

立法會
Legislative Council

LC Paper No. LS64/12-13

**Paper for the House Committee Meeting
on 28 June 2013**

**Legal Service Division Report on
Proposed Resolutions under the Bankruptcy Ordinance (Cap. 6)
and the Companies Ordinance (Cap. 32)**

The Secretary for Financial Affairs and the Treasury has given notice to move four motions at the Legislative Council meeting of 10 July 2013 to seek the approval of the Legislative Council of the Bankruptcy (Amendment) Rules 2013, the Bankruptcy (Fees and Percentages) (Amendment) Order 2013, the Companies (Fees and Percentages) (Amendment) Order 2013 and the Companies (Winding-up) (Amendment) Rules 2013 made by the Chief Justice respectively under sections 113 and 114 of the Bankruptcy Ordinance (Cap. 6) and section 296 of the Companies Ordinance (Cap. 32). They will come into operation upon the resolutions being published in the Gazette.

2. The proposed resolutions seek to reduce certain fees, deposits and charges in relation to bankruptcy and winding-up proceedings. Such fees, deposits and charges include -

Item	Existing amount (\$)	Revised amount (\$)
1. Deposit by the petitioner to the Official Receiver (OR) on the presentation of a bankruptcy petition - (a) debtor's petition (b) creditor's petition	(a) 8,650 (b) 12,150	(a) 8,000 (b) 11,250
2. Deposit by the petitioner to OR on the presentation of a winding-up petition	12,150	11,250

Item	Existing amount (\$)	Revised amount (\$)
3. "realization fee" ¹ of bankruptcy and winding-up cases levied by the Official Receiver's Office (ORO)	10% on payments made into Bankruptcy Account by OR as interim trustee or trustee or the amount of assets realized by OR as liquidator in winding-up cases	170

Other items of fees and charges for bankruptcy and winding-up cases are also reduced such as application fees for a search on a bankruptcy petition or a winding-up petition and for issue of a non-bankruptcy certificate and the costs of summoning a meeting at the request of the creditors.

3. According to paragraph 2 of the LegCo Brief, it is proposed to revise the statutory fees, charges and deposits of ORO because having conducted a review, it is projected that at their present level ORO will achieve cost recovery rate at 111% in the financial year 2013/14. It is stated in paragraph 8 of the LegCo Brief that if the proposed fee revision comes into effect in July 2013, ORO's projected cost recovery rate for 2013-14 will be around 100%. Members may wish to refer to the Legislative Council Brief (with no reference number) issued by the Financial Services and the Treasury Bureau on 19 June 2013 for background and further information.

4. According to the Clerk to Panel on Financial Affairs, the Panel was consulted at the meeting on 3 May 2013. In respect of the proposed reduction in statutory deposit charged by ORO for debtor-petition bankruptcy cases, some members were of the view that the Administration should consider possible measures to assist debtors who could not afford the deposit. Members did not oppose to the reduction in other items of fees proposed by the Administration.

¹ According to paragraph 2(c) of the LegCo Brief, when the Official Receiver acts as the interim trustee or trustee in bankruptcy cases or as the liquidator in court winding-up cases, ORO's efforts in realising the assets mainly involve transferring money into the bank accounts of the estates of the bankrupts or companies being wound up.

5. The proposed amendments are technical in nature. No difficulties in relation to the legal and drafting aspects of the resolutions or the proposed amendments have been identified.

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