for not consenting to the pay cut. Likewise, HKCSS indicated at the same Bills Committee meeting that it was going to apply pay adjustments only to its employees with a monthly pay of more than \$48,400. At the suggestion of members, HKCSS agreed to consider issuing guidelines on

the appropriate arrangements for the proposed pay adjustment, if implemented, for reference by the subvented welfare organizations concerned.

34. The Administration has advised that once the Bill is enacted, the Social Welfare Department will issue letters to the affected welfare subvented bodies to remind them of the need to observe, among others, the principles that their salary adjustment policies must not be inconsistent with the terms and conditions of the employment agreements or contracts of individual staff members and that such policies should be in line with the prevailing human resources policies and procedures of the respective subvented bodies. An independent complaints handling committee under the Lump Sum Grant Subvention System would follow up any complaint cases from staff of subvented bodies about unfair arrangements made by their employers.

#### Propriety of implementing pay cut by legislation

35. Dr Hon Margaret NG has indicated that when the Government resorted, for the first time, to implementing pay reductions by legislation in 2002, she had already expressed opposition to the approach which, in her view, was an abuse of the legislative system. Ir Dr Hon Raymond HO has also expressed opposition to the Government's implementation of civil service pay reductions by legislation. Ir Dr Hon Raymond HO considers that the Government has violated the spirit of contract in seeking to vary the terms of employment of public officers so as to reduce their pay unilaterally.

36. Hon TAM Yiu-chung has also expressed concern about the current approach of implementing civil service pay cut by legislation. Noting that the legislative process would inevitably take some time to complete, Hon TAM Yiu-chung considers that the whole process would engender conflicts and uncertainties as different counter-proposals on the pay reduction rate may be made by the staff sides during scrutiny of the relevant bill by LegCo. He has also pointed out that the present mechanism has attracted criticism that civil service pay is "quick to raise but slow to cut" because the implementation of the latter requires the enactment of legislation.

37. The Administration has responded that while it will be pleased to consider any better ways to implement civil service pay adjustments, the Administration has obtained legal advice that legislation is required to effect civil service pay reduction for the sake of certainty and to forestall possible legal challenges. Dr Hon Margaret NG has pointed out that during the scrutiny of a similar bill in 2002, the then Bills Committee had already requested the Administration to consider introducing a general enabling legislation on civil service pay adjustment mechanism to provide the legal framework for implementing upward and downward pay adjustments. The Bills Committee at that time considered that a general enabling legislation would be more appropriate than resorting to a one-off legislation to deal with the civil service pay reductions.

38. The Administration has responded that an effective means for implementing both upward and downward pay adjustments has been discussed by a consultative group comprising representatives from major staff unions and representatives of the Civil Service Bureau for over two years. However, all the staff side representatives on the consultative group are opposed to the introduction of any general enabling legislation and prefer the enactment of a piece of one-off legislation to implement each pay reduction as and when necessary. The Administration has also advised that even if the suggested general enabling legislation is in place, any proposed pay adjustment rate will still have to be prescribed by way of subsidiary legislation.

### Provisions in the Bill

#### *Interpretation (Clause 2(2))*

39. The Bills Committee notes that in the Public Officers Pay Adjustment Ordinance (Cap. 574) and the Public Officers Pay Adjustments (2004/2005) Ordinance (Cap. 580), there is no provision similar to clause 2(2) in the Bill. The Administration has explained that the rules for adjusting the pay and/or allowances of a public officer referred to in clause 8 (i.e. one who is not a civil servant, not an ICAC officer covered by clause 6(2) nor the Director of Audit) may have a number of components, including one referring to civil service pay increases. One example is the pay and allowances for members of the auxiliary forces (other than those of the Auxiliary Police Force), which is adjusted every two years based on an average of civil service pay increases and the rise in consumer price indices in the period since the previous review. The policy intention is that for those whose monthly pay is above \$48,400 and for whom currently a civil service pay increase is a component in determining their pay and/or allowances, the pay reduction proposed under the Bill should count as such a component. To achieve this policy intention and for the avoidance of doubt, the Administration considers that a new clause 2(2) should be included in the Bill as an improvement over Cap. 574 and Cap. 580. Members have no comments on this new clause.

#### *The proviso that no pay point in the upper salary band would be lower than \$48,400 (Clause 3(2))*

40. The Bills Committee notes a proposal under the Bill that the pay reduction for civil servants in the upper salary band for 2009-2010 should be 5.38% (i.e. equal to its net PTI), subject to the proviso that no pay point in the upper salary band after the adjustment would be lower than \$48,700 (i.e. \$300 above the upper limit of the middle salary band) (clause 3(2)). The proposed proviso is considered necessary because the recommended pay offer of no change for civil servants in the middle salary band (if implemented) would mean those at the top pay point of this band would receive a monthly pay of \$48,400 on the MPS, while the recommended pay offer of a reduction of 5.38% for civil

servants at the upper band (if implemented) would mean those at the bottom pay point of this band would receive a monthly pay of \$47,760 on the MPS. In short, a civil servant at a higher pay point would receive a lower monthly pay than one at the immediately lower pay point. The same anomaly would also occur in the Police Pay Scale and the GDS(O) Pay Scale. Such a pay scale design would be illogical and most undesirable from a staff management point of view. The proviso is, therefore, proposed to maintain a pay ‘lead’ of \$300 above the upper limit of the middle salary band in order to overcome this problem<sup>5</sup>. It would also enable the continued operation of the current demarcation of the three salary bands for the conduct of future annual PTSs.

41. Members have no adverse comments on this clause and the recommended proviso.

*Express authority for adjustments (Clause 12)*

42. Clause 12 varies the contracts of employment of public officers so that those contracts expressly authorize the adjustments to pay or the amount of any allowance made by the Bill. In response to the enquiry of the legal adviser to the Bills Committee, the Administration has explained that it appreciates that this clause is not absolutely necessary given the Court of Final Appeal’s judgment in *Secretary for Justice v. Lau Kwok Fai & Another* (2005)8 HKCFAR 304. It is, nevertheless, included for the avoidance of doubt and for consistency with Cap. 574 and Cap. 580. Hon LEE Cheuk-yan has expressed the view that this clause is unseemly as it expressly authorizes the Government to vary the contracts of employment of public officers. The Administration has explained that the clause is included for the sake of clarity. Members have no other comments.

*Part 1 of the Schedule to the Bill*

43. Part 1 of the Schedule to the Bill specifies the range of pay points

<sup>5</sup> The following table sets out the exact reduction rate for the lowest pay point within the upper salary band of the relevant pay scales –

	Lowest pay point within the upper salary band	Existing dollar value	Proposed dollar value	Reduction rate
Master Pay Scale	34 (33A)	\$50,475	\$48,700	3.52%
General Disciplined Services (Officer) Pay Scale	20	\$50,170	\$48,700	2.93%
Police Pay Scale	36	\$50,170	\$48,700	2.93%
ICAC Pay Scale	28	\$51,160	\$48,700	4.81%

falling within the upper salary band and above on the following civil service pay scales, each to be reduced by 5.38% on the first day of the month following the commencement of the Bill (subject to the proviso that no pay point after reduction should be lower than \$48,700, i.e. \$300 above the dollar value of the upper bound of the middle salary band) –

- (a) Master Pay Scale (MPS) – point 34 (33A) to point 49;
- (b) Police Pay Scale (PPS) – point 36 to point 59;
- (c) General Disciplined Services (Commander) Pay Scale (GDS(C)) – point 1 to point 4;
- (d) General Disciplined Services (Officer) Pay Scale (GDS(O)) – point 20 to point 38;
- (e) Directorate Pay Scale (DPS) – point D1 to point D10; and
- (f) Directorate (Legal) Pay Scale (DLPS) – point DL1 to point DL7.

44. The Administration has informed the Bills Committee that on 20 October 2009, the CE-in-Council decided that, among others, to accept and refine, as appropriate, the salary and increment-related recommendations in –

- (a) the Grade Structure Review (GSR) report on the civilian directorate by the Standing Committee on Directorate Salaries and Conditions of Service; and
- (b) the GSR report on the disciplined services by the Standing Committee on Disciplined Services Salaries and Conditions of Service.

The CE-in-Council also decided that, subject to the approval of the Finance Committee (FC), these salary and increment-related recommendations and refinement should take retrospective effect from 1 April 2009. In this connection, the Establishment Subcommittee (ESC) of FC has endorsed the pay and increment-related recommendations and refinement at the ESC meeting on 18 November 2009, and the ESC recommendations will be put to FC for approval on 4 December 2009.

45. Subject to FC's approval, the following changes will be made to the top pay points of the GDS(O), DPS and DLPS with retrospective effect from 1 April 2009 –

- (a) GDS(O) : a new point 39 will be created over and above the existing top pay point (i.e. point 38);

- (b) DPS : points D10 and D9 will be deleted, making D8 the new top pay point; and
- (c) DLPS : point DL7 will be deleted, making DL6 the new top pay point.

46. Subject to the approval of FC of the changes in paragraph 45 above, the Administration will move Committee Stage amendments (CSAs) to Part 1 of the Schedule to the Bill to –

- (a) make reference to point 39 to be created under GDS(O); and
- (b) reflect the updated DPS and DLPS following the deletion of points D10 and D9 from the former and point DL7 from the latter.

47. The Administration has explained that the purposes of the proposed CSAs are to ensure that the salary point 39 to be created under the GDS(O) will be subject to a reduction of 5.38% as other pay points falling within the upper salary band and above, and that there will be no reference to the obsolete pay points on DPS and DLPS. The proposed CSAs are technical in nature, and are in full compliance with the CE-in-Council's decision on 23 June 2009 that all civil servants in the upper salary band and above, including the directorate, should be subject to a pay reduction of 5.38% (subject to the proviso that no pay point after reduction should be lower than \$48,700, i.e. \$300 above the dollar value of the upper bound of the middle salary band).

48. The Bills Committee has no objection to these proposed amendments.

### **Resumption of Second Reading debate**

49. At the Bills Committee meeting on 20 November 2009, after the completion of the scrutiny process, members had no further queries on the Bill. The Administration proposed to resume the Second Reading debate on the Bill on 16 December 2009. At the Bills Committee meeting, Hon Mrs Regina IP moved the following motion –

"This Committee (Bills Committee) is opposed to the resumption of the Second Reading (debate) on the Public Officers Pay Adjustment Bill."

The motion was passed by the Bills Committee with three members voted for and one member voted against the motion. The Chairman of the Bills Committee requested the Administration to take into consideration the motion passed by the Bills Committee and concluded that, as the Bills Committee had completed scrutiny of the Bill, a report would be provided to the House Committee on 4 December 2009.

### **Committee Stage amendments**

50. A full set of the CSAs to be moved by the Administration is in **Appendix III**. Subject to FC's approval of the changes to be made to the relevant civil service pay scales, the Administration will move the proposed CSAs in accordance with the requirements under rule 57 of the Rules of Procedure.

51. At the conclusion of the last Bills Committee meeting on 20 November 2009, no members indicated that they would move CSAs to the Bill.

### **Advice sought**

52. Members are requested to note the deliberations of the Bills Committee.

Council Business Division 1  
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3 December 2009



## Appendix I

### Bills Committee on Public Officers Pay Adjustment Bill

#### Membership list

<b>Chairman</b>	Hon IP Kwok-him, GBS, JP
<b>Members</b>	Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP (since 27 October 2009) Hon LEE Cheuk-yan Dr Hon Margaret NG Hon James TO Kun-sun Hon CHEUNG Man-kwong Hon TAM Yiu-chung, GBS, JP Hon LI Fung-ying, BBS, JP Hon LEUNG Kwok-hung Prof Hon Patrick LAU Sau-shing, SBS, JP Hon Mrs Regina IP LAU Suk-yee, GBS, JP Dr Hon PAN Pey-chyou
	(Total: 12 Members)
<b>Clerk</b>	Ms Joanne MAK
<b>Legal Adviser</b>	Ms Connie FUNG
<b>Date</b>	27 October 2009

**Bills Committee on Public Officers Pay Adjustment Bill**

**List of deputations who have submitted views to the Bills Committee**

1. Architectural Services Department Architects' Association
2. Association of Building Services Engineers of Housing Department
3. Association of Expatriate Civil Servants of Hong Kong
4. Buildings Department Structural Engineers' Association
5. Civil Engineering and Development Department Geotechnical Engineers' Association
6. Disciplined Services Consultative Council (Staff side)
7. Government Disciplined Services General Union
8. Government Doctors' Association
9. Government Social Work Officers Association
10. Government Waterworks Professionals Association
11. HKSAR Government Civil Engineers Association
12. HKSAR Government Employees General Union
13. Hong Kong Chinese Civil Servants' Association
14. Hong Kong Civil Servants General Union
15. Hong Kong Housing Department Architects Association
16. Hong Kong Housing Department Civil Engineers Association
17. Hong Kong Housing Department Geotechnical Engineers Association
18. Hong Kong Housing Department Landscape Architects Association
19. Hong Kong Housing Department Maintenance Surveyors Association
20. Hong Kong Housing Department Structural Engineers Association

21. Hong Kong Institute of Environmental Protection Officers
22. Hong Kong Police Inspectors' Association
23. Hong Kong Public Doctors' Association
24. Hong Kong Senior Government Officers Association
25. Housing Department Estate Surveyors Association
26. Housing Department Quantity Surveyors' Association
27. Overseas Inspectors' Association of The Hong Kong Police Force
28. Planners Association of Hong Kong Housing Department
29. Police Force Council Staff Side
30. Resident Site Staff Association
31. Superintendents' Association of The Hong Kong Police Force
32. The Junior Police Officers' Association of The Hong Kong Police Force

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Legislative Council Secretariat  
3 December 2009

PUBLIC OFFICERS PAY ADJUSTMENT BILL

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for  
the Civil Service

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule, Part 1, item 4	By deleting "38" and substituting "39".
Schedule, Part 1, item 5	By deleting "D10" and substituting "D8".
Schedule, Part 1, item 6	By deleting "DL7" and substituting "DL6".