

12 October 2000

The Honourable TUNG Chee Hwa
The Chief Executive of the
Hong Kong Special Administrative Region
of the People's Republic of China
Chief Executive's Office
Hong Kong

Dear Sir,

Review of Overtime and Related Allowances

We have been invited by the Administration to advise, under Clause 1(h) of our Terms of Reference, on the results of the Administration's review of overtime and related allowances.

Background

2. The general principles governing overtime (OT) and the payment of overtime allowance (OTA) were last reviewed by the Commission in 1982 (Report No. 10). Given the lapse of time, the Administration considers it necessary to undertake another review to re-visit the principles and practices governing the administration of OT since the Commission's last review. The review, conducted by the Administration, was completed earlier this year and the proposals now put to the Commission for advice have been arrived at following consultation with the Central Staff Consultative Councils (the Staff Sides).

3. The Administration considers that, fundamentally, Heads of Department (HoDs) should assume responsibility for and be given the necessary authority to determine the staff complement needed to deliver the service efficiently and effectively. Since there are circumstances over which departments have little or no control (e.g. shortage of staff and emergency situations), HoDs would, therefore, have to resort to the use of OT. In the

Administration's view, recurrent and excessive OT is unhealthy and not desirable from the human resources angle. Habitual granting of OTA may create expectation among staff concerned that it is a stable component of take home pay. This may result in resistance to any work reshuffling which may lead to a reduction of OTA. Against these considerations, the Administration feels a need to lay down sufficient guidelines and rules to ensure that the use of OT is kept to the minimum, while the authority and responsibility of HoDs in deployment of staff for OT work would not be compromised.

The Administration's review and the Commission's views and recommendations

4. The following are the results of the Administration's review on the principles and rates of OTA and its recommendation on the introduction of additional administrative measures to strengthen the administration of OT and related allowances.

Principles

(a) *OT should be undertaken only when unavoidable*

5. Overtime is work undertaken over and beyond an officer's conditioned hours. A key principle laid down by the Commission in Report No. 10 is that "overtime work, no matter if it is occasional or regularly undertaken, should be kept to the absolute minimum and should only be undertaken when unavoidable". In the light of experience, the Administration proposes to further clarify the word "unavoidable" to mean that the duties to be performed at that time are essential, the duties must be performed at that time and could not be deferred; and that the duties concerned cannot be performed by another officer who will not be required to perform overtime.

6. While we do not see the need to revise the wording "unavoidable" in the principle laid down in Report No. 10, we have no objection to the Administration's interpretation of its meaning as described in the proposed clarification if this will help HoDs in applying a consistent standard.

(b) *OT should normally be compensated by time-off (TO) unless impracticable within a reasonable time*

7. Another principle laid down in Report No. 10 is that “overtime work should normally be compensated by time-off in lieu unless this is impracticable within a reasonable period of time”. The Administration is firmly of the view that TO should continue to be the normal compensation for OT and that OTA should be payable only when TO is impracticable within a reasonable period of time which, currently, is stipulated as within one month from the date the OT work is performed.

8. On this, the Staff Sides have made two suggestions : (a) staff should be allowed to choose between TO and OTA; and (b) the possibility of extending the one month stipulation. Following exploration with the Staff Sides, the Administration rejected both proposals on grounds that : (a) since only TO could give the staff having worked additional hours chances to get rest and recover, it would be against this primary policy objective to allow staff to choose between TO and OTA; and (b) the current one-month arrangement is fair and reasonable.

9. We see no objection to the Administration’s decision.

(c) *Staff at a certain salary level should not be eligible for OTA*

10. Currently, officers in ranks whose scale maxima are on or below MPS Point 25 (\$32,190) and whose scale minima are on or below MPS Point 19 (\$24,320) are eligible for OTA, with the exception of officers in the Administrative and professional grades, teaching staff, officers remunerated from the Training Pay Scale and other officers under training who are required to attend duty beyond their conditioned hours in connection with training; and Estate Assistant, Senior Estate Assistant, Chief Estate Assistant, Watchman, Head Watchman who are provided with quarters at or near their place of work. In the Administration’s view, this salary cut-off point is generally in line with private sector practice and hence, there should be no change to the eligibility criteria.

11. We see no objection to the Administration's decision.

(d) *Approval for OT work should be exercised by a responsible officer who himself is not eligible for OTA*

12. The Administration considers that this principle, which provides a safeguard against abuse, is still valid and has been consistently and fairly adopted by departments. No change is therefore proposed.

13. We see no objection to the Administration's proposal.

(e) *Claiming of small periods of OT work should be discouraged*

14. Under the current rule, a minimum qualifying period of one hour of overtime must be worked in order for OTA to be granted. OTA work beyond one hour is counted on a half-an-hour basis. The Administration feels that this arrangement is appropriate and should continue.

15. We see no objection to the Administration's decision.

OTA Rates

(a) *Hourly rate*

16. Currently, the standard rate of OTA per hour is 1/140 of an officer's monthly salary (which is approximately 1.5 times of hourly salary). To discourage excessive OT work, OT worked in excess of 150 hours in a calendar month will attract OTA at a reduced rate of 1/210 (approximately the hourly salary rate). These rates were last reviewed by the Commission in 1982.

17. The above rates were set with broad reference to the then 48 conditioned working hours in a week. Following subsequent revision of the conditioned working hours from 48-hours net to 45-hours net in 1988, the OTA rates, however, have remained unchanged till now through a tacit understanding between the Administration and the MOD 1 Council at that time that the reduction would not change the factors for computing OTA.

18. The Administration has reviewed these rates in the current exercise and it does not see any particular reason to change them. This is agreed by the Staff Sides.

(b) *Trigger Point*

19. As regards the trigger point of 150 OT hours per month for the reduced rate of 1/210, the Administration has explored with the Staff Sides the possibility of lowering it so as to further discourage excessive OT work. However, the Staff Sides are of the view that since they have little control over the level of OT they have to do, the present trigger level should not be further lowered. On account of this, the Administration considers that the present trigger point of 150 hours should remain unchanged.

20. We see no objection to the Administration's decision regards making no change to both the present hourly rate and the trigger point as set out above.

Additional Administrative Measures

21. To facilitate departments in planning and monitoring the amount of OT work required and the dispensation of TO as soon as practicable, the Administration proposes that the following new administrative measures be put in place. These include –

(a) *Setting of reference point ceilings for the amount of OT hours to be performed and for the accumulation of uncompensated OT worked*

22. A ceiling of 60 hours of OT will be set for each staff who may be asked to work in a month, and a ceiling of 180 hours to be set on the accumulation of uncompensated OT hours. Officers reaching these ceilings should not normally be required to work further OT. Exceptions may be made to deal with genuine departmental needs (e.g. during seasonal peaks or in emergency situations). In other words, the ceilings are reference points to ensure that OT beyond a certain level would be duly examined by senior management.

23. We see no objection to the proposed arrangements.

(b) *Clearing of uncompensated OT balance upon changes of posting*

24. All uncompensated OT balance of staff would be cleared before they change posting so as to avoid staff carrying forward uncompensated OT. Where this is not practicable, departments should, with the approval of an officer at the directorate level, work out plans to clear the balance within a reasonable period.

25. We welcome the proposed arrangement and recommend that, as far as practicable, the interests of the staff involved be given due consideration.

(c) *Review of OT situation*

26. HoDs are required to review the OT situation at least annually with a view to identifying any problem areas and take appropriate rectification measures.

27. We agree this is a step in the right direction in tightening control of OT administration at the departmental level.

Other Related Issues

(a) *Stand-by Duty Allowance*

28. Stand-by is any period during which an officer is required to be present at his place of work outside his normal hours of duty but during which he is not necessarily required to perform any work. An eligible officer who is required to “stand-by” may be paid OT at the reduced OTA rate (i.e. 1/210), having regard to the fact that he is not required to do any actual work. Eligibility criteria are the same as OTA, but an officer provided with quarters at or near his place of work is not eligible. The ratio of compensation when stand-by duty is compensated by TO is currently set at 3:2, i.e. 3 hours of stand-by duty to be compensated by 2 hours of TO.

29. The Administration does not see any reasons to justify a change to the existing rates and eligibility criteria on grounds that there is an intrinsic difference between stand-by duty and OT duty in that the former is an operational arrangement required by the management and it is therefore less likely to become excessive. Hence, the Administration does not see the need to impose any ceilings but HoDs will be reminded of the need to frequently review the arrangements to ensure that they are justifiable.

30. We see no objection to the Administration's decision.

(b) *Honorarium*

31. At present, an honorarium may be payable to officers who are not eligible for OTA if they have worked OT in excess of 50 hours during a continuous period of three months, for which TO is impracticable. Officers at MPS Point 34 (\$47,970) and above and officers in the Administrative and professional grades are not eligible.

32. The Administration has examined the continued applicability of this provision in the current review. This mechanism provides flexibility to cater for special circumstances and approval is on a case by case basis. The Administration does not see any need to revise this provision.

33. We see no objection to the Administration's decision.

34. The above are the major proposals arising from the Administration's current review of overtime and related allowances. Notwithstanding that the Administration's review has not resulted in any major changes to the current system of OT administration in the civil service, the review involving close consultation with departmental management and the Central Staff Consultative Councils have sent a clear message that the Administration would like to see a more efficient and tighter monitoring of the current system by departmental management. To facilitate this process, the Administration has sought to clarify the meaning of the word "unavoidable" and to introduce new administrative measures aimed at strengthening control while leaving the key principles, which are considered still valid in the present day circumstances, intact. This is a pragmatic and sensible approach.

Conclusion

35. In conclusion, we support the Administration's proposals as set out in paragraphs 5 to 33 above.

Yours faithfully,

(Yeung Ka-sing)
Chairman
for and on behalf of
Members of the Standing Commission
on Civil Service Salaries and Conditions of Service