

Legislative Council Panel on Financial Affairs
Consultation Paper on Revision of Fees & Charges
of the Official Receiver's Office & the Judiciary

INTRODUCTION

This consultation paper seeks Members' advice on proposals for revision of fees under the purview of the Official Receiver's Office and the Judiciary.

BACKGROUND

2. To ease the burden on the community at a time of economic setback, most government fees and charges have been frozen since February 1998. In the light of the recent economic recovery, the Financial Secretary announced in the 2000-01 Budget Speech that the Administration would approach the LegCo to discuss the revision of Government fees and charges not directly affecting people's livelihood or general business activities.

3. The Administration consulted the Financial Affairs Panel on 13 April 2000 on proposals to revise various fees and charges. In view of the diverse nature of the identified fees and charges, some Members of the Financial Affairs Panel suggested that the proposed revision should also be considered by the relevant subject Panels of LegCo. At the House Committee meeting held on 14 April 2000, Members agreed that the respective LegCo Panels should be consulted on whether, and if so how, fees and charges under their purview should be increased.

PROPOSAL FOR REVISING FEES UNDER THE OFFICIAL RECEIVER'S OFFICE ("ORO")

4. The proposed fee revision involves fee items under the ORO in relation to -

- (a) Official Receiver's fees in bankruptcy;
- (b) Official Receiver's fees in voluntary arrangements; and
- (c) Fees in respect of proceedings in the winding up of companies

Detailed description of each item is at Annex A.

5. As far as the cost recovery rate is concerned, the ORO's activities can be classified as revenue-generating and non-revenue generating¹. Cost recovery rate is calculated based on the recurrent revenue generated from and the corresponding costs of those revenue generating activities only. Given the nature of the ORO's services, the Administration agreed in 1999 that the target cost recovery rate should be set at 60%.

6. For the financial year 2000-01, we project that the ORO will achieve a cost recovery rate of 54% on all revenue-generating activities, that is 90% of the target cost recovery rate. After taking the current economic situation into account and in order to keep the impact on users to the minimum, we therefore propose to achieve the 60% target cost recovery in phases. For the first phase, we propose to increase all the fixed fees by 10%. The revised fee levels for all fixed fees (rounded to the nearest \$5) are set out at Annex A. The proposed fee increases will range from \$0.4 to \$1,215. The costing statement of the ORO's revenue-generating activities is attached at Annex B.

COST EFFECTIVENESS INITIATIVES

7. The ORO is committed to undertaking new productivity measures to contain costs and to handle the increased workload through redeployment of existing resources and streamlining of work procedures.

¹ Non-revenue generating activities include, for instance, legislation work, law enforcement and managing of the Unified Solicitors Grade etc. The costs of these activities are borne by the Administration and not included in the cost recovery rate calculation.

The ORO has adopted various measures, such as reengineering the procedures for the outdoor investigation work, tightening the criteria for hardship allowance and reducing significantly the number of paid land searches by obtaining the information from alternative sources, aiming to achieve 1% Enhanced Productivity Programme savings for the financial year 2000-01. Furthermore, by implementing the recommendations in the Management Services Agency consultancy report, significant efficiency improvement is expected which would lead to savings in subsequent years. The ORO will also review its fee-charging services to see if all of them are still required in present day circumstances.

PROPOSAL FOR REVISING FEES UNDER THE JUDICIARY (“JUD”)

8. The propose fee revision in JUD involves items as follows -
 - (a) Fees related to bankruptcy and winding-up; and
 - (b) Fees related to money lender license issue

The JUD’s fee proposal is at Annex C.

9. To calculate cost recovery rate, the JUD adopts an approach whereby the total revenue (excluding court fines, fixed penalty and traffic fines) is compared against the total operating costs (excluding court hearing and free services). The JUD projects that the cost recovery rate for the year 2000-01 would be 92.2% and a 8.5% fee increase of existing charging levels is proposed. The costing statement of the JUD is at Annex D.

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

FINANCIAL IMPLICATION

11. If the proposed fee revision is implemented, it is expected that an additional revenue of \$1.6 million and \$648,000 will be generated in the first year for the ORO and the JUD respectively.

ADVICE SOUGHT

12. We should be grateful for Members' views on –
- (a) the list of fees proposed for revision as set out at Annexes A and C; and
 - (b) the level of fee revision as proposed in Annexes A and C for these identified fees .

Financial Services Bureau
13 June 2000

**Cost Computation of the Revenue Generating Activities
in the Official Receiver's Office
(Cost at 2000-01 prices)**

	\$m
Staff costs	93.5
Operating cost	27.8
Accommodation cost and depreciation	12.1
Administrative overhead	<u>43.1</u>
Total cost (A)	176.5
Revenue (B)	95.5
Existing cost recovery rate [(B)/(A)]	54%

**Cost Computation of the Judiciary
(Cost at 2000-01 prices)**

	\$m
Staff costs	179.2
Departmental expenses	12.8
Accommodation cost and depreciation	7.7
Central administrative overhead	11.3
Cost of services provided by other department	<u>3.8</u>
Operating cost (A)	214.8
Revenue (B)	198
Existing cost recovery rate [(B)/(A)]	92.2%
Proposed increase [(A)/(B) -100%]	8.5%

**Fees Revision Proposal
Official Receiver's Office**

<i>No.</i>	<i>Relevant Ordinance Reference</i>	<i>Description of fee item</i>	<i>Existing Fee</i> \$	<i>Proposed Fee</i> \$	<i>Increase in dollar</i> \$	<i>Increase In Percentage</i> %	<i>Remarks</i>
A	Bankruptcy (Fees and Percentages) Order	Official Receiver's fees in bankruptcy					
(1)	Table A Item 4	Proof of debt above \$250, including filing, (other than a proof for workmen's wages)	40	45	5	10	
(2)	Table A Item 6(b)	For each creditor notified	35	40	5	10	
(3)	Table A Item 10	Application to the Official Receiver for payment of money out of the Bankruptcy Estates Account	85	95	10	10	
(4)	Table A Item 16	Application by a member of the public to the Official Receiver for a search on whether a bankruptcy petition has been presented against a person or firm	85	95	10	10	
(5)	Table A Item 17	Application by a member of the public to the Official Receiver for issue of a non-bankruptcy certificate for a person	205	225	20	10	
(6)	Table A Item 18	For insertion in the Gazette of a notice relating to bankruptcy	355	390	35	10	
(7)	Table A Item 19	Examination by a creditor of the proofs of debt of other creditors under rule 7 of the Proof of Debts Rules (Cap. 6 sub. leg.)	85	95	10	10	
(8)	Table A Item 20	Examination by a creditor of the proofs of debt of other creditors under rule 7 of the Proof of Debts Rules (Cap. 6 sub. leg.)	85	95	10	10	

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(9)	Table A Item 21	Photocopying charge per page or part thereof for furnishing a creditor with a list of creditors under section 87	6.1	6.5	0.4	7	Follow Treasury's rate in providing photocopying service
(10)	Table B Item 4	For the Official Receiver acting as interim receiver of the property of a debtor under section 13, in addition to the percentage chargeable on realizations, on every order	1,100	1,210	110	10	
(11)	Table B Item 4	And, in addition, where the order is in force for a longer period than 14 days, for every 7 days after the first 14, and for every fraction of 7 days	1,100	1,210	110	10	
(12)	Table B Item 5(a)	For all official stationery, printing and postage within Hong Kong; and to include notices to creditors of meetings and sittings of the court and room hire - for a number of creditors and bankrupts not exceeding 10	670	735	65	10	
(13)	Table B Item 5(b)	Thereafter for every 10 additional creditors and bankrupts or part thereof This fee does not include the charge which may be made by the Official Receiver on calling a meeting at the request of creditors, for which provision is made in paragraph 6					
(14)	Table B Item 6	Where the Official Receiver calls a meeting at the request of the creditors, the costs of summoning the meeting, which shall be deemed to include all disbursements for stationery, printing and postage within Hong Kong shall be \$1,560. Any charge for hiring a room outside the Official Receiver's Office by reason of the large number of creditors shall be additional to the said sum	1,560	1,715	155	10	

**Fees Revision Proposal
Official Receiver's Office**

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(15)	Table B Item 11	Notwithstanding the fees and charges prescribed in the foregoing paragraphs but subject to the availability of funds, where the Official Receiver acts as trustee to administer a bankrupt's property, the total fees and charges under this Table shall not be less than \$12,150	12,150	13,365	1,215	10	
(16)	Bankruptcy Rules 52(1)	Upon the presentation of a petition either by the debtor or by a creditor, the petitioner shall deposit with the Official Receiver the sum of \$8,650 where the petitioner is a debtor or \$12,150 where the petitioner is a creditor, and such further sum (if any) as the petitioner and the Official Receiver may agree to or as the court may from time to time direct, to cover the fees and expenses to be incurred by the Official Receiver, and no petition shall be received unless the receipt of the Official Receiver for the deposit payable on the presentation of the petition is produced to the Registrar	8,650	9,515	865	10	(i) Deposit in relation to a petition presented by a debtor
(17)			12,150	13,365	1,215	10	(ii) Deposit in relation to a petition by a creditor

**Fees Revision Proposal
Official Receiver's Office**

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			\$	\$	\$	%	
B	Bankruptcy (Fees and Percentages) Order	Official Receiver's fees in Voluntary Arrangements					
(1)	Bankruptcy Rules 52A	<p>Unless the applicant is also the nominee, where an application is made for an interim order under section 20A of the Ordinance, the applicant or some other person on his behalf shall, at the time of making the application, deposit with the nominee the sum of \$12,150, and such further sum (if any) as the applicant and nominee may agree to or as the court may from time to time direct, to cover the fees, expenses and remuneration to be incurred by the nominee in connection with the work done by him in respect of the voluntary arrangement.</p> <p>This rule applies whether or not the voluntary arrangement is approved by the creditors.</p>	12,150	13,365	1,215	10	

Fees Revision Proposal
 Official Receiver's Office

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D		Miscellaneous charges applicable to all cases:					
(1)	To be approved by Secretary for the Treasury	Photocopies made in the Official Receiver's capacity as trustee (per A4 size copy)	3.7	4.1	0.4	10	
(2)	To be approved by Secretary for the Treasury	Rental for storage of seized document (per box per month)	7.6	8.4	0.8	10	

Fee Revision Proposal
Official Receiver's Office

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C Companies (Fees and Percentages) Order							
Fee and percentages in respect of proceedings in the winding up of companies							
(1)	Schedule 2 Item 2	On a proof of debt above \$250.00 (other than a proof for workmen's wages) This fee includes administering oath and filing. No fee is payable on a proof for \$250.00 or under	40	45	5	10	
(2)	Schedule 3 Table A Item 1A	On an inspection of a copy of the liquidator's accounts filed under section 203(4) or (6)	12	15	3	10	
(3)	Schedule 3 Table A Item 3	On an application by a committee of inspection to the Official Receiver for a special bank account under Section 202	390	430	40	10	
(4)	Schedule 3 Table A Item 4	On an order by the Official Receiver for a special bank account	390	430	40	10	
(5)	Schedule 3 Table A Item 4A	On an application by a liquidator to the Official Receiver acting as a committee of inspection	390	430	40	10	
(6)	Schedule 3 Table A Item 5(a)	On an application to the Official Receiver - under section 285 for payment of money out of the Companies Liquidation Account	60	65	5	10	
(7)	Schedule 3 Table A Item 5(b)	After 6 months from the date of issue, for the re-issue of a lapsed cheque or money order in respect of moneys standing to credit of that account	60	65	5	10	
(8)	Schedule 3 Table A Item 7	For insertion in the Gazette of a notice relating to a company which is being wound up by the court	355	390	35	10	
(9)	Schedule 3 Table A Item 8	On an application by a member of the public to the Official Receiver for a search on whether a winding-up petition has been presented against a company	85	95	10	10	

Fee Revision Proposal
Official Receiver's Office

<i>No.</i>	<i>Relevant Ordinance Reference</i>	<i>Description of fee item</i>	<i>Existing Fee</i>	<i>Proposed Fee</i>	<i>Increase In Dollar</i>	<i>Increase In Percentage</i>	<i>Remarks</i>
			\$	\$	\$	%	
(10)	Schedule 3 Table B Item IV(1)	<p>In all other cases where the Official Receiver acts as liquidator of the company (to include his services as provisional liquidator)</p> <p>In respect of every 10 members, creditors and debtors, and every fraction of 10 (This fee is to include cost of official stationery, printing, books, forms and postages in Hong Kong)</p>	670	735	65	10	
(11)	Schedule 3 Table B Item IX	Notwithstanding the fees and percentages prescribed in number I, numbers III to VII of this Table, where the Official Receiver acts as liquidator of the company, the total fees under those numbers shall not be less than \$12,150	12,150	13,365	1,215	10	
(12)	Companies (Winding-up) Rules 22A(1)	Before presenting a petition the petitioner shall deposit with the Official Receiver the sum of \$12,150 for the purpose of covering the fees and expenses to be incurred by the Official Receiver; and no petition shall be received unless the receipt of the Official Receiver for the deposit is produced to the Registrar	12,150	13,365	1,215	10	
(13)	Rule 117 of Companies (Winding-up) Rules	<p>The costs of summoning a meeting of creditors or contributories at the instance of any person other than the Official Receiver or liquidator shall be paid by the person at whose instance it is summoned who shall before the meeting is summoned deposit with the Official Receiver or liquidator (as the case may be) such sum as may be required by the Official Receiver or liquidator as security for the payment of such costs. The costs of summoning such meeting of creditors or contributories, which shall be deemed to include all disbursements for stationery, printing and postage within Hong Kong shall be \$1,560. Any charge for hiring a room outside the Official Receiver's Office by reason of the large number of creditors or contributories shall be additional to the said sum.</p> <p>The said costs, including the costs of summoning a meeting under section 166 and of complying with the requirements of section 166A in respect of such meeting, shall be repaid out of the assets of the company if the court shall by order or if the creditors or contributories (as the case may be) shall by resolution so direct. This rule shall not apply to meetings under sections 241 and 245 of the Ordinance.</p>	1,560	1,715	155	10	

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
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Total additional revenue:	<u><u>770,135</u></u>	

**Fee Revision Proposal
Judiciary**

<i>No.</i>	<i>Relevant Ordinance Reference</i>	<i>Description of fee item</i>	<i>Existing Fee \$</i>	<i>Proposed Fee \$</i>	<i>Increase In Dollar \$</i>	<i>Increase In Percentage %</i>
A Bankruptcy (Fees and Percentages) Order						
(1)	Table A Item 3	Bankruptcy petition	1,045	1,134	89	8.5
(2)	Table A Item 5	Petition under s.112	1,045	1,134	89	8.5
(3)	Table A Item 6(a)	Application for an order of discharge, including the expenses of gazetting the date of hearing and ther order of the court made on the application	528	573	45	8.5
(4)	Table A Item 7	Search in the high court registry (other than by a petitioner, trustee, bankrupt or any officer of the court) for a document or file referred to or required	18	20	2	8.5
(5)	Table A Item 8	Office copy of a document, per page or part thereof	35	38	3	8.5
	Table A Item 15	Registration of assignment of book debts under Rule 127 :				
(6)	Item 15(a)	On producing original assignment, filing attested copy thereof and certified translation (when necessary) in the English language, including registering and marking original	220	239	19	8.5
(7)	Item 15(b)	Every search or official certificate of the result of a search in one name in any register or index in the custody of the registrar	220	239	19	8.5
(8)	Item 15(c)	For every additional name if included in the same certificate	110	119	9	8.5
(9)	Item 15(d)	For a duplicate copy of a certificate, per page or part thereof	35	38	3	8.5
B Companies (Fees and Percentages) Order						
(1)	Schedule 1 Item 1	On presenting a petition under s.8 and s.59	1,045	1,134	89	8.5
(2)	Schedule 1 Item 2	On application under s.64, s.86, s.166, s.290, s.291, s.291AB	1,045	1,134	89	8.5
(3)	Schedule 2 Item 1	On presenting a petition for the winding up of a company by or under the supervision of the court	1,045	1,134	89	8.5

**Fee Revision Proposal
Judiciary**

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C Money Lender Regulation						
(1)	Sch 1 Part B Item 1	For issue of a license	1,760	1,910	150	8.5
(2)	Sch 1 Part B item 2	For renewal of license	1,760	1,910	150	8.5
(3)	Sch 1 Part B item 3(a)	For endorsement on a license of widow, widower or family member etc	88	96	8	8.5
(4)	Sch 1 Part B item 3(b)	For endorsement on a license of additional premises	88	96	8	8.5
(5)	Sch 1 Part B item 3(c)	For endorsement on a license of substituted premises	88	96	8	8.5

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

	<u>Estimated Additional Revenue</u>	<u>Reference</u>
	\$	
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