

## **LEGISLATIVE COUNCIL BRIEF**

### **Bills of Sale Ordinance (Cap. 20)**

**BILLS OF SALE (FEES) (AMENDMENT) REGULATION 2000**

### **Coroners Ordinance (Cap. 504)**

**CORONERS (FEES) (AMENDMENT) RULES 2000**

### **District Court Ordinance (Cap. 336)**

**DISTRICT COURT CIVIL PROCEDURE (FEES)  
(AMENDMENT) (NO.2) RULES 2000**

### **High Court Ordinance (Cap. 4)**

**HIGH COURT FEES (AMENDMENT) RULES 2000**

### **Hong Kong Court of Final Appeal Ordinance (Cap. 484)**

**HONG KONG COURT OF FINAL APPEAL FEES (AMENDMENT) RULES 2000**

### **Small Claims Tribunal Ordinance (Cap. 338)**

**SMALL CLAIMS TRIBUNAL (FEES) (AMENDMENT) RULES 2000**

## **INTRODUCTION**

Section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) empowers the Financial Secretary (which means also the Secretary for the Treasury by virtue of section 3 of Cap. 1) to vary fees which have previously been fixed by subsidiary legislation made by the Chief Executive in Council.

2. In exercise of this power, the Secretary for the Treasury has made the  
----- Amendment Regulation at *Annex A* to revise the fees specified in the Bills of Sale (Fees) Regulations made pursuant to the Bills of Sale Ordinance (Cap. 20).

3. The Chief Justice, the District Court Rules Committee, the Rules Committee of the High Court and the Court of Final Appeal Rules Committee have made five  
----- Amendment Rules at *Annexes B to F* to revise the fees specified in the following subsidiary legislation -

- (a) Coroners (Fees) Rules made under the Coroners Ordinance (Cap. 504);
- (b) District Court Civil Procedure (Fees) Rules made under the District Court Ordinance (Cap. 336);
- (c) High Court Fees Rules made under the High Court Ordinance (Cap. 4);
- (d) Hong Kong Court of Final Appeal Fees Rules made under the Hong Kong Court of Final Appeal Ordinance (Cap. 484); and
- (e) Small Claims Tribunal (Fees) Rules made under the Small Claims Tribunal Ordinance (Cap. 338).

## **BACKGROUND AND ARGUMENT**

4. Judiciary fees and charges are charged in connection with the services provided by various courts/tribunals in legal proceedings, such as commencement of a legal cause or matter in various courts and tribunals, setting down a case for trial, execution of court decisions etc. Most of them were last revised in 1994.

5. It is Government policy that certain 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 GDP 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.

6. We then consulted the LegCo Panel on Financial Affairs on 15 June 2000 regarding the revision of fees and charges under the purview of the Secretary for the Treasury. For the judiciary fees and charges under the aforesaid Regulation and Rules, the latest costing exercise shows that their existing fees, including the scale of fees charged by various courts/tribunals, can recover about 92% of the costs<sup>(Note)</sup> at 2000-01 prices. *Annex G* provides the cost computation. We propose to increase the fee levels by 8.5% in general with a view to achieving 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 H*.

## **THE REGULATION/RULES**

7. The Amendment Regulation/Rules revise various judiciary fees and charges as set out at *Annex H*. We propose that the new fees should come into effect on 12 January 2001.

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<sup>(Note)</sup> In view of the diverse nature of the services provided by various courts/tribunals and the large number of fee items involved, the Judiciary has since 1989 calculated the cost of its services provided on a global basis. In other words, costs are calculated at the departmental level instead of at the individual service level.

## **EFFICIENCY INITIATIVES**

8. The Judiciary is committed to containing the costs incurred in providing services 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.

## **HUMAN RIGHTS IMPLICATIONS**

9. The Department of Justice advises that the Amendment Regulation and Rules have no human rights implications.

## **BINDING EFFECT**

10. The Amendment Regulation and Rules will not affect the current binding effects of the relevant Regulation and Rules.

## **FINANCIAL AND STAFFING IMPLICATIONS**

11. The fee proposal will generate additional revenue of about \$6 million per annum. There are no staffing implications.

## **ECONOMIC IMPLICATIONS**

12. The proposed fee increases should have no significant economic impact.

## **PUBLIC CONSULTATION**

13. There is no public consultation on the proposed fee revisions as the fee increases should have little effect on the public at large. The users of the services are unlikely to raise strong objection as the increases are fairly modest in money terms (i.e. in a range from \$0.5 to \$180).

## **PUBLICITY**

14. The Amendment Regulation/Rules will be published in the Gazette on 24 November 2000. A press release to announce the fee revision will be issued on the same day.

## **ENQUIRIES**

15. For enquiries, please contact Mr Simon Chan, Senior Treasury Accountant (Management Accounting), of Finance Bureau at 2810 3756.

## COST COMPUTATION

### Judiciary

#### Judiciary Fees and Charges under various Rules and Regulations (Note 1)

#### 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
	214,767
<b>Operating Cost</b> (Note 2) (a)	<b>214,767</b>
Revenue (Note 3) (b)	\$197,985
Existing Cost Recovery Rate (b)/(a)	92.2%
<b>Proposed Increase</b> [(a)/(b)-100%]	<b>8.5%</b>

Please refer to Annex H for details of fee items

**Note**

(1) 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**

Only the Rules and Regulations in **bold** type are under the purview of Finance Bureau.

- (2) Costs attributed to court hearing and other free service (e.g. Criminal cases, Coroner's Court) are excluded.
- (3) Court fines and fixed penalty fines are excluded.

## Revision of Judiciary Fees and Charges

Item	Particular	Existing Fee \$	Proposed Fee \$
<b>I. Bills of Sale (Fees) Regulations (Cap. 20 sub. leg.)</b>			
(a)	On filing a bill of sale and affidavit therewith	440	<b>475</b>
(b)	For an official certificate of the result of a search in one name in any register or index under the custody of the Registrar	210	<b>230</b>
(c)	For every additional name, if included in the same certificate	110	<b>120</b>
(d)	For a duplicate copy or certificate, for each page or part thereof	28	<b>30</b>
(e)	For a continuation search if made within 14 days of the date of the official certificate (the result to be endorsed on such certificate)	110	<b>120</b>
(f)	For a search of the register	18	<b>20</b>
(g)	For an inspection of each bill of sale	18	<b>20</b>
<b>II. Coroners (Fees) Rules (Cap. 504 sub. leg.)</b>			
1(a)	Transcription of notes or record of evidence, documentary exhibits or a document made at an inquest, per page	36	<b>40</b>
1(b)	Additional copies, per page	4	<b>4.5</b>
2	For a copy of a coroner's warrant, order or certificate, per page	36	<b>40</b>
3(a)	For a photostatic copy of a document made in the Coroner's Office, per page	4	<b>4.5</b>
3(b)	Photostatic copy and certification, per page	5.5	<b>6</b>

## Revision of Judiciary Fees and Charges

Item	Particular	Existing Fee \$	Proposed Fee \$
4(b)	Transcription and translation made in the Coroner's Office, from Chinese into English, or vice versa, of a tape or recording, including certificate, per page	132	<b>145</b>
5(a)	Certifying translations made outside the Coroner's Office from Chinese into English, or vice versa, per page	36	<b>40</b>
5(b)	Certifying transcription made outside the Coroner's Office from Chinese into English, or vice versa, per page	36	<b>40</b>
6	Search (including inspection) in the Coroner's Office, for each document or file referred to or required	18	<b>20</b>
7	Copy of police officer's report on death of person, per page	4	<b>4.5</b>

### III. District Court Civil Procedure (Fees) Rules (Cap. 336 sub. leg.)

1	On sealing -		
1(a)	a writ of summons (except a concurrent, renewed or amended writ)	630	<b>685</b>
1(b)	an originating summons	630	<b>685</b>
1(c)	an originating ex parte application	630	<b>685</b>
1(d)	any other originating document	630	<b>685</b>
2(a)	Applying for pre-trial review	630	<b>685</b>
2(b)	Setting down a civil appeal or summons for hearing	630	<b>685</b>
2(c)	Entering a reference for hearing of an assessment of damages by a judge or the Registrar	630	<b>685</b>
3	For every witness examined de bene esse by a	530	<b>575</b>

## Revision of Judiciary Fees and Charges

Item	Particular	Existing Fee \$	Proposed Fee \$
4	judge or the Registrar, per day or part thereof Attendance of a public officer to produce or prove in the District Court any record or document	440	<b>475</b>
5	Attendance of a public officer to give evidence as an expert witness, per hour or part thereof	440 <i>(or such other fee as is specially assessed by the judge or Registrar)</i>	<b>475</b> <i>(or such other fee as is specially assessed by the judge or Registrar)</i>
6	Attendance of a public officer to give evidence other than as an expert witness, per hour or part thereof	220 <i>(with a minimum of \$440)</i>	<b>240</b> <i>(with a minimum of \$480)</i>
7	Attendance by the Registrar or officer outside the District Court	630	<b>685</b>
8(a)	Copy of documents typed in the Registry and certifying same, per page	36	<b>40</b>
8(b)	Additional copies, per page	4	<b>4.5</b>
9(a)	Photostatic copy of a document made in the Registry, per page	4	<b>4.5</b>
9(b)	Photostatic copy and certification, per page	5.5	<b>6</b>
9(c)	Photostatic copy of a library book, per page	4	<b>4.5</b>
10(a)	Translation made in the Registry of a document from Chinese into English, or vice versa including certificate, per page	72	<b>78</b>
10(b)	Transcription and translation made in the Registry, from Chinese into English, or vice versa, of a tape or recording including certificate, per page	132	<b>145</b>
11(a)	Certifying translations made outside the Registry, from Chinese into English, or vice versa, per page	36	<b>40</b>
11(b)	Certifying transcription made outside the Registry, from Chinese into English, or vice versa, of a tape	36	<b>40</b>

## Revision of Judiciary Fees and Charges

Item	Particular	Existing Fee \$	Proposed Fee \$
12	or recording, per page Search in the Registry, for each document or file referred to or required	18	<b>20</b>
13	Service of a document by a bailiff, per document	72	<b>78</b>
14	Arresting any person	385	<b>420</b>
15	Execution of writ of possession	630	<b>685</b>
16	On sealing -		
16(a)	A warrant for arrest of a defendant or for the attachment of property before judgment	630	<b>685</b>
16(b)	A writ of execution or writ of possession	630	<b>685</b>
16(c)	A prohibitory order	630	<b>685</b>
16(d)	An order for the examination of a judgment debtor (or an officer thereof)	630	<b>685</b>
16(e)	A prohibitory order	630	<b>685</b>
17	Watchman's fee, per day or part thereof for all cases	330	<b>360</b>
21	Authentication of document by the Registrar	125	<b>135</b>
22	On sealing of a notice in Form No. 80 under Order 50, rule 11(2)	630	<b>685</b>
23	On sealing of an injunction order undertaken before commencement of a cause	630	<b>685</b>

### IV. High Court Fees Rules (Cap. 4 sub. leg.)

#### *First Schedule*

1	On sealing -		
1(a)	A writ of summons (except a concurrent, renewed or amended writ)	1,045	<b>1,135</b>

## Revision of Judiciary Fees and Charges

Item	Particular	Existing Fee \$	Proposed Fee \$
1(b)	An originating summons	1,045	<b>1,135</b>
1(c)	An originating notice of motion	1,045	<b>1,135</b>
1(d)	An originating petition	1,045	<b>1,135</b>
1(e)	An originating ex parte application	1,045	<b>1,135</b>
1(f)	Any other originating document	1,045	<b>1,135</b>
2(a)	Setting down a cause or issue for hearing	1,045	<b>1,135</b>
2(b)	Setting down a civil appeal, motion or summons for hearing	1,045	<b>1,135</b>
2(c)	Entering a reference for hearing of an assessment of damages by the Registrar	1,045	<b>1,135</b>
3	For every witness examined de bene esse by a judge or the Registrar, per day or part thereof	880	<b>955</b>
4	Attendance of a public officer to produce or prove in the High Court any record or document	440	<b>475</b>
5	Attendance of a public officer to give evidence as an expert witness, per hour or part thereof	440 <i>(or such other fee as is specially assessed by the judge or Registrar)</i>	<b>475</b> <i>(or such other fee as is specially assessed by the judge or Registrar)</i>
6	Attendance of a public officer to give evidence other than as an expert witness, per hour or part thereof	220 <i>(with a minimum of \$440)</i>	<b>240</b> <i>(with a minimum of \$480)</i>
7	Attendance by the Registrar or officer outside the High Court	1,045	<b>1,135</b>
8(a)	Copy of documents typed in the Registry and certifying same, per page	36	<b>40</b>
8(b)	Additional copies, per page	4	<b>4.5</b>

## Revision of Judiciary Fees and Charges

Item	Particular	Existing Fee \$	Proposed Fee \$
9(a)	Photostatic copy of a document made in the Registry, per page	4	<b>4.5</b>
9(b)	Photostatic copy and certification, per page	5.5	<b>6</b>
9(c)	Photostatic copy of a library book, per page	4	<b>4.5</b>
10(a)	Translation made in the Registry of a document from Chinese into English, or vice versa including certificate, per page	72	<b>78</b>
10(b)	Transcription and translation made in the Registry, from Chinese into English, or vice versa, of a tape or recording including certificate, per page	132	<b>145</b>
11(a)	Certifying translations made outside the Registry, from Chinese into English, and vice versa, per page	36	<b>40</b>
11(b)	Certifying transcription made outside the Registry, from Chinese Into English, and vice versa, of a tape or recording, per page	36	<b>40</b>
12	Search in the Registry, for each document or file referred to or required	18	<b>20</b>
13	Service of a document by a bailiff, per document	110	<b>120</b>
14	Arresting any person	630	<b>685</b>
15	Execution of writ of possession	1,045	<b>1,135</b>
16	On sealing -		
16(a)	A warrant for arrest of a defendant, for the arrest and detention of a ship or for the attachment of property before judgment	1,045	<b>1,135</b>
16(b)	A writ of execution or writ of possession	1,045	<b>1,135</b>
16(c)	A writ of habeas corpus	1,045	<b>1,135</b>
16(d)	A prohibitory order	1,045	<b>1,135</b>
16(e)	An order for the examination of a judgment debtor	1,045	<b>1,135</b>

## Revision of Judiciary Fees and Charges

Item	Particular	Existing Fee \$	Proposed Fee \$
	(or an officer thereof)		
16(f)	A prohibition order	1,045	<b>1,135</b>
17(a)	Watchman's fee, per day or part thereof	330	<b>360</b>
21	Authentication of document by the Registrar	125	<b>135</b>
22	On sealing of a notice in Form No.80 under Order 50, rule 11(2)	1,045	<b>1,135</b>
23	On sealing of an injunction order undertaken before commencement of a cause	1,045	<b>1,135</b>
24	Registration of an enduring power of attorney	440	<b>475</b>
 <b><i>Second Schedule</i></b>			
1	Filing application (except an amended application) for probate or letters of administration or application for resealing of the same	265	<b>290</b>
3	Double or cessate probates, or cessate letters of administration or letters of administration de bonis non, or duplicate probates or letters of administration	145	<b>155</b>
4	Probate of a codicil, or letters of administration with a codicil to a will already proved	145	<b>155</b>
5	Exemplification of a probate or letters of administration, in addition to the fees for engrossing	145	<b>155</b>
6	Engrossing wills and other documents, per page	72	<b>78</b>
7	Every search	18	<b>20</b>
8	Commission of appraisalment	72	<b>78</b>
9	Caveat, each	72	<b>78</b>

## Revision of Judiciary Fees and Charges

Item	Particular	Existing Fee \$	Proposed Fee \$
10	Warning to caveat	145	<b>155</b>
11	Service of warning	44	<b>48</b>
12	Removing caveat	36	<b>40</b>
13	Approving and settling administrator's bond and filing	145	<b>155</b>
14	Making alteration in grant pursuant to order	72	<b>78</b>
15	Every citation	72	<b>78</b>
16	Settling citation or abstract of citation for advertisement, per page	72	<b>78</b>
17	Filing inventory	36	<b>40</b>

### V. Hong Kong Court of Final Appeal Fees Rules (Cap. 484 sub. leg.)

1	On filing -		
1(a)	An application for leave to appeal	1,045	<b>1,135</b>
1(b)	Any other originating application	1,045	<b>1,135</b>
1(c)	A Notice of Appeal	2,090	<b>2,270</b>
2(a)	Copy of documents typed in the Registry, per page	36	<b>40</b>
2(b)	Additional copies, per page	4	<b>4.5</b>
3(a)	Photostatic copy of a document made in the Registry, per page	4	<b>4.5</b>
3(b)	Photostatic copy of a library book, per page	4	<b>4.5</b>
4	Search in the Registry -		
4(a)	For the Register of Appeals	18	<b>20</b>
4(b)	For each document or file referred to or required	18	<b>20</b>

## Revision of Judiciary Fees and Charges

Item	Particular	Existing Fee \$	Proposed Fee \$
7	Authentication of document by the Registrar	125	<b>135</b>
<b>VI. Small Claims Tribunal (Fees) Rules (Cap. 338 sub. leg.)</b>			
1	Filing of claim -		
1(a)	Where the claim does not exceed \$3,000	20	<b>22</b>
1(b)	Where the claim exceeds \$3,000 but does not exceed \$17,000	40	<b>43</b>
1(c)	Where the claim exceeds \$17,000 but does not exceed \$33,000	70	<b>76</b>
1(d)	Where the claim exceeds \$33,000 but does not exceed \$50,000	120	<b>130</b>
2	Summons and copy including service, each witness	33	<b>36</b>
3	Application for review	61	<b>66</b>
4	Application for leave to appeal	61	<b>66</b>
5	Copy of any document (including written award or order) made in the registry of the tribunal and certifying the same, per page	5.5	<b>6</b>
6(a)	Photostatic copy of document made in the registry of the tribunal and certification - For each page or portion of a page	5.5	<b>6</b>
8	Certifying translation made elsewhere, per page	20	<b>22</b>
9	Every search in the registry of the tribunal for each register, file or document	18	<b>20</b>
10	Watchman's fee per diem (to be paid in cash)	83	<b>90</b>
12	Attendance of any Government official to produce or prove in the tribunal any record or document called by any party other than the Government	61	<b>66</b>

## Revision of Judiciary Fees and Charges

Item	Particular	Existing Fee \$	Proposed Fee \$
13(b)	Attendance of any Government official to give any other evidence in the tribunal - When not called as an expert, per hour or portion of an hour of attendance	61	<b>66</b>
14	Filing any affidavit or declaration (other than affidavit or declaration of a bailiff of Court) (including administering any oath or taking any declaration in the registry)	121	<b>130</b>
16	Filing any notice or document in the tribunal not hereinbefore referred to (other than a notice or document expressing an intention not to proceed with a claim or a defence)	55	<b>60</b>
17	Sealing any document in connection with proceedings in the tribunal not hereinbefore referred to	55	<b>60</b>