

Appendix F (i)

4 March 1992

His Excellency Lord Wilson of Tillyorn, GCMG,
Governor of Hong Kong.

Your Excellency,

Creation of a New Grade of Insolvency Officer

We have been invited by the Administration to advise, under Clause I(b) of our Terms of Reference, on a proposal to create a new grade of Insolvency Officer in the new Office of the Official Receiver, an independent agency to be established in mid 1992 for which the Secretary for Monetary Affairs would have policy responsibility.

Background

2. We were informed that following a review of the organisation and management of the Registrar General's Department (RGD) in 1987, the Administration concluded that some of the department's diverse and unrelated functions could be carried out more effectively by separate organisations. At that time, RGD was responsible for land registration and Government conveyancing, the administration of the Companies Ordinance, the regulation of the insurance industry, the administration of bankruptcies and company liquidations, official trusteeship and the registration of patents and trademarks. An Office of the Commissioner of Insurance was subsequently set up under the Monetary Affairs Branch to replace the Insurance Division of RGD and an Intellectual Property Department to replace the Trade Marks and Patents Registry. The functions of the Registrar General as the Official Solicitor, Official Trustee and Judicial Trustee were transferred to the Director of Legal Aid.

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3. In the case of the administration of bankruptcies and company liquidations which are the responsibilities of the Insolvency Division, it was decided that the Division should be detached from RGD to become an independent agency under the Monetary Affairs Branch and that a legal officer at directorate level (DL4) should assume the post of Official Receiver.

The Administration's Proposal

4. The Insolvency Division is currently staffed by Solicitors, Treasury Accountants and Assistant Registrars. The Administration proposed that upon the establishment of the Office of the Official Receiver, a new grade of Insolvency Officer should be created to replace the Assistant Registrar grade to reflect more accurately the specialised responsibilities and to implement a new system of overall case management. The continued use of the Assistant Registrar grade, which works in two other divisions of RGD, namely, the Land Division and the Companies Division, in the Insolvency Division is considered inappropriate because the duties of the Assistant Registrars there are fundamentally different from the registration work carried out by their counterparts in the other two divisions. These duties are complex and highly specialised and include identifying, protecting and realising assets, examining company accounts with a view to recovering debts, and negotiating with debtors and their solicitors over the recovery of debts.

5. The Assistant Registrar grade is currently a matriculation grade. The Administration advised that experience had shown that as insolvency work was complex and highly specialised involving a good understanding of the provisions of the Companies Ordinance, the Bankruptcy Ordinance and the Employment Ordinance, officers must have a high level of proficiency in both written and spoken English, be analytical, sensible and sharp, possess a basic level of commercial, legal and accounting knowledge, and be able to develop a sound understanding of operations and management in the industrial and commercial sectors. In most cases matriculants require much more training before they can handle their duties independently. They are also less versatile and less efficient than degree holders. Although Solicitors and Treasury Accountants provide expert advice where necessary, Assistant Registrars are front-line staff who deal with the day-to-day management of insolvency cases. The Administration therefore proposed that the

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minimum appointment requirement for the basic rank of Insolvency Officer II should be a Hong Kong or British Degree (preferably with accountancy or law as one of the subjects taken), or equivalent; or a pass at Level I and 5 papers (including Company Law) at Level II in the Chartered Association of Certified Accountants examinations, or equivalent; or a pass in all parts of the Institute of Chartered Secretaries and Administrators examinations, or equivalent.

6. The Insolvency Division is at present divided into six sections, namely, Administration of Estates, Litigation and Debt Collection, Dividend Distribution, Release and Special Assignments, Accountancy and Office Administration. The work is organised on the basis of functional specialisation and not by individual cases. The drawback of this arrangement is that management cannot effectively monitor the processing of individual cases and establish responsibility. There is also duplication of research into the background of cases whenever they are passed from one section to the next. Upon establishment of the new Office of the Official Receiver, the overall case management approach will be introduced to improve efficiency and to enable the Official Receiver to respond more effectively to demand for services and the changing needs of the business community. Insolvency Officers, as overall case managers, will be responsible for processing a case from start to finish and be held accountable for the outcome. Although the case managers will still need the specialist services of Solicitors and Treasury Accountants, the role of the latter two will be confined to their areas of professional expertise. Non-professional duties which they currently perform will be handled by the case managers. The overall case management approach therefore involves the assumption of important additional functions, the need to make more and more varied judgements and decisions and a higher level of responsibility and accountability. Officers of a higher calibre are required for the new grade.

7. The Administration proposed the following structure and pay scales for the new grade of Insolvency Officer:

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<u>Rank</u>	<u>Salary Scale</u>
Insolvency Officer II	MPS 16 - 27 (\$11,555 - \$19,405)
Insolvency Officer I	MPS 28 - 33 (\$20,320 - \$25,565)
Senior Insolvency Officer	MPS 34 - 44 (\$26,750 - \$41,165)
Chief Insolvency Officer	MPS 45 - 49 (\$42,655 - \$49,145)

The Commission's Observations

8. We note that of the 58 Assistant Registrars now serving in the Insolvency Division of RGD, 30 already have qualifications equivalent to those proposed for the new Insolvency Officer II rank. In addition, between six and ten officers will obtain the relevant qualifications in a year's time. Serving Assistant Registrars who do not possess the relevant qualifications but have the requisite years of experience in the Insolvency Division will also be considered for appointment to the new Insolvency Officer grade so that the new office will retain sufficient experienced staff. The Administration assured us that this would be a one-off exercise and applicants would have to go through the usual selection process.

9. We also note that insolvency work is different from and more complex than the other types of registration duties performed by the Assistant Registrar grade. Generally it takes a new appointee to the Insolvency Division three years to learn the trade before he can function without close supervision. Officers who have become conversant with the work of the Division are seldom transferred.

10. Furthermore, we note that in insolvency work, there are many issues and procedures in respect of which failure to take proper and timely action will have serious consequences such as loss of recoverable assets, wrongful disposal of assets which may result in claims by the party concerned, etc. Under the present arrangement of functional specialisation, Assistant Registrars are exposed to such dangers in respect of only one function. Following

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the adoption of the case management approach, they will be exposed to such risks in all functions throughout the processing of a case.

11. Finally, we note that the Administration has conducted a job factor analysis in respect of the proposed new grade and concluded that its structure and pay scales should follow the norm of the Degree and Related Grades Group.

The Commission's Recommendations

12. Having regard to the highly specialised nature of insolvency work, the considerable learning period, the need for staff continuity and the retention of experience, and the increase in the level of responsibility and accountability brought about by the new case management approach, we consider the proposed creation of a new grade of Insolvency Officer in the Degree and Related Grades Group appropriate. In view of the findings and conclusions of the job factor analysis conducted by the Administration, we recommend the following structure and pay scales for the new Grade:

<u>Rank</u>	<u>Salary Scale</u> <u>(MPS)</u>
Insolvency Officer II	16 - 27
Insolvency Officer I	28 - 33
Senior Insolvency Officer	34 - 44
Chief Insolvency Officer	45 - 49

13. If our recommendations are accepted, we propose that they should be implemented from a current date.

We have the honour to be
Your Excellency's obedient servants,

(Sidney Gordon)
Chairman
For and on behalf of
Members of the Standing Commission

1 June 1992

His Excellency Lord Wilson of Tillyorn, GCMG,
Governor of Hong Kong.

Your Excellency,

Creation of a New Grade of Land Conveyancing Officer

We have been invited by the Administration to advise, under Clause I(b) of our Terms of Reference, on a proposal to create a new grade of Land Conveyancing Officer in the Legal Advisory and Conveyancing Section which will be transferred from the Registrar General's Department (RGD) to the Buildings and Lands Department (B&LD).

Background

2. We were informed that RGD had been responsible for a wide range of activities, including land registration and Government conveyancing, the administration of the Companies Ordinance, the regulation of the insurance industry, the administration of bankruptcies and company liquidations, and the registration of companies, money lenders, patents and trade marks. Following a review of the department's organisation and management in 1987, the Administration had concluded that some of the department's functions could be carried out more effectively by separate organisations. Since then, an Office of the Commissioner of Insurance and an Intellectual Property Department have been set up to replace the Insurance Division and the Trade Marks and Patents Registry respectively. The functions of the Registrar General as Official Solicitor, Official Trustee and Judicial Trustee have been transferred to the Director of Legal Aid. The Insolvency Division will also become an independent agency.

3. The Land Office of RGD consists of the Land Registry and the Legal Advisory and Conveyancing Section (LACS), which is responsible for providing legal advice on Government land matters and conducts all Government property conveyancing. The former will become an independent agency and the latter will be transferred to B&LD.

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The Administration's Proposal

4. The Administration has informed us that in LACS, solicitors were responsible for legal matters and Assistant Registrars (ARs) for the following functions:

- (a) providing administrative support to legal officers in matters relating to the disposal, acquisition and administration of land and property, the enforcement of lease conditions and the administration of the Land Officer's Consent Scheme, under which grantees of land apply for the Land Officer's consent to proposed actions governed by their lease conditions, in particular, the pre-sale of uncompleted units in new developments;
- (b) processing the apportionment of Crown rents and premium under the Crown Rent and Premium (Apportionment) Ordinance and the recovery of outstanding Crown rents; and
- (c) office administration and supervision of supporting staff.

5. The duties of ARs in LACS will remain unchanged on their transfer to B&LD. However, the staff concerned will no longer be transferable to other divisions in RGD following the reorganisation of the department. As their duties will be confined to matters relating to property conveyancing, the Administration proposes to create a new grade of Land Conveyancing Officer. This move would be in line with the creation of specialist grades in the Intellectual Property Department, the Office of the Commissioner of Insurance and the Official Receiver's Office.

6. The Administration further proposes that like the Assistant Registrar grade, the new Land Conveyancing Officer (LCO) grade should be a matriculation grade. However, the ranks in the new grade should be reduced from five to four as follows:

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<u>Existing Assistant Registrar Grade</u>		<u>Proposed Land Conveyancing Officer Grade</u>	
<u>Rank</u>	<u>Pay Scales</u>	<u>Rank</u>	<u>Pay Scales</u>
Assistant Registrar II	MPS 12 - 27	Land Conveyancing Officer II	MPS 12 - 27
Assistant Registrar I	MPS 28 - 33	Land Conveyancing Officer I	MPS 28 - 33
Senior Assistant Registrar II	MPS 34 - 39	Senior Land Conveyancing Officer	MPS 34 - 44
Senior Assistant Registrar I	MPS 40 - 44		
Chief Assistant Registrar	MPS 45 - 49	Chief Land Conveyancing Officer	MPS 45 - 49

7. The main justification put forward by the Administration for merging the existing ranks of Senior Assistant Registrar II (SAR II) (MPS 34 - 39) and Senior Assistant Registrar I (SAR I) (MPS 40 - 44) into a new rank of Senior Land Conveyancing Officer (SLCO) (MPS 34 - 44) is that while SARs II and SARs I previously performed different duties, these differences have gradually diminished as Government land transactions become more diverse and sophisticated. In addition to handling routine case-work and ensuring the efficient management of the various districts and sections, SARs II are now required to carry out more complex duties. These include drafting amendments to Government land documentation, devising procedures for implementing changes to the Land Officer's Consent Scheme, formulating new procedures for the apportionment of Crown rents in the New Territories, and revising the procedures relating to the execution of Government land grant documents and the surrender and resumption of private land. These duties are as important and complex as those performed by SARs I. Furthermore, SARs II now operate fairly independently, with little or no supervision by SARs I. Problems encountered in the districts are often resolved by SARs II. As SARs I and II are performing duties of equal complexity and responsibility, combining the two ranks will simplify the management structure of the new office, streamline its procedures, improve the flow of communication and speed up decisions.

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Commission's Observations and Recommendations

8. Since ARs working in LACS will no longer be transferable to other posts within RGD following the absorption of the section by B&LD, we consider it logical to create a new grade which will reflect appropriately the duties of the staff concerned.

9. As the duties of the new grade of Land Conveyancing Officer will remain unchanged, we support the Administration's proposal that it should remain a matriculation grade.

10. As regards the Administration's proposal to merge the existing ranks of SAR II and SAR I to form a single rank of SLCO, we note that the following major developments in the past few years have made the duties of SARs II more complex:

- (a) the Committee on Property Transaction set up by the Consumer Council has conducted a "Study on the Disclosure of Information to Prospective Purchases of Uncompleted Units" and made a number of recommendations which have been accepted by the Administration. LACS is required to implement these recommendations through the Land Officer's Consent Scheme;
- (b) a number of measures have been introduced through the Land Officer's Consent Scheme to reduce property speculation;
- (c) the Stamp Duty Ordinance has also been amended to discourage speculation in uncompleted developments;
- (d) LACS is responsible for the documentation of the unique and unprecedented land grants forming part of the Port and Airport Development Strategy (PADS) project;
- (e) LACS is required to prepare returns for and scrutinise papers for consideration by the Sino-British Land Commission; and
- (f) LACS has to set up the procedures for implementing vesting and resumption proposals made by the Land Development Corporation.

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11. We also note that the duties of SARs II are at present organised in such a way that each SAR II deals with either conveyancing or legal advisory work. In the proposed organisation, SLCOs will have to handle both conveyancing and legal advisory functions and be directly responsible to the Chief Land Conveyancing Officer. According to the Administration, if the existing ranking structure and division of responsibilities were to continue, 2 SAR I and 10 SAR II posts would be required. However, if these duties were performed by a single rank of SLCO, only 10 such posts would be required, as the management structure would be simplified and the procedures streamlined. The Administration also confirmed that in general SARs II had acquired sufficient experience to handle the duties of SLCO through the increased demands placed on them in the past few years.

12. We are of the view that the ranking structure of a grade should be determined by functional and operational needs. We further note that while most grades in the Matriculation Grades group have a five-tier structure, three have a four-tier structure and their third tiers are set at MPS 34-44.

13. In view of the justifications set out in paragraph 7 and our further observations in paragraphs 10 to 12 above, we support the merging of the SAR II and SAR I ranks to form a new rank of SLCO.

14. The proposed pay scales for the other three ranks of the Land Conveyancing Officer grade are in line with the general pattern in the Matriculation Grades group. We also note that the Administration has conducted a job factor analysis and concluded that no other factors should be reflected in the pay scale. We therefore agree with the pay scale proposed for the new grade.

15. In summary, we support the Administration's proposal for the creation of a new grade of Land Conveyancing Officer in the Matriculation Grades group with the following structure and pay scales:

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<u>Rank</u>	<u>Pay Scales</u>
Land Conveyancing Officer II	MPS 12 - 27
Land conveyancing Officer I	MPS 28 - 33
Senior Land Conveyancing Officer	MPS 34 - 44
Chief Land Conveyancing Officer	MPS 45 - 49

16. If our recommendations are accepted, we propose that they should be implemented from a current date.

We have the honour to be
Your Excellency's obedient servants,

(Sidney Gordon)
Chairman
For and on behalf of
Members of the Standing Commission