

For Information

**Legislative Council  
Panel on Administration of Justice and Legal Services**

**Review of Solicitors' Hourly Rates**

**Purpose**

This paper seeks to provide information on the following:

- (a) the background to the conducting of a review of the solicitors' hourly rates for the purpose of taxation on a party and party basis ("SHR") by the Judiciary; and
- (b) the setting up of a Working Party on Review of SHRs for Party and Party Taxation to oversee the review and make recommendations on the matter.

**Background**

2. At the conclusion of a court case, the Court would normally award costs to the winning party. Taxation of costs by a taxing master will be required if the litigating parties cannot reach agreement on the quantum of costs. Unless otherwise ordered by the Court, the taxing master will tax the costs claimed by the winning party on a "party and party basis". For taxation on a party and party basis, a winning party is entitled to recover all such costs as are necessary or proper for the attainment of justice or for enforcing or defending the rights of such party whose costs are being taxed. The SHRs, for the purpose of assessing costs incurred by litigants during court proceedings, reflect in general the rates which taxing masters consider to be appropriate and reasonable for engaging solicitors of comparable experience in such proceedings. The taxing masters are, however, not bound by such SHRs. Each taxation application will be considered on its own merits.

3. The SHRs were last revised in 1997. The Law Society of Hong Kong has recently commissioned a review of the SHRs and its consultant's report recommends, amongst others, that (i) the SHRs be raised to better reflect the current market conditions; and (ii) annual adjustments be made

to the revised SHRs in accordance with an inflation linked index. This is the first time the Law Society has tendered suggestions on SHRs to the Judiciary since they were last revised in 1997.

4. Having regard to the importance and nature of the subject and taking into account the possible ramifications such matter may have on the access to justice and different stakeholders of the community, the Chief Justice has come to a view that the best way forward is for him to appoint a Working Party to study the matter.

#### **Working Party on Review of SHRs for Party and Party Taxation**

5. The Working Party on Review of SHRs for Party and Party Taxation (“the Working Party”) will be tasked to:

- (a) make recommendations to the Chief Justice on how a comprehensive and evidence-based review of the SHRs for the purpose of taxation on a party and party basis should be conducted;
- (b) subject to the Chief Justice’s acceptance in principle of the recommendations on the review mechanism at (a) above, conduct such review of the SHRs with a view to making recommendations to the Chief Justice on (i) whether any adjustments of SHRs are appropriate; and (ii) any other related matters; and
- (c) make recommendations to the Chief Justice on whether regular review of the SHRs should be conducted, and if so, how.

6. To be chaired by the Hon Mr Justice Poon, Judge of the Court of First Instance of the High Court, the Working Party will comprise seven other Judges and Judicial Officers; a member of the Bar Association of Hong Kong; two members of the Law Society of Hong Kong; representatives from the Department of Justice, the Legal Aid Department and the Official Receiver’s Office; Professor Chan Ka-lok (who is currently the Acting Dean of Business and Management of The Hong Kong University of Science and Technology); Mr Eric Cheung Tat-ming (who is currently the Principal Lecturer in the Faculty of Law of The University of Hong Kong); Ms Gilly Wong (who is currently the Chief Executive of the Consumer Council); Mr Stephen Yau How-boa, SBS, JP

(who is currently the Chief Executive of the International Social Service Hong Kong Branch); and Mr Anthony Yeung Kwok-ki, JP (who is the senior partner of a management consultancy firm). The details are set out at the **Annex**.

7. The appointment of the Working Party will initially be for a term of two years. It will commence work in January 2014. An Advisory Group will also be formed to assist the Working Party in the carrying out of a survey for the review exercise.

8. The current plan is that :

- (a) The Working Party would make recommendations to the Chief Justice on how a comprehensive and evidence-based review of the SHRs should be conducted by the first half of 2014;
- (b) Subject to the Chief Justice's approval, the Working Party would commission and conduct the survey by early 2015; and
- (c) The Working Party would make final recommendations to the Chief Justice by the latter half of 2015.

### **Advice Sought**

9. Members are invited to note the contents of this paper.

Judiciary Administration  
December 2013

**Working Party on Review of Solicitors' Hourly Rates  
for Party and Party Taxation**

**Membership List**

Chairman : Hon Mr Justice Jeremy Poon,  
Court of First Instance of the High Court

Members : Hon Madam Justice Queeny Au Yeung,  
Court of First Instance of the High Court

Deputy High Court Judge Marlene Ng,  
Court of First Instance of the High Court

Registrar Lung Kim-wan, the High Court

Master Andy Ho, Deputy Registrar, the High Court

Registrar Simon Kwang, Court of Final Appeal

HH Judge Tony Poon, Chief District Judge, District Court

Deputy District Judge Simon Lui, District Court

Mr Colin Wright, Hong Kong Bar Association

Mr Denis Brock, The Law Society of Hong Kong

Mr Amirali Nasir, The Law Society of Hong Kong

Mr Clifford Tavares, Department of Justice's representative

Ms Juliana Chan, Legal Aid Department's representative

Ms Fiona Lee, Official Receiver's Office's representative

Professor Chan Ka-lok

Mr Eric Cheung Tat-ming

Ms Gilly Wong

Mr Stephen Yau How-boa, SBS, JP

Mr Anthony Yeung Kwok-ki, JP