

LEGISLATIVE COUNCIL BRIEF

Control of Obscene and Indecent Articles Ordinance (Cap. 390)

CONTROL OF OBSCENE AND INDECENT ARTICLES (AMENDMENT) REGULATION 2000

INTRODUCTION

Section 46(a) of the Control of Obscene and Indecent Articles Ordinance (COIAO) provides that the Chief Executive in Council may make regulations to provide for fees. Section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) empowers the Financial Secretary (which means also the Secretary for the Treasury under section 3 of Cap. 1) to vary fees which have previously been set by subsidiary legislation made by the Chief Executive in Council.

2. In exercise of this power, the Secretary for the Treasury has made the Control of Obscene and Indecent Articles (Amendment) Regulation 2000 (Amendment Regulation), as set out at **Annex A**, to revise the fees specified in the Control of Obscene and Indecent Articles Regulations (COIAR) (Cap. 390 sub. leg.) made pursuant to the COIAO.

BACKGROUND AND ARGUMENT

3. It is Government policy that fees should in general be set at levels sufficient to recover the full costs of providing the services. Most Government fees and charges have been frozen since February 1998 as an exceptional measure to ease the burden on the community at a time of economic setback. The Financial Secretary decided in June 1999 to continue the fee revision moratorium until the year-on-year quarterly Gross Domestic Product growth rate turned firmly positive. In view of the current state of economic recovery, the Administration consulted the LegCo Panel on Financial Affairs on 13 April 2000 on proposals to revise various fees that would not directly affect people's livelihood or general business activities. Taking into account the diverse nature of the fees involved, Members suggested and the LegCo House Committee agreed on 14 April 2000 that the Administration should consult the relevant subject LegCo Panels on whether and if so how the fees under their respective purview should be adjusted.

4. In this connection, we consulted the Information Technology and Broadcasting Panel on 12 June 2000 about the revision of fees under the COIAR which were last revised in June 1994. Based on the Judiciary's latest costing, the existing fees for judicial services, including those under the COIAR, recover about 92% of the costs of providing the services at 2000-01 prices. The results of the costing review are set out at **Annex B**. We therefore propose to increase the fees by 8.5% in general in order to achieve full cost recovery at 2000-01 prices. Members of the Panel did not raise objection to the proposal. Details of the existing and proposed fees are set out at **Annex C**.

THE REGULATION

5. The Amendment Regulation revises the fees as set out at **Annex C**. It is proposed that the new fees should take effect from 15 December 2000.

EFFICIENCY INITIATIVES

6. The Judiciary is committed to containing costs by continuing to implement the Enhanced Productivity Programme and other efficiency improvement measures as appropriate and to review whether it is still necessary to provide various services under the Judiciary's purview that require payment of fees and charges.

BASIC LAW IMPLICATIONS

7. The Department of Justice advises that the Amendment Regulation is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

8. The Department of Justice advises that the Amendment Regulation has no human rights implications.

BINDING EFFECT

9. The Amendment Regulation does not affect the binding effect of the COIAO or COIAR.

FINANCIAL AND STAFFING IMPLICATIONS

10. Additional revenue generated from the proposed fee revision is estimated to be \$240,000 per annum. There are no staffing implications.

ECONOMIC IMPLICATIONS

11. The revised fees will slightly increase the costs for publishers who submit articles for classification, seek a review of an interim classification or request reconsideration of a classification by the Obscene Articles Tribunal. As this will affect only a specific segment of the publishers, the cost impact on the publication industry as a whole is not significant.

LEGISLATIVE TIMETABLE

12. The Amendment Regulation will be tabled at the Legislative Council on 8 November 2000. Subject to Members' approval by negative vetting, the revised fees will become effective on 15 December 2000.

PUBLICITY

13. A press release will be issued on 3 November 2000 when the Amendment Regulation is published in the Gazette.

ENQUIRIES

14. For any enquiries relating to this brief, please contact Miss Adeline Wong, Principal Assistant Secretary for Information Technology and Broadcasting, at telephone number 2189 2229 (fax number: 2511 1458).

Information Technology and Broadcasting Bureau
1 November 2000

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**CONTROL OF OBSCENE AND INDECENT ARTICLES (AMENDMENT)
REGULATION 2000**

(Made under section 46 of the Control of Obscene and Indecent
Articles Ordinance (Cap. 390) and section 29A of the
Interpretation and General Clauses
Ordinance (Cap. 1))

1. Commencement

This Regulation shall come into operation on 15 December 2000.

2. Fees

The Schedule to the Control of Obscene and Indecent Articles Regulations (Cap. 390 sub. leg.) is amended -

- (a) in item 1, by repealing "1,940" and substituting "2,100";
- (b) in item 2, by repealing "970" and substituting "1,050";
- (c) in item 3, by repealing "1,940" and substituting "2,100";
- (d) in item 4, by repealing "30" and substituting "33";
- (e) in item 5, by repealing "127" and substituting "140";
- (f) in item 6, by repealing "385" and substituting "420".

Secretary for the Treasury

24 Oct 2000

Explanatory Note

This Regulation increases the fees payable under the Control of Obscene and Indecent Articles Regulations (Cap. 390 sub. leg.).

COST COMPUTATION

Judiciary

Judiciary Fees and Charges under Various Rules and Regulations[#]

Cost at 2000-01 prices

	\$ '000
Staff Costs	179,174
Departmental Expenses	12,814
Accommodation Costs	2,737
Depreciation	4,924
Cost of Services Provided by Other Departments	3,801
Central Administrative Overhead	11,317
⁺ Operating Cost (a)	214,767
* Revenue (b)	197,985
Existing Cost Recovery Rate (b)/(a)	92.2%
Proposed Increase [(a)/(b)-100%]	8.5%

Note:

The rules and regulations are:

- Bankruptcy (Fees and Percentages) Order
 - Bills of Sale (Fees) Regulations
 - Companies (Fees and Percentages) Order
 - Control of Obscene and Indecent Articles Regulations
 - Coroners (Fees) Rules
 - Criminal Appeal Rules
 - District Court Civil Procedure (Fees) Rules
 - Estate Agents (Registration of Determination and Appeal) Regulation
 - High Court Fees Rules
 - Hong Kong Court of Final Appeal Fees Rules
 - Labour Tribunal (Fees) Rules
 - Landlord and Tenant (Consolidation) Ordinance
 - Lands Tribunal (Fees) Rules
 - Legal Practitioners (Fees) Rules
 - Magistrates (Fees) Regulations
 - Matrimonial Causes (Fees) Rules
 - Money Lenders Regulations
 - Probate and Administration Ordinance
 - Small Claims Tribunal (Fees) Rules
- ✦ Costs attributable to court hearing and other free services (e.g. Criminal cases, Coroner's Court) are excluded.
- * Court fines and fixed penalty fines are excluded

**Revision of Fees under
the Control of Obscene and Indecent Articles Regulations**

Item	Existing Fee \$	Proposed Fee \$
1. Application under s.13(1) of the COIAO for classification by a Tribunal of an article	1,940	2,100
2. Notice under s.15(1) of the COIAO to require a Tribunal to review at a full hearing the interim classification of an article (except where such notice is given by a person referred to in s.13(2) of the COIAO)	970	1,050
3. Request under s.17(1) of the COIAO to a Tribunal to reconsider the classification of an article (except where such request is made by a person referred to in s.13(2) of the COIAO)	1,940	2,100
4. Search of register of notices kept by the Registrar under s.19(4) of the COIAO	30	33
5. Copy or extract from register of notices kept by the Registrar under s.19(4) of the COIAO (per notice)	127	140
6. Search of repository of articles kept by the Registrar under s.20(1) of the COIAO	385	420