

LEGISLATIVE COUNCIL BRIEF

The Secretary for Information Technology and Broadcasting submits the following note for Members' information –

Title of Note

Date of Gazette

Film Censorship (Amendment)
Regulation 2001

14 December 2001

12 December 2001

Information Technology and
Broadcasting Bureau

LEGISLATIVE COUNCIL BRIEF

Film Censorship Ordinance (Cap. 392)

FILM CENSORSHIP (AMENDMENT) REGULATION 2001

INTRODUCTION

Section 29(1A) of the Film Censorship Ordinance (FCO) provides that the Chief Executive in Council may by regulation provide for fees. Section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) empowers the Financial Secretary (which means also the Secretary for the Treasury by virtue of section 3 of Cap. 1) to vary fees which have previously been fixed by subsidiary legislation made by the Chief Executive in Council.

2. In exercise of this power, the Secretary for the Treasury has made the Film Censorship (Amendment) Regulation 2001 (the Amendment Regulation), as set out at **Annex A**, to revise the fees specified in the Film Censorship Regulations (FCR) (Cap. 392 sub. leg.) made pursuant to the FCO.

BACKGROUND AND ARGUMENT

3. Under the FCO, films intended for public exhibition have to be approved by the Film Censorship Authority (FCA), who shall be the Commissioner for Television and Entertainment Licensing by virtue of section 3 of the FCO. Films may either be classified under section 10 or be exempted from classification under section 9 of the FCO, and certificates of approval or certificates of exemption will be issued as appropriate. Fees are charged for the issue of these certificates.

4. Sections 15B and 15K of the FCO require packaging of Category III videotapes or laserdiscs and advertising materials for Category III films to be submitted to the FCA for approval. Under section 15K, advertising materials for films which have not been given a classification or have been given a classification other than Category III may also be submitted for approval on a voluntary basis. Upon payment of fees, relevant certificates will be issued as appropriate.

5. Fees are payable for the issue of replacement certificates under section 25 of the FCO.

6. Section 29A of the FCO requires the FCA to maintain a repository to keep relevant videotapes or laserdiscs, packaging of Category III videotapes or laserdiscs, and film advertising materials. Fees are payable for viewing items kept in the repository.

7. It is Government policy that fees should in general be set at levels sufficient to recover the full cost of providing the services. Costing reviews are normally conducted every four years. The result of a recent costing exercise in 2001-02 for the fees payable under the FCO reveals that some fees have scope for reduction. A cost computation statement prepared by the Television and Entertainment Licensing Authority (TELA) is at **Annex B**.

8. To maintain full cost recovery at 2001-02 prices, we propose to reduce the fees by 3% to 78%, except for censorship fee for a still film, exemption fee for any film other than a still film (per minute of running time or part thereof) and fee payable for advertising material under section 15K. We propose no change in respect of these three fees as there has been no application for censorship of a still film for the past three years while the other two fees are currently at full cost recovery level. Details of the existing and proposed scales of fees are set out at **Annex C**.

THE REGULATION

9. The Amendment Regulation revises the fees as set out at **Annex C**. We propose that, subject to negative vetting procedure of the Legislative Council, the new fees should come into effect on 25 January 2002.

LEGISLATIVE TIMETABLE

10. The legislative timetable is as follows –

Publication in the Gazette	14 December 2001
Tabling at the Legislative Council	19 December 2001

BASIC LAW IMPLICATIONS

11. The Department of Justice advises that the Amendment Regulation does not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

12. The Department of Justice advises that the Amendment Regulation is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

13. The Amendment Regulation does not affect the current binding effect of the Film Censorship Ordinance.

EFFICIENCY INITIATIVES

14. TELA has been mindful of the need to improve efficiency and cost-effectiveness of its services. The censorship procedures are regularly reviewed to minimize the manpower required. As a result, the FCA is able to meet additional workload and comply with its performance pledge within existing resources.

FINANCIAL AND STAFFING IMPLICATIONS

15. The fee proposal will lead to a reduction in revenue of about \$334,000 per annum. There are no staffing implications.

ECONOMIC IMPLICATIONS

16. The proposed fee reductions will reduce costs for the release of films. It is expected that the proposal would be welcomed by the film industry. For example, for a 90-minute feature film, the censorship fee will be reduced by about 8% from \$7,020 to \$6,480.

PUBLIC CONSULTATION

17. TELA has consulted the six major associations representing the film and video industries on the fee proposal. Only the Movie Producers and Distributors Association of Hong Kong Limited has asked for a further reduction of the censorship fee for any film other than a still film (per minute of running time or part thereof). After explaining to them that the proposed fee is only set at a level sufficient to recover the full cost of providing the service, the Association raised no objection to the proposed fees reduction.

18. We have also consulted the Legislative Council Panel on Information Technology and Broadcasting on 12 November 2001. Members of the Panel raised no objection to the fees revision proposal.

PUBLICITY

19. A press release will be issued on 14 December 2001 when the Amendment Regulation is published in the Gazette. TELA will inform the trade separately.

ENQUIRIES

20. For any enquiries relating to this brief, please contact Miss Helen Tang, Principal Assistant Secretary for Information Technology and Broadcasting at telephone no. 2189 2229 (fax no.: 2511 1458) or Mr Ip Lup-ng, Principal Entertainment Standards Control Officer (Film) at telephone no. 2594 5787 (fax no.: 2507 2219).

Information Technology and Broadcasting Bureau
12 December 2001

FILM CENSORSHIP (AMENDMENT) REGULATION 2001

(Made under section 29 of the Film Censorship Ordinance
(Cap. 392) and section 29A of the Interpretation and
General Clauses Ordinance (Cap. 1))

1. Commencement

This Regulation shall come into operation on 25 January 2002.

2. Fees payable

Schedule 3 to the Film Censorship Regulations (Cap. 392 sub. leg.) is amended -

- (a) in Part I, in column 3 of item 2, by repealing "\$78" and substituting "\$72";
- (b) in Part II, column 2, by repealing "\$170" and substituting "\$140";
- (c) in Part III, in column 3 of item 1, by repealing "\$34" and substituting "\$33";
- (d) in Part IV, column 2, by repealing "\$440" and substituting "\$425";
- (e) in Part V, column 2, by repealing "\$670" and substituting "\$150".

Secretary for the Treasury

8 Dec 2001

Explanatory Note

This Regulation amends Schedule 3 to the Film Censorship Regulations (Cap. 392 sub. leg.) to reduce the fees payable under the Film Censorship Ordinance (Cap. 392).

COST COMPUTATION

Television and Entertainment Licensing Authority Fees payable under the Film Censorship Regulations

Cost at 2001-02 Prices

	(1) \$	(2) \$	(3) \$
Staff Costs	3,688	7,326,269	401,088
Departmental Expenses	167	376,550	21,126
Accommodation Costs	371	1,366,462	46,458
Depreciation	-	51,125	7,850
Film Survey	-	325,000	-
Central Administrative Overhead	386	767,538	42,020
Total	4,612	10,212,944	518,542
Estimated number of cases for 2001-02	138	141 000 (minutes)	20 000 (minutes)
Unit cost at 2001-02 prices (\$)	33	72 (per minute)	26 (per minute)
Existing fee with effect from 13 December 1996 (\$)	34	78	26
Proposed fee with effect from 25 January 2002 (\$)	33	72	26

Legend

- (1) Exemption fee for a still film
- (2) Censorship fee for any film other than a still film (per minute of running time or part thereof)
- (3) Exemption fee for any film other than a still film (per minute of running time or part thereof)

COST COMPUTATION

Television and Entertainment Licensing Authority Fees payable under the Film Censorship Regulations Cost at 2001-02 Prices

	(4) \$	(5) \$	(6) \$
Staff Costs	133,403	72,704	100
Departmental Expenses	6,973	3,699	2
Accommodation Costs	14,697	16,695	25
Depreciation	-	-	13
Central Administrative Overhead	13,976	7,617	11
Total	<u>169,049</u>	<u>100,715</u>	<u>151</u>
Estimated number of cases for 2001-02	397	725	-
Unit cost at 2001-02 prices (\$)	426	139	151
Existing fee with effect from 13 December 1996 (\$)	440	140	670
Proposed fee with effect from 25 January 2002 (\$)	425	140	150

Legend

- (4) Fee payable for Category III videotape/laserdisc packaging
- (5) Fee payable for advertising material under s.15K
- (6) Fee for viewing or inspection of videotape, laserdisc, packaging or advertising material in the repository (per 2-hour period or part thereof)

Revision of Fees under the Film Censorship Regulations

Description	Existing Fee	Proposed Fee	Decrease	
	\$	\$	\$	%
a. Censorship fee for a still film	22	22*	-	-
b. Exemption fee for a still film	34	33	1	3%
c. Censorship fee for any film other than a still film (per minute of running time or part thereof)	78	72	6	8%
d. Exemption fee for any film other than a still film (per minute of running time or part thereof)	26	26	-	-
e. Fee payable for Category III videotape/laserdisc packaging	440	425	15	3%
f. Fee payable for advertising material under s.15K	140	140	-	-
g. Fee for viewing or inspection of videotape, laserdisc, packaging or advertising material in the repository (per 2-hour period or part thereof)	670	150	520	78%
h. Fee for the issue of a replacement certificate	170	140[#]	30	18%

Remarks:

* As there has been no application for this item for the past three years, we propose to freeze the fee.

The fee is proposed to be pegged to the official signature fee at the existing rate of \$140.