1999 No. 666

HONG KONG

The Hong Kong (Overseas Public Servants) (Pension Supplements) (Amendment) Order 1999

Made - - - -	*10th March 1999*
Laid before Parliament	*22nd March 1999*
Coming into force	*1st May 1999*

At the Court at Buckingham Palace, the 10th day of March 1999

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 4 of the Hong Kong (Overseas Public Servants) Act 1996**(a)** and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:–

Citation, construction and commencement

1.—(1) This Order may be cited as the Hong Kong (Overseas Public Servants) (Pension Supplements) (Amendment) Order 1999 and shall be read as one with the Hong Kong (Overseas Public Servants) (Pension Supplements) Order 1996**(b)** as amended by the Hong Kong (Overseas Public Servants) (Pension Supplements) (Amendment) Order 1998**(c)** (the latter two hereinafter together referred to as the "principal Order").

(2) This Order shall come into force on 1st May 1999.

Amendment of article 2 of the principal Order

2.—(1) The definition "specified officer" in article 2 of the principal Order shall be amended by deleting item (d) of that definition, and substituting the following two items:

"(d) an expatriate officer who, prior to the 19th July 1956, held a pensionable office on pensionable terms in the service of Hong Kong, being a person who is certified by the Secretary of State:

(i) as having been selected or promoted to such office by, or with the approval of, the Secretary of State; or

(ii) as having been recruited to such office through the Crown Agents for Overseas Governments and Administrations; or

(iii) as having been recruited through other channels to such office in the service of Hong Kong for which a normal channel of recruitment was either through the Colonial Office or the Crown Agents,

(a) 1996 c. 2.
(b) S.I. 1996/1294.
(c) S.I. 1998/1066.

other than an officer whose application for membership of HMOCS has been refused; or

(e) an officer who, at any time prior to the 1st July 1997, held a pensionable office on pensionable terms in the service of Hong Kong and who:

(i) was appointed to an office in such service for which, in the opinion of the Secretary of State, a normal channel of recruitment would have been either the Colonial Office or the Crown Agents; and

(ii) was appointed to such office on overseas terms of service; and

(iii) when first appointed to an office in the service of Hong Kong, was not normally resident in the area comprising Hong Kong, China (including the territory of Taiwan) and Macao,".

(2) Article 2 shall be amended by adding the following new paragraph:

"(4) For the purposes of item (e) of the definition of "specified officer" in paragraph (1), a person shall not be treated as normally resident in the area comprising Hong Kong, China (including the territory of Taiwan) and Macao:

(a) by reason of his residence there for a period of not more than three years immediately before his appointment to the service of Hong Kong; or

(b) during any period prior to his appointment to the service of Hong Kong when he resided in such area solely for the purpose of employment there on expatriate terms (namely on terms which entitled him to financial assistance in respect of periodical leave of absence outside such area); or

(c) if he was not born within the area of parents settled there and, on retirement from the service of Hong Kong or from other public service in Hong Kong immediately following a period of service under the Government of Hong Kong, he left the area and did not return to reside in it.".

Amendment of Schedule to the principal Order

3. Head I of the Schedule to the principal Order shall be amended by deleting paragraph 1(c) and substituting the following subparagraph:

"(c) Calculate the pension which would be payable using the notional Hong Kong pensionable emoluments in accordance with the following formula:

$$\frac{A \times B}{C \times 2} = D$$

where

A are the officer's notional Hong Kong emoluments;

B (i) are the total number of months of the officer's contributory service, but ignoring the number of months in excess of 400; or

(ii) is the minimum period in months prescribed by section 7 of the Surviving Spouses' and Children's Pensions Ordinance,

whichever is the greater;

C is the pension earning rate of 1/600 as prescribed by the Spouses' and Children's Pension Ordinance; and

D is the sum to be taken for the remainder of the calculation.".

A. K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

The 1996 Order provides for the making of certain supplementary payments to overseas public servants and their dependants if their income from Hong Kong service or dependants' pensions is reduced as a consequence of a significant fall in the exchange rate between the Hong Kong dollar and the pound sterling. This Order amends the 1996 Order to include among the officers to whom it applies, certain pensionable officers in the service of Hong Kong who, though not members of Her Majesty's Overseas Civil Service, were appointed on expatriate terms. The officers in this group are currently eligible for supplementation of their pensions under the Supplementary Pension for Overseas Service scheme under the Pensions (Increase) Act. The amendment will also have the effect of extending the principal Order to the dependants of such officers if they are entitled to a dependant's pension.

The Order also brings the formula for calculating a widow's entitlement under the principal Order into line with the relevant Hong Kong law.

STATUTORY INSTRUMENTS

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The Hong Kong (Overseas Public Servants) (Pension Supplements) (Amendment) Order 1999

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