

LEGISLATIVE COUNCIL BRIEF

Money Lenders Ordinance (Chapter 163) MONEY LENDERS (AMENDMENT) REGULATION 2000

INTRODUCTION

By virtue of section 34 of the Money Lenders Ordinance (Cap. 163) (the Ordinance), the Chief Executive in Council may make regulations prescribing anything required or permitted to be prescribed under the Ordinance. Schedule 1 to the Money Lenders Regulations (Cap. 163 subsidiary legislation) (the Regulations) sets out tables of fees payable under the Ordinance. 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 set by subsidiary legislation made by the Chief Executive in Council.

2. In exercise of the above authority, the Secretary for the Treasury has made the Money Lenders (Amendment) Regulation 2000 (the Amendment Regulation) at **Annex A** to revise the fees payable to the Judiciary specified in the Regulations made pursuant to the Ordinance.

BACKGROUND AND ARGUMENT

3. It is Government policy that certain 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. 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.

4. In view of the current state of economy 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 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.

5. We then consulted the LegCo Panel on Financial Affairs on 15 June 2000 regarding the revision of fees for the issue of money lenders licences and related services payable to the Judiciary. These fees were last revised in August 1994. Based on Judiciary's latest costing, the existing fees for judicial services, including those payable under the Ordinance, recover about 92% of the costs at 2000-01 prices. **Annex B** provides the cost computation. We therefore propose to increase the fees 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 C**.

EFFICIENCY INITIATIVES

6. The Judiciary is committed to containing costs by continuing to implement the Enhanced Productivity Programme and other efficiency improvement measures. The Judiciary is also committed to reviewing the need to provide the various services that require the payment of fees and charges.

THE AMENDMENT REGULATION

7. The Amendment Regulation revises the fees payable to the Judiciary under the Ordinance as set out in **Annex C**. We propose that the new fees should take effect on 12 January 2001.

PUBLIC CONSULTATION

8. The LegCo Panel on Financial Affairs was consulted on 15 June 2000 on the fee revision proposals and Members raised no objection to our proposal.

BASIC LAW IMPLICATIONS

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

HUMAN RIGHTS IMPLICATIONS

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

BINDING EFFECT

11. The Amendment Regulation will not affect the current binding effect of the Regulations.

FINANCIAL AND STAFFING IMPLICATIONS

12. The fee proposals will generate additional revenue of about \$163,000 per annum. There are no staffing implications.

ECONOMIC IMPLICATIONS

13. Given the nature of the fee items and the relatively modest level of the increases in absolute terms, the fee proposals, if implemented, should have only trivial impact on the people's livelihood and the cost of doing business generally.

PUBLICITY

14. A press release will be issued and a spokesman will be available to answer enquiries.

ENQUIRIES

15. For any enquiries on this brief, please contact Mr Esmond Lee, Principal Assistant Secretary for Financial Services (Companies) at 2527 3909.

MONEY LENDERS (AMENDMENT) REGULATION 2000

(Made under section 34 of the Money Lenders Ordinance (Cap. 163)
and section 29A of the Interpretation and General Clauses
Ordinance (Cap. 1)

1. Commencement

This Regulation shall come into operation on 12 January 2001.

2. Table of Fees

Part B of Schedule 1 to the Money Lenders Regulations (Cap. 163 sub. leg.) is amended -

- (a) in item 1, by repealing "1,760" and substituting "1,910";
- (b) in item 2, by repealing "1,760" and substituting "1,910";
- (c) in item 3, by repealing "88" wherever it appears and substituting "95".

Secretary for the Treasury

23 Nov 2000

Explanatory Note

This Regulation amends Schedule 1 to the Money Lenders Regulations (Cap. 163 sub. leg.) to increase the fees payable to the licensing court under the Money Lenders Ordinance (Cap. 163).

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

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

**Revision of Fees under
Money Lenders Regulations**

| Fee Item | Description | Existing Fee \$ | Proposed Fee \$ |
|-----------------|-----------------------------------------|---------------------------|---------------------------|
| (1) | For issue of a licence | 1,760 | 1,910 |
| (2) | For renewal of a licence | 1,760 | 1,910 |
| (3) | For endorsement on a licence of - | | |
| | (a) widow, widower or family member etc | 88 | 95 |
| | (b) additional premises | 88 | 95 |
| | (c) substituted premises | 88 | 95 |

Fees Revision Report
Department: Official Receiver's Office
Fees Revision 2000 (3%)

| | <u>Estimated Additional Revenue</u> | <u>Reference</u> |
|---------------------------|-------------------------------------|------------------|
| | \$ | |
| 1. Bankruptcy Cases | 549,062 | Annex 1 |
| 2. Voluntary Arrangements | 40 | Annex 2 |
| 3. Liquidation Cases | 221,033 | Annex 3 |
| | <hr/> | |
| Total additional revenue: | <u><u>770,135</u></u> | |