

Appendix H

27 May 1991

His Excellency Sir David Wilson, G.C.M.G.,
Governor of Hong Kong.

Your Excellency,

Proposed Modifications to Dependant
Pension Benefits and Pensions Arrangements

We have been invited by the Administration to advise, under Clause I(e) of our Terms of Reference, whether certain changes to existing dependant pension benefits and pension arrangements proposed by the Administration should be adopted.

Background

2. We have been informed that in response to staff requests and OMELCO concern about inconsistencies in the existing practices, the Administration has conducted a review of the full range of dependant pension benefits with a view to modernising existing provisions to meet present-day needs and to remove anomalies. These benefits include the dependant pension schemes (namely the Widows and Orphans Pension Scheme and the Widows' and Children's Pensions Scheme), death gratuity and duty-related injury and death benefits. The Administration has also proposed a number of modifications to the operation of the Old Pension Scheme and the New Pension Scheme.

The Administration's Proposals

3. The changes proposed by the Administration are as follows :-

Appendix H (Cont'd)

I. Dependant Pension Benefits

(a) Widows and Orphans Pension Scheme (WOPS) and the Widows' and Children's Pensions Scheme (WCPS)

- (i) The WOPS and WCPS should be changed to voluntary schemes with effect from a future date. Existing members could opt out of the schemes within a specified period. New recruits who wish to join the voluntary WCPS would have to exercise the option within a specified period after appointment or marriage. Since WOPS is an obsolescent scheme, no new members would be accepted;
- (ii) The rate of contributions for new entrants to the voluntary WCPS, based on the advice of the UK Government Actuary's Department, should be adjusted to 3.5% of salary with a matching contribution of 2.33% from Government. Serving members who opt to remain in the scheme may continue to contribute at the existing rate (3%);
- (iii) Unmarried serving officers should be refunded their past contributions with interest on opting out of the schemes. Married officers should have their pension benefits preserved i.e. their dependants would continue to enjoy a contingent dependant pension, frozen at the level when contribution ceases. The preserved dependant pensions would attract inflation-linked pension increases;
- (iv) With the WCPS becoming voluntary, Model Scale 1 staff, female officers and those junior disciplined service officers appointed before 1.1.78 who are currently exempted from contributing to WCPS should be allowed to join on a voluntary basis;
- (v) The pensionable age limit for dependant children should be standardised at 18 irrespective of sex and marital status, and the age limit should be extended to 23 if the children are in full-time education and indefinitely in the case of disabled children who are financially dependent. Serving members will retain their existing right in respect of unmarried daughters not in full-time education up to the age of 21;

- (vi) The definition of beneficiaries should be clearly set out to avoid possible abuse but there should be scope for flexibility. The Board of Directors of the schemes should have discretion to accept bona-fide dependants not otherwise covered as beneficiaries e.g. wives of post-retirement marriages;

(b) Death Gratuity

- (vii) An ex gratia payment should be made to dependants of officers who die with less than two years' service to relieve hardship experienced by dependants in such cases. A payment amounting to three months' salary will be made for officers who die with less than one year's service and six months' salary for those with service between one and two years;
- (viii) To shorten the time lag for payment, married officers should be allowed to nominate, on a voluntary basis, their spouse as the recipient of death gratuity;

(c) Duty-related Injury and Death Benefits

- (ix) The award of dependant pension and additional pension, in lieu of employees' compensation under the Employees' Compensation Ordinance (ECO) (Chapter 282), is at present subject to there being no default on the part of the deceased/injured officer. This is more stringent than the eligibility criteria for employees' compensation where payment is made unless the injury or death is proved to be attributable to the employees' serious and wilful misconduct. The eligibility criteria adopted for additional and dependant pensions should be brought into line with those for employees' compensation under the ECO;
- (x) To enable dependants to make a more realistic assessment of the relative benefits under the pensions legislation and ECO, beneficiaries should be allowed the option of commuting into a lump sum the dependant pension in full. Where they elect for a recurrent payment, it should continue after the spouse's remarriage. The current discriminatory provision whereby a husband's entitlement to a dependant's pension is

Appendix H (Cont'd)

subject to financial dependency should also be removed;

- (xi) There should be a clear definition of "dependants". To allow flexibility, the Secretary for Civil Service should have discretionary power to accept bona-fide dependants who are not otherwise covered as beneficiaries;
- (xii) The rate of additional pension payable to officers whose ability to contribute to their own support is impaired as a result of injuries sustained on duty should be calculated according to the actual percentage of incapacity;
- (xiii) The service pension of officers who retire on grounds of duty-related injuries after short service i.e. less than 5 years should be enhanced. The enhancement should be in the form of a deemed increase in service by doubling the officer's service, subject to a minimum of two years and a maximum not exceeding the period of service which the officer would have completed on attaining normal retirement age;

(II) Pensions Arrangements

- (xiv) Pension adjustments should be granted as of right and the current administrative practice for pension adjustment should become statutory;
- (xv) All service regardless of age should count for pension. The arrangement would not apply retrospectively for officers who have already left the service;
- (xvi) Where the Governor thinks fit and proper, acting allowance may be taken as pensionable emoluments for retirement benefits purposes;
- (xvii) A Hong Kong Government Scheme, similar to the UK War Service Credit Scheme, should be set up.

The Commission's Observations

4. We note that the proposals will incur either nil or minimal additional cost, except in the case of making the WCPS and WOPS voluntary. Such arrangements would lead to a loss in revenue from staff contributions when serving members opt out of WOPS and WCPS. There would also be

initial expenditure for the refund of past contributions to unmarried members opting out of the schemes. However, Government's liability would consequently be reduced and there would be considerable savings in expenditure in the long term.

5. We also note that the Administration has consulted the main staff councils on the proposed changes to dependant pension benefits. The latter's reaction is generally favourable, particularly with regard to the introduction of voluntary membership under the WOPS and WCPS. In the course of the 1989 Overall Salary Structure Review, we also received repeated requests from staff to make the schemes voluntary.

6. As regards the proposed changes to existing pension arrangements, the Administration has indicated that these have been suggested either by staff or pensioners.

The Commission's Recommendations

(a) Widows and Orphans Pension Scheme (WOPS) and the Widows' and Children's Pensions Scheme (WCPS)

7. We consider the conversion of the WOPS and WCPS into voluntary schemes to be sensible. The compulsory nature of the schemes and the level of contribution vis-a-vis the level of benefits provided do not appear to suit present-day needs. Given the wide choice of insurance packages nowadays, officers should be allowed to determine what proportion of their resources should be set aside to provide for their dependants in the case of domestic calamity and what sort of insurance schemes they consider most suitable and cost-effective. On the other hand, as a good employer, the Government should continue to make its schemes available to those who prefer to take advantage of them. The conversion into voluntary schemes will hence suit the interests of all concerned.

8. Furthermore, on grounds of equity, we support the proposal to extend the voluntary Widows' and Children's Pensions Scheme to cover staff who are hitherto not eligible to join.

(b) Pension Adjustments

9. As regards pension adjustments, we have been given to understand that it has been the Government policy since 1976 to maintain the original purchasing power of pensions by annual adjustments by reference to changes in the Consumer Price Index (A). The adjustment takes effect from 1 April of each year by Resolution of the Legislative

Appendix H (Cont'd)

Council under Section 7 of the Pensions (Increase) Ordinance (Chapter 305) and Section 5 of the Widows and Orphans Pension (Increase) Ordinance (Chapter 205).

10. Having reviewed the present policy, the Administration has concluded that the annual adjustments to pension by reference to changes in the Consumer Price Index (A) is appropriate but there is a case for them to be made as of right following the decision in 1987 to make pension benefits a statutory right. The Administration therefore proposes to embody the current administrative practice for pension adjustments into legislation.

11. We have given very careful consideration to the Administration's proposal and opinions are evenly divided among us :-

- (a) Those of us who support the proposal are of the view that annual adjustments to maintain the original purchasing power of the pension benefits are appropriate. This is particularly important for pensioners who depend largely or entirely on their pension for maintenance. Embodying the existing practice for pension adjustments into law will have the dual effect of enhancing civil servants' confidence in the value of their pension and of reassuring pensioners that the impact of price inflation will be mollified by the annual adjustment to their pension benefits.
- (b) On the other hand, some of us feel that pension adjustments, like salaries adjustment, should have regard to the economic and financial situation in Hong Kong. To make pension adjustments a statutory right would tie the hands of the Government should it wish to change the policy.

12. Although we accept the existing policy of an annual adjustment to pension by reference to changes in Consumer Price Index (A), we could not reach a consensus on whether it should be embodied in legislation. In view of the conflicting views held by Members, we do not consider it appropriate to tender definitive advice on the Administration's proposal. We suggest that the Administration should take our views into account in deciding on whether the proposal should be taken forward.

(c) Other Proposals

13. As to the rest of the Administration's proposals, we note that they are mainly technical in nature and aim at slightly improving existing provisions, allowing for more flexibility or standardising existing arrangements. They do not involve any major departure from basic principles

and the additional costs incurred are insignificant. We support all these proposals.

14. We recommend that the proposed changes, if accepted, be introduced from a current date.

We have the honour to be
Your Excellency's obedient servants,

(Sidney Gordon)
Chairman
For and on behalf of
Members of the Standing Commission