

## **LEGISLATIVE COUNCIL BRIEF**

Insurance Ordinance  
(Chapter 41)

### **INSURANCE (PRESCRIBED FEES) (AMENDMENT) REGULATION 2019**

#### **INTRODUCTION**

At the meeting of the Executive Council on 19 March 2019, the Council ADVISED and the Chief Executive ORDERED that the Insurance (Prescribed Fees) (Amendment) Regulation 2019 (“Amendment Regulation”) (at Annex A) should be made. This paper briefs Members on the Amendment Regulation to enable the Insurance Authority (“IA”) to collect new user fees to recover the cost of providing specific services.

#### **JUSTIFICATIONS**

2. As an independent regulatory body, the IA is financially and operationally independent of the Government. The IA is empowered to collect a levy on insurance premiums from policy holders and various fees including authorization fees from insurance companies, licence fees from insurance intermediaries<sup>1</sup> and user fees on specific services provided. The long-term target is that about 70% of the IA’s expenditure will be met by income from the levy and the remaining 30% by income from various fees.

3. Section 128 of the Insurance Ordinance (Cap. 41) (“IO”) stipulates, among other things, that the Chief Executive in Council (“CE-in-C”) may, after consulting the IA, by regulations provide for the payment to the IA of, and prescribe fees for anything done by the IA in

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<sup>1</sup> Licence fees payable by insurance intermediaries will be dealt with in the next stage, when the statutory regulatory regime for insurance intermediaries is in place.

performing a function under the IO. The regulations are subject to negative vetting by LegCo.

4. Relevant subsidiary legislation made by the CE-in-C previously has come into operation to enable the IA to collect levy on insurance premiums<sup>2</sup>, authorization fees<sup>3</sup> and user fees. On user fees, the first batch of 11 more frequently used service items has come into effect since the commencement of the Insurance Companies (Register of Insurers) (Prescribed Fee) (Amendment) Regulation 2017 on 26 June 2017. The levels of the first batch of fee items are set according to the operational experience of the then Office of the Commissioner of Insurance. For the remaining service items, the IA should conduct its own costing exercise after it has accumulated adequate operational experience.

### **Proposals**

5. The IA proposes to charge a second batch of 12 items of user fees to recover the costs of providing specific services as set out at **Annex B**. The proposed items cover mainly fees in relation to transfer of businesses and various modifications to the accounting requirements under different sections of the IO and apply primarily to insurance companies or their auditors. In determining the proposed fee levels, the IA has used the same computation methodology as that for the first batch of user fees, and such methodology is largely in line with the approach used by the Government.

### **THE REGULATION**

6. The Amendment Regulation at **Annex A** seeks to implement the proposals in paragraph 5 above. The main provisions are explained below –

- (a) Section 1 provides for the commencement date.
- (b) Section 3 provides for the time in which the prescribed fees must be paid to the IA.
- (c) Section 4 amends the Schedule to Cap. 41 sub. leg. B to –

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<sup>2</sup> Via the Insurance (Levy) Order and the Insurance (Levy) Regulation, which came into operation on 1 January 2018.

<sup>3</sup> Via the Insurance Companies (Authorization and Annual Fees) (Amendment) Regulation 2017, which came into operation on 26 June 2017.

- (i) introduce new fee items to the Schedule to Cap. 41 sub. leg. B.; and
- (ii) make textual amendments to Cap. 41 sub. leg. B.

## **LEGISLATIVE TIMETABLE**

7. The legislative timetable is as follows –

Publication in the Gazette	29 March 2019
Tabling before LegCo	3 April 2019

## **IMPLICATIONS OF THE PROPOSALS**

8. The proposals are in conformity with the Basic Law, including the provisions concerning human rights. The proposals will not affect the current binding effect of the IO. There are no financial or civil service implications to the Government, and no environmental, productivity, family, gender and sustainability implications. On economic implications, the proposed new user fee items would impose additional costs on authorized insurance companies, though the additional costs should be very insignificant as compared to their gross premium income.

## **MAINLAND RELATIONS AND RELATED PUBLIC RELATIONS MEASURES**

9. The proposals have no implication for Mainland relations. No related public relations measure is considered necessary.

## **PUBLIC CONSULTATION**

10. The IA has consulted the insurance industry on the proposals. The industry generally finds the proposed items and fee levels acceptable. We have issued an information paper to the LegCo Panel on Financial Affairs in December 2018. Panel Members did not raise any objections.

## **PUBLICITY**

11. A press release will be issued. A government spokesperson will be available to answer enquiries.

## **ENQUIRIES**

12. Enquiries relating to this brief can be addressed to Ms Noel Tsang, Principal Assistant Secretary for Financial Services and the Treasury (Financial Services), at 2810 2201.

**Financial Services and the Treasury Bureau**  
**27 March 2019**

**Insurance (Prescribed Fees) (Amendment) Regulation 2019**

(Made by the Chief Executive in Council under section 128(1) of the Insurance Ordinance (Cap. 41) after consultation with the Insurance Authority)

**1. Commencement**

- (1) Subject to subsection (2), this Regulation comes into operation on 27 May 2019.
- (2) Section 4(2) comes into operation on the day on which section 74 (in so far as it relates to the new section 64O(3)) of the Insurance Companies (Amendment) Ordinance 2015 (12 of 2015) comes into operation.

**2. Insurance (Prescribed Fees) Regulation amended**

The Insurance (Prescribed Fees) Regulation (Cap. 41 sub. leg. B) is amended as set out in sections 3 and 4.

**3. Section 2 substituted**

Section 2—

**Repeal the section**

**Substitute**

**“2. Fees**

A fee set out in column 4 of the Schedule must be paid to the Authority—

- (a) for a fee for obtaining a document or copy of a document—when the request for obtaining the document or copy is made;

- (b) for a fee for an application, notification or request—when the application, notification or request is made; or
- (c) for a fee for anything done by the Authority, in performing its function under section 4A(1) of the Ordinance in relation to a petition under section 24(1) of the Ordinance—when a copy of the petition is served on the Authority under section 24(3)(c) of the Ordinance.”.

**4. Schedule amended (fees)**

(1) The Schedule—

**Repeal item 1**

**Substitute**

“1. Section 5H(3)(a)	For obtaining each page of a copy of an entry in, or extract of, the register of authorized insurers ....	6”.
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(2) The Schedule, after item 7—

**Add**

“7A. Section 64O(3)(a)	For obtaining each page of a copy of an entry in, or extract of, the register of licensed insurance intermediaries .....	6
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- 7B. Section 64O(3)(b) For obtaining a copy of an entry in, or extract of, the register of licensed insurance intermediaries, certified by an authorized officer of the Authority as a true copy of the entry or extract ... 100”.
- (3) The Schedule, item 8, column 3, paragraph (a)—  
**Repeal**  
 “applies)”  
**Substitute**  
 “applies) of an authorized insurer”.
- (4) The Schedule, item 8, column 3, paragraph (b)—  
**Repeal**  
 “applies)”  
**Substitute**  
 “applies) of an authorized insurer”.
- (5) The Schedule, item 9, column 3, paragraph (a), after “an auditor”—  
**Add**  
 “of an authorized insurer”.
- (6) The Schedule, after item 12—  
**Add**

- “13. Section 128(1)(a)(ii) For requesting the Authority to waive the fee payable under section 13(1)(b) of the Ordinance ..... 2,000
14. Section 128(1)(a)(ii) For requesting the Authority to accept other standards as being comparable to the prescribed standards for the purposes of section 15C of the Ordinance 5,000
15. Section 128(1)(a)(ii) For requesting the Authority to extend the period within which the information required to be submitted under section 17(1) of the Ordinance must be deposited under section 20(1) of the Ordinance 2,000
16. Section 128(1)(a)(ii) For requesting the Authority to modify or vary under section 17(2) of the Ordinance the requirements of Schedule 3 to the Ordinance ..... 30,000

17.	Section 128(1)(a)(ii)	For requesting the Authority to authorize under section 22A(1) of the Ordinance an authorized insurer to maintain accounts of long term business carried on in or from Hong Kong .....	50,000
18.	Section 128(1)(a)(ii)	For anything done by the Authority, in performing its function under section 4A(1) of the Ordinance in relation to a petition under section 24(1) of the Ordinance served on it under section 24(3)(c) of the Ordinance (other than things in relation to which the court concerned may award costs to the Authority, for example, for costs relating to the engagement of external counsel or solicitors or both in relation to the petition) .....	300,000

19.	Section 128(1)(a)(ii)	For requesting the Authority to approve the terms and conditions attached to a letter of credit or other commitment from a bank under section 25C(1) of the Ordinance .....	5,000
20.	Section 128(1)(a)(ii)	For each application to the Authority for approval of a transfer under section 25D(1) of the Ordinance .....	300,000
21.	Section 128(1)(a)(ii)	For requesting the Authority to disclose information to an auditor or actuary of an authorized insurer to the extent permitted by section 53A(3)(f) of the Ordinance .....	2,000
22.	Section 128(1)(a)(ii)	For requesting the Authority to give consent to a person other than a non-profit making entity for the purposes of section 56A(1) of the Ordinance .....	5,000

23. Section 128(1)(a)(ii) For requesting the Authority to relax rules under section 130(1) of the Ordinance ..... 30,000”.

Clerk to the Executive Council

COUNCIL CHAMBER

2019

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**Explanatory Note**

This Regulation amends the Insurance (Prescribed Fees) Regulation (Cap. 41 sub. leg. B) (*principal Regulation*) to—

- (a) provide for the time in which the prescribed fees must be paid to the Insurance Authority;
- (b) introduce new fee items to the Schedule to the principal Regulation; and
- (c) make textual amendments to the principal Regulation.



**Annex B****List of New User Fee Items**

	<b>Section of the Insurance Ordinance (“IO”)</b>	<b>Service Items</b>	<b>Proposed Fee Levels (HK\$)</b>	<b>Corresponding Item Number under the Amended Cap. 41 sub. leg. b</b>
1.	Section 64O(3)	Obtaining copy or certified copy of entry or extract of the register of licensed insurance intermediaries under section 64O(3)(a) and (b) of the IO	6 per page (without certification)  100 plus 6 per page (with certification)	7A  7B
2.	Section 128(1)(a)(ii)	Application for waiver of annual fee under section 13(1)(b) of the IO where an authorized insurers does not intend to effect any contracts of insurance after any anniversary of its authorization date	2,000	13
3.	Section 128(1)(a)(ii)	Application for acceptance by the IA other actuarial standards as being comparable to the prescribed standards under section 15C of the IO	5,000	14
4.	Section 128(1)(a)(ii)	Extension of deadline for submission of accounts under section 20(1) of the IO	2,000	15
5.	Section 128(1)(a)(ii)	In relation to the submission of financial information, request for modifying or varying any of the requirements of Schedule 3 to the IO in relation to an authorized insurer in such respects and for such period as the IA and the insurer may agree under section 17(2) of the IO	30,000	16

	<b>Section of the Insurance Ordinance (“IO”)</b>	<b>Service Items</b>	<b>Proposed Fee Levels (HK\$)</b>	<b>Corresponding Item Number under the Amended Cap. 41 sub. leg. b</b>
6.	Section 128(1)(a)(ii)	Application by foreign insurers for maintaining separate accounts of long term business carried on in or from Hong Kong under section 22A(1) to the IO	50,000	17
7.	Section 128(1)(a)(ii)	Performance of the IA’s function in relation to a petition served on it for transfer of long term business under section 24(1) of the IO (other than performance for which court costs may be awarded to the IA, e.g. engaging external counsel or solicitors or both)	300,000	18
8.	Section 128(1)(a)(ii)	Obtaining approval from the IA of terms and conditions of a letter of credit or other commitment from a bank under section 25C(1) of the IO	5,000	19
9.	Section 128(1)(a)(ii)	Application for transfer of general business under section 25D(1) of the IO	300,000	20
10.	Section 128(1)(a)(ii)	Request for confirmation to an authorized insurer’s auditor about the authorization status and other matters relating to the insurer	2,000	21
11.	Section 128(1)(a)(ii)	Obtaining written consent from the IA for use of certain terms and representations associated with insurance under section 56A(1) of the IO	5,000	22

	<b>Section of the Insurance Ordinance (“IO”)</b>	<b>Service Items</b>	<b>Proposed Fee Levels (HK\$)</b>	<b>Corresponding Item Number under the Amended Cap. 41 sub. leg. b</b>
12.	Section 128(1)(a)(ii)	Request for relaxation of rules to be provided for determination of the value of the assets and the amount of the liabilities of an authorized insurer under section 130(1) of the IO	30,000	23