

立法會
Legislative Council

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**Subcommittee on subsidiary legislation relating
to revision of fees gazetted on 5 January 2001**

**Minutes of meeting held on Thursday, 1 February 2001 at 9:30 am
in Conference Room B of the Legislative Council Building**

Members Present : Hon James TIEN Pei-chun, JP (Chairman)
Hon Fred LI Wah-ming, JP
Hon CHAN Kam-lam
Hon SIN Chung-kai
Hon Ambrose LAU Hon-chuen, JP

Public Officers Attending : Housing Bureau

Ms Lorna WONG
Principal Assistant Secretary for Housing

Mr Paul LEE
Chief Executive Officer (Special Duties)

Judiciary

Mr K K CHAN
Chief Judiciary Executive (Finance)

Mr W Y CHU
Senior Judiciary Executive (Court Registries)

Environment and Food Bureau

Miss Dora FU
Principal Assistant Secretary for the Environment and Food

Agriculture, Fisheries and Conservation Department

Mr LIU Kwei-kin
Assistant Director (Agriculture, Quarantine & Inspection)

Miss Lavinia TANG Lai-wah,
Senior Treasury Accountant

Clerk in Attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in Attendance : Miss Connie FUNG
Assistant Legal Adviser 3

Miss Mary SO
Senior Assistant Secretary (2) 8

I. Election of Chairman

Mr James TIEN was elected chairman of the Subcommittee.

II. Meeting with the Administration

2. The Chairman welcomed representatives of the Administration to the meeting.

Legal Notice (L.N.) 7 - Estate Agents (Registration of Determination and Appeal) (Amendment) Regulation 2001

3. At the invitation of the Chairman, Principal Assistant Secretary for Housing (PAS/H) said that the Estate Agents (Registration of Determination and Appeal) (Amendment) Regulation 2001 (the Amendment Regulation) sought to increase the fees payable for the registration of a determination with the District Court (DC), the filing of notice of appeal in DC and the copying and certification of documents in the register of DC from 8.7% to 10%, so as to achieve full-cost recovery at 2000-01 prices. The new fees, ranging from \$5.5 to \$685, would take effect on 1 March 2001. PAS/H further said that the Estate Agents Authority (EAA) had been consulted and no objection was raised.

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4. In reply to Mr CHAN Kam-lam's enquiry about the yearly number of requests for the registration of determination with DC, filing of notice of appeal in DC and the copying and certification of documents in the register of DC under the Estate Agents (Registration of Determination and Appeal) Regulation (the Regulation), PAS/H said that no request for such services had been received since the Regulation became effective on 1 March 2000. Chief Executive Officer (Special Duties) explained that the reason for no request was because EAA had successfully settled the two commission disputes referred to it by estate agents and their clients so far.

5. As no cases involving the fees relating to the registration of determination with DC, filing of notice of appeal in DC and the copying and certification of documents in the register of DC had come up so far, Mr CHAN Kam-lam questioned the need for having the fees as well as the justification for the proposed fee revision. The Chairman concurred with Mr CHAN.

6. Chief Judiciary Executive (Finance) (CJE/F) responded that in view of the diverse nature of the services provided by the various courts and the large number of fee items involved, the Judiciary had since 1989 calculated the cost of its services on a global costing basis instead of on an individual item basis. As the Judiciary's latest costing exercise showed that its existing fees and charges in general recovered about 92% of the costs at 2000-01 prices, the Judiciary therefore proposed that its fees and charges, including those fees set out in the Regulation, should be increased by 8.5% on average to achieve full-cost recovery. PAS/H also said that there was a need to have the fees for the registration of determination with DC, filing of notice of appeal in DC and the copying and certification of documents in the register of DC, as Cap. 511 provided for appeals to DC if commission disputes could not be resolved by EAA. Due to the method of assessing judiciary fees on a global costing basis, it was necessary to increase the aforesaid fees to achieve full-cost recovery despite the fact that no cases involving these fees had come up so far. PAS/H added that the fees in question were set at a level similar to that of the same types of services provided by the Judiciary.

7. The Chairman said that loss would be incurred by the Judiciary in providing the services for the registration of determination with DC, filing of notice of appeal in DC and the copying and certification of documents in the register of DC, having regard to the fact that no request had been made for such and yet the Judiciary had to pay for its staff salaries and other expenses to provide the services. PAS/H responded that there was no question of such a situation, as the costs of judicial services were calculated on a global costing basis with a view to achieving an overall breakeven.

8. Mr Fred LI echoed the views expressed by Mr CHAN Kam-lam and the Chairman. Referring to Schedule 2 to the Regulation, Mr LI enquired why no revisions were proposed to items 1(a) and (b) contained therein, i.e. fees relating to the

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issue of certificate of determination, including one copy; and each additional copy. PAS/H explained that this was because the fees in question were charged by EAA, the operation of which was independent of the Administration.

9. Noting that the fees payable for the registration of determination with DC, filing of notice of appeal in DC and the copying and certification of documents in the register of DC under the Regulation were set at a level similar to that of the same types of services provided by the Judiciary, Mr CHAN Kam-lam said that it was important that there was uniformity of treatment between similar fees and enquired whether this was the case. Senior Judiciary Executive (Court Registries) responded that the Administration had earlier sought to increase the fees for similar types of services provided by DC from \$630 to \$685 under the District Court Civil Procedure (Fees) (Amendment) (No.2) Rules 2000 gazetted on 24 November 2000. However, the Amendment Rules were repealed by the Legislative Council (LegCo) on 10 January 2001.

10. Mr CHAN Kam-lam said that the Administration should not propose fee increase for a particular type of service, if the same increase for a similar type of service had previously been repealed by LegCo. To ensure uniformity of treatment between similar fees, Mr CHAN was of the view that the Finance Bureau (FB) should play a coordinating role in proposing fee revisions. The Chairman echoed Mr CHAN's views.

L.N. 1 - Dairies (Amendment) Regulation 2001

L.N. 2 - Plant (Importation and Pest Control) (Fees) (Amendment) Regulation 2001

L.N. 3 - Pounds Fees (Amendment) Regulation 2001

L.N. 4 - Veterinary Surgeons Registration (Fees) (Amendment) Regulation 2001

L.N. 5 - Dangerous Dogs Regulation (Amendment of Schedule 3) Notice 2001

L.N. 6 - Rabies Regulation (Amendment of Schedule 1) Notice 2001

11. At the invitation of the Chairman, Principal Assistant Secretary for the Environment and Food (PAS/EF) said that the above six items of subsidiary legislation sought to revise the fees for licences and services relating to dairies, plants, pounds, veterinary surgeons, dangerous dogs and rabies regulations. PAS/EF pointed out that the costing exercise conducted at 2000-01 prices revealed that some of the fees fell short of full-cost recovery. Having regard to the difficulties which might be caused to the parties concerned if the fees were increased rapidly to achieve full-cost recovery, the Administration proposed to achieve full-cost recovery within three to seven years for those fees with existing cost recovery rate of 40%-70% through a 15% increase, and to achieve full-cost recovery within one to three years for those fees with existing cost recovery rate of over 70% through a 10% or lower increase. In short, these fees would be increased by 2.9% to 15% in the current fee revision exercise. PAS/EF further pointed out that the costing result also revealed that some of the existing fees exceeded the full costs which had been reduced as a result of streamlining of

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operations. The Administration therefore proposed to reduce such fees by 10% to 42% to tally with the full costs at 2000-01 prices. Regarding the subsidised fees related to the quarantine maintenance of plants, the treatment of plants and soil, the impounding and detention of animals, PAS/EF said that the Administration proposed to increase them by 2.9% to maintain their real values, based on the movement of the Government Consumption Expenditure Deflator from 1997-98 to 2000-01.

12. Noting that the number of import inspections on plants handled by the Agriculture, Fisheries and Conservation Department (AFCD) in 1999 had increased by 39% over 1998, the Chairman was of the view that the cost for each examination of plants should have been reduced. In this connection, the Chairman enquired about the justification for the proposed fee increases relating to the examination of plants. Assistant Director (Agriculture, Quarantine & Inspection) (AD(AQ)) responded that although the number of inspections handled by AFCD had increased by 39% from 1998 to 1999, the cost for providing such service could not be significantly reduced as these inspections involved a fairly standard amount of staff time. AD(AQ) further said that the proposed fee increases relating to the examination of plants were very minimal, as the existing fees for such were very close to full costs. For example, the fee for examination of living plants not exceeding five plants was proposed to be increased from \$107 to \$110.

13. As no fee was charged for the issuance of permit to import an animal as set out in Part I of Schedule 1 to the Rabies Regulation, Mr Fred LI queried about the need for listing such fee item in the subsidiary legislation. AD(AQ) responded that no fee was charged for the issuance of permit to import an animal because the requirements and fees payable had been subsumed in the permit issued under the the Public Health (Animals and Birds) Ordinance (Cap.139). In this connection, the inclusion of the fee item for the issuance of permit to import an animal in Part I of Schedule 1 of the Rabies Regulation was for completeness purpose to indicate that animals from outside Hong Kong must be accompanied by an import permit before they could enter Hong Kong. The Chairman also noted that no fee was charged for the issuance of permit to import a carcass as set out in Part I of Schedule 1 of the Rabies Regulation, and enquired why this was so. AD(AQ) responded that importing carcass was generally for scientific purposes and so far no application for such had been made.

14. Mr CHAN Kam-lam enquired why some proposed fees were set at a level just below or above full-cost recovery, while other proposed fees followed exactly the unit cost. For example, although the unit costs for conducting an examination of aquatic plants not exceeding 200 plants and for conducting an examination of aquatic plants exceeding 200 plants and not exceeding 2 000 plants, and for the first 2 000 plants if the total number exceeded 2 000 plants as set out in Schedule 1 to the Plant (Importation and Pest Control) (Fees) Regulations (the Regulations) were \$119 and \$136 respectively, the respective proposed fees were \$120 and \$135; and the proposed fee of \$43 for examination of each additional multiple of 50 living plants or part

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thereof after the first 50 plants if the total number exceeded 50 plants was the same as the unit cost of \$43. PAS/EF responded that according to FB's advice, the proposed fees would follow exactly the unit cost if the unit cost was below \$100. On the other hand, if the unit cost exceeded \$100, the proposed fees would be rounded up or down to the nearest \$5 or \$10. Mr CHAN Kam-lam pointed out that the aforesaid guidelines were not consistently applied in fee revisions. For example, although the unit cost for conducting an examination of plants at the premises of a person applying for a phytosanitary certificate in Regulation 3 of the Regulations was \$118, the proposed fee was \$115 and not \$120. In view of the inconsistencies in this regard, Mr CHAN suggested that the Administration should review the matter to ensure consistency of practice. Mr SIN Chung-kai concurred with Mr CHAN.

15. In reply to Mr CHAN Kam-lam's enquiry, AD(AQ) said that fees relating to examination of plants, quarantine maintenance of plants and treatment of plants and soil under the Plant (Importation and Pest Control) (Fees) (Amendment) Regulation 2001 mainly related to the issuing of phytosanitary certificates for plants for export purposes and only a small of plants required such certificates. AD(AQ) further said that the trades concerned had been consulted about the fee increases and no objection was raised. Mr CHAN further enquired why the three existing and proposed fees for impounding of stray animals under the Pounds Fees (Amendment) Regulation 2001 fell so far short of the full costs. For example, the existing and proposed fees for impounding every horse, mule, donkey, buffalo or ox were \$23 and \$24 respectively, whereas the unit cost of such was \$6,278. AD(AQ) explained that the reasons for the low level of fees charged was because these fees were subsidised fees and that they were set at a very low fee level to encourage reclaim. AD(AQ) further said that the proposed fee increases for the three items of fees relating to impounding of stray animals were based on FB's guidelines on fee revisions that subsidised fees should be increased by 2.9% to maintain their real values, based on the movement of the Government Consumption Expenditure Deflator from 1997-98 to 2000-01.

Conclusion

16. As the deadline for giving notice to amend the above seven items of subsidiary legislation was already past, the Chairman sought members' agreement for him to give a notice of motion to extend the scrutiny period of the subsidiary legislation to 14 February 2001 at the Council meeting on 7 February 2001. Members agreed. The Chairman further suggested that the Subcommittee should make a verbal report on its deliberations to the House Committee (HC) on 2 February 2001, to be followed by a written report to HC on 9 February 2001. Members agreed.

17. There being no other business, the meeting ended at 10:30 am.

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Legislative Council Secretariat
5 March 2001