

立法會 *Legislative Council*

LC Paper No. LS50/2022

Paper for the House Committee Meeting on 8 July 2022

Legal Service Division Report on Proposed Resolution under sections 24 and 25 of the Money Lenders Ordinance (Cap. 163)

The Secretary for Financial Services and the Treasury has given notice to move a motion at the Legislative Council (“LegCo”) meeting of 13 July 2022. The purpose of the motion is to seek LegCo’s approval to reduce the statutory interest rate limits specified in sections 24 and 25 of the Money Lenders Ordinance (Cap. 163).

2. Under section 24(1) of Cap. 163, a person (whether a money lender or not) commits an offence if the person lends or offers to lend money at an effective rate of interest which exceeds 60% per annum (“interest rate cap”). Under section 25(3) of Cap. 163, if the effective rate of interest in respect of an agreement for the repayment of a loan or for the payment of interest on a loan exceeds 48% per annum (“extortionate rate”), the transaction is, *prima facie*, presumed to be extortionate and may trigger reopening of the transaction by the court having regard to the relevant circumstances specified in section 25 of Cap. 163.¹

3. The proposed resolution seeks to reduce the interest rate cap from 60% per annum to 48% per annum, and the extortionate rate from 48% per annum to 36% per annum.

4. According to paragraphs 4 and 6 of the LegCo Brief (File Reference: CO/2/19/3C(2021)Pt.28) issued by the Financial Services Branch of the Financial Services and the Treasury Bureau (“FSTB”) on 15 June 2022, the interest rate cap and the extortionate rate were set at the current levels upon their introduction in 1980. FSTB has conducted a review of the two interest rates. Suggestions mentioned in the Consumer Council’s report on money lending published in 2019², the effective interest rates adopted by the local money lending sector, the relevant practices of comparable jurisdictions (e.g. Australia and Singapore) and related court judgements have been

¹ The relevant circumstances specified in section 25 of Cap. 163 include interest rate prevailing at the time when the transaction was made; the debtor’s age, experience, business capacity and state of health; the degree to which, at the time of entering into the transaction, the debtor was under financial pressure, and the nature of that pressure; the degree of risk accepted by the lender; and the lender’s relationship to the debtor, etc.

² Please refer to *Money Lending – Reforming Law and Trade Practices for Consumer Protection* published by the Consumer Council in 2019.

taken into account in formulating the amendment proposals in the proposed resolution. Members may refer to the LegCo Brief for further details.

5. According to paragraph 14 of the LegCo Brief, the Administration issued a letter to all licensed money lenders and, through the Hong Kong Monetary Authority, to the Hong Kong Association of Banks and the DTC Association in April 2021 and June 2022, conveying the amendment proposals of the interest rate cap and the extortionate rate. Major concerns of stakeholders were the magnitude of the rate reduction, implementation timeframe, and whether access to credit by borrowers with sub-standard personal credit records would be affected. According to the Administration, the views of the trade have been duly considered in finalizing the amendment proposals.

6. As advised by the Clerk to the Panel on Financial Affairs, the Administration briefed the Panel at its meeting on 3 May 2021 on the proposals to amend Cap. 163 to reduce the interest rate cap and the extortionate rate to 48% per annum and 36% per annum respectively. Members supported the proposals in general. In March 2022, the Administration provided an information paper (LC Paper No. CB(1)117/2022(05)) to the Panel on its plan to introduce into LegCo and implement the relevant legislative amendments to Cap. 163 within 2022. No member raised request for discussion of the proposals at the Panel meeting.

7. The proposed resolution, if passed, would come into operation on 30 December 2022.

8. No difficulties have been identified in relation to the legal and drafting aspects of the proposed resolution.

Prepared by

CHUI Ho-yin, Alvin
Assistant Legal Adviser
Legislative Council Secretariat
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