

THE SCHEDULE

PART II

RULES FOR CALCULATING AND DETERMINING A NOTIONAL HONG KONG PENSION AND ITS STERLING VALUE

Head A: Specified officers who are awarded a pension, or entitled to a deferred pension, under a relevant law on their retirement from the service of Hong Kong before or after the coming into force of this Order and who have no other pensionable public service

To calculate the sterling value of the officer's notional Hong Kong pension:

- (a) Identify the officer's salary point and allowances appropriate to his substantive grade at the date taken into account to determine his basic pension under the relevant law;
- (b) Determine the salary point and allowances appropriate to the salary point of that grade on 1st January 1992; this will produce the officer's notional Hong Kong pensionable emoluments;
- (c)
 - (i) Calculate, in accordance with the relevant law, the officer's pension on the notional Hong Kong pensionable emoluments; and
 - (ii) If the officer commuted or commutes any part of his Hong Kong pension, or his pension has been or is reduced by an appropriate authority under the relevant law, calculate, in accordance with the relevant law, the reduced pension on the notional Hong Kong pensionable emoluments as if the like proportion had been commuted of, or the like reduction made in, a pension as calculated in paragraph (c)(i) in respect of the notional Hong Kong pensionable emoluments;
- (d) Divide the pension or reduced pension as calculated in paragraph (c)(i) or (c)(ii), as appropriate, by 21; the resulting sum will be denominated in pounds sterling;
- (e) Save as provided in paragraph 2 of Part I of this Schedule, increase the sum obtained at paragraph (d) of this Head in April of each year up to the date on which a calculation is to be made to determine whether a supplementary payment is payable under paragraph 5 of this Order by the appropriate percentage increase rate obtained from the relevant Pensions Increase (Review) Order, as if the sum so obtained were a pension beginning on the 8th April 1991;
- (f) The sum obtained in paragraph (d) of this Head as increased in accordance with paragraph (e), so far as the latter is applicable, is the sterling value of the pensioner's notional Hong Kong pension;
- (g) Divide the sterling value of the pensioner's notional Hong Kong pension by 12 to obtain the monthly rate of such sterling value.

Head B: Specified officers who are awarded a pension, or entitled to a deferred pension, under a relevant law on their retirement from the service of Hong Kong before or after the coming into force of this Order and who have other pensionable service under a Scheduled Government

To calculate the sterling value of the officer's notional Hong Kong pension:

- (a) Identify the officer's salary point and allowances appropriate to his substantive grade at the date taken into account to determine his basic Hong Kong pension under the relevant law;

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- (b) Determine the salary point and allowances appropriate to the salary point at that grade on 1st January 1992; this will produce the officer's notional Hong Kong pensionable emoluments;
- (c) Determine the maximum pension payable having regard to the two-thirds rule under the relevant law on the notional Hong Kong pensionable emoluments and convert the maximum pension into sterling at the rate of Hong Kong dollars 21 to the pound sterling;
- (d) Determine the pension payable on the officer's notional Hong Kong pensionable emoluments, having regard to the two-thirds rule, as if the officer's service had been wholly under the Government of Hong Kong; this produces the sum required for stage (a) of the application of the mixed service formula;
- (e) Apply the remainder of the mixed service formula to the sum determined at paragraph (d) of this Head;
- (f) Convert the sum produced at paragraph (e) of this Head into sterling at the rate of Hong Kong dollars 21 to the pound sterling;
- (g) Identify the percentage increase rate as provided in the relevant pensions increase legislation which would be appropriate to apply to determine the value (in sterling) in accordance with that legislation of the officer's other pensions as at the 8th April 1991, and:
 - (i) if the officer's date of retirement was before the 8th April 1991, increase the sum of those other pensions as granted at the date of retirement by the appropriate percentage increase rate;
 - (ii) if the officer's date of retirement was on or after the 8th April 1991, reduce the sum of those other pensions as granted at the date of retirement by the appropriate percentage increase rate;
- (h) Add the sum produced at paragraph (g) of this Head to that produced at paragraph (f);
- (i) If the sum produced at paragraph (h) of this Head is less than the sterling sum produced at paragraph (c), carry forward the sum produced at paragraph (f); if the sum produced at paragraph (h) is greater than the sterling sum produced at paragraph (c), deduct the sum produced at paragraph (g) from that produced at paragraph (c) and carry the resulting sum forward;
- (j) If the officer commuted or commutes any part of his Hong Kong pension, or his Hong Kong pension is or has been reduced by an appropriate authority under the relevant law, calculate, in accordance with the relevant law, the reduced pension as if the like proportion of the sum carried forward at paragraph (i) had been commuted or the like reduction made in such sum;
- (k) Save as provided in paragraph 2 of Part I of this Schedule, increase the sum obtained at paragraph (i) or paragraph (j) of this Head, as appropriate, in April of each year up to the date on which a calculation is to be made to determine whether a supplementary payment is payable under paragraph 5 of this Order by the appropriate percentage increase rate obtained from the relevant Pensions Increase (Review) Order as if the sum so obtained were a pension beginning on the 8th April 1991;
- (l) The sum obtained at paragraph (i) or paragraph (j) of this Head, as appropriate, as increased in accordance with paragraph (k), so far as the latter is applicable, is the sterling value of the officer's notional Hong Kong pension;
- (m) Divide the sterling value of the officer's notional Hong Kong pension by 12 to obtain the monthly rate of such sterling value.

Interpretation of Head B: In paragraph (g) of this Head:

“pensions increase legislation” means section 1 of the Pensions (Increase) Act 1971, orders made under section 2 of that Act and any order made under section 59 of the Social Security Pensions Act 1975;

“other pensions” means pensions in respect of other public service, and in determining the amount of such other pensions for the purposes of paragraph (g):

- (a) no account shall be taken of any reduction by way of commutation of pension or otherwise; and
- (b) in the case of a pension in respect of service under the Government of the United Kingdom, the amount shall be that produced by multiplying the actual pension by 4/3rds.

Head C: Specified officers who retire before the coming into force of this Order from United Kingdom service who, on such retirement, are awarded a pension under a relevant law of Hong Kong in respect of their service in Hong Kong

1. Subject to item 2 of this Head, to calculate the sterling value of an officer’s notional Hong Kong pension:

- (a) Identify the officer’s highest rate of salary on retirement from his service under the Government of the United Kingdom, or, if it is greater and is taken into account to calculate his United Kingdom pension, his highest pensionable salary for the year which is so taken into account;
- (b) Calculate in months the officer’s total length of pensionable service in Hong Kong in accordance with the relevant law;
- (c) Identify the officer’s pension earning rate under the relevant law;
- (d) Multiply the figures obtained at paragraphs (a) and (b) and divide by the figure obtained at paragraph (c);

$$\frac{(a) \times (b)}{(c)} = (d)$$

- (e) Multiply by 4/3rds the actual pension (excluding that part enhanced by the purchase of added years but including any enhancement under flexible added early retirement or ill-health arrangements) awarded to the officer at the time of his retirement under United Kingdom law;
- (f) Add the sum obtained at paragraph (e) to the sum obtained at paragraph (d) i.e. (e)+(d)=(f);
- (g) Multiply the sum obtained at paragraph (a) by 2/3rds;
- (h) If the sum obtained at paragraph (f) is less than that obtained at paragraph (g), carry the former sum forward; if the sum obtained at paragraph (f) is greater than that obtained at paragraph (g), carry the latter sum forward;
- (i) Subtract the sum obtained at paragraph (e) from whichever sum is carried forward at paragraph (h); the result is the sterling value of the officer’s unreduced notional Hong Kong pension;
- (j) If the officer commuted any part of his actual Hong Kong pension, or his pension has been or is reduced by an appropriate authority under the relevant law, the unreduced notional Hong Kong pension established at paragraph (i) is reduced in like proportion;
- (k) Save as provided in paragraph 2 of Part I of this Schedule, increase the sum obtained at paragraph (i) or paragraph (j) of this Head, as appropriate, as if that sum were a pension of the same amount beginning on the same date as that used to determine the entitlement of the officer to a pension supplement under regulations made under section 11 of the

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Pensions (Increase) Act 1971, or such date as would have been used as if the officer had been entitled to a pension supplement, as follows:

- (i) in respect of any period to which section 1 or section 2 of that Act applies, in accordance, as appropriate, with the provisions of the said section 1 or any order to give effect to the said section 2; and
 - (ii) in April of each year up to the date on which a calculation is to be made to determine whether a supplementary payment is to be made under paragraph 5 of this Order, by the appropriate percentage increase rate obtained from the relevant Pensions Increase (Review) Order;
- (l) The sum obtained at paragraph (k) of this Head is the sterling value of the officer's notional Hong Kong pension;
 - (m) Divide the sterling value of the officer's notional Hong Kong pension by 12 to obtain the monthly rate of such sterling value.

2. Where the officer is in receipt of an overseas government service pension in addition to a service pension under the law of Hong Kong, the foregoing provisions of this Head shall have effect as if the following paragraph were inserted immediately following paragraph (e):

“(ee) Add to the sum obtained at paragraph (e) the annual unreduced pension, as originally calculated, of any other overseas government service pension granted to the officer;”

and thereafter in this Head references to paragraph (e) shall be read as references to paragraph (ee).

3. In this Head, “overseas government service pension” means a pension in respect of other public service not being service under the Government of the United Kingdom.

Head D: Specified officers who retire on or after the coming into force of this Order from United Kingdom service who, on such retirement, are awarded a pension under a relevant law of Hong Kong in respect of their service in Hong Kong

To calculate the sterling value of an officer's notional Hong Kong pension:

- (a) Determine the sum to be carried forward as prescribed in paragraphs (a) to (i) of HeadC;
- (b) If the officer commutes any part of his actual Hong Kong pension, or his pension has been or is reduced by an appropriate authority under the relevant law, the unreduced notional Hong Kong pension established at paragraph (a) of this Head is reduced in like proportion;
- (c) Save as provided in paragraph 2 of Part I of this Schedule, increase the sum obtained at paragraph (a) or (b) of this Head, as appropriate, as if that sum were a pension of the same amount beginning on the same date as that used to determine the entitlement of the officer to a pension supplement under regulations made under section 11 of the Pensions (Increase) Act 1971, or such date as would have been used as if the officer had been entitled to such a pension supplement, in April of each year up to the date on which a calculation is to be made to determine whether a supplementary payment is to be made under paragraph 5 of this Order, by the appropriate percentage increase rate obtained from the relevant Pensions Increase (Review) Order;
- (d) The sum obtained at paragraph (c) of this Head is the sterling value of the officer's notional Hong Kong pension;
- (e) Divide the sterling value of the officer's notional Hong Kong pension by 12 to obtain the monthly rate of such sterling value.

Head E: Specified officers who, having resigned from United Kingdom service before the coming into force of this Order with a preserved pension entitlement under United Kingdom law, are, after

the coming into force of this Order, awarded a deferred pension under a relevant law of Hong Kong in respect of their service in Hong Kong

To calculate the sterling value of an officer's notional Hong Kong pension:

- (a) Determine the sum to be carried forward as prescribed in paragraphs (a) to (h) of Head C;
- (b) Subtract the sum obtained at paragraph (e) of Head C from whichever sum is carried forward at paragraph (h) of that Head;
- (c) Increase the sum obtained at paragraph (b) of this Head, as if that sum were a pension of the same amount beginning on the same date as that used to determine the entitlement of the officer to a pension supplement under regulations made under section 11 of the Pensions (Increase) Act 1971, or such date as would have been used as if the officer had been entitled to such a pension supplement, in April of each year up to the date on which his deferred pension is awarded under the relevant law of Hong Kong by the appropriate percentage increase rate obtained from the relevant Pensions Increase (Review) Order; the result is the unreduced notional Hong Kong pension;
- (d) If the officer commutes any part of his actual Hong Kong pension, or his pension has been or is reduced by an appropriate authority under the relevant law, the unreduced notional Hong Kong pension established at paragraph (c) of this Head is reduced in like proportion;
- (e) Increase the sum obtained at paragraph (c) or (d), as appropriate, as if that sum were a pension of the same amount beginning on the date of the award of the deferred Hong Kong pension, in April of each year up to the date on which a calculation is to be made to determine whether a supplementary payment is to be made under paragraph 5 of this Order, by the appropriate percentage increase rate obtained from the relevant Pensions Increase (Review) Order; the sum obtained is the sterling value of the officer's notional Hong Kong pension;
- (f) Divide the sterling value of the officer's notional Hong Kong pension by 12 to obtain the monthly rate of such sterling value.

Head F: Specified officers who retired before the coming into force of this Order from the service of a Scheduled Government (other than the Government of the United Kingdom) who, on such retirement, are awarded a pension or entitled to a deferred pension under a relevant law of Hong Kong in respect of their service in Hong Kong

To calculate the sterling value of an officer's notional Hong Kong pension:

- (a) Identify the officer's basic Hong Kong pension (unreduced or reduced as appropriate) in Hong Kong dollars as awarded under the relevant law;
- (b) Convert the sum obtained at paragraph (a) into sterling at the following rate of exchange:
 - (i) if the officer retired on or before 30th June 1976, at Hong Kong dollars 8.8137 to the pound sterling;
 - (ii) if the officer retired after 30th June 1976, at the rate of exchange on his last day of service before his retirement;
- (c) Save as provided by paragraph 2 of Part I of this Schedule, increase the sum obtained at paragraph (b) of this Head as if that sum were a pension beginning on the same date as that used to determine the entitlement of the officer to a pension supplement under regulations made under section 11 of the Pensions (Increase) Act 1971, or such date as would have been used as if the officer had been entitled to such a pension supplement, as follows:
 - (i) in respect of any period to which section 1 or section 2 of that Act applies, in accordance, as appropriate, with the provisions of the said section 1 or any order made to give effect to the said section 2; and

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- (ii) in April of each year up to the date on which a calculation is to be made to determine whether a supplementary payment is to be made under paragraph 5 of this Order, by the appropriate percentage increase rate obtained from the relevant Pensions Increase (Review) Order.
- (d) The sum obtained at paragraph (b) of this Head as increased in accordance with paragraph (c), so far as the latter is applicable, is the sterling value of the pensioner's notional Hong Kong pension;
- (e) Divide the sterling value of the pensioner's notional Hong Kong pension by 12 to obtain the monthly rate of such sterling value.

Head G: Specified officers who retired before the coming into force of this Order from other public service in Hong Kong who, on retirement, are awarded a pension, or entitled to a deferred pension, under a relevant law in respect of their service in Hong Kong

To calculate the sterling value of the officer's notional Hong Kong pension:

- (a) Identify the officer's salary point and allowances appropriate to his substantive grade at the date taken into account to determine his basic Hong Kong pension under the relevant law;
- (b) Determine the salary point and allowances appropriate to the salary point at that grade on 1st January 1992; this will produce the officer's notional Hong Kong pensionable emoluments;
- (c) (i) Apply the mixed service formula to the notional Hong Kong pensionable emoluments to determine the pension that would be payable under the relevant law on those emoluments in respect of the officer's Hong Kong service; and
 - (ii) If the officer commuted any part of his Hong Kong pension, or his Hong Kong pension has been or is reduced by an appropriate authority under the relevant law, calculate, in accordance with the relevant law, the reduced pension as if the like proportion of the pension determined in accordance with paragraph (c)(i) had been commuted or the like reduction made in such pension;
- (d) Divide the pension or reduced pension as calculated in paragraph (c)(i) or (c)(ii), as appropriate, by 21; the resulting sum will be denominated in pounds sterling;
- (e) Save as provided in paragraph 2 of Part I of this Schedule, increase the sum obtained at paragraph (d) of this Head in April of each year up to the date on which a calculation is to be made to determine whether a supplementary payment is payable under paragraph 5 of this Order by the appropriate percentage increase rate obtained from the relevant Pensions Increase (Review) Order as if the sum so obtained were a pension beginning on the 8th April 1991;
- (f) The sum obtained at paragraph (d) of this Head as increased in accordance with paragraph (e), so far as the latter is applicable, is the sterling value of the pensioner's notional Hong Kong pension;
- (g) Divide the sterling value of the pensioner's notional Hong Kong pension by 12 to obtain the monthly rate of such sterling value.

Head H: Specified officers who are entitled to a pension under the Police Officers (Special Cases) Pensions Ordinance

To calculate the sterling value of an officer's notional Hong Kong pension:

- (a) Identify the officer's basic pension as awarded under the relevant law;
- (b) Increase the sum obtained at paragraph (a) as if that sum were a pension beginning on the same date as that used to determine the entitlement of the officer to a pension supplement

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under regulations made under section 11 of the Pensions (Increase) Act 1971, or such date as would have been used as if the officer had been entitled to such a pension supplement, as follows:

- (i) in respect of any period to which section 1 or section 2 of that Act applies, in accordance, as appropriate, with the provisions of the said section 1 or any order made to give effect to the said section 2: and
 - (ii) in April of each year up to the date on which a calculation is to be made to determine whether a supplementary payment is to be made under paragraph 5 of this Order, by the appropriate percentage increase rate obtained from the relevant Pensions Increase (Review) Order;
- (c) The sum obtained at paragraph (a) of this Head as increased in accordance with paragraph (b) is the sterling value of the pensioner's notional Hong Kong pension;
 - (d) Divide the sterling value of the pensioner's notional Hong Kong pension by 12 to obtain the monthly rate of such sterling value.

Head I: Spouses and children who, being dependants of specified officers who die in service or after being granted a pension in respect of their service in Hong Kong, have been or are themselves granted a pension under the Surviving Spouses' and Children's Pensions Ordinance

1. To calculate the sterling value of a spouse's notional Hong Kong pension:
 - (a) Identify the officer's salary point and allowances appropriate to his substantive grade at the date of his death in service or retirement, as the case may be;
 - (b) Determine the salary point and allowances appropriate to the salary point of that grade on 1st January 1992; this will produce the officer's notional Hong Kong pensionable emoluments;
 - (c) Calculate the pension which would be payable using the notional Hong Kong pensionable emoluments in accordance with the following formula:

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

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 where the pension earning rate is 600, ignoring the number of months in excess of 400 and where the pension earning rate is 675, ignoring the number of months in excess of 450; 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 officer's pension earning rate; and

$$\frac{D}{2}$$

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

- (d) Divide the sum obtained at paragraph (c) by 21; the resulting sum will be denominated in pounds sterling;
- (e) Increase the sum obtained at paragraph (d) in April of each year up to the date on which a calculation is to be made to determine whether a supplementary payment is payable under paragraph 5 of this Order by the appropriate percentage increase rate obtained from

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the relevant Pensions Increase (Review) Order as if the sum so obtained were a pension beginning on the 8th April 1991;

- (f) The sum obtained at paragraph (d) of this Head as increased in accordance with paragraph (e) is the sterling value of the spouse's notional Hong Kong pension;
- (g) Divide the sterling value of the spouse's notional Hong Kong pension by 12 to obtain the monthly rate of such sterling value.

2. To calculate the sterling value of the notional Hong Kong pension in respect of the child dependant or children dependants of an officer:

- (a) where a pension is payable under the relevant law in respect of a child or children of pensionable age when the parent is in receipt of a pension under the relevant law:
 - (i) and there is only one such child, determine the sum representing one quarter of the basic rate, or, if the child is not being cared for by the parent, one third of the basic rate;
 - (ii) and there are two or more such children, determine the sum representing one half of the basic rate;
- (b) where such pension is payable but the parent is no longer living or in receipt of a pension:
 - (i) and there is only one such child, determine the sum representing one third of the basic rate;
 - (ii) and there are two or more such children, determine the sum representing two thirds of the basic rate.
- (c) Apply the rules at paragraph 1(d), (e), (f) and (g) of this Head to obtain the monthly rate of the sterling value of the child or children's notional Hong Kong pension.
- (d) Where there are two or more eligible children the sum obtained at paragraph 2(c) of this Head is the total sum applicable for all the children, and the provisions of paragraph 5 of the Order will apply as if the references to a pensioner were references to the children who are pensioners and the reference to the pensioner's notional Hong Kong pension were a reference to the sum applicable as determined in accordance with paragraphs 2(a), (b) and (c) of this Head.

Interpretation of Head H2:

2. In this paragraph,
"basic rate" means the sum obtained at

$$\frac{D}{2}$$

in paragraph 1(c) above.

Head J: Widows and children who, being dependants of specified officers who die in service or after being granted a pension in respect of their service in Hong Kong, have been or are themselves granted a pension under the Widows and Orphans Pension Ordinance

To calculate the sterling value of the pensioner's notional Hong Kong pension:

- (a) Determine the amount (if any) of the pensioner's basic Hong Kong pension which is awarded in Hong Kong dollars;
- (b) Convert the sum obtained at paragraph (a) into sterling at the following rate of exchange:
 - (i) if the pension is one for which the last day of service for which it was awarded is 30th June 1976 or earlier, at Hong Kong dollars 8.8137 to the pound sterling;

- (ii) the middle rate in the official exchange rate market on the last day of such service when that day is later than 30th June 1976;
- (c) If the basic pension was awarded:
 - (i) solely in sterling, carry that sum forward;
 - (ii) solely in Hong Kong dollars, carry forward the sterling sum obtained from paragraph (b);
 - (iii) partly in sterling and partly in Hong Kong dollars, add the sterling part to the sum obtained from paragraph (b) and carry forward the total sum;
- (d) Increase the sum carried forward at paragraph (c) up to the date on which a calculation is to be made to determine whether a supplementary payment is to be made under paragraph 5 of this Order, as if that sum were a contributory derivative pension to which the Overseas Service (Pensions Supplement) Regulations 1995(1) applies;
- (e) The sum carried forward at paragraph (c) of this Head as increased in accordance with paragraph (d) is the sterling value of the pensioner's notional Hong Kong pension;
- (f) Divide the sterling value of the pensioner's notional Hong Kong pension by 12 to obtain the monthly rate of such sterling value.

Head K: Dependants of specified officers who are awarded a pension under, and in the circumstances prescribed in, section 18 of the Pensions Ordinance, section 19 of the Pension Benefit Ordinance or section 20 of the Pension Benefit (Judicial Officers) Ordinance

To calculate the sterling value of the pensioner's notional Hong Kong pension:

- (a) Identify the officer's salary point and allowances appropriate to his substantive grade at the time of the relevant injury;
- (b) Determine the salary point and allowances appropriate to the salary point of that grade on 1st January 1992; this will produce the officer's notional Hong Kong pensionable emoluments;
- (c) Apply the provisions of paragraph (e) of Head A to the officer's notional pensionable emoluments;
- (d) Apply the provisions of the relevant law taken by the appropriate authority in granting the dependant's pension to the sum obtained at paragraph (c) of this Head as if that sum were the officer's annual pensionable emoluments;
- (e) Divide the sum obtained at paragraph (d) by 21; the resulting sum will be denominated in pounds sterling and is the sterling value of the pensioner's notional Hong Kong pension;
- (f) Divide the sterling value of the pensioner's notional Hong Kong pension by 12 to obtain the monthly rate of such sterling value.