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27 April 2001

Mrs Percy Ma
Clerk to Panel on Constitutional Affairs
Legislative Council Building
8 Jackson Road, Central
Hong Kong

Dear Mrs Ma

**Panel on Constitutional Affairs
Employment matters of principal officials**

Thank you for your letter of 22 March 2001. The Administration would like to respond to the questions put forward in the letter as follows :

- (a) Basic Law Article 48(5) provides for the nomination and appointment of principal officials. In accordance with this article, the Chief Executive nominates and reports to the Central People's Government for appointment of principal officials.

Related to the appointment of principal officials is their employment by the HKSAR Government. At present, principal officials are employed as civil servants. In accordance with the prevailing civil service arrangements, incumbents of all principal official posts, whether they are employed on agreement terms or permanent and pensionable terms, are subject to integrity checking. Although the Administration confirmed at the last Constitutional Affairs Panel Meeting on 19 March 2001 that the checking process on Mr Antony Leung (Financial Secretary Designate) had been completed, it is inappropriate for us to disclose any further details of individual integrity checking cases (including timing of the checking) as such information is by its nature secret.

Indeed it is our established practice to destroy all material obtained once the checking is completed. Also it is important to clarify again that the integrity checking currently conducted is a civil service appointment procedure. It is not a requirement under the Basic Law. In this respect, it should be noted that during his Q&A session with the Legislative Council on 8 February 2001, the Chief Executive has made it clear that he would take into account the factors of ability, beliefs, conduct and community support in deciding on his nomination of principal officials.

- (b) The purpose of integrity checking system in the civil service is to ensure that potential appointees and serving officers are of good character and high integrity. The system provides for three levels of checks: namely appointment checking, normal checking and extended checking. The highest level of integrity checking is extended checking which is applicable to posts requiring a particularly high degree of trust and integrity, such as principal officials posts. Where the checking results cast doubts on the suitability of the persons being checked for holding certain posts, the findings would be submitted to the Secretary for the Civil Service or higher authorities for consideration of appropriate action, having regard to the findings and their relevance to the officers' postings. In the case of a principal official, any such adverse findings would also be submitted to the Chief Executive for his reference and consideration of appropriate action.
- (c) Employment contracts with the HKSAR Government would be entered into by employees before the latter take up their duties in the Civil Service. The situation of Mr Antony Leung is no different. Mr Leung has signed an employment contract which provides for the prevailing civil service terms of conditions applicable to the rank on Point D9 of the Directorate Pay Scale. A copy of the standard Memorandum on Conditions of Service for Agreement Officers has been attached to our earlier paper for the Panel meeting on 19 March 2001. In addition to the current pay level for an officer at the rank of D9, a new civil service appointment at this rank will include, inter alia :
 - (i) free medical advice and treatment provided by the Government or the Hospital Authority;

- (ii) vacation leave of 22 days per year of resident service, increasing to 26 days per year of resident service if the officer has ten years of service or more;
- (iii) leave passage allowance at the end of every 12-month eligible period at a rate \$44,790;
- (iv) employer's contribution to a Mandatory Provident Fund (MPF) scheme at the contribution rate prescribed in the MPF Schemes Ordinance; and
- (v) gratuity which, when added to the Government's employer contribution to the MPF scheme, equals to 25% of substantive salary at the rank of D9 drawn during the period of agreement for satisfactory completion of agreement.

We cannot however disclose exact details of the employment contract with Mr Leung including the date of signing the contract, as the contract concerns personal data and is a matter between the Government and the officer.

- (d) It is not appropriate to disclose the specific terms and conditions of service for former or current government employees as those details are personal data and are a matter between the Government and the employees. However, we can confirm that the terms of appointment and conditions of service for all civil servants are made on the prevailing civil service provisions as determined by their ranks. The conditions of service of Mr Michael Thomas and Sir John Brembridge during their appointments as Attorney General and Financial Secretary respectively were those applicable to the ranks of these offices at that time.
- (e) When serving civil servants are appointed as principal officials, they are not required to change their terms of appointment; and they can continue to be appointed on permanent and pensionable terms or agreement terms as appropriate. There is also no basic difference in the conditions of service between appointees on permanent and pensionable terms or on agreement terms, except that an officer on agreement terms would only be eligible for an end-of-agreement

gratuity whereas an officer on permanent and pensionable terms would be eligible for pensions in accordance with the relevant pension legislation. The obsolescent rules which required female officers to retire upon marriage have been removed since 17 November 1972, and is not relevant to the terms of appointment and conditions of service of principal officials.

I hope the above comprehensive information would enable Members of the Constitutional Affairs Panel to understand the relevant matters pertaining to the present employment system of principal officials.

Yours sincerely

(Joseph W P Wong)
Secretary for the Civil Service

c.c. Secretary for Constitutional Affairs