

立法會

*Legislative Council*

LC Paper No. CB(2)881/00-01

(These minutes have been  
seen by the Administration)

Ref : CB2/SS/6/00

**Legislative Council  
Subcommittee on subsidiary legislation relating to revision  
of fees and charges gazetted on 24 November 2000**

**Minutes of the meeting  
held on Wednesday, 13 December 2000 at 10:45 am  
in the Chamber of the Legislative Council Building**

**Members Present** : Hon SIN Chung-kai (Chairman)  
Hon James TIEN Pei-chun, JP  
Hon Fred LI Wah-ming, JP  
Hon CHAN Kam-lam  
Hon Ambrose LAU Hon-chuen, JP  
Hon Abraham SHEK Lai-him, JP  
Hon Tommy CHEUNG Yu-yan, JP

**Member Attending** : Hon Howard YOUNG, JP

**Member Absent** : Hon CHAN Yuen-han

**Public Officers Attending** : Security Bureau

Ms Eliza YAU  
Principal Assistant Secretary for Security (E)

Mr David HOOI  
Principal Management Services Officer (Security)

Mr Rick CHAN  
Assistant Secretary for Security (E3)

Mr Roger WONG  
Superintendent of Police (Licensing)  
Hong Kong Police Force

Ms Cora WONG  
Senior Treasury Accountant/Management Accounting  
Hong Kong Police Force

Finance Bureau

Mr Allen LEUNG  
Principal Assistant Secretary for the Treasury

Judiciary

Mrs B CHU  
Assistant Judiciary Administrator (Corporate Services)

Mr K K CHAN  
Chief Judiciary Executive (Finance)

Mr W Y CHU  
Senior Judiciary Executive (Court Registries)

Department of Justice

Mr Michael SCOTT  
Senior Assistant Solicitor General  
(Legal Policy Division)

Ms Kitty FUNG  
Senior Government Counsel  
(Legal Policy Division)

**Clerk in Attendance** : Mrs Percy MA  
Chief Assistant Secretary (2)3

**Staff in Attendance** : Miss Connie FUNG  
Assistant Legal Adviser 3

Mr Paul WOO  
Senior Assistant Secretary (2)3

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**I. Election of Chairman**

Hon SIN Chung-kai was elected as Chairman of the Subcommittee.

## II. Meeting with the Administration

(The LegCo Brief issued by the Security Bureau on L.Ns. 330 to 333 - Ref : SBCR 4/2801/85;

the LegCo Brief issued by the Finance Bureau on L.Ns. 334 and 336 to 340 - Ref : FIN 44/5/4 Pt. 15;

the LegCo Brief issued by the Finance Bureau on L.N. 335 - Ref : F 1/4 Pt. 4;

the LegCo Brief issued by the Department of Justice on L.N. 341 - Ref : LP 272/05C;

the Legal Service Division Report - LC Paper No. LS29/00-01; and

the marked-up copies for L.Ns. 330 to 341 - LC Paper No. CB(2)459/00-01(02))

2. The Chairman welcomed the representatives of the Administration to attend the meeting to brief the Subcommittee on the subsidiary legislation (L.Ns. 330 to 341) gazetted on 24 November 2000 relating to revision of fees and charges, which would come into effect on 12 January 2001. He invited the representatives from the relevant policy Bureaux to explain the proposed revisions that fell within their respective purview and to respond to members' questions.

Dutiable Commodities Ordinance (Cap. 109)

Dutiable Commodities (Amendment) (No. 2) Regulations 2000 (L.N. 330)

Firearms and Ammunition Ordinance (Cap. 238)

Firearms and Ammunition (Amendment) (No. 2) Regulations 2000 (L.N. 331)

Firearms and Ammunition (Storage Fees) (Amendment) Order 2000 (L.N.332)

Pawnbrokers Ordinance (Cap. 166)

Pawnbrokers (Amendment) Regulation 2000 (L.N. 333)

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3. Mr CHAN Kam-lam enquired about the number of applications handled under the Dutiable Commodities Regulations and Firearms and Ammunition Regulations in the current year. In reply, Superintendent of Police (Licensing) (SP(L)) provided the following statistics -

Applications for  
licensing activities  
processed in 2000  
(up to November)

Dutiable Commodities Regulations

(Cap. 109, subsidiary legislation)

Issue of liquor licences;

1 406

Firearms and Ammunition Regulations

(Cap. 238, subsidiary legislation)

|   |       |
|---|-------|
| Issue or renewal of a dealer's licence;       | 16    |
| Issue or renewal of a licence for possession; | 1 024 |
| Exemption under section 4(3) of Cap. 238.     | 252   |

*L.N.330*

4. In response to members' enquiries, SP(L) said that the fee for issue of a temporary liquor licence was last revised in May 1995. From January 2000 to November 2000, 63 applications for temporary liquor licences were handled.

5. Mr Tommy CHEUNG Yu-yan said that a restaurant of his had recently paid a hefty sum of over \$1900 for a temporary liquor licence covering a continuous period of eight days. He queried the rationale for increasing the fee for issue of a temporary liquor licence at a time when the economy was suffering from a downturn and deflation. He also pointed out that the fee for issue of an ordinary liquor licence had actually been reduced a few years ago.

6. SP(L) said that the existing fee payable for a temporary liquor licence covering a continuous period of days was \$240, regardless of the actual duration of the event. He added that most of the temporary liquor licences were issued for events which did not run longer than 30 days.

7. The Chairman and Mr James TIEN doubted it was the case that \$240 was the standard fee payable for a temporary liquor licence. They pointed out that in Part II of the Schedule to Dutiable Commodities Regulations, it was clearly stipulated that the fee was \$240 per day covered by a temporary licence.

8. Principal Assistant Secretary for Security (PAS(S)) confirmed that the existing fee charged for a temporary liquor licence was \$240 per day. The present subsidiary legislation proposed to increase the fee to \$290 per day. She further explained that, as shown in the cost computation in Annex E-1 of the LegCo Brief (SBCR 4/2801/85), the unit cost of processing one application for a temporary liquor licence was \$1,633 at 2000-01 prices. The present level of \$240 per day only achieved an overall cost recovery rate of about 15%. She added that at the last revision conducted in 1995, the fee for issue of a temporary liquor licence was increased from \$220 to \$240 per day.

9. Mr Tommy CHEUNG Yu-yan expressed dissatisfaction that the conflicting advice given by the Administration on the above issue was misleading and had led to misunderstanding. Echoing Mr CHEUNG's view, the Chairman said that the Administration must give accurate information and advice in responding to members' questions.

10. Mr James TIEN considered that the Administration should provide information on the unit cost of issue of a temporary liquor licence in 1995. This would assist members to decide whether the present fee increase proposal was reasonable from the cost recovery point of view.

11. Mr James TIEN further opined that the actual unit cost for issuing temporary liquor licences for events of different duration should not vary significantly, provided that the period covered was continuous and the event was held at the same location. It was because, in such cases, one round of on-site inspection and vetting by the relevant authorities for the purpose of issuing a licence would suffice. He said that in his view, it would be more reasonable to charge a proportionately higher fee for temporary licences lasting a relatively shorter period.

12. In response to the latter point raised by Mr James TIEN, PAS(S) said that the proposal would involve a structural review of the existing mechanism for fee setting and how the initial fee level should be determined in the first place. She said that this appeared to fall outside the ambit of the present fee revision exercise.

13. After some further discussion, the Administration undertook to provide supplementary information in writing on the following -

- (a) the unit cost for issue of a temporary liquor licence per day in 1995 when the fee was last revised; and
- (b) the number of temporary liquor licences issued in the past year, with a breakdown on the duration of these licences in terms of days.

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*L.Ns.331 and 332*

14. In reply to the Chairman, PAS(S) said that the items set out in Firearms and Ammunition (Amendment) (No. 2) Regulation 2000 and Firearms and Ammunition (Storage Fees) (Amendment) Order 2000 included proposed increases of 15% to 20% to the various fees specified therein. The former Amendment Regulation also decreased by 15% the fee payable for the issue or renewal of an arms dealer's licence in certain circumstances to reflect the reduced full cost of providing the service at 2000-01 prices. These fees were last revised in May 1995. The proposed fee increases would achieve full-cost recovery within three to seven years.

15. Mr James TIEN asked whether the proposed fee revisions would affect members of gun clubs owning guns and ammunitions. He declared interest as being a member of a local gun club.

16. SP(L) advised that the fees for the issue or renewal of a licence for possession under item (3) in Annex E-2 to the LegCo Brief (SBCR 4/2801/85) would apply to such people.

17. Referring to items (5), (6) and (7) in the said Annex E-2 relating to fees for the issue or renewal of a dealer's licence, Mr James TIEN pointed out that the unit costs for the items were by and large comparable. However, the fee for item (7) was proposed to be reduced from \$14,100 to \$12,000, whereas the fees for items (5) and (6) would be increased by 20% and 15% respectively. He enquired about the reasons for the difference in treatment.

18. In reply, SP(L) said that item (5) referred to fee for the issue or renewal of a dealer's licence which was restricted to a prescribed class or description of arms or ammunition or both, and item (6) referred to a dealer's licence restricted to used cartridge cases, used shots, used bullets, used missiles or parts of any of those articles, while item (7) referred to a dealer's licence in any other cases. The proposed reduced fee of \$12,000 under item (7) represented the full cost at 2000-01 prices. He explained that at the existing level of fees, there was a heavy subsidization of users who fell under items (5) and (6). Therefore, the Administration considered it appropriate to increase the fees under the two items to reduce the shortfall in cost recovery.

19. SP(L) added that the high cost of handling an application for the issue or renewal of an arms dealer's licence was attributable to the substantial staff costs of the Police Force and other departments, including the Fire Services Department, the Lands Department and the Mines and Quarries Division of Civil Engineering Department etc, in providing the service. He further advised that in 2000 up to November, a total of seven new applications for issue of dealer's licence and 16 renewal applications had been dealt with.

20. At the request of the Subcommittee, the Administration agreed to provide a breakdown of the number of applications for issue or renewal of a dealer's licence under items (5) to (7) in Annex E-2 to the LegCo Brief for members' consideration.

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Bills of Sale Ordinance (Cap. 20)  
Bills of Sale (Fees) (Amendment) Regulation 2000 (L.N. 334)

Public Finance Ordinance (Cap. 2)  
Fees for Official Signature and Miscellaneous Services (Amendment) Notice 2000 (L.N. 335)

Hong Kong Court of Final Appeal Ordinance (Cap. 484)  
Hong Kong Court of Final Appeal Fees (Amendment) Rules 2000 (L.N. 336)

High Court Ordinance (Cap. 4)  
High Court Fees (Amendment) Rules 2000 (L.N. 337)

District Court Ordinance (Cap. 336)  
District Court Civil Procedure (Fees) (Amendment) (No. 2) Rules 2000  
(L.N. 338)

Coroners Ordinance (Cap. 504)  
Coroners (Fees) (Amendment) Rules 2000 (L.N. 339)

Small Claims Tribunal Ordinance (Cap. 338)  
Small Claims Tribunal (Fees) (Amendment) Rules 2000 (L.N. 340)

21. Principal Assistant Secretary for the Treasury (PAS/T) explained that L.Ns.334, 336 to 340 were Amendment Regulation/Amendment Rules which proposed to revise Judiciary fees and charges for the services provided by various courts/tribunals in legal proceedings. Most of them were last revised in 1994. The latest costing exercise showed that the existing fees could recover about 92% of the costs at 2000-01 prices. The Administration proposed to increase the fee levels by 8.5% in general with a view to achieving full cost recovery at 2000-01 prices. He added that the Administration was of the view that the users of the services were unlikely to raise strong objection as the increases were fairly modest in money terms, i.e. ranging from \$0.5 to \$180.

22. PAS/T further advised that L.N. 335 was an Amendment Notice to revise the fees for providing certifications, alterations or duplicates of official documents by a public officer to the public. The latest costing review showed that existing fees could recover 81% of the costs at 2000-01 prices. The Administration proposed to increase the fees by 10% (i.e. from \$140 to \$155) with a view to achieving full-cost recovery in two years' time. All the above proposed fees would come into operation on 12 January 2001.

23. Mr James TIEN enquired about the need and urgency for the proposed increases in the fees charged for the various court services, pointing out the fact that the Judiciary had already achieved a cost recovery rate of 92%.

24. PAS/T responded that under the "user pays" principle, it was government policy that fees should in general be set at levels sufficient to recover the full cost of providing the services. He said that the last revision of Judiciary fees and charges in 1994 was an adjustment based on the movement of Government Consumption Expenditure Deflator and no costing exercise had then been done. He further advised that in view of the diverse nature of the services provided by the courts and the large number of fee items involved, the Judiciary, since 1989, had calculated the costs of the services it provided on a global (i.e. departmental) basis instead of on an individual item basis.

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25. After some discussion, Mr James TIEN suggested and members agreed that the Administration should provide supplementary information to indicate the rate of cost recovery of the various Judiciary fees and charges at 1994-1995 prices for the Subcommittee's consideration.

Legal Practitioners Ordinance (Cap. 159)

Legal Practitioners (Fees) (Amendment) (No. 2) Rules 2000 (L.N. 341)

26. Senior Assistant Solicitor General (Legal Policy Division) (SASG) informed members that the above Amendment Rules increased by 8.5% the fees payable to the Registrar of the High Court in respect of admission of solicitors and barristers and registration of notaries public with a view to achieving full-cost recovery. These fees were last revised in 1994. Details of the existing and proposed fees were set out at Annex C of LegCo Brief (Ref: LP 272/05C).

27. SASG further advised that the Administration had consulted the last LegCo Panel on Administration of Justice and Legal Services on the proposed revision of fees on 20 June 2000. The Administration had noted the Panel's concern that the adoption of global costing for fee revision should be justified. Yet, the Administration remained satisfied that the global approach for calculating costs was both efficient and cost-effective, in view of the diverse nature of the services provided by the courts. It could also achieve comparability between services provided by the courts to the public. Furthermore, if costing of Judiciary fees and charges were calculated on an individual item basis, the fees and charges to be paid by members of the public for certain court services would become prohibitively high.

28. In reply to Mr Fred LI, SASG confirmed that the fee items under the Amendment Rules and set out at Annex C of the LegCo Brief were one-off fees charged on the service users.

### Conclusion

29. Members agreed that the Subcommittee would not move any amendments to the subsidiary legislation in its name, and that the Subcommittee would report its deliberations to the House Committee after considering the responses from the Administration to the various issues raised at this meeting.

30. Members noted that the deadline for giving notice of amendment had expired on 13 December 2000. In order to allow Council Members to move amendments to the subsidiary legislation on their own as they saw fit, the Subcommittee agreed that the Chairman should move a motion at the Council

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meeting on 20 December 2000 to extend the scrutiny period of the subsidiary legislation to 10 January 2001. The deadline for giving notice of amendment would be 3 January 2001.

31. There being no other business, the meeting ended at 11:00 am.

*(Post-meeting note - The Administration's response to the questions raised by members was circulated vide LC Paper No. CB(2)547/00-01 on 19 December 2000)*

Legislative Council Secretariat  
15 February 2001