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**Paper for the House Committee Meeting
of the Legislative Council
on 16 March 2001**

**Legal Service Division Report on
Interest Rates (Miscellaneous Amendments) Bill 2001**

Object(s) of the Bill

To re-define the interest rates applicable to provisional payments, compensation and redemption money payable under various Ordinances and their subsidiary legislation.

LegCo Brief Reference

2. PLB(CR) 150/80 Pt.5 issued by the Planning and Lands Bureau dated 28 February 2001.

Date of First Reading

3. 14 March 2001.

Comments

4. Under the 11 Ordinances and related subsidiary legislation proposed to be amended by the Bill, interest is payable on provisional payment, compensation and redemption money at such rates therein set out. The table at Annex A summarizes the existing provisions in those Ordinances, the payments to which interest is applicable and the proposed amendments.

5. Many of the existing provisions make reference to the lowest rate payable from time to time by members of the Hong Kong Association of Banks (HKAB) on time deposits. According to the Administration, the lowest rate is normally payable on deposits at 24 hours' call.

6. Before 3 July 2000, the maximum interest rates payable on time deposits with a maturity of less than seven days by members of HKAB were determined by HKAB. The Administration's practice was to adopt the rates announced by HKAB from time to time since the rates offered by all its members were largely the same. With the phased deregulation of the Interest Rates Rules on 3 July 2000, members of HKAB were free to determine their own rates of interest on deposits with a maturity of less than seven days. Since the members were not required by law to inform the Government of the rates they offered, the Government has difficulty in identifying the lowest rate payable on such deposits.

7. As an interim administrative measure, the Government has been paying the lowest interest rate on deposits at 24 hours' call offered by members of the HKAB which have provided them with the relevant interest rate, or the lowest rate on such deposit offered by the three note-issuing banks.

8. The Bill proposes to re-define the interest rates so that reference will be made to the lowest of the interest rates paid on deposits at 24 hours' call by the note-issuing banks at the close of business on a day. According to the Administration, the three note-issuing banks are unlikely to offer an exceptionally high or low rate as compared with other banks. These three banks have also confirmed in writing that they will provide the Administration with the relevant interest rate. The Administration has confirmed that the affected parties would not be worse off as a result of the Bill because the proposed amendments were similar to the existing arrangement under which the lowest interest rate on deposit was payable.

9. Clause 13 of the Bill is a validation and application clause that -

- (a) validates interest payments which were made in accordance with the interim administrative measures after 3 July 2000 (as described in paragraph 7 above);
- (b) provides where interest payments are or required to be made on or after the date of commencement of the Bill, if enacted, ("date of commencement") in relation to periods that occurred before the date of commencement,
 - (i) if that period occurred before 3 July 2000, the existing provisions will apply;
 - (ii) if that period occurred on or after 3 July 2000 but before 3 October 2000, the lowest interest rate paid by members of the HKAB on time deposits on 2 July 2000 will apply;

- (iii) if that period occurred on or after 3 October 2000 but before the date of commencement, the lowest interest rate on deposits at 24 hours' call offered by members of the HKAB which provide the Government with the relevant interest rate, or the lowest rate on such deposit offered by the three note-issuing banks will apply.

Public Consultation

10. Consultation has been carried out with the note-issuing banks, and they agree to provide the information on the relevant interest rate to Government on an ongoing basis.

Consultation with the LegCo Panel

11. Members of the LegCo Panel on Planning, Lands and Works were briefed on 21 November 2000. An extract of the minutes of that meeting is at Annex B.

Conclusion

12. The legal and drafting aspects of the Bill are in order. Subject to Members' views, the Bill is ready for resumption of the Second Reading debate.

Encl

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Annex A

Ordinances	Application	Existing provisions	Proposed in the Bill
Lands Resumption Ordinance (Cap. 124) Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) Land Acquisition (Possessory Title) Ordinance (Cap. 130)	Provisional payment and compensation (but not on costs)	Interest on provisional payment is calculated having regard to the lowest rate payable from time to time by members of the HKAB on time deposits. Interest on compensation is at such rate as the Lands Tribunal may fix having regard to the lowest rate payable from time to time by members of the HKAB on time deposits.	The rate of interest paid on provisional payment is fixed by the Director of Lands and, on compensation by the Lands Tribunal, but in any event - (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day;
Roads (Works, Use and Compensation) Ordinance (Cap. 370) Land Drainage Ordinance (Cap. 446) Railways Ordinance (Cap. 519)	compensation (but not on costs)	The Lands Tribunal may direct that interest be paid...for such period as it thinks fit at such rate as it may fix but not below the lowest rate payable during that period by members of the HKAB on time deposits.	(b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day.

Ordinances	Application	Existing provisions	Proposed in the Bill
Country Parks Ordinance (Cap. 208) Air Pollution Control Ordinance (Cap. 311) Water Pollution Control Ordinance (Cap. 358)	compensation (but not costs)	At the lowest rate paid from time to time by members of the HKAB on time deposits or at such other rate as may be determined by resolution of the Legislative Council.	The rate of interest paid - (a) in respect of a working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; (b) in respect of a non-working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day, or at such other rate as may be determined by resolution of the Legislative Council.

Ordinances	Application	Existing provisions	Proposed in the Bill
Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276)	compensation (but not costs)	At the rate paid from time to time by members of the HKAB on deposits at 7 days' call or at such other rate as may be determined by resolution of the Legislative Council (i.e. lowest rate paid from time to time by members of the HKAB on time deposits)	The rate of interest paid - (a) in respect of a working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; (b) in respect of a non-working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day, or at such other rate as may be determined by resolution of the Legislative Council.

Ordinances	Application	Existing provisions	Proposed in the Bill
New Territories Land Exchange Entitlements (Redemption) Ordinance (Cap. 495)	Redemption money	lowest rate payable from time to time by note-issuing banks on deposits at 24 hours' call.	The rate of interest paid - (a) in respect of a working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; (b) in respect of a non-working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day.

41. Mr IP Kwok-him enquired about the transitional measures that would be taken in the event that the affected parties failed to reach agreement with the Administration on the compensation arrangements and had resorted to legal proceedings prior to the enactment of the proposed amendments. PAS/PL(L) said that as an interim measure, the Administration was now making reference to the information on 24-hour deposit rates made available by some of the banks in Hong Kong. The Administration would adhere to the original formula as stipulated in the various ordinances as far as possible in determining the interest rates.

42. Referring to item 5 of the Annex to the information paper, the Chairman pointed out that under the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance, the interest payable should be in regard to the interest rate on deposits at 7 day's call. The proposed amendments however would change the reference to the 24-hour deposit rate. PAS/PL(L) clarified that section 26 of the Ordinance also provided that the rate be determined by resolution of the Legislative Council. That particular LegCo Resolution provided that the lowest rate offered by members of the HKAB be paid. The proposed amendment only reflected the existing practice.

43. Responding to the Chairman's query as to why the interest rate for compensation payments had been set at the lowest 24-hour deposit rate, PAS/PL(L) said that this practice had been adopted a long time ago. He advised that the existing arrangement of adopting the lowest rate was considered reasonable as the provision of a high interest rate would encourage the affected parties to drag on the negotiation with Government.

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