

## LEGISLATIVE COUNCIL BRIEF

Official Administrator's Accounts (Interest) Rules  
(Cap. 10 sub. leg. D)

### OFFICIAL ADMINISTRATOR'S ACCOUNTS (INTEREST) (AMENDMENT) RULES 2013

#### INTRODUCTION

Annex On 17 October 2013, the Official Administrator's Accounts (Interest) (Amendment) Rules ("the Amendment Rules") at Annex were made by the Chief Justice.

#### JUSTIFICATIONS

2. Under section 10 the Probate and Administration Ordinance (Cap. 10) ("PAO"), when a person dies intestate leaving an estate, the deceased's estate vests in the Official Administrator<sup>1</sup> who will administer the estate until he/she authorizes another person (e.g. the deceased's next-of-kin) to administer the estate.

3. If the total value of the estate does not exceed \$150,000, section 15 of the PAO provides that the Official Administrator may get in and administer the estate in a summary manner. Rule 3 of Cap. 10 sub. leg. D further provides that if the administration of the estate is completed within 3 months, the Official Administrator should pay no interest on moneys belonging to the estate. If the administration takes more than 3 months, the Official Administrator must credit to the estate interest on the basis of the prevailing Hong Kong Association of Banks (HKAB) rate for savings accounts.

4. As a result of the deregulation of interest rates in 2001, interest rates on all types of deposits, including savings account deposits, are determined by competitive market forces rather than by the HKAB.

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<sup>1</sup> Section 9 of the PAO provides that the Registrar of the High Court shall be the ex officio Official Administrator.

As an interim measure, the Judiciary has been using the interest rate for savings accounts of the Hong Kong and Shanghai Banking Corporation Limited.

5. The Judiciary proposes to adopt the average savings deposit rate published monthly by the Hong Kong Monetary Authority (HKMA)<sup>2</sup> for calculating the interest to be paid by the Official Administrator. At present, the HKMA compiles such average rates on the basis of the interest rates quoted by major licensed banks.

## **THE AMENDMENT RULES**

### Annex

6. The Amendment Rules at Annex seek to replace the reference to the HKAB rate in rule 3 of Cap. 10 sub. leg. D by the average savings deposit rate published by the HKMA on a monthly basis. Under section 72 of the PAO, such amendments may be made by the Chief Justice.

## **LEGISLATIVE TIMETABLE**

7. The legislative timetable for the Amendment Rules is as follows –

Publication in the Gazette	1 November 2013
Tabling at the Legislative Council (LegCo) for negative vetting	6 November 2013
Commencement	1 January 2014

## **IMPLICATIONS OF THE PROPOSAL**

8. The Amendment Rules are in conformity with the Basic Law, including the provisions concerning human rights. They do not affect the current binding effect of the PAO and its subsidiary legislation. They have no sustainability and family implications. It will not have significant financial and manpower implications for the Judiciary either.

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<sup>2</sup> Now the rates are published in the HKMA's Monthly Statistical Bulletin.

## **CONSULTATION**

9. We have consulted the Hong Kong Bar Association and the Law Society of Hong Kong. They have no comments on the proposed legislative amendments.

10. We have also informed the LegCo Panel on Administration of Justice and Legal Services of the proposal. The Panel has raised no comments.

## **PUBLICITY**

11. A press release will be issued on 1 November 2013 and a spokesman will be available to handle press enquiries.

## **ENQUIRIES**

12. For enquiries on this brief, please contact Ms Wendy CHEUNG, Assistant Judiciary Administrator (Development), at 2825 4244.

**Judiciary Administration**  
**October 2013**

**Official Administrator's Accounts (Interest)  
(Amendment) Rules 2013**

(Made by the Chief Justice under section 72(1A) of the Probate and  
Administration Ordinance (Cap. 10))

**1. Commencement**

These Rules come into operation on 1 January 2014.

**2. Official Administrator's Accounts (Interest) Rules amended**

The Official Administrator's Accounts (Interest) Rules (Cap. 10 sub. leg. D) are amended as set out in rule 3.

**3. Rule 3 amended (estates not exceeding \$150,000)**

**(1) Rule 3(1)—**

**Repeal**

everything after "in a summary manner,"

**Substitute**

"the Official Administrator must credit to the estate interest on all moneys in the Official Administrator's possession that belong to the estate."

**(2) After rule 3(1)—**

**Add**

"(1A) For the purposes of paragraph (1)—

- (a) the rate of interest to be applied is the average interest rate on Hong Kong dollar savings deposits published by the Hong Kong Monetary Authority from time to time;

- (b) different such rates apply to different periods, and each such rate is to have effect from the day it is published until the day immediately before a different such rate is published; and
- (c) no interest is to be computed or credited on a fraction of \$1."

**(3) Rule 3—**

**Repeal paragraph (3).**



Chief Justice

17 October 2013

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**Explanatory Note**

Rule 3 of the Official Administrator's Accounts (Interest) Rules (Cap. 10 sub. leg. D) (*principal rule*) provides that if the Official Administrator is administering an estate with a total value not exceeding \$150,000 and the administration of that estate is not completed within 3 months, an interest at the prevailing Hong Kong Association of Banks rate for savings accounts (*HKAB rate*) must be credited to the estate.

2. The purpose of these Rules is to amend the principal rule to replace the HKAB rate with the average interest rate on Hong Kong dollar savings deposits published by the Hong Kong Monetary Authority from time to time for the purpose of interest calculation.