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**Paper for the House Committee Meeting
of the Legislative Council
on 19 January 2001**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 12 January 2001**

Date of Tabling in LegCo : 17 January 2001

Amendment to be made by : 14 February 2001 (or 21 February 2001 if extended by resolution)

Part I ***Revision of fees***

A. ***Fees increase***

Clubs (Safety of Premises) Ordinance (Cap. 376)

Clubs (Safety of Premises) (Fees) (Amendment) Regulation 2001 (L.N. 13)

1. Under the Clubs (Safety of Premises) Ordinance (Cap. 376), the Secretary for Home Affairs issues and renews certificates of compliance for the purpose of regulating the fire and building safety of club houses. The fees payable for the issue or renewal of certificates of compliance are specified in regulation 4 of the Clubs (Safety of Premises) (Fees) Regulations (Cap. 376 sub. leg.). These fees were last revised in March 1996.

2. This Amendment Regulation revises the fees payable under regulation 4 as follows—

Item	Description	Existing fee (\$)	Proposed fee (\$)
	Fee payable for the issue or renewal of certificate of compliance for clubs with gross floor area		

Item	Description	Existing fee (\$)	Proposed fee (\$)
(a)	Not exceeding 100m ²	3,500	4,025
(b)	101 - 150 m ²	4,370	4,805
(c)	151 - 200 m ²	6,120	6,730
(d)	201 - 250 m ²	7,760	8,535
(e)	251 - 300 m ²	9,620	10,600
(f)	301 - 350 m ²	11,260	12,400
(g)	351 - 400 m ²	13,010	14,300
(h)	401 - 1,000 m ²	24,270	25,300
(i)	Exceeding 1,000 m ²	53,560	53,500

The average increase is by 4% to 15% (\$435 - \$1,290) with a view to achieving full cost recovery. Members may note that item (i) above reduces the fee by 0.1% (\$60) to reflect the full cost of providing service at 2000-01 prices.

3. Members may refer to LegCo Brief File Reference: S/F(1) to HAB/CR/1/2126 Pt.3 of 12 January 2001 from Home Affairs for background information.

4. The Amendment Regulation will come into operation on 23 February 2001.

5. The legal and drafting aspects of the Amendment Regulation are in order.

Builders' Lifts and Tower Working Platforms (Safety) Ordinance (Cap. 470)
Builders' Lifts and Tower Working Platforms (Safety) (Fees) (Amendment)
Regulation 2001 (L.N. 14)

6. The Builders' Lifts and Tower Working Platforms (Safety) (Fees) Regulation (Cap. 470 sub. leg.) prescribes fees payable on application for registration and re-registration of examiners and contractors, and for the approval of reports and certificates of test and examination issued by registered examiners. The prescribed fees were last revised in December 1997.

7. This Amendment Regulation increases the prescribed fees as follows—

Item	Description	Existing fee (\$)	Proposed fee (\$)
(a)	Fee for inclusion in the register of examiners of a person who qualifies under s. 3(2) of the Builders' Lifts and Tower Working Platforms (Safety) Ordinance ("the Ordinance")	845	930
(b)	Fee for inclusion in the register of examiners of a person who qualifies under s. 3(3) of the Ordinance	3,750	4,125
(c)	Fee for renewal of registration of a registered examiner	560	615
(d)	Fee for inclusion in the register of contractors	3,490	3,840
(e)	Fee for renewal of registration of a registered contractor	560	615
(f)	Fee for permitting use of a builder's lift or tower working platform after installation or re-erection	2,000	2,200
(g)	Fee for permitting use of a builder's lift or tower working platform after major alteration work	1,430	1,575
(h)	Fee for approving a certificate of periodic test and examination of a safety equipment of builder's lift or tower working platform	385	425

The increase is by about 10% (\$40 - \$375) with a view to achieving full cost recovery.

8. Members may refer to LegCo Brief File Reference: WB(W)276/32/34 VI of 10 January 2001 from Works Bureau for background information.

9. The Amendment Regulation will come into operation on 23 February 2001.

10. The legal and drafting aspects of the Amendment Regulation are in order.

**Fire Services Ordinance (Cap. 95)
Fire Service (Installation Contractors) (Amendment) Regulation 2001
(L.N. 15)**

11. Any person may apply to the Director of Fire Services for registration as a contractor in Class 1 or 2 or both Classes or in Class 3. Applicants have to pay the appropriate fees in accordance with the Second Schedule to the Fire Service (Installation Contractors) Regulations (Cap. 95 sub. leg.). The fees were last revised in May 1996.

12. This Amendment Regulation increases the fees as follows—

Item	Description	Existing fee (\$)	Proposed fee (\$)
(a)	FSI Contractor Registration Class 1, Class 2 or Classes 1 & 2	1,370	1,575
(b)	FSI Contractor Registration Class 3 - Written Examination	770	925
(c)	FSI Contractor Registration Class 3 - Interview	835	960
(d)	FSI Contractor Registration Class 3 - Workshop Inspection	690	795
(e)	FSI Contractor Registration Class 1, Class 2, Classes 1 & 2 or Class 3 - Workshop Re-inspection	690	795
(f)	FSI Contractor Registration Class 1, Class 2, Classes 1 & 2 or Class 3 - New Workshop Inspection	690	795
(g)	FSI Contractor Registration Class 1, Class 2, Classes 1 & 2 or Class 3 - New Workshop Re-inspection	690	795
(h)	FSI Contractor Registration Class 1, Class 2, Classes 1 & 2 or Class 3 - Change of Registered Name or Registered Address	350	385
(i)	FSI Contractor Registration Class 1, Class 2, Classes 1 and 2 - Change of Qualified Person	435	480

The increase is by 10% to 20% (\$35 - \$205) with a view to achieving full cost recovery.

13. Members may refer to LegCo Brief File Reference: SEC9/6/10 Pt.5 of January 2001 from Security Bureau for background information.

14. The Amendment Regulation will come into operation on 23 February 2001.

15. The legal and drafting aspects of the Amendment Regulation are in order.

Timber Stores Ordinance (Cap. 464)

Timber Stores (Amendment) Regulation 2001

(L.N. 16)

16. Any person who operates a timber store is required to apply to the Director of Fire Services for a licence. Fees are charged for the grant, renewal, transfer and amendment of a licence, and the issue of a duplicate of a licence under the Schedule to the Timber Stores Regulation (Cap. 464 sub. leg.). The fees were last revised in May 1996.

17. This Amendment Regulation increases the fees as follows—

Item	Description	Existing fee (\$)	Proposed fee (\$)
(a)	Grant of a licence	2,040	2,345
(b)	Renewal of a licence	920	970
(c)	Transfer of an existing licence to another person	210	230
(d)	Amendment of the conditions or the particulars of a licence	210	230
(e)	Issue of a duplicate of a licence	210	230

The increase is by 5% to 15% (\$20 - \$305) with a view to achieving full cost recovery.

18. Members may refer to LegCo Brief File Reference: SEC9/6/10 Pt.5 of January 2001 from Security Bureau for background information.

19. The Amendment Regulation will come into operation on 23 February 2001.

20. The legal and drafting aspects of the Amendment Regulation are in order.

B. Fees decrease

21. As a measure to lower the costs for trading Mini-Hang Seng Index Futures Contracts, a lower rate of levy is payable in relation to the Mini-Hang Seng Index Futures Contracts to the Securities and Futures Commission and the compensation fund respectively.

Securities and Futures Commission (Levy) (Futures Contracts) (Amendment) Order 2001 (L.N. 12)

22. The levy payable to the Securities and Futures Commission for every leviabale transaction in each market of the Futures Exchange Company is \$1. This Amendment Order reduces the levy to \$0.2 for every leviabale transaction in respect of Mini-Hang Seng Index Futures Contracts (being 20% of that payable in relation to the Hang Seng Index Futures Contract).

23. Members may refer to LegCo Brief File Reference: SU D10(2000)X of 11 January 2001 from Financial Services Bureau for background information.

24. The Amendment Order will come into operation on 14 February 2001.

25. The legal and drafting aspects of the Amendment Order are in order.

**Commodities Trading Ordinance (Cap. 250)
Commodities Trading (Contract Levy) (Amendment) Rules 2001 (L.N. 17)**

26. Under section 79A(1) of the Commodities Trading Ordinance (Cap. 250), a prescribed levy on every leviabale transaction is payable by the Hong Kong Futures Exchange Limited to the Securities and Futures Commission for purposes of the compensation fund. The levy is currently \$0.5 on every leviabale transaction.

27. These Amendment Rules reduce the levy to \$0.1 on every leviabale transaction in respect of Mini-Hang Seng Index Futures Contracts (being 20% of that payable in respect of other contracts).

28. Members may refer to LegCo Brief (without File Reference on it) of 11 January 2001 from Securities and Futures Commission for background information.

29. The Amendment Rules will come into operation on 14 February 2001.

30. The legal and drafting aspects of the Amendment Rules are in order.

Part II Commencement Notice

**Telecommunication (Amendment) Ordinance 2000 (36 of 2000)
Telecommunication (Amendment) Ordinance 2000 (36 of 2000) (Commencement)
Notice 2001 (L.N. 21)**

31. This Notice specifies 1 April 2001 as the day on which—
- (a) section 3 (to the extent that it relates to the power for the Telecommunications Authority to issue guidelines); and
 - (b) section 4 (to the extent that it relates to the power for the Chief Executive in Council to issue an exclusive licence and the Telecommunications Authority to issue a licence other than an exclusive licence),

of the Telecommunication (Amendment) Ordinance 2000 (36 of 2000) will come into operation.

32. After the coming into operation of the provisions referred to in the Notice, there is only one provision in the Telecommunication (Amendment) Ordinance 2000, relating to prohibition on a person, other than a licensee, to offer in the course of business a telecommunications service (section 5(a)(iii) and (b)), which has not yet come into operation.

Part III Others

**Broadcasting Ordinance (48 of 2000)
Broadcasting (Licence Fees) Regulation (L.N. 11)**

33. The Regulation provides that the licensees of the four categories of television programme service licences are required to pay the relevant licence fees specified respectively in Schedules 1 to 4.

34. Schedule 1 provides for the basis to compute the annual licence fee for a domestic free television programme service licence or deemed domestic free television programme service licence and time of payment of the licence fee. There are two existing television programme service licensees under this categories (which are holders of "deemed licences"), namely Asia Television Limited and Television Broadcasts Limited.

35. Schedule 2 provides for the basis to compute the annual licence fee for a domestic pay television programme service licence or deemed domestic pay television programme service licence and time of payment of the licence fee. There are two existing television programme service licensees under this category (which are holders of "deemed licences"), namely Hong Kong Cable Television Limited and PCCW VOD Limited.

36. Schedule 3 provides for the basis to compute the annual fees for Type A and Type B non-domestic television programme service licences and time of payment of the licence fees. There is one existing television programme service licensee under Type A non-domestic television programme service licence of this category, namely Star TV.

37. Schedule 4 provides for the basis to compute the annual licence fees for Type A and Type B other licensable television programme service licences and time of payment of the licence fees. It covers television programme service provided by hotels and others, e.g. niche audience or housing estates.

38. Members may refer to LegCo Brief File Reference: ITBB(CR)9/19/9(01)Pt. 3 of 11 January 2001 from Information Technology and Broadcasting Bureau for background information. Upon our request, the Administration further provides information (at Annex I) about existing and new annual licence fees payable by domestic free and domestic pay television programme service licensees under the Regulation and Telecommunications (Carrier Licences) Regulation (L.N. 19).

39. The Regulation will come into operation on 23 February 2001, except for section 4, relating to deemed licensees, which will come into operation on 7 July 2001.

40. The legal and drafting aspects of the Regulation are in order.

Telecommunications Ordinance (Cap. 106)
Telecommunications (Carrier Licences) Regulation (L.N. 19)

41. This Regulation provides for—

- (a) a carrier licence system which comprises a fixed carrier licence (under which there is a sub-category called fixed carrier (restricted) licence), a mobile carrier licence (under which there is a sub-category called mobile carrier(restricted) licence) and a space station carrier licence (section 2);
- (b) the general conditions applicable to carrier licences (section 3 and Schedule 1);

- (c) the period of validity of carrier licences, including existing licences which have been surrendered for, or replaced by, new carrier licences issued under section 7(5) of the Telecommunications Ordinance (section 4 and Schedule 4);
- (d) the fees payable for carrier licences, including an existing licence mentioned in section 2(1)(b) (a commercial television broadcasting licence which is deemed to be a licence granted under the Telecommunications Ordinance) or (2)(b) (a subscription television broadcasting licence which is deemed to be a licence granted under the Telecommunications Ordinance) of Schedule 8 to the Broadcasting Ordinance (48 of 2000) (section 5 and Schedule 3);
- (e) the annual date for payment of a fee specified in Schedule 3 in relation to a carrier licence (which has been issued to the holder of an existing licence in return for his surrender of the existing licence to the Telecommunications Authority) (section 5);
- (f) the annual date of payment for a fee specified in Schedule 3 in relation to a fixed carrier (restricted) licence which is a licence mentioned in section 2(1)(b) or (2)(b) of Schedule 8 to the Broadcasting Ordinance (section 5); and
- (g) the interpretation of certain terms used in existing licences (section 6).

42. The general conditions for carrier licences contained in Schedule 1 to the Regulation are broadly in line with those in the existing licences. Members may refer to the Consultation Paper at <http://www.info.gov.hk/itbb/> or <http://www.ofta.gov.hk> for more information.

43. Members may also refer to LegCo Brief File Reference: ITBB(CR)7/5/14/1(01) of January 2001 from Information Technology and Broadcasting Bureau for background information. Upon our request, the Administration also provides further information (at Annex II) about the licence fees payable under the existing licensing regime and the carrier licence system.

44. The Regulation will come into operation on 1 April 2001.

45. The legal and drafting aspects of the Regulation are in order.

Telecommunications Ordinance (Cap. 106)

Telecommunications (Examination, Certification and Authorization of Radiocommunications Personnel) Order (L.N. 20)

46. The Telecommunication (Amendment) Ordinance 2000 (36 of 2000) amends the Telecommunications Ordinance by transferring the power to make subsidiary legislation in relation to certificates of competency in the operation of

apparatus for radiocommunications, and authorities to operate in radiocommunications stations, from the Chief Executive in Council to the Telecommunications Authority ("the Authority").

47. This Order, made by the Authority, provides for—

- (a) examinations and tests for the issue of certificates of competency and the surrender of such certificates when they are revoked, and the power for the Authority to treat a certificate of competency issued under regulation 3 of the Telecommunications Regulations (Cap. 106 sub. leg.) as equivalent to the like certificate of competency which may be issued under section 2 (section 2);
- (b) the issue of authorities to operate and the surrender of such authorities when they are revoked, and the power for the Authority to treat an authority to operate issued under regulation 4 of the Telecommunications Regulations as equivalent to the like authority to operate which may be issued under section 3 (section 3);
- (c) the issue of certificates of competency and authorities to operate to persons who hold like documents issued in places outside Hong Kong (section 4);
- (d) the issue of duplicate certificates of competency and authorities to operate for lost or destroyed certificates or authorities to operate (section 5);
- (e) the waiver or refund by the Authority of a fee payable under the Order (section 6); and
- (f) the fees payable for various services under the Order (the Schedule).

48. Members may refer to LegCo Brief File Reference: OFTA LM T150/00 II in R111(A) of January 2001 from Office of the Telecommunications Authority for background information.

49. The Order will come into operation on 1 April 2001.

50. The legal and drafting aspects of the Order are in order.

Securities Ordinance (Cap. 333)

Securities (Exchange-Traded Stock Options) (Amendment) (No. 3) Rules 2000 (L.N. 18)

51. The Schedule to the Securities (Exchange-Traded Stock Options) Rules (Cap. 333 sub. leg.) prescribe limits on the number of stock options contracts traded on the Unified Exchange that may be held or controlled by any person.

52. These Amendment Rules repeal item 2 (the reference to Hong Kong Telecommunication Ltd. stock options contract) in the Schedule after the merger of Cable & Wireless HKT Limited and Pacific Century CyberWorks. The Amendment Rules further repeal item 50 (the reference to China Telecom (Hong Kong) Ltd. stock options contract) by replacing it with reference to China Mobile (Hong Kong) Ltd. stock options contract after the renaming of the same.

53. Members may refer to LegCo Brief (without File Reference on it) of 2 January 2001 from Securities and Futures Commission for background information.

54. The Amendment Rules will come into operation on 14 February 2001.

55. The legal and drafting aspects of the Amendment Rules are in order.

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LS/S/15/00-01

Annex I

Existing and new annual licence fees payable by domestic free and domestic pay television programme service licensees

	Existing Licence Fees (Payable on 7 July 2000)	New Licence Fees (Payable on 7 July 2001)		
		TV Programme Service Licence	Fixed Carrier (Restricted) Licence	Total
Domestic Free		\$3,811,000 + \$1,566,000 per TV programme service channel	\$100,000 + \$700 per 100 customer connection + spectrum administration fee	
ATV	\$10,145,738	\$6,943,000	\$2,475,000	\$9,418,000
TVB	\$10,145,738	\$6,943,000	\$2,616,000	\$9,559,000
Domestic Pay		\$1,371,000 + \$4 per subscriber	\$100,000 + \$700 per 100 customer connection + spectrum administration fee	
HKCTV	\$13,347,995	\$3,371,000 ¹	\$5,186,100 ¹	\$8,557,100 ⁴
PCCW VOD	\$2,030,114	\$1,771,000 ²	NA ³	\$1,771,000

¹ By way of illustration, the subscriber number is assumed to be 500,000.

² By way of illustration, the subscriber number is assumed to be 100,000.

³ PCCW VOD does not establish or maintain a carrier network.

⁴ In accordance with HKCTV's licence, HKCTV shall surrender 2GHz and 12GHz frequencies by 31 May 2001 and may, after that date, utilise 18GHz band for its multi-point microwave distribution system (MMDS). The spectrum administration fee will accordingly be significantly reduced, resulting in a drop in the total licence fee.

Existing Licence Fees and New Licence Fees Payable for Carrier Licences

	<u>Existing Licence Fees</u>	<u>New Licence Fees</u>
1. Fixed Carrier (Other than Fixed Carrier (restricted) licences)		
Fixed Telecommunications Network services (FTNS)	\$1m + \$700 per 100 customer connections + spectrum fee ⁱ per annum	Same
External FTNS		
FTNS over the hybrid fibre coaxial cable network of Hong Kong Cable Television Limited		
2. Mobile Carrier		
Personal Communications Services (PCS)	The annual fee is based on a formula depending on the number of base stations and spectrum used . ⁱⁱ	Same

	<u>Existing Licence Fees</u>		<u>New Licence Fees</u>	
Public Mobile Radiotelephone Services (PMRS)				
Public Radiocommunication Services (for services other than land mobile services)	\$50,000 + \$1,000 per land station or land earth station per annum		Same	
3. Space Station Carrier				
	Licence fee for each licence set on a case by case basis, based on the administrative costs of Office of Telecommunications Authority estimated at the time of licensing.		Fees standardised based on the latest administrative costs incurred in the licensing of “AsiaSat 4” and “APSTAR IIR”.	
	<u>Initial fee</u>	<u>Annual fee</u>	<u>Initial fee</u>	<u>Annual fee</u>
AsiaSat 1	-	\$165,000	\$450,000	\$150,000
AsiaSat 2	\$438,000	\$165,000		

	<u>Existing Licence Fees</u>		<u>New Licence Fees</u>	
AsiaSat 3S	\$372,000	\$136,000		
AsiaSat 4	\$432,000	\$151,000		
APTSTAR-I	\$92,000	\$59,500	\$120,000	\$80,000
APTSTAR-IA	\$126,000	\$77,000		
APTSTAR-IIR	\$130,000	\$82,000		

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End Notes

ⁱ Spectrum fees are calculated by the formula of

(a) where the radio frequency is assigned exclusively to the licensee —

- (i) \$50 for every 1kHz or part thereof of frequency then assigned below 1 GHz;
- (ii) $\$(50-4F)$ for every 1 kHz or part thereof of frequency then assigned within 1 GHz to 10.999 GHz, where F is the frequency rounded down to the nearest GHz in the band then assigned;
- (iii) $\$(20-F)$ for every 1 kHz or part thereof of frequency then assigned within 11 GHz to 18.999 GHz, where F is the frequency rounded down to the nearest GHz in the band then assigned;
- (iv) \$1 for every 1 kHz or part thereof of frequency then assigned at or above 19 GHz;

(b) where any part of the radio frequency is assigned to the licensee on a non-exclusive or shared basis, the fee calculated in accordance with the formula set out in paragraph (a) shall be proportionally reduced by a reduction factor —

- (i) equal to the number of users authorized or reserved by the Authority to use that particular part of the radio frequency;
- (ii) determined on the date on which the fee is payable.

(c) no fee is payable for the management of radio frequency within any of the following frequency bands —

6.765	—	6.795 MHz
13.553	—	13.567 MHz
26.957	—	27.283 MHz
40.66	—	40.7 MHz
2400	—	2500 MHz
5.725	—	5.875 GHz
24.0	—	24.25 GHz
61	—	61.5 GHz
122	—	123 GHz
244	—	246 GHz

ii The formula is prescribed in the existing Telecommunications Regulations as follows:

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|-----|---|--------------------------|
| (a) | for the 1st to the 50th base station installed for the service | \$1,000 per base station |
| (b) | for the 51st to the 100th base station installed for the service | \$500 per base station |
| (c) | for the 101st base station installed for the service and any additional base stations | \$100 per base station |
| (d) | for the 1st 200 mobile stations or less used by customers of the service | \$6,000 |
| (e) | for every additional 100 mobile stations or less used by customers of the service | \$3,000 |
| (f) | for every 1 kHz of frequency assigned to the licensee | \$50 |