

# **LEGISLATIVE COUNCIL BRIEF**

Legal Practitioners Ordinance  
(Chapter 159)

## **LEGAL PRACTITIONERS (FEES) (AMENDMENT) (No. 2) RULES 2000**

### **INTRODUCTION**

By virtue of section 72 of the Legal Practitioners Ordinance (Cap. 159) (the Ordinance), the Chief Justice is empowered to make and amend the Legal Practitioners (Fees) Rules (Cap. 159 sub. leg.) (the Rules).

2. In exercise of this power, the Chief Justice has made the Legal Practitioners (Fees) (Amendment) (No. 2) Rules 2000 (the Amendment Rules) at Annex A, to revise the fees payable in connection with the admission of solicitors and of barristers and the registration of notaries public.

### **BACKGROUND AND ARGUMENT**

3. Under the Rules, fees are payable to the Registrar of the High Court in respect of the following matters –

- (a) entry on the roll of solicitors of the name of a solicitor under section 5(2) of the Ordinance;
- (b) entry on the roll of barristers of the name of a barrister under section 29(2) of the Ordinance;
- (c) registration of a notary public under section 40 of the

Ordinance;

- (d) application for admission as a solicitor under rule 4(1) of the Admission and Registration Rules (Cap. 159, sub. leg.); and
- (e) application for admission as a barrister under rule 8(1) of the Admission and Registration Rules.

The fees in respect of the above matters were last revised in 1994.

4. It is Government policy that fees should in general be set at levels sufficient to recover the full cost 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. In June 1999, the Financial Secretary decided to continue the fee revision moratorium until the year-on-year quarterly growth rate of the gross domestic product (GDP) turned firmly positive. A consequence of this moratorium is that the full implementation of the “User Pays” principle has been held in abeyance for more than two years.

5. In view of the recovery of our economy (GDP growth of 4.4% and 9.2% in the third and fourth quarters of 1999 respectively and a projected growth of 8.5% for the year 2000 as a whole), and to ensure adherence to the “User Pays” principle, it is proposed that those fees and charges that do not directly affect people’s livelihood and general business activities should be revised first. Taking into account the diverse nature of the fees involved, Members suggested and the Legislative Council House Committee agreed on 14 April 2000 that the Administration should consult the relevant subject Legislative Council Panels on whether and if so how the fees under their respective purviews should be adjusted. Among the fees proposed for revision are the fees under the Rules.

6. In view of the diverse nature of the services provided by the various courts and the large number of fee items involved, the Judiciary, since 1989, has calculated the cost of the services it provides on a global

basis. In other words, costs are calculated at the departmental level instead of at the individual service level. For the judiciary fees and charges under the Rules, the latest costing exercise shows that the existing fees can recover about 92% of the costs at 2000-01 prices. The costs computations are shown at Annex B. We propose to increase the existing fees by 8.5% with a view to achieving full-cost recovery. Details of the existing and proposed fees are set out at Annex C.

## **THE AMENDMENT RULES**

7. The Amendment Rules revise the fees to the levels as set out at Annex C.

## **COMMENCEMENT**

8. We propose that the new fees should be effective from 12 January 2001.

## **PUBLIC CONSULATION**

9. The previous Legislative Council Panel on Administration of Justice and Legal Services was consulted on 20 June 2000 on the proposed revision of fees. Members did not object to the proposed increase of fees. However, the Administration notes Members' concern that the adoption of the global costing, instead of an individual item basis, for fees revision should be justified. We believe that this concern is addressed in para. 6 above. Members also recommended that the Administration should also consider whether other ways of calculating judiciary fees should be adopted for the purpose of recovering the full costs of providing the service in future exercises.

## **BASIC LAW IMPLICATIONS**

10. The Department of Justice advises that the Amendment Rules are consistent with the Basic Law.

## **HUMAN RIGHTS IMPLICATIONS**

11. The Department of Justice advises that the Amendment Rules have no human rights implications.

## **BINDING EFFECT OF THE LEGISLATION**

12. The amendments will not affect the current binding effect of the Ordinance.

## **FINANCIAL AND STAFFING IMPLICATIONS**

13. The additional revenue is estimated to be \$64,000 per annum. There are no staffing implications.

## **ECONOMIC IMPLICATIONS**

14. As only a small number of people and businesses would be affected by a revision of these fees, and as the proposed fees represent a small percentage of the operating costs of the profession, the impact of the proposal should be minimal.

## **EFFICIENCY INITIATIVES**

----- 15. In parallel with the revision of the fees proposed at Annex C, the Judiciary will continue to implement the Enhanced Productivity Programme and other efficiency improvement measures to contain costs and alleviate the pressure for fees increases. The Judiciary will also review whether it is still necessary to provide the various services under its purview that require the payment of fees and charges.

## **LEGISLATIVE TIMETABLE**

16. The legislative timetable will be –

Publication in the Gazette	24 November 2000
Tabling in the Legislative Council	29 November 2000

## **PUBLICITY**

17. The Amendment Rules will be published in the Gazette on 24 November 2000. A press release will be issued on the same day.

## **ENQUIRIES**

18. For enquiries, please contact Mr Michael Scott, Senior Assistant Solicitor General (tel: 2867 2157).

Department of Justice  
November 2000  
File Ref: LP 272/05C

Legal Practitioners Ordinance  
(Chapter 159)

**LEGAL PRACTITIONERS (FEES)  
(AMENDMENT) (No. 2) RULES 2000**

**ANNEXES**

- Annex A - Legal Practitioners (Fees) (Amendment) (No. 2) Rules  
2000 (the Amendment Rules)
- Annex B - Cost Computation
- Annex C - Revision of Fees under the Legal Practitioners (Fees)  
Rules

**LEGAL PRACTITIONERS (FEES)(AMENDMENT)(NO. 2) RULES 2000**

(Made under section 72 of the Legal Practitioners  
Ordinance (Cap. 159))

**1. Commencement**

These Rules shall come into operation on 12 January 2001.

**2. Fees payable under the Ordinance**

Schedule 1 to the Legal Practitioners (Fees) Rules (Cap. 159 sub. leg.) is amended -

- (a) in items 1 and 3, by repealing "330" and substituting "360";
- (b) in item 5, by repealing "1,045" and substituting "1,135".

**3. Fees payable under the Admission and Registration Rules**

Schedule 3 is amended, in items 2 and 3, by repealing "1,045" and substituting "1,135".

Chief Justice

2000

**Explanatory Note**

These Rules increase the fees payable in respect of the following matters -

- (a) entry on the roll of solicitors of the name of a solicitor;
- (b) entry on the roll of barristers of the name of a barrister;
- (c) registration of notary public;
- (d) application for admission as a solicitor or barrister.



**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 Dept	3,801
Administrative Overhead	11,317
	214,767
<b>+ Operation Cost (a)</b>	<b>214,767</b>
<b>* Revenue (b)</b>	<b>197,985</b>
<b>Existing Cost Recovery Rate (b)/(a)</b>	<b>92.2%</b>
<b>Proposed Increase [(a)/(b)-100%]</b>	<b>8.5%</b>

**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 Legal Practitioners (Fees) Rules

Description	Existing Fee (\$)	Proposed Fee (\$)
1. Entry on the roll of solicitors of the name of a solicitor	330	<b>360</b>
2. Entry on the roll of barristers of the name of a barrister	330	<b>360</b>
3. Registration of notary public	1,045	<b>1,135</b>
4. Application for admission as a solicitor	1,045	<b>1,135</b>
5. Application for admission as a barrister	1,045	<b>1,135</b>