

4 March 1992

His Excellency Lord Wilson of Tillyorn, GCMG,  
Governor of Hong Kong.

Your Excellency,

Review of Provision of Sea Passages

We have been invited by the Administration to advise, under Clause I(e) of our Terms of Reference, on a proposal to abolish the provision of sea passages.

Background

2. The Administration informed us that sea passages had originally been provided only to overseas officers on old leave terms, i.e. those appointed to the permanent establishment before 1 January 1958. In those days, air travel was less common and quite costly compared to sea travel. Overseas officers appointed after 1 January 1958 were offered air passages. These provisions were reviewed in 1971 with the outcome that overseas officers were provided with sea passages on retirement subject to meeting certain criteria. A further review was conducted in 1984 when the Administration decided that:

- (a) overseas recruits appointed after 1 December 1984 would not be eligible for sea passages on final departure; and
- (b) overseas officers who were appointed before 1 December 1984 and who satisfied the following criteria would remain eligible for sea passages:

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- (i) pensionable officers appointed on the new leave terms, i.e. on or after 1 January 1958, who retired at the age of 50 or above; and
- (ii) agreement officers aged 50 or above who left the Hong Kong Government on satisfactory completion of not less than 15 years' public service in Hong Kong or another dependent territory.

The Administration did not consult us on these decisions because it did not consider that there was any change to the benefits of serving officers.

3. There are now about 1630 overseas officers who were appointed before 1 December 1984. Sea passages are currently available only between Hong Kong and the United Kingdom on the 'Canberra'. It sails once every year usually in March or April as a luxury cruise from Hong Kong to the United Kingdom, calling at eight to nine ports. As there is only one sailing a year, not all officers are able to make use of their entitlement. In recent years, only about 30% of eligible officers have taken sea passages. The rest were provided with single air passages to their countries of origin or a non-standard passage allowance of equivalent value.

Legal Position

4. According to the Administration, the legal position is that a sea passage is a condition of service provided in the Civil Service Regulations (CSR). Under CSR 4, changes to conditions of service can be made by the Secretary for the Civil Service who has the delegated authority to amend, supplement, apply, interpret and make exceptions to CSRs. However, the Administration would need to demonstrate that such a change was necessary, reasonable and in the public interest. Agreement officers are also subject to a unilateral variation clause in their agreement which permits the variation of terms and conditions of service should the Government consider it necessary.

5. On the other hand, staff have a right in public law, which they can assert by way of judicial review, to be consulted, to make representations and to have these representations properly considered before the Administration takes a final decision.

The Administration's Proposals and Justifications

6. The Administration proposes to abolish the provision of sea passages for the following reasons:

- (a) sea passages are outdated, as regular and adequate air flights have been available for many years;
- (b) nowadays a sea passage is in fact a luxury cruise the cost of which cannot be regarded as a reasonable charge on public funds. A sea passage on the Canberra cost \$74,725 in 1991, compared to \$8,695 for a single Economy Class air passage to the United Kingdom. Although the total cost of sea passages is not high (\$2 million in 1991) this cannot be justified when cheaper and adequate alternatives are available;
- (c) if sea passages were regarded as a reward for long service rather than as a home passage, it could be argued that sea passages should also be provided to local officers. Rewarding overseas officers alone implies that the service of an overseas officer is more valuable than that of a local officer. Such a notion is clearly objectionable and unacceptable; and
- (d) the provision of sea passages to overseas officers on retirement has given rise to adverse publicity, with the media portraying it as a colonial anachronism.

7. The Administration considers that if sea passages are abolished, it is only fair that all eligible officers who would otherwise enjoy them should be compensated. It proposes to give an ex-gratia payment to eligible officers who have earned their entitlement to a sea passage and who can demonstrate that they have suffered a loss at the time they leave the service. The ex-gratia payment will be linked to the prevailing Excursion air fare from Hong Kong to the United Kingdom. The cost of the proposed arrangement for ten years to 2001 is estimated to be \$48.6 million, compared with \$57.8 million for maintaining the status quo. Thus abolishing sea passages would achieve a saving of \$0.92 million a year.

Appendix E (Cont'd)

8. Since bookings for sea passages are normally made two years in advance, the Administration further proposes that sea passages should be abolished but not until after the 1993 sailing of the Canberra, so as not to upset the plans of officers who have already made bookings.

9. The Administration informs us that in submitting the above proposals, the legal position and the views of staff have been taken into account. Although some staff associations are firmly opposed to the proposal, there are strong arguments for abolishing sea passages. This is a good case for testing the Court's view on the unilateral variation clause in Government's employment contracts, if staff wish to challenge it in court.

The Commission's Views and Recommendation

10. We note that the abolition of sea passages for the few officers who would take advantage of this provision might affect overall staff relations, as it involves a unilateral change in conditions of service. However, with one exception, we support the Administration's proposal for the following reasons:

- (a) the provision is very outdated;
- (b) there is no doubt that a trip on the Canberra is a luxury cruise. It is inconceivable for Government to continue to provide civil servants with luxury cruises out of public funds;
- (c) if a sea passage were intended as a reward for long service rather than as a home passage, it should be made available not only to overseas officers but also to local officers; and
- (d) the annual sailings of the Canberra have from time to time attracted adverse publicity.

We also recommend that the proposal be implemented as soon as practicable.

Appendix E (Cont'd)

11. We are further of the view that the Administration should decide on the appropriate compensation for the staff concerned. However, the total cost to Government should not be greater than the cost of maintaining the status quo.

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

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