

CHAPTER 3

PAYMENTS FOR OVERTIME

Overtime Allowance

3.1 At present, overtime allowance is payable to eligible staff who work for longer than their conditioned hours of work if they cannot be granted time off in lieu within a reasonable period. The staff eligible are those with salaries on or below the level of Point 23 of the Master Pay Scale (at present \$5,630) with the exception of the disciplined services, nurses, teachers, staff of the Watchman and Estate Caretaker grades who are accommodated at their place of work, and staff under training in most circumstances.

3.2 The standard rate of allowance is 1/140 of the officer's monthly salary per hour or roughly time-and-a-half. An allowance at a lower rate may be paid to staff who work regular overtime, or for the first four hours of overtime worked in any week by staff whose conditioned hours are 44 hours gross per week.

3.3 We have been advised that the use of an inflexible cut-off point of MPS 23 has caused considerable administrative difficulty, as it cuts across the pay scales of ranks in almost every relevant grade. For example, the majority of the first ranks of grades in Group I of the Technical Inspectorate and Related Grades have a scale of MPS 17 - 27 and, under the present rules, staff in these grades are eligible for overtime allowance in their first few years in the rank but not after they go beyond MPS 23, even though they may still be required to work overtime.

3.4 In the Consultative Document we therefore sought views on whether the present method of determining eligibility for overtime allowance by reference to a single cut-off point was a satisfactory arrangement. While many respondents to our Consultative Document agreed that the present method of determining eligibility for overtime allowance was unsatisfactory, they were however divided in their views as to what improvement should be made. A number of respondents indicated preference for determination by ranks. Others preferred retention of the existing system but with different cut-off points.

3.5 In our First Report on Civil Service Pay (Report No. 2), we suggested that eligibility for overtime allowance should be determined by reference to whole ranks rather than to a fixed point in the salary scale, and our view is that

this is still the most appropriate way of dealing with the problem. It would also appear to be close to what the 1971 Salaries Commission had in mind, as well as being in line with the private sector evidence available to us which indicated that it is the general practice to determine eligibility for the payment of overtime by reference to categories of staff or to the nature of the job. This proposal would resolve the problems caused by the present system when the cut-off point occurs in the middle of a rank scale. We recommend therefore that eligibility for overtime allowance should be determined by reference to ranks.

3.6 Having regard to private sector evidence, we consider that generally it is not appropriate for ranks performing middle or higher management functions to be eligible for overtime allowance. On this basis, all Matriculation Grades, Professional, Degree and Related Grades should be excluded from eligibility. As for the other ranks, we recommend that overtime allowance should be paid to those which have a scale maximum of MPS 23 or below, but ranks which have a scale minimum above MPS 23 should not be eligible. In the case of ranks whose pay scales straddle MPS 23, we consider that all those which have a scale maximum of MPS 29 (at present \$7,520) or below should be eligible. A list of ranks which we recommend should be eligible for overtime allowance is at Appendix V.

3.7 We have considered whether any of the grades at present specifically excluded should become eligible for overtime allowance. A variety of views were expressed on this issue and these were examined in detail. Our recommendations on these groups are as follows :

(a) Disciplined Services

These are dealt with in paragraphs 3.14 to 3.26.

(b) Estate Caretaker and Watchman grades

Having regard to the nature of the duties of these grades and to private sector practice for employees in comparable jobs, we consider that staff of the Estate Caretaker and Watchman grades who are accommodated at or near their place of work should as at present be excluded from eligibility for overtime allowance.

(c) Nurses

We have not been able to find any valid reasons for continuing to exclude nursing staff from eligibility for overtime allowance. We therefore recommend that eligibility for overtime allowance should be extended to the nursing grades on the same basis as other civil service grades.

(d) Teachers

Given the nature of their work and the length of school holidays, teachers enjoy more leave than other grades, even after account is taken of the need for some teachers having to work on occasion during holidays. We consider therefore that teachers should continue to be excluded from eligibility for overtime allowance.

(e) Staff under training

At present apprentices and officers under training are not eligible for overtime allowance if required to attend for duty outside normal working hours in connection with their training. They are however eligible for the allowance if the training is undertaken on an on-the-job basis and includes an element of production work and involves working in excess of the conditioned hours. We see no reason to change the existing practice.

3.8 We have also considered the appropriate rate for overtime allowance, taking into account the views of respondents to the Consultative Document and the information available on rates of allowances for overtime in the private sector. Although different rates for overtime allowance have been suggested, time-and-a-half appears to be the rate preferred by most respondents. We note that in general there is little difference between the rates for different categories of eligible staff in the private sector, and that the norm for overtime payment is about time-and-a-half. We therefore recommend that the existing standard rate of allowance of 1/140 of an officer's monthly salary per hour should be maintained, and that the existing reductions for regular overtime and for staff whose conditioned hours are 44 hours gross per week should continue to be made.

Honoraria

3.9 There are at present provisions for the payment of "honoraria" for overtime worked by officers who are not eligible for the standard overtime allowance, to compensate them for periods of prolonged overtime occasioned by pressure of work. Officers eligible for honoraria are those on salaries above MPS 23 and on or below MPS 36 (at present \$10,430) who have worked overtime (less any compensatory time off) in excess of 100 hours during a continuous period of six months. Administrative and professional staff irrespective of their salary levels are not eligible for honoraria, nor are officers on MPS 37 and above. The present rate for honoraria is 1/210 of the officer's monthly salary per hour, which is roughly equivalent to single-time.

3.10 We accept that from time to time there is a need for officers who are ineligible for the standard overtime allowance to work prolonged periods of overtime in exceptional circumstances, and that time off in lieu is not always practicable. In such situations, we believe that payment of honoraria to officers up to a certain salary level would be appropriate.

3.11 It has been suggested that the cut-off point for honoraria should be raised from MPS 36 to MPS 37. We agree that the present maximum of MPS 36 should be revised to MPS 37 which is the level above which the pay scales of most ranks are broadbanded and which will result in relatively few ranks straddling the cut-off point. We consider that officers above this salary level should not be eligible for overtime honoraria. In addition, having regard to the nature of the duties and responsibilities of the administrative and professional grades (i.e. grades in Groups I and II of the Professional, Degree and Related Grades group), we consider that they should continue to be excluded from eligibility for honoraria.

3.12 We have not found any good reason to change the existing rate for honoraria and we recommend that the rate should remain at 1/210 of an officer's monthly salary per hour.

3.13 Our attention has been drawn to the existing requirement that honoraria may only be paid in respect of overtime in excess of 100 hours in a continuous period of six months. We agree with the view that there is a case for allowing this rule to be modified. We recommend that the eligibility criteria should be revised so that honoraria may be paid to eligible staff for overtime work in excess of 50 hours in a continuous three-month period.

#### Overtime Payments in the Disciplined Services

3.14 Members of the disciplined services have traditionally been ineligible for overtime allowance. They are required by their conditions of service to work whatever hours their duties require, and each disciplined service prescribes normal conditioned hours of work for its staff according to its own operational needs. These hours are in most cases longer than those for non-disciplined staff. A certain amount of what would normally be regarded as overtime is considered to be part of the exigencies of each service, and this particular feature is taken into account in setting the pay scales of the various services.

3.15 Nonetheless it has been accepted that in all the disciplined services, circumstances may arise from time to time which require staff to perform extra duty beyond what might reasonably be expected to be part of their normal work, and that some form of compensation is appropriate in such situations. The following payments are now made in the various services for such extra work :

(a) Disciplined Services Extra Duty Allowance

This allowance is payable to the rank and file members of all the disciplined services for duties undertaken outside their conditioned hours and in addition to their normal responsibilities. The extra duties undertaken must be unavoidable and not such as to have been already allowed for in the basic salaries of the grade concerned. The eligibility criteria for this allowance are strict and approval for payment rests with the Secretary for the Civil Service. The hourly rate of the allowance is at the standard overtime rate, that is 1/140 of the officer's monthly salary. Apart from a number of relatively rare individual cases, Disciplined Services Extra Duty Allowance is now paid on a regular basis only to Assistant Officers I and II in the Correctional Services Department.

(b) Additional Duty Allowance for the Police Rank and File

A modified version of the Disciplined Services Extra Duty Allowance, known as the Additional Duty Allowance, was introduced in 1973 for the police rank and file to compensate them for performing regular additional duties because of a continuing manpower shortage. The rate for the allowance is set at about single-time on the basis of the mid-point salaries of the Constable, Sergeant and Station Sergeant ranks.

(c) Honorarium for Inspectors and Senior Inspectors of Police

In November 1980, an honorarium was approved for Inspectors and Senior Inspectors of Police who were required to undertake additional duties resulting from operational needs and manpower shortages. This honorarium is in fact a modified version of the general honorarium which may be granted to officers normally ineligible for overtime allowance (see paragraphs 3.9 - 3.13 above). It is paid at about single-time rate and is based on Point 15 (for Inspectors) and Point 20 (for Senior Inspectors) of the Disciplined Services Pay Scale (Officer).

3.16 We consider the present arrangements to be unsatisfactory in that overtime payments in various forms are made to staff in some of the disciplined services but not to others, although they may deserve similar treatment. We therefore feel that the system as a whole should be rationalised.

3.17 One proposal that has been put to us is that eligibility for overtime allowance should be extended to all staff in the disciplined services on the same basis as that of the rest of the civil service.

3.18 After careful consideration, we have reached the view that the disciplined services should not be eligible for normal overtime allowance as payable to other grades because of the nature of their work and because their pay scales already take into account the requirement to work some overtime. Nevertheless we accept that circumstances may arise where disciplined staff are required to undertake extra duties over and above those which may reasonably be expected to be part of their normal work, and we consider that this ought to be compensated. The situation is analogous to that of staff outside the disciplined services who are not eligible for overtime allowance but may be compensated for extra work performed by the payment of an honorarium. To cater for this and to rationalise the existing practices, we recommend that all the allowances at present payable to staff of the various services for extra duties should be abolished and replaced by a single Disciplined Services Special Allowance.

3.19 We recommend that the rank and file of all the disciplined services and the officer ranks up to Point 23 (at present \$11,435) of the Disciplined Services Pay Scale (Officer) (DPS(O)) should be eligible for the proposed allowance. This is consistent with our recommendation that honoraria for prolonged overtime should be paid to the rest of the civil service up to and including staff on MPS 37 (at present \$10,905). We consider it inappropriate for officers with salaries above DPS(O) 23 to be given monetary compensation for extra duties.

3.20 Having regard to the particular circumstances of the disciplined services and to avoid possible abuses, we consider that stringent control measures should be adopted to regulate the payment of the proposed Special Allowance.

3.21 First, the additional work undertaken must be unavoidable and be warranted by special circumstances such as the need to complete an allotted task within a specific period, or where overtime is required to deal with unforeseen situations or major operations, or to maintain an essential service.

3.22 Secondly, the additional work must be kept to the minimum essential on operational grounds and must be authorised, in advance wherever possible, by a senior officer who is not himself eligible for the Special Allowance.

3.23 Thirdly, payment of the allowance should only be allowed when time off in lieu within a reasonable period is impracticable.

3.24 Fourthly, to minimise management difficulties we suggest that a ceiling should be imposed on the total amount of Special Allowance that an eligible officer may receive, so that the pay differential between him and his immediate superiors who are not eligible for the allowance will not be completely eroded. We recommend that if our proposal for a Disciplined Services Special Allowance is implemented, an officer's basic salary in any month, together with the amount of Special Allowance he receives for that month, should not exceed the value of the pay point immediately below the maximum of the next more senior rank for which no such allowance is payable. This will mean in practice that the upper limit of an officer's salary and allowance should not exceed the value of pay point DPS(O) 28.

3.25 We envisage that detailed rules in keeping with the spirit of the above proposed control measures will need to be drawn up by the Administration to meet the particular requirements of each service. We suggest that these rules should be no less stringent than those we have proposed for overtime payments to staff outside the disciplined services.

3.26 As we consider the Special Allowance to be more akin to overtime honoraria than to the present overtime allowance, we recommend that the rate of the proposed Special Allowance should be 1/210 of the officer's monthly salary per hour.

#### Independent Commission Against Corruption

3.27 In the course of this review, we have also examined the eligibility of the departmental grades of the Independent Commission Against Corruption for overtime payments. Although the staff of the ICAC Surveillance grade and Commission Against Corruption Officer grade are paid from the Master Pay Scale, as recommended in our Report No. 3, their pay scales are broadly related to those for disciplined ranks in the Royal Hong Kong Police Force. In view of this we consider that any arrangements for overtime payment for the ICAC departmental grades should be on the same basis as those for the disciplined services. Accordingly we recommend that ICAC departmental grade staff on salaries up to and including MPS 37 (which is roughly equivalent to DPS(O) 23) should be eligible for the proposed Special Allowance on the same basis as the disciplined services.

3.28 We also recommend that the non-disciplined staff of the disciplined services and the non-departmental grade staff of the ICAC should be eligible for the normal overtime allowance and honoraria on the same basis as their counterparts elsewhere in the civil service.