

CHAPTER 5 : ALLOWANCES

5.1. This chapter gives an account of proposals submitted to us concerning various types of allowances for the disciplined services. During the period under report, we have considered and given our advice on submissions concerning Remote Stations Allowance, Disciplined Services Overtime Allowance, Extra Duties Allowance for the Disciplined Services (Diving) and Overnight On-call Allowance.

Remote Stations Allowance

5.2. In December 1990, the Commissioner of Correctional Services submitted a proposal to us to -

- (a) revise the rate of Remote Stations Allowance (RSA) from \$530 to \$1,050 per month by fixing the rate of the Special Subsistence Allowance (SSA) used in the formula for calculating RSA at the rate of the standard Subsistence Allowance payable to Assistant Officers II;
- (b) waive the three-month qualifying residential period for payment of the allowance; and
- (c) extend the payment of the additional allowance (AA) from 10 to 12 months in a year.

5.3. We were informed that RSA is granted to disciplined services and general civil service staff posted to, and living on, outlying islands or at the Cape Collinson Correctional Institution (CCCI), as an incentive to work in remote areas and to compensate for the extra cost and inconvenience of living there. The rate of RSA is calculated as follows -

$$\left[\begin{array}{l} \text{Daily} \\ \text{Special} \\ \text{Subsistence} \\ \text{Allowance} \end{array} \times 6 \text{ (days)} + \begin{array}{l} \text{Cost of one return} \\ \text{trip from Lantau} \\ \text{to Central during} \\ \text{Sundays/Public} \\ \text{Holidays} \end{array} \right] \times 52 \text{ (weeks)} \div 12 \text{ (months)}$$

5.4. We were also informed that AA is payable for each child attending school in the urban area, up to a maximum of four children. This additional sum is based on about half of the average cost for a child to travel from the outlying islands to Central and back, but takes no account of subsequent travelling costs from Central within the urban area. Officers posted to CCCI are paid RSA and AA at half the normal rates because the location of the institution is less remote than those on the outlying islands, and the officers concerned are, therefore, subjected to less inconvenience.

5.5. We noted that in response to the Commissioner's proposals, the Administration carried out a review of the eligibility criteria and formulae for payment of RSA and AA. The findings of the review were that -

- (a) RSA should continue to be a flat rate allowance payable to eligible general civil service and disciplined services staff because they experience the same degree of inconvenience of living and working in remote areas. It is inappropriate to adopt the basis used for payment of a standard Subsistence Allowance in calculating the Special Subsistence Allowance (SSA) because the standard Subsistence Allowance is paid to offset part of the cost of a second meal outside home due to the officer being required to work overtime and in excess of 12 continuous hours. Since RSA is an incentive allowance, the existing basis whereby the rate of SSA is pitched at the lowest rate of the Subsistence Allowance should continue to be used;
- (b) it is inadvisable to remove the three-month qualifying residential period, because the requirement is to ensure that the allowance acts as an incentive to encourage staff to work in remote stations on a long term basis; waiving it would remove the inducement element of the allowance and is, therefore, undesirable;
- (c) since AA is to contribute towards the additional cost of a child travelling from outlying islands to schools in the urban area and is not for subsidizing the cost of travel for recreational and social activities, there is no justification for extending payment of the allowance to cover the summer months when the child is on summer vacation; and
- (d) the only form of public transport to and from CCCI at the time of the review was Public Light Bus No. 18 with a scheduled service to and from the institution. In view of the limited availability of public transport facilities, the staff working and living at CCCI are subjected to inconvenience, though not to the same extent as their counterparts working on outlying islands. The practice of paying the staff at CCCI at a reduced rate of RSA, therefore, should continue.

5.6. In the light of these findings, the Administration proposed that the existing eligibility criteria and formulae for calculating RSA and AA should remain unchanged. The Administration, however, proposed that the rates of RSA and AA should be revised to reflect current fares. As the cost of a return ferry fare between Lantau and Central was increased from \$14 to \$20 on Sundays and public holidays, and during weekdays, from \$9 to \$13 and as the rate of SSA was also revised from \$18 to \$25 per day, the Administration proposed to -

- (a) revise the basic rates of RSA and AA from \$530 to \$736 and from \$110 to \$156 respectively, calculated as follows -

RSA

$$[\$25 \times 6 \text{ (days)} + \$20] \times 52 \text{ (weeks)} \div 12 \text{ (months)}$$

$$= \$736.67 \text{ (rounded down to \$736)}$$

AA

$$\$13 \div 2 \times 24 \text{ (days)} = \$156; \text{ and}$$

- (b) revise the rates of RSA and AA for staff working at CCCI to \$368 and \$78 respectively, being half the rates for outlying islands.

5.7. We considered the Commissioner's proposal in conjunction with the Administration's comments. Whilst we agreed with the Administration that RSA should continue to be a flat rate allowance and that there should be no change to the formula on this occasion, we felt that there was no particular logic for the allowance to be pegged to Special Subsistence Allowance. Although the present linkage was adopted as a reference point only, we considered that the Administration should look into an alternative basis for determining the rate of RSA when the allowance is next reviewed.

5.8. We also considered that RSA should be regarded as a hardship allowance rather than an incentive allowance. We noted in this connection, that disciplined service staff would probably have little choice over their postings. We, therefore, considered it inappropriate to impose a qualifying period for payment of RSA. We agreed with the Administration that there is no justification for extending payment of AA to cover the summer months when the child is on summer vacation.

5.9. Accordingly, we advised the Governor in January 1992 that -

- (a) the Commissioner of Correctional Services' requests to increase the rate of RSA from \$530 to \$1050 and to pitch the rate of the SSA used in the formula for calculating RSA at the rate of the Subsistence Allowance payable to Assistant Officers II should not be supported. Instead, the rates of RSA and AA should be revised on the basis of the existing formulae -
- (i) from \$530 to \$736 and from \$110 to \$156 per month respectively for staff working and living on outlying islands; and
 - (ii) from \$265 to \$368 and from \$55 to \$78 per month respectively for staff working at CCCI;
- (b) the revised rates in paragraph (a) above should be implemented with effect from a current date;

- (c) the Administration should be asked to look into an alternative basis for determining the rate of RSA when the allowance is next reviewed;
- (d) the Commissioner's request to extend the payment of AA from 10 to 12 months in a year should not be supported; and
- (e) the three-month qualifying period for payment of RSA should be abolished.

5.10. The Commissioner of Correctional Services was informed of our advice to the Governor in March 1992.

Disciplined Services Overtime Allowance

5.11. Between December 1990 and July 1991, the Commissioner of Police, the Commissioner of Correctional Services and the Commissioner of Customs and Excise separately submitted proposals to us to revise the rate of Disciplined Services Overtime Allowance (DSOA) from 1/175 to 1/140 of an officer's monthly salary per hour. The Commissioner of Correctional Service and the Commissioner of Customs and Excise also requested to extend the eligibility for payment of DSOA to the ranks of Chief Officer (Correctional Services) and Assistant Superintendent (Customs and Excise). The Commissioner of Correctional Services, in addition, requested us to recognise the one hour meal break occurring immediately before or after a stretch of not less than seven hours of overtime duties as one working hour for payment of DSOA to Correctional Services staff.

5.12. We understand that because of the nature of their work, disciplined services staff are generally required to work longer hours and more extra and irregular hours than those of the general civil service, and their salaries have traditionally reflected this fact.

5.13. We were informed that prior to the Rennie Review, staff in the disciplined services who were required to undertake unavoidable additional duties over and beyond what might reasonably be regarded as their normal hours of work were paid a Disciplined Services Special Allowance (DSSA). The hourly rate of DSSA was 1/210 of an officer's monthly salary. The allowance was payable to all rank and file and officer ranks up to and including Senior Inspector of Police or equivalent.

5.14. DSSA was reviewed in 1988 by the Rennie Committee. As a result of its recommendations, DSSA was abolished and replaced by the Disciplined Services Overtime Allowance (DSOA), payable at the hourly rate of 1/175 of an officer's monthly salary. The Rennie Committee considered that the rate should not be revised to 1/140 (the overtime rate payable to non-disciplined staff in the civil service) because it had made some allowance for extra and irregular hours in the basic pay for staff in the disciplined services. Although the Rennie Committee reaffirmed that DSOA should normally only be payable to ranks up to Senior Inspector of Police or equivalent, it also recommended that eligibility for DSOA should be extended exceptionally to the rank of Chief Inspector of Police (CIP), in recognition of the Committee's findings that CIPs, who in most cases as Unit

Commanders, are more often regularly required to work overtime on operational duties along with their staff than officers currently remunerated at the same level in the other disciplined services and that, given the operational commitments of the Police Force, it is rarely possible in practice for CIPs to be granted compensatory time-off.

The Police Submission

5.15. The Commissioner of Police proposed that four principles be established -

- (a) all authorised hours that an officer is required to work in excess of conditioned hours must be compensated;
- (b) overtime should be compensated by time-off-in-lieu whenever possible;
- (c) time-off should be granted within a reasonable period after the overtime is worked; and
- (d) where time-off cannot be granted within a reasonable period, the overtime worked must be compensated by payment of an overtime allowance.

5.16. In addition, the Commissioner proposed that -

- (a) in times of financial constraint, time-off should be allowed to accumulate and taken at any time during the officer's service or in conjunction with his pre-retirement leave;
- (b) there should be three rates of DSOA : a new rate of 1/140 of monthly salary for unexpected overtime work; the present rate of 1/175 of monthly salary for rostered overtime (e.g. duties on Marine Police launches and Border Patrol duties); and a rate of 1/210 of monthly salary which is the present rate of the Standby Duty Allowance, which is paid only to the Police Force Tactical Unit performing scheduled standby duties; and
- (c) a new worksheet to document all details regarding the overtime hours worked to improve the management of and control over overtime work should be introduced.

5.17. In supporting his claim for an improved rate of DSOA, the Commissioner pointed out that both the Standing Commission and the Rennie Committee had accepted that the disciplined services worked longer, extra and more irregular hours than the general civil service and that this had been reflected by "some allowance" in their basic pay. He stated that this allowance in practice was offset by their longer conditioned hours of work (51 compared to 44 in the general civil service) and therefore, it was wrong to deny Police officers the normal civil service rate of 1/140 of the monthly salary for each hour of overtime work.

The Correctional Services and the Customs and Excise Submissions

5.18. The Commissioner of Correctional Services and the Commissioner of

Customs and Excise requested that -

- (a) the hourly rate of DSOA should be increased from 1/175 to 1/140 of an officer's monthly salary; and
- (b) the eligibility for payment of DSOA should be extended to the ranks of Chief Officer (Correctional Services) and Assistant Superintendent (Customs and Excise) respectively.

5.19. In addition, the Commissioner of Correctional Services requested that the one hour meal break occurring immediately before or after overtime duties in a stretch of not less than seven hours (i.e. a normal shift) should be recognised as one working hour for payment of DSOA.

5.20. The two Commissioners put forward the following justifications in support of their requests -

- (a) ***increase in the hourly rate of DSOA from 1/175 to 1/140 of an officer's monthly salary***

The Commissioner of Correctional Services stated that because of manpower shortage, his staff were required to perform frequent and extensive overtime. He considered that the existing hourly rate at 1/175 of an officer's monthly salary did not adequately compensate the staff concerned and proposed that it should be increased to 1/140 of an officer's monthly salary, that is, the same rate payable to general civil service staff.

The Commissioner of Customs and Excise disputed the argument that an element for overtime work had been incorporated into basic disciplined services pay. He claimed that, unlike their non-disciplined counterparts, the requirement for Customs and Excise staff to work overtime is often dictated by sudden operational needs, and that the staff concerned are often unaware beforehand of when they have to work overtime and the duration of the overtime duties. He considered that the existing rate of DSOA did not adequately compensate his staff for the stress and hardship they bear and proposed that the rate should be revised to 1/140 of an officer's monthly salary to bring it in line with the rate of overtime allowance payable to general civil servants;

- (b) ***extension of the eligibility for payment of DSOA to Chief Officers (Correctional Services) and Assistant Superintendents (Customs and Excise)***

The Commissioner of Correctional Services claimed that his Chief Officers have to work a considerable amount of overtime regularly in order to fulfil their statutory duties. Besides attending to essential administrative duties, they are required

to oversee the unlocking and locking up of the institutions, deal with or investigate incidents (e.g. fights, tension, complaints), attend boards or meetings, deal with the reception/despatch of inmates, conduct in-service training for their subordinates, inspect the institutions during holidays and conduct night visits. As it is rarely possible to grant these officers compensatory time-off, the Commissioner considered that they should be treated in the same way as Chief Inspectors of Police and be allowed to claim DSOA.

The Commissioner of Customs and Excise claimed that following a major reorganisation of the Customs and Excise Department in August 1989, his Assistant Superintendents have assumed the role of operational commanders and are on many occasions required to work overtime to give directives in the field and to supervise their subordinates. The accumulative overtime worked by these officers is rather substantial and it is rarely possible to give them compensatory time-off. Since the Standing Committee had, in its review of the pay for the Officer Cadre in December 1990, concluded that the duties and responsibilities of Chief Inspectors of Police and Assistant Superintendents (Customs and Excise) were broadly comparable and their pay should be identical, the Commissioner considered that there should be no disparity in eligibility for DSOA between his Assistant Superintendents and Chief Inspectors of Police because their overtime work situations are similar;

(c) *recognition of the one hour meal break occurring immediately before or after overtime duties as one working hour for payment of DSOA to Correctional Services staff*

Under the general policy governing the payment of overtime allowance, meal breaks occurring immediately before or after overtime duties are not regarded as part of the overtime hours worked and may not be taken into account when calculating overtime payment. The Commissioner of Correctional Services considered this to be inequitable. He pointed out that because of operational requirements, his staff are not permitted to take any meal break during a normal seven-hour shift period. Instead, a meal break of one hour is attached to either end of the shift, which is counted towards the staff's weekly conditioned hours. The Commissioner argued that since the meal break occurring immediately before or after a duty shift is counted towards the staff's weekly conditioned hours, the meal break which occurs, for operational reasons, immediately before or after overtime work should also be counted as part of working hours for the payment of DSOA.

5.21. We carefully examined these proposals. We noted that Civil Service Regulations stipulate that overtime work should normally be recompensed by time-off-in-lieu. Where this is, or is likely to be, impracticable within one month of the date on which the overtime is worked, an overtime allowance may be paid to eligible officers. An officer may, however, opt for time-off-in-lieu at a later date instead of overtime allowance, subject to the exigencies of the service. The four principles proposed by the Commissioner of Police are generally in line with the spirit of the existing policy on overtime work, although the Commissioner was proposing an irrevocable claim to recompense overtime by payment of an allowance, which departs from the present practice and would have service-wide and consequently major budgetary implications.

5.22. We considered that the Commissioner of Police's proposal that time-off should be allowed to accumulate in times of financial constraint and be taken at any time during the officer's service was unrealistic as it would perpetuate the problem of large backlog of unrecompensed overtime hours because of lack of restriction on the accumulation of time-off.

5.23. Although procedures concerning management and control of overtime work are, strictly speaking, operational matters for the Force management and the Administration to resolve, we decided it would be useful to monitor progress of the Force's initiative in developing a new system of control. We noted that, after consultation with the Administration, the Force management would introduce a new system of control over overtime work which would require more accountability from formation commanders. We welcomed the Force management's new control system and advised that it should ensure that time-off would be vigorously granted for overtime work. Where proved not possible, it should be recompensed by DSOA within the allocated budget. We also advised that a ceiling should be set for the accumulation of time-off, so as to avoid a recurrence of the problem of substantial backlog hours. Noting that the backlog was causing staff relations and management difficulties, we advised that the backlog should be cleared by a combination of time-off and payment of DSOA and that an early announcement of the arrangements to clear the backlog should be made.

5.24. We carefully considered the arguments from the three Commissioners for an increase in the hourly rate of DSOA from 1/175 to 1/140 of monthly salary. We felt that it is inappropriate to compare the rate of DSOA for disciplined services staff with that of the overtime allowance payable to general civil service staff because the eligibility criteria for payment are different. In the general civil service, only officers whose scale maxima are on or below Point 25 and whose scale minima are on or below Point 19 of the Master Pay Scale are eligible for overtime allowance. If the same cut-off points are applied to the disciplined services in question, only rank and file officers would be eligible, as compared with the present situation whereby DSOA is paid up to and including the ranks of Principal Officer in the Correctional Services Department, Senior Inspector in the Customs and Excise Department and Chief Inspector of Police.

5.25. We also noted that although the majority of general civil service staff work a 44-hour week, the first four hours of overtime they work in any week are paid at a lower rate of 1/210 of monthly salary and only the subsequent hours are paid at

1/140 of monthly salary. The combined effects of these rates equal the DSOA rate of 1/175 of monthly salary at about seven hours. This means that, notwithstanding that an element was incorporated into their basic pay for longer, extra and irregular hours, the DSOA rate of 1/175 for disciplined service staff is better than their non-disciplined counterparts for the first six hours of overtime.

5.26. We were informed that the basic pay for non-disciplined service ranks does not include any allowance for longer and irregular hours of work. We did not, therefore, accept the argument that since the allowance incorporated into disciplined services pay is offset by their longer conditioned hours of work, disciplined services staff should also enjoy the same rate of 1/140 of monthly salary which is payable to general civil service staff working over 48 hours a week.

5.27. We also noted from statistics provided by the three departments that the majority of staff concerned do not work on average more than seven hours overtime each week. It is difficult, therefore, to argue that the existing rate of 1/175 of monthly salary places the staff in any disadvantageous position compared with their general civil service counterparts when the latter are paid overtime allowance at the lower rate of 1/210 for the first four hours of their overtime. In addition, we noted that general civil service staff undertaking regular and substantial overtime work are recompensed at a lower (consolidated) rate of 1/210 of monthly salary for all their overtime worked. We did not, therefore, support the request for an increase in the hourly rate of DSOA from 1/175 to 1/140 of monthly salary.

5.28. We examined the statistics provided by the Commissioner of Correctional Services and Commissioner of Customs and Excise in support of their requests to extend eligibility for payment of DSOA to Chief Officers (Correctional Services) and Assistant Superintendents (Customs and Excise). We noted that the average monthly overtime hours worked by the staff concerned were 15 and 13 respectively. The statistics also showed that the average number of overtime hours owed to Chief Officers (Correctional Services) and Assistant Superintendents (Customs and Excise), which could not be recompensed by time-off-in-lieu, were about 10 hours and 11 hours per month respectively. We did not, therefore, accept that the circumstances of these officers are comparable with that of Chief Inspectors of Police who regularly undertake substantial amount of overtime work.

5.29. Although we concluded that a case had not been made to extend eligibility for payment of DSOA to the ranks of Chief Officer (Correctional Services) and Assistant Superintendent (Customs and Excise), we accepted the representations made that, for certain officers at this level, there are operational and other difficulties in granting them time-off for overtime work. We accepted that it is particularly difficult to allow Chief Officers deployed in detention centres to take time-off for their regular overtime work because of the need for their valuable experience in dealing with the particular problems of Vietnamese Migrants. We were told that in the joint anti-smuggling task-force with the Police Force, the Assistant Superintendent (Customs and Excise) works side by side with Chief Inspectors of Police and both ranks work regular and substantial overtime. We accepted that operationally it is also particularly difficult to allow Assistant Superintendents deployed on anti-smuggling and anti-narcotics operations to take time-off as they are required to work considerably more regular overtime. We,

therefore, concluded that the two Commissioners should identify these posts in consultation with the Administration and that incumbents in such designated posts should, exceptionally, be allowed to claim DSOA.

5.30. We noted that the Commissioner of Correctional Services' request to recognise the one hour meal break occurring immediately before or after a normal shift of seven hours of overtime work as one working hour for payment of DSOA to the staff concerned was a counterclaim against the Administration's decision that such a meal break should not be counted as part of the working hours for claiming DSOA.

5.31. We were informed that all penal institutions are operated on a four-shift-a-day system as follows -

First shift (unlock shift)	6:45 a.m. — 1:45 p.m.
Second shift (lockup shift)	1:15 p.m. — 8:15 p.m.
Third shift (first night)	6:45 p.m. — 1:45 a.m.
Fourth shift (second night)	1:15 a.m. — 8:15 a.m.

5.32. Under this shift system, Correctional Services staff work continuously for seven hours in each shift with one-hour meal break attached to either end of the shift. If the staff spent the meal break away from the institution, this hour was still counted towards their weekly conditioned hours, i.e. the hours which they must work each week before overtime allowance was payable. However, when the staff worked overtime, they were paid an overtime allowance only for the hours actually worked.

5.33. The Commissioner of Correctional Services stated that if the one-hour meal break occurring immediately before or after a duty shift is counted towards the staff's weekly conditioned hours, there is no reason why meal breaks which occur, for operational reasons, immediately before and after overtime work should not be counted as part of working hours for payment of DSOA. He also considered it inequitable that meal breaks occurring immediately before or after overtime duties are not counted for DSOA but those occurring during a period involving actual overtime work of not less than seven hours are counted.

5.34. We were informed that the Administration rejected the Commissioner's request for the following reasons -

- (a) whether meal breaks should be counted towards conditioned hours or as part of working hours for payment of DSOA are two different issues: one involves payment of overtime allowance while the other does not. Meal breaks are counted towards conditioned hours because salaries are calculated on the basis of the conditioned hours which include meal breaks. On the other hand, since overtime allowance is payable only for time worked in excess of conditioned hours, it would be difficult to justify paying overtime allowance for an hour