

**Legislative Council Panel on Public Service
Meeting on 18 March 2002
Management-Initiated Retirement Scheme**

Purpose

Further to the information paper (LC Paper No. CB(1)1036/01-02(02)) issued on 7 February 2002 regarding the retirement package and implementation progress of the Management-Initiated Retirement (MIR) Scheme, this paper provides supplementary information as requested by Members.

Justifications for the Retirement Package

2. As stated in para. 3 of our information paper, we have clearly explained to Members in the Legislative Council Brief (CSBCR/AP/5-090-005/11 Pt.4/99) and the Finance Committee (FC) paper (FCR(2000-01)33) the proposal that officers to be retired under the MIR Scheme will be granted immediate and enhanced pension on the same basis as redundancy on abolition of office in accordance with the pensions legislation. Under the pensions legislation (Note : the Pensions Ordinance (Cap. 89) is applicable to officers on the Old Pension Scheme and the Pension Benefits Ordinance (Cap. 99) is applicable to officers on the New Pension Scheme), officers retired on grounds of organizational improvement or abolition of office will be granted immediate and enhanced pensions in accordance with a prescribed formula. The formula adjusts the pensionable service of the affected officers so that it will be enhanced by 10 months for every 3 complete years of pensionable service but capped the enhancement by 100 months. The total pension benefits including the enhanced portion will not exceed the normal pension entitlement to be granted at normal retirement age. Relevant extracts from the pensions legislation are set out at *Annex A*.

3. Given that the retirement of an officer on grounds of abolition of office or organizational improvement is initiated by the management and the officer's full pensionable career in the civil service is unilaterally cut short, it is reasonable for Government to provide immediate and enhanced pensions to him in recognition of his loss in earning capacity in respect of both salaries and pensions which he otherwise would have received up to and upon normal retirement.

4. Since 1991, it has been our policy that an ex-gratia payment of six months' final salary is granted to the officers affected by abolition of office to compensate for the loss of fringe benefits in addition to the grant of immediate and enhanced pensions. The background and justifications of this practice have been set out in para. 9 to 11 of an information paper issued to Members for the Panel meeting held on 22 January 1996 (LegCo Paper PL 579/95-96) regarding the abolition of office and the integration arrangements for staff of the Airport Management Division

of the Civil Aviation Department into the Airport Authority (*Annex B*).

5. In fact, following the approval on the abolition of office exercise in the Civil Aviation Department on 2 February 1996 (FCR(95-96)116), the FC further approved two abolition of office exercises in the Correctional Services Department (due to the closure of Vietnamese migrants detention centers) on 23 July 1997 (FCR(97-98)29) and the then Urban Services Department (arising from the privatization of the abattoirs) on 11 June 1999 (FCR(1999-2000)21). In each case, the affected staff were granted statutory and enhanced pension payments under the pensions legislation and an ex-gratia payment equivalent to six months' final salary. In the case of the privatization of the abattoirs, the ex-gratia payment was further enhanced by an additional payment of two months' salary for every ten years of service and pro-rata for shorter periods by the then Provisional Urban Council.

6. When we sought the approval of the FC on 16 June 2000 for the grant of an ex-gratia payment to civil servants who retire under the MIR Scheme, we have already clearly explained in para. 5 of the paper (FCR(2000-01)33) that the proposed arrangement is in line with the prevailing policy in respect of redundancy on abolition of office to cover the loss of non-job related benefits of officers concerned.

Illustration of the retirement package

7. A comparison on the retirement benefits of a directorate officer under the MIR Scheme and upon normal retirement at the age of 55 is at *Annex C* for Members' reference. As provided for in the pensions legislation, the total pension benefits including the enhanced portion to be granted to an officer under the MIR Scheme will be capped by his normal entitlements under normal retirement.

Updated Figures

8. In our last information paper, we briefed Members that since the implementation of the MIR Scheme in September 2000, we have retired 10 directorate officers. The total amount of ex-gratia payment and enhanced lump-sum pension gratuity involved is about \$7.9 million and \$11.4 million respectively. The position remains unchanged as at 1 March 2002.

Annex A

Chapter: 89 Title: PENSIONS Gazette 63 of 1999
ORDINANCE Number:
Section: 6 Heading: Circumstances in which Version Date: 01/07/1997
pension may be granted

(1) Subject to subsection (2), unless otherwise provided under this Ordinance or regulations made thereunder no pension, gratuity or other allowance shall be granted under this Ordinance to any officer holding an established office except on his retirement from the public service in one of the following cases- (Amended 36 of 1987 s. 36)

(c) on the abolition of his office;

(d) on compulsory retirement for the purpose of facilitating improvement in the organization of the department to which he belongs, by which greater efficiency or economy may be effected.

Chapter: 99 Title: PENSION BENEFITS Gazette 63 of 1999
ORDINANCE Number:
Section: 11 Heading: Circumstances in which Version Date: 01/07/1997
pension may be granted
for normal service

(1) Unless otherwise provided in this Ordinance, no pension shall be granted to an officer except in respect of his service in a civil capacity under the Government and except-

(d) upon his retirement on the abolition of his office, and after completion of qualifying service of not less than 2 years;

(g) upon his compulsory retirement for the purpose of facilitating improvement in the organization of the department in which he is serving, by which greater efficiency or economy may be effected, and after completion of qualifying service of not less than 2 years.

Chapter: 99 Title: PENSION BENEFITS Gazette
ORDINANCE Number:
Section: 16 Heading: Grant of additional Version Date: 30/06/1997
pension on abolition of
office or compulsory
retirement

(1) An additional pension at the prescribed rate shall be granted to an officer-

(a) who retires under section 11(1)(d) on abolition of his office; or

(b) who is compulsorily retired under section 11(1)(g).

(2) An additional pension granted to an officer under subsection (1) shall be payable when a pension is paid to him.

(Enacted 1987)

Chapter: 89A	Title: PENSIONS	Gazette
	REGULATIONS	Number:
Regulation: 22	Heading: Abolition of office and reorganization	Version Date: 30/06/1997

If an officer holding an established office and who has been confirmed therein retires from the public service in consequence of the abolition of his office or for the purpose of facilitating improvements in the organization of the department to which he belongs, by which greater efficiency or economy may be effected-

(a) he may, if he has been in the public service for less than 10 years, be granted in lieu of any gratuity under regulation 5 or 12, a pension under regulation 4, 9, 10 or 11, as the case may be, as if the words "for 10 years or more" were omitted from regulation 4;

(b) he may, if he retires from the service under the Government, be granted an additional pension at the annual rate of one-sixtieth of his pensionable emoluments for each complete period of 3 years' pensionable service:

Provided that-

(i) the addition shall not exceed ten-sixtieths; and

(ii) the addition together with the remainder of the officer's pension shall not exceed the pension for which he would have been eligible if he had continued to hold the office held by him at the date of his retirement and retired on reaching the age at which he is normally required to retire under the provisions of section 8 of the Ordinance, having received all increments for which he would have been eligible by that date. (G.N.A. 165 of 1952)

(36 of 1987 s.49)

Chapter: 99A Title: PENSION BENEFITS Gazette
REGULATIONS Number:

Regulation: 22 Heading: Rates of additional Version Date: 30/06/1997
pension on retirement
on abolition of office or
compulsory retirement

(1) Subject to paragraphs (2) and (3), the rate of additional pension granted under section 16 of the Ordinance shall be-

(a) in the case of a Category A officer, 10/675 of his highest pensionable emoluments for each complete 3-year period of his pensionable service;

(b) in the case of a Category B officer-

(i) in respect of service before 1 April 1987, 1/80 of his highest pensionable emoluments for each complete 3-year period of his pensionable service;

(ii) in respect of an incomplete 3-year period of his pensionable service, service before 1 April 1987 which is followed by pensionable service after that date sufficient to complete a 3-year period, 10/675 of his highest pensionable emoluments; and

(iii) in respect of service after 1 April 1987, other than where sub-sub-paragraph (ii) applies, 10/675 of his highest pensionable emoluments for each complete 3-year period of his pensionable service.

(2) Subject to paragraph (3), an additional pension granted to an officer in accordance with paragraph (1), shall not exceed 100/675 of the officer's highest pensionable emoluments.

(3) An additional pension granted to an officer in accordance with paragraph (1) together with any pension granted to him at the factor prescribed in regulation 4 shall not exceed the amount of pension which an officer would have been granted if he had continued to serve until the date on which he would have reached his retirement age, having received all increments for which he would have been eligible by that date.

(Enacted 1987)

**LegCo Panel on Public Service Meeting
on 22 January 1996**

**Abolition of Office Terms and the
Integration Arrangements for Staff of the
Airport Management Division of the
Civil Aviation Department into the Airport Authority**

Introduction

This paper briefs Members on the integration arrangements for staff in the Airport Management Division (AMD) of the Civil Aviation Department (CAD) to the Airport Authority (AA), the reasons why we are offering abolition of office terms for these staff, and seeks Members' support on the financial commitment arising from this approach.

Background

2. The AA will be responsible for the management and operation of the airport at Chek Lap Kok (CLK). After the opening of the new airport, CAD will no longer be responsible for airport operation and management. Its team of over 150 staff in airport management will therefore become redundant. In accordance with usual practice, these posts will be abolished upon closure of Kai Tak and staff will be offered abolition of office terms.

3. These staff have acquired invaluable experience in running a busy modern international airport. It is in everyone's interest that as many

of them as possible remain in local airport management and it is for this reason that the Administration and the AA have agreed upon a package of arrangements which will achieve the following objectives :

- to ensure the continued efficient operation of Kai Tak until closure;
- to provide for a smooth transition from Kai Tak to CLK;
- to allow early planning and development of airport management capability by the AA; and
- to ensure that the AA, a new organisation, will have a core group of staff with local airport management experience on opening of the new airport.

4. The AA wants to have as many of these staff as possible and would like to offer them employment. To facilitate smooth transfer and in the wider interest of civil aviation in Hong Kong, it has therefore been agreed that AMD staff who opt to join the AA will be given approval to proceed on no pay leave from the civil service. They will join the AA on the Authority's terms of employment but the majority of them will be seconded back to CAD to continue to run Kai Tak until its closure. Such arrangements should not prejudice nor work against the entitlement of the staff. Eligible permanent and pensionable AMD staff (about 130) would retain their eligibility for abolition of office terms upon abolition of office of their posts on the closure of Kai Tak.

5. Such arrangements may sound complex but are necessary for all the reasons in paragraph 3 above and :

- (a) to allow the AA to know early how many AMD staff will take up their offer - so that they can recruit to fill remaining vacancies;
- (b) to avoid counter-productive competition for staff between the AA and CAD; and
- (c) to maintain staff morale : they know their future.

6. The Legislative Council Panel on Economic Services was briefed on the integration arrangements for the staff on 11 December 1995. Members did not object to the proposals and some expressed support for the broad principles and objectives of the integration arrangements.

7. The approval of the Legislative Council Finance Committee was sought on 5 January 1996 for the grant of ex-gratia payment of six months' salary to the staff concerned, which is part of the standard compensation package for abolition of office terms in the civil service. A copy of the paper is at Appendix I. However, Members disapproved the application, after a vote had been taken. They sought clarification on why we decided to go for abolition of office terms in this case and raised questions on why other arrangements e.g. retaining the AMD posts and seconding AMD staff to AA or offering staff mixed pension arrangement were not adopted.

8. We would like to brief the Panel and, subject to Members' views, intend to resubmit the proposal to the Finance Committee.

Abolition of Office

9. When the Government ceases to undertake certain functions, as a result of which staff who perform such duties are no longer required, the general policy is to abolish these staff's posts. Abolition of posts come about through no fault of the staff. In such cases, as a good employer, the Government always tries to look for redeployment opportunities within the civil service for those staff who want it and are suitable, or sees how it can help staff to take up alternative jobs, including with the private sector operator - where privatisation or corporatisation is involved.

10. Prior to 1991 there had been a number of abolition of office exercises, and the terms given varied. We thus considered that it was time to try to standardise them. Since 1991 therefore, our policy has been that when an office is abolished, an enhanced pension is paid under the relevant pensions legislations and an ex-gratia payment of 6-months' salary is sought. (Note 1).

Note 1

The closure of Cheung Sha Wan Abattoir is phase two of the closure of government run abattoirs and the staff will be offered the same terms as for Kennedy Town - which are somewhat more generous than the standard terms.

11. The basis for having any ex-gratia award is to cover the loss to the officer of his non-job related benefits in the civil service. The decision to have a flat rate of six months' salary is a pragmatic one. Each staff will be eligible for or using different benefits. Because of the variations in benefits, we decided an across the board rate was appropriate. The period - six months - was based on similar practices in UK abolition of office exercises. The same formula - enhanced pension and six months' ex-gratia payment has been applicable in all abolition of office exercises since 1991.

Application of Abolition of Office Terms to AMD Staff

12. In the present case, we have decided to go for abolition of office because :

- (a) the operation and management of the new airport is vested in the AA and the functions which the AMD staff perform will no longer be required by the Government - these staff thus become redundant;
- (b) the AA needs to operate in accordance with prudent commercial principles - the indefinite retention of a core of staff on civil service terms would create administrative and management complexities and would cut across AA's policies on pay and benefits which aim at flexibility, responsiveness to market conditions and pay for performance. A mixed staff situation will not be conducive to the early establishment of a strong, fully integrated airport management team; and

- (c) a mixed pension arrangement is inappropriate because AA is not a subvented organisation. Although it gets its capital from Government, it is essentially run along commercial lines. It is therefore inappropriate for pension entitlements of AMD staff to be carried over to the AA or for Government to be responsible for funding pension entitlement of AMD staff who join the AA.

We have been able to secure AA's agreement to offer all AMD staff employment with AA not only because of Government's obligation as a good employer but also due to the need for CAD to ensure the existing AMD staff will be retained to operate for Kai Tak before it closes and for these experienced staff to form a core group for the management of the new airport at CLK. The package is therefore essential for both CAD and AA and in the wider interest of the community at large.

13. The abolition of office terms proposed in this case are the same as in all other abolition of office cases since 1991. As mentioned in paragraph 9 above, the Government will facilitate staff who face redundancy to look for alternative employment. This should not reduce the staff's entitlement to the standard abolition of office terms. It is quite possible that a staff member who is not so assisted, would on his own find an equally good if not better paid job himself. He would still get the six months' ex-gratia payment - indeed we would not know of his success. In the present case, if a distinction in the abolition of office terms is drawn between staff who join the AA and those who do not, staff may choose to wait till they secure the maximum abolition of office terms before deciding

whether to join the AA or not. This will defeat the objective of early planning and development of airport management capability by the AA.

14. We believe that in all the circumstances, the proposals are fair and in the best public interest.

Conclusion

15. We consider that the proposed package is appropriate for the particular circumstances of this case. The AA wants to offer employment to these staff. The terms that they can offer are comparable to what these staff are now enjoying. These are also what AA is prepared to offer to other new recruits with similar expertise and experience. These points should not detract from the fact that the staff's posts are being abolished. Staff should not be penalised because their expertise is valued by the AA - That would neither be conducive to good staff morale nor to the efficient and smooth running of the Kai Tak and Chek Lap Kok Airports.

Enquiries

16. Mrs Philomena Leung is responsible for the subject matter. She may be contacted on telephone number 2810 3100.

**Illustration of Retirement Benefits under
The Management-Initiated Retirement (MIR) Scheme**

Example

Age : 55
 Years of service : 30 years
 Monthly salary : \$130,050 (maximum salary point of D2)
 Pension Scheme : New Pension Scheme

Comparison of retirement benefits :

	Retirement benefits under MIR Scheme (a)	Pension benefits at 55 (b)	Difference between (a) and (b)	Pension benefits at normal retirement of 60
Lump-sum gratuity	\$6,797,280 ⁽¹⁾	\$5,826,240	+\$971,040	\$6,797,280
Monthly pension	\$40,460 ⁽¹⁾	\$34,680	+\$5,780	\$40,460
Ex-gratia payment	\$780,300	-	+\$780,300	-

* If the officer remains in the service up to the age of 60, his cumulative salary earnings will be $\$130,050 \times 12 \times 5 = \$7,803,000$ (on the assumption that he remains in the current rank and the salary remains unchanged throughout the period).

(1) The enhanced lump-sum gratuity and monthly pension would have been \$7,444,640 and \$44,313 based on the formula of an enhancement by 10 months for 3 years of pensionable service. The enhancement is capped by 100 months and the total pension benefits, including the enhanced pension, cannot exceed the entitlement at the age of 60.