EXAMINATION OF ESTIMATES OF EXPENDITURE 2013-14

CONTROLLING OFFICER’S REPLY TO INITIAL WRITTEN QUESTION

Head: 116 Official Receiver’s Office
Subhead (No. & title):

Programme: Official Receiver’s Office
Controlling Officer: Official Receiver
Director of Bureau: Secretary for Financial Services and the Treasury

Question:
In 2013-14, the Official Receiver’s Office will continue to provide support for the Financial Services and the Treasury Bureau in formulating legislative proposals to improve the corporate insolvency regime and introducing a statutory corporate rescue procedure. What are the details and the estimated expenses involved?

Asked by: Hon. CHAN Ka-lok, Kenneth

Reply:
In early 2012, the Financial Services Branch of the Financial Services and the Treasury Bureau and the Official Receiver’s Office (“ORO”) have commenced a corporate insolvency law improvement exercise. The objectives of the exercise are to facilitate more efficient administration of the winding-up process and increase protection of creditors through streamlining and rationalising the company winding-up procedures and enhancing regulation of the winding-up process having regard to international experience.

The Legislative Council Panel on Financial Affairs (“FA Panel”) was consulted on the commencement of the exercise in November 2011. An Advisory Group comprising representatives from the business and financial sectors, relevant professions, private insolvency practitioners, the academics sector, members of the Standing Committee on Company Law Reform as well as the Government has been set up to provide useful technical inputs and expert advice to the Government on the legislative proposals. The Advisory Group has completed its work recently. We plan to consult the public and also the FA Panel on the legislative proposals in the second quarter of this year, and introduce the relevant Bill into the Legislative Council within the present term.

We also plan to take forward the proposals of a new corporate rescue procedure and insolvent trading provisions as part of the above legislative exercise. A public consultation on the conceptual framework and a number of specific issues on these proposals was conducted in late 2009. We have been studying various relevant key issues and working further on the detailed legislative proposals. We will further seek views from the stakeholders on the detailed legislative proposals.

The related expenses will be absorbed from within our existing resources. We do not have a separate breakdown.

Name in block letters: Ms. Teresa S W Wong
Post Title: Official Receiver
Date: 27.3.2013
CONTROLLING OFFICER’S REPLY TO INITIAL WRITTEN QUESTION

Head: 116 Official Receiver’s Office
Subhead (No. & title): Official Receiver’s Office

Question:
Why is it necessary for the Official Receiver’s Office to contract out various items of work to the private sector? How will the government monitor its effectiveness and quality of the outsourced work?

Asked by: Hon. CHEUNG Wah-fung, Christopher

Reply:
Because of the economic downturn since the Asia financial crisis in 1998, the number of liquidation and bankruptcy cases increased substantially from a low figure of 1 616 in 1998 to a record high of 26 620 cases in 2002. The figure gradually went down after 2003 and maintained at around 9 000 to 10 000 per year since 2005, with some upward fluctuations in 2009 due to the financial tsunami.

To cope with the increase in the number of liquidation and bankruptcy cases, the Official Receiver’s Office (ORO) has outsourced the following types of work to practitioners in the private sectors (PIPs):

(a) summary liquidation cases;
(b) non-summary liquidation cases;
(c) preliminary examination of bankrupts; and
(d) debtor-petition summary bankruptcy cases.

It allows the ORO to deal with the increase in the number of cases without corresponding increase in its staff establishment. It has also facilitated building a pool of qualified and experienced liquidation / bankruptcy professionals in the private sector.

The ORO monitors the performance of PIPs and the quality of the outsourced cases through the following measures:

(a) monitoring the milestones of the cases such as application for summary procedure orders and release orders, etc.;
(b) checking and auditing trustees’ or liquidators’ accounts of receipts and payments;
(c) investigating and taking action (where appropriate) on complaints received against PIPs;
(d) conducting periodic quality audit of the preliminary examination work of PIPs;
(e) conducting quality audit of 10% of the outsourced debtor-petition summary bankruptcy cases;
(f) checking the annual statements of proceedings for bankruptcy cases; and
(g) monitoring funds paid into the Companies Liquidation Account for liquidation cases.

Name in block letters: Ms. Teresa S W Wong
Post Title: Official Receiver
Date: 27.3.2013
Question:

Regarding the departmental records management work over the past three years (2010-11, 2011-12, 2012-13):

1. Please provide information on the number and rank of officers designated to perform such work. If there is no officer designated for such work, please provide information on the number of officers and the hours of work involved in records management duties, and the other duties they have to undertake in addition to records management;

2. Please list in the table below information on programme and administrative records which have been closed pending transfer to the Government Records Service (GRS) for appraisal:

<table>
<thead>
<tr>
<th>Category of records</th>
<th>Years covered by the records</th>
<th>Number and linear metres of records</th>
<th>Retention period approved by GRS</th>
<th>Are they confidential documents</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. Please list in the table below information on programme and administrative records which have been transferred to GRS for retention:

<table>
<thead>
<tr>
<th>Category of records</th>
<th>Years covered by the records</th>
<th>Number and linear metres of records</th>
<th>Years that the records were transferred to GRS</th>
<th>Retention period approved by GRS</th>
<th>Are they confidential documents</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4. Please list in the table below information on records which have been approved for destruction by GRS:

<table>
<thead>
<tr>
<th>Category of records</th>
<th>Years covered by the records</th>
<th>Number and linear metres of records</th>
<th>Years that the records were transferred to GRS</th>
<th>Retention period approved by GRS</th>
<th>Are they confidential documents</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

As asked by: Hon. HO Sau-lan, Cyd
Reply:

1. The day-to-day records management activities and the workload for implementing records management initiatives are absorbed by existing manpower. Among them, we have designated a Chief Executive Officer as the Departmental Records Manager and one Executive Officer I as the Assistant Departmental Records Manager to coordinate records management issues.

2. Information on the programme and administrative records which have been closed pending transfer to the Government Records Service (GRS) for appraisal over the past 3 years (2010-11, 2011-12 and 2012-13) are:

<table>
<thead>
<tr>
<th>Category of records</th>
<th>Years covered by the records</th>
<th>Number and linear metres of records</th>
<th>Retention period approved by GRS</th>
<th>Are they confidential documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative records</td>
<td>2009-2012</td>
<td>6 files / 0.03 lm</td>
<td>2 to 3 years</td>
<td>No</td>
</tr>
<tr>
<td>Programme records</td>
<td>1986-2011</td>
<td>22 945 files / 340 lm</td>
<td>2 years</td>
<td>No</td>
</tr>
</tbody>
</table>

3. Information on the programme and administrative records which have been transferred to the GRS for retention over the past 3 years are:

<table>
<thead>
<tr>
<th>Category of records</th>
<th>Years covered by the records</th>
<th>Number and linear metres of records</th>
<th>Years that the records were transferred to GRS</th>
<th>Retention period approved by GRS</th>
<th>Are they confidential documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Programme records</td>
<td>1988-1995</td>
<td>62 files / 7.3 lm</td>
<td>2012</td>
<td>Permanent retention</td>
<td>No</td>
</tr>
</tbody>
</table>

4. Information on records which have been approved for destruction by GRS over the past 3 years are:

<table>
<thead>
<tr>
<th>Category of records</th>
<th>Years covered by the records</th>
<th>Number and linear metres of records</th>
<th>Years that the records were transferred to GRS</th>
<th>Retention period approved by GRS</th>
<th>Are they confidential documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative records</td>
<td>1992-2009</td>
<td>226 files/11.3 lm</td>
<td>N/A</td>
<td>2 to 4 years</td>
<td>No</td>
</tr>
<tr>
<td>Programme records</td>
<td>1963-2004</td>
<td>15 998 files/450 lm</td>
<td>N/A</td>
<td>2 to 3.5 years</td>
<td>No</td>
</tr>
</tbody>
</table>

Name in block letters: Ms. Teresa S W Wong
Post Title: Official Receiver
Date: 27.3.2013
Examination of Estimates of Expenditure 2013-14

CONTROLLING OFFICER’S REPLY TO INITIAL WRITTEN QUESTION

Head: 116 Official Receiver’s Office
Subhead (No. & title):
Programme: Official Receiver’s Office
Controlling Officer: Official Receiver
Director of Bureau: Secretary for Financial Services and the Treasury

Question:
The increase of $14.1 million (10.0%) in the 2013-14 estimate is mainly due to the increased provision for hire of services and professional fees. In this regard, will the Administration inform this Committee of the following:

1. Are the professional fees mentioned above a new item of expenditure or an item of recurrent expenditure? Please set out the items and information of the fees in detail. What is the purpose of the increase?

2. What are the proportions of civil servants, non-civil service contract staff, agency workers and outsourced workers in the Official Receiver’s Office (‘the ORO’) for the past 3 years (2010-11, 2011-12 and 2012-13)?

3. For the past 3 years (2010-11, 2011-12 and 2012-13), what is the amount of fees involved in the outsourced work and what is the ratio of that amount to the expenditure of the ORO? The ORO is a permanent department but various items of its work have been contracted out to the private sector for many years. Please explain why the work cannot be done by civil servants. Will the Administration consider recruiting additional civil servants to take over the work concerned?

Asked by: Hon. KWOK Wai-keung

Reply:

1. “Hire of services and professional fee” is a recurrent expenditure item. However, the annual expenditure under this item is subject to various factors, for example the differences in the requirements for engaging outside counsel for different bankruptcy and winding-up cases. The increased provision of $14,613,000 in the 2013-14 estimate is mainly due to the expected increase in litigation costs and additional expenditure to engage outside counsel to provide legal advice and to appear in bankruptcy and winding-up proceedings. ORO will also hire legal, accounting and supporting services to strengthen the monitoring of private practitioners and to step up investigation and prosecution of bankruptcy and winding-up related offences.

2 & 3. Because of the economic downturn since the Asia financial crisis in 1998, the number of bankruptcy and winding-up cases increased substantially from a low figure of 1,616 in 1998 to a record high of 26,620 cases in 2002. The figure gradually went down after 2003 and maintained at around 9,000 to 10,000 per year since 2005, with some upward fluctuations in 2009 due to the financial tsunami.
To cope with the increase in the number of bankruptcy and winding-up cases, the ORO has adopted various schemes to outsource part of its work in administering bankruptcy and winding-up cases to practitioners in the private sectors. It allows the ORO to deal with the increase in the number of cases without corresponding increase in its staff establishment. It has also facilitated building a pool of qualified and experienced bankruptcy / winding-up professionals in the private sector. Therefore, the outsourcing schemes remain an effective tool for ORO to manage its workload and develop the bankruptcy / winding-up professional sector.

The amount of fees for work contracted out to the private sector and the ratio of that amount to the expenditure of the ORO are set out as follows.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount of fees ($)</td>
<td>1,700,000</td>
<td>1,430,000</td>
<td>800,000</td>
</tr>
<tr>
<td>Ratio to ORO’s total expenditure</td>
<td>1.4%</td>
<td>1.1%</td>
<td>0.8%</td>
</tr>
</tbody>
</table>

Under ORO’s outsourcing schemes, ORO directly engage the practitioners in administering bankruptcy and winding-up cases. Therefore, it does not keep track of the employees engaged by the practitioners. The proportions of civil servants and non-civil service staff are set out as follows.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil servants</td>
<td>77.9%</td>
<td>78.4%</td>
<td>78.1%</td>
</tr>
<tr>
<td>Non-civil service staff</td>
<td>22.1%</td>
<td>21.6%</td>
<td>21.9%</td>
</tr>
</tbody>
</table>

Name in block letters: Ms. Teresa S W Wong
Post Title: Official Receiver
Date: 27.3.2013
Head: 116 Official Receiver’s Office
Subhead (No. & title):
Programme: Official Receiver’s Office
Controlling Officer: Official Receiver
Director of Bureau: Secretary for Financial Services and the Treasury

Question:
Regarding the following work, what are the respective estimated numbers of cases to be outsourced by the Official Receiver’s Office (ORO) to practitioners in the private sector (PIPs) in 2013-14? What are the respective percentage changes as compared with that of last year?
(a) non-remunerative and summary liquidation cases;
(b) non-summary liquidation cases;
(c) preliminary examination of bankrupts; and
(d) debtor-petition summary bankruptcy cases.

Asked by: Hon. LEE Wai-king, Starry

Reply:
Under ORO’s existing policy, the vast majority of compulsory liquidation cases and about 25% of debtor-petition summary bankruptcy cases are outsourced to PIPs. For bankruptcy cases which are not outsourced, PIPs are engaged to conduct preliminary examination of bankrupts. With reference to the number of liquidation and bankruptcy cases in previous years, the estimated number of cases to be outsourced to PIPs in 2013-14, and the comparative figures for 2012-13 are as follows:

<table>
<thead>
<tr>
<th>Type of work</th>
<th>No. of cases in 2012-13 (Estimated)</th>
<th>No. of cases in 2013-14 (Estimated)</th>
<th>Percentage change (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Non-remunerative and summary liquidation cases</td>
<td>298</td>
<td>309</td>
<td>+3.7</td>
</tr>
<tr>
<td>(b) Non-summary liquidation cases</td>
<td>14</td>
<td>14</td>
<td>no change</td>
</tr>
<tr>
<td>(c) Preliminary examination of bankrupts</td>
<td>6,203</td>
<td>5,970</td>
<td>-3.8</td>
</tr>
<tr>
<td>(d) Debtor-petition summary bankruptcy cases</td>
<td>1,875</td>
<td>2,000</td>
<td>+6.7</td>
</tr>
</tbody>
</table>

Name in block letters: Ms. Teresa S W Wong
Post Title: Official Receiver
Date: 27.3.2013

Session 3 FSTB(FS)
Examination of Estimates of Expenditure 2013-14

CONTROLLING OFFICER’S REPLY TO INITIAL WRITTEN QUESTION

Head: 116 Official Receiver’s Office
Subhead (No. & title): Programme: Official Receiver’s Office
Controlling Officer: Official Receiver
Director of Bureau: Secretary for Financial Services and the Treasury

Question:
How many complaints against practitioners in the private sector (PIPs) did the Official Receiver’s Office (ORO) receive in each of the past five years (i.e. from 2008-09 to 2012-13)? What were the final results of these complaints handled? Please provide a breakdown by type of complainants (i.e. creditor or bankrupt) and reasons of complaints.

Asked by: Hon. LEE Wai-king, Starry

Reply:
The ORO received a total of 73 complaints against PIPs during the period from 2008-09 to 2012-13 (up to February 2013). A breakdown by year and by type of complainants is as follows:

<table>
<thead>
<tr>
<th>Nature of cases</th>
<th>Type of Complainants</th>
<th>Nature of Complaints</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
<th>2011-12</th>
<th>2012-13 (up to Feb. 2013)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Creditors</td>
<td>Conflict of interest</td>
<td>1</td>
<td>5</td>
<td>7</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Delay in proceedings</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Disputes with PIPs</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Excessive fees</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Failure to comply with statutory requirements</td>
<td></td>
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<td></td>
<td>Failure to respond to enquiries</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>Conflict of interest</td>
<td>0</td>
<td>5</td>
<td>7</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Delay in proceedings</td>
<td></td>
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<td></td>
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<td></td>
<td></td>
<td>Disputes with PIPs</td>
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<td>Failure to comply with statutory requirements</td>
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<td>Failure to comply with tender requirements</td>
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<td>Failure to respond to enquiries</td>
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<tr>
<td></td>
<td></td>
<td>Misconduct</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Bankruptcy</td>
<td>Creditors</td>
<td>Delay in proceedings</td>
<td>Disputes with PIPs</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Bankrupts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bankrupts</td>
<td>Disputes with PIPs</td>
<td>Excessive fees</td>
<td>Failure to respond to enquiries</td>
<td>Manner in communicating with the bankrupts</td>
<td>6</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>Others</td>
<td>Delay in proceedings</td>
<td>Disputes with PIPs</td>
<td>Failure to comply with statutory requirements</td>
<td>Failure to respond to enquiries</td>
<td>1</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>9</td>
<td>18</td>
<td>22</td>
</tr>
</tbody>
</table>

Out of the above complaints, the ORO has completed investigation on 53 cases, out of which 5 cases were substantiated or partially substantiated. Two substantiated complaints involved substandard performance and misconduct of the PIPs, who were accordingly removed from acting as liquidators in the relevant cases by the court on ORO’s applications. Disqualification order from the court was also obtained by ORO against the PIP of one substantiated complaint for disqualifying him from acting as a liquidator for a specified period. For the other less serious cases, ORO had issued warning letters to the PIPs concerned.

One complaint was withdrawn by the complainant and the investigation on the remaining 19 complaints is underway.

Name in block letters: Ms. Teresa S W Wong
Post Title: Official Receiver
Date: 27.3.2013
Head: 116 Official Receiver’s Office  
Subhead (No. & title):  
Programme: Official Receiver’s Office  
Controlling Officer: Official Receiver  
Director of Bureau: Secretary for Financial Services and the Treasury

Question:

In each of the past three years (i.e. from 2010-11 to 2012-13), what were the respective numbers of cases where the Official Receiver (OR) was appointed as the liquidator or trustee by the court or creditors? What were the respective amounts of maximum and minimum actual operating costs per case? In order to achieve full cost recovery, the Official Receiver’s Office’s (ORO) fees charging mechanism allows cross-subsidisation. In this connection, what were the numbers of cases where the fees charged were higher than the actual operating costs and the total amounts of the difference involved?

Asked by: Hon. LEE Wai-king, Starry

Reply:

The numbers of cases for which the OR was appointed as trustee or liquidator for the years from 2010-11 to 2012-13 (based on the date of appointment) are as follows:-

<table>
<thead>
<tr>
<th>Year</th>
<th>Appointed as Trustee</th>
<th>Appointed as Liquidator</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-11</td>
<td>6,610</td>
<td>2</td>
</tr>
<tr>
<td>2011-12</td>
<td>4,575</td>
<td>2</td>
</tr>
<tr>
<td>2012-13 (up to February 2013)</td>
<td>3,984</td>
<td>-</td>
</tr>
</tbody>
</table>

The OR has largely not taken on the role as liquidator in compulsory liquidation cases in recent years. Practitioners in the private sector serve as liquidator in the vast majority of these cases.

In respect of the OR acting as trustee in bankruptcy cases or as liquidator in compulsory liquidation cases, the operating costs differ considerably from case to case, depending on the complexity of the case concerned. Relevant factors include the amount of work involved in the realization of assets and the distribution of dividends to creditors, whether additional legal input or investigation is required, etc.

It has been ORO’s established practice to levy fees and charges for the provision of insolvency services without reference to the actual time spent in any particular case. In general, the vast majority of insolvency cases administered by ORO are non-remunerative cases, which means there are no or inadequate assets to cover the costs incurred by ORO in administering these cases. On the other hand, the fees and charges collected in remunerative insolvency cases are higher than the actual costs incurred by ORO to administer these cases. This fee charging approach is intended to help ensure that ORO achieves full cost recovery in the provision of services. In 1987, Legislative Council passed legislative amendments to both Bankruptcy Ordinance and Companies Ordinance to expressly provide for ORO to levy fees for the recovery of costs generally without reference to the administrative or other costs incurred in any particular case.
We do not keep separate statistics on the actual operating costs of individual cases. Therefore, we do not have information on the maximum and minimum actual operating costs per case, the number of cases where the fees were higher than the actual operating costs cases, and the total amounts of the difference involved.

Name in block letters: Ms. Teresa S W Wong
Post Title: Official Receiver
Date: 27.3.2013
Head: 116 Official Receiver’s Office  
Subhead (No. & title): Programme: Official Receiver’s Office  
Controlling Officer: Official Receiver  
Director of Bureau: Secretary for Financial Services and the Treasury  

Question:

According to the numbers of new cases shown under Indicators, bankruptcy cases are on the rise every year. In this regard, will the Administration inform this Committee of:

(a) the age distribution and gender of the bankruptcy petitioners or the bankrupts over the past 5 years (i.e. from 2008 to 2012)?

(b) the amount of indebtedness and sources of debts (e.g. credit cards, mortgages, income shortfall) of the bankruptcy cases as well as the types of creditors (e.g. the government, banks, financial companies, personal debts) over the past 5 years (i.e. from 2008 to 2012)?

(c) whether the Administration will consider establishing a relevant database if the above information is unavailable?

Asked by: Hon. TANG Ka-piu

Reply:
(a) & (b) Based on statistical information collected in bankruptcy cases with bankruptcy orders made during the period from 2008 to 2012, the distributions of age and liabilities of the bankrupts are as follows:

<table>
<thead>
<tr>
<th>Age of Bankrupts</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>30 or below</td>
<td>17.69%</td>
</tr>
<tr>
<td>31-40</td>
<td>25.57%</td>
</tr>
<tr>
<td>41-50</td>
<td>30.35%</td>
</tr>
<tr>
<td>51 or above</td>
<td>26.39%</td>
</tr>
<tr>
<td>Total</td>
<td>100.00%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Liabilities of Bankrupts</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>$200,000 or below</td>
<td>36.74%</td>
</tr>
<tr>
<td>above $200,000 - $400,000</td>
<td>38.69%</td>
</tr>
<tr>
<td>above $400,000 - $600,000</td>
<td>11.77%</td>
</tr>
<tr>
<td>above $600,000 - $800,000</td>
<td>4.44%</td>
</tr>
<tr>
<td>above $800,000 - $1,000,000</td>
<td>2.04%</td>
</tr>
<tr>
<td>above $1,000,000 - $2,000,000</td>
<td>3.21%</td>
</tr>
<tr>
<td>above $2,000,000 - $6,000,000</td>
<td>1.92%</td>
</tr>
<tr>
<td>above $6,000,000</td>
<td>1.19%</td>
</tr>
<tr>
<td>Total</td>
<td>100.00%</td>
</tr>
</tbody>
</table>
Besides the above, the Official Receiver’s Office (ORO) also keeps separate statistics of the age, liabilities, monthly income, residence type and cause of bankruptcy of the bankrupts. However, it has not kept separate statistics on the gender and sources of debt of the bankrupts, and the types of creditors involved.

(c) The ORO regularly keeps its service under review and will explore the feasibility of keeping separate statistics on the gender and sources of debt of the bankrupts, and the types of creditors involved.

Name in block letters: Ms. Teresa S W Wong
Post Title: Official Receiver
Date: 27.3.2013
Examination of Estimates of Expenditure 2013-14

CONTROLLING OFFICER’S REPLY TO INITIAL WRITTEN QUESTION

Reply Serial No. FSTB(FS)119

Question Serial No. 1927

Head: 116 Official Receiver’s Office

Subhead (No. & title):
Programme: Official Receiver’s Office

Controlling Officer: Official Receiver

Director of Bureau: Secretary for Financial Services and the Treasury

Question:

In 2013-14, the Official Receiver’s Office plans to continue to contract out four items of work, including summary liquidation cases, non-summary liquidation cases, preliminary examination of bankrupts and a certain number of debtor-petition summary bankruptcy cases to practitioners in the private sector. In this regard, will the Administration inform this Committee of the effectiveness of outsourcing each of the above four items of work (including manpower, provision of expenditure and time saved and expected to be saved) over the past five financial years (from 2008-09 to 2012-13) and in the year 2013-14?

Asked by: Hon. TIEN Pei-chun, James

Reply:

The average number of liquidation and bankruptcy cases per year has increased from 1,616 in 1998 to around 9,000 to 10,000 in the past few years. Implementation of the outsourcing schemes enables the Official Receiver’s Office (ORO) to make use of the private sector expertise to alleviate its increasing workload arising from the upsurge in the liquidation and bankruptcy cases without corresponding increase in its staff establishment. The schemes also help enhance the expertise of the liquidation / bankruptcy sector in the process.

The Companies Ordinance (Cap. 32) and Bankruptcy Ordinance (Cap. 6) stipulate the relevant requirements for the administration of liquidation and bankruptcy cases. As the amount of work and time involved in administering those cases vary considerably, depending on the legal and practical complexity of individual cases and the amount of investigation required and work involved in the realization of assets and distribution of dividends to creditors, it is very difficult to estimate the costs that would have been incurred by the Government if those cases had been administered by the ORO instead of being outsourced. On the other hand, it should also be noted that ORO performs certain monitoring and regulatory roles in regard to the performance of practitioners in the private sector under the outsourcing schemes. In overall terms, it is difficult to estimate the savings in manpower and expenditure for outsourcing the administration of summary and non-summary liquidation and debtor-petition summary bankruptcy cases.

As for the outsourcing of preliminary examination of bankrupts, because the work and time involved in each case are rather similar, we are able to work out the average time savings per case which is about 1.5 man-hours. The estimated amount of time saved over the past five financial years (from 2008-09 to 2012-13) is about 54,774 man-hours. Based on the assumption that there will be 8,400 new bankruptcy cases in the year 2013-14, the number of cases to be outsourced will be around 5,970 and the expected saving in this regard will be about 8,955 man-hours during the year.

Name in block letters: Ms. Teresa S W Wong

Post Title: Official Receiver

Date: 27.3.2013

Session 3 FSTB(FS)
Examination of Estimates of Expenditure 2013-14

CONTROLLING OFFICER’S REPLY TO INITIAL WRITTEN QUESTION

Reply Serial No. FSTB(FS)120

Question Serial No. 1928

Head: 116 Official Receiver’s Office
Subhead (No. & title): 000 Operational Expenses

Programme: Official Receiver’s Office

Controlling Officer: Official Receiver

Director of Bureau: Secretary for Financial Services and the Treasury

Question:

Why is it that “Hire of services and professional fees” of the Official Receiver’s Office increased from $4,080,000 in 2011-12 to $7,524,000 in the revised estimate for 2012-13, and further increased to $14,613,000 in the estimate for 2013-14? Has the Administration assessed the effectiveness generated by such expenses? If yes, what are the details? If not, what are the reasons?

Asked by: Hon. TIEN Pei-chun, James

Reply:

The increase in the Official Receiver’s Office (ORO)’s expenditures for “Hire of services and professional fees” is mainly due to the expected increase in litigation costs and additional expenditure to engage outside counsel to provide legal advice and to appear in bankruptcy and winding-up proceedings. ORO will also hire legal, accounting and supporting services to strengthen the monitoring of private practitioners and to assist in the investigation and prosecution of bankruptcy and winding-up related offences.

The majority of the expenses are for engaging outside legal services. These services are required because court proceedings taken out by or against the ORO are often complex involving interpretation or application of different laws, so that obtaining outside legal opinion and sometimes a second legal opinion may be necessary.

As for the hire of accounting and supporting services, the agency staff hired have effectively assisted ORO to complete 2 445 audits and examinations of accounts submitted by private practitioners from July 2012 up to 28 February 2013 and processed 8 590 release cases during the same period.

ORO will assess the effectiveness of professional services and other services hired by the department on a regular basis.

Name in block letters: Ms. Teresa S W Wong
Post Title: Official Receiver
Date: 27.3.2013

Session 3 FSTB(FS)
Examination of Estimates of Expenditure 2013-14

CONTROLLING OFFICER’S REPLY TO
ORAL QUESTION

Head: 116 Official Receiver’s Office
Programme: Official Receiver’s Office
Controlling Officer: Official Receiver
Director of Bureau: Secretary for Financial Services and the Treasury

Question:

Pursuant to reply no. FSTB(FS)011, the Administration is requested to provide information on the studies that would be conducted, either internally or through consultants, on corporate insolvency regime and the introduction of a statutory corporate rescue procedure.

Asked by: Hon. HO Chun-yan, Albert

Reply:

Financial Services and the Treasury Bureau and the Official Receiver’s Office (ORO) plan to launch a public consultation exercise on legislative proposals to improve the corporate insolvency law in the second quarter of this year. In parallel, we are also studying various relevant key issues in respect of the proposed corporate rescue procedure and working further on the detailed legislative proposals, having regard to the public consultation in late 2009.

Legal research on the relevant law and procedures and comparable studies of other jurisdictions such as the UK and Australia are conducted in-house by legal officers in ORO. Reference has also been made, where appropriate, to the relevant studies and recommendations of the Law Reform Commission as contained in its “Report on the Winding-up Provisions of the Companies Ordinance” and “Report on Corporate Rescue and Insolvent Trading”. ORO has no plan at present to engage consultants to assist its work in this regard.

Name in block letters: Ms. Teresa S W Wong
Post Title: Official Receiver
Date: 15.4.2013

Session 3 FSTB(FS)
According to the Reply Serial No. FSTB (FS) 112, the Official Receiver’s Office (ORO) also keeps separate statistics of the age, liabilities, monthly income, residence type and cause of bankruptcy of the bankrupts. In this connection, will the Administration inform this Committee of the monthly income and residence type of the bankrupts, and the timetable of exploring the feasibility of keeping separate statistics on the gender and sources of debt of the bankrupts, and the types of creditors involved?

Asked by: Hon. TANG Ka-piu

Reply:

Based on statistical information collected in bankruptcy cases with bankruptcy orders made during the period from 2008 to 2012, the distributions of monthly income and residence type of the bankrupts are as follows:

<table>
<thead>
<tr>
<th>Monthly income of Bankrupts</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No income</td>
<td>38.20%</td>
</tr>
<tr>
<td>$10,000 or below</td>
<td>39.40%</td>
</tr>
<tr>
<td>above $10,000 - $15,000</td>
<td>16.59%</td>
</tr>
<tr>
<td>above $15,000 - $20,000</td>
<td>4.01%</td>
</tr>
<tr>
<td>above $20,000 - $25,000</td>
<td>1.03%</td>
</tr>
<tr>
<td>above $25,000</td>
<td>0.77%</td>
</tr>
<tr>
<td>Total</td>
<td>100.00%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Residence type of Bankrupts</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Housing</td>
<td>55.84%</td>
</tr>
<tr>
<td>Private Apartment (owned by the bankrupts(^1))</td>
<td>2.40%</td>
</tr>
<tr>
<td>Private Apartment (not owned by the bankrupts)</td>
<td>41.76%</td>
</tr>
<tr>
<td>Total</td>
<td>100.00%</td>
</tr>
</tbody>
</table>

Maintaining separate statistics on information such as gender, sources of debt and types of creditors of the bankrupts has limited use on the handling of bankruptcy cases. Therefore, ORO’s computer system currently does not record such information. ORO will review the need and the feasibility of keeping separate statistics on such information when its computer system requires upgrading.

\(^1\) All these properties are under mortgage / charge.
Name in block letters: Ms. Teresa S W Wong
Post Title: Official Receiver
Date: 15.4.2013