

LEGISLATIVE COUNCIL BRIEF

Building Management Ordinance
(Chapter 344)

Building Management (Fee Revision) Regulation 2005

INTRODUCTION

A In exercise of his power under section 29A of the Interpretation and General Clauses Ordinance (Chapter 1)¹ by virtue of section 41 of the Building Management Ordinance (Chapter 344) (“the Ordinance”), the Secretary for Financial Services and the Treasury has made the Building Management (Fee Revision) Regulation 2005 (“the Fee Revision Regulation”) (Annex A) to increase the fees payable to the Land Registrar for eight of its service items contained therein.

BACKGROUND AND JUSTIFICATIONS

B 2. Section 41 of the Ordinance provides that the Chief Executive in Council may make regulations for the fees payable in respect of the registration or filing of any documents submitted to the Land Registrar under this Ordinance; the fees payable for the inspection or copying any document so registered or filed; and the fees payable for the issue of any certificate under this Ordinance. These fees were last revised in May 1997. The existing fees and their costs are tabled at Annex B.

¹ Section 29A of Chapter 1 provides -

“(1) Where the amount of any fee or charge is for the time being specified in, or otherwise fixed or determined by, subsidiary legislation made by the Chief Executive in Council, subject to subsection (2), the Financial Secretary may by similar subsidiary legislation increase or decrease, or otherwise vary, the amount of the fee or charge.” According to section 3 of Chapter 1, ‘Financial Secretary’ means the Financial Secretary of the Hong Kong Special Administrative Region and the Secretary for Financial Services and the Treasury.”

3. The Government has frozen most fees and charges since 1998 as an exceptional measure to alleviate the financial burden on the public in times of economic difficulty. With the economy gradually picking up, and the intended adherence to the “user pays” principle, the Financial Secretary paved the way for the introduction of gradual fees and charges review proposals in his 2004-05 Budget Speech.

4. Subsequently, Home Affairs Bureau (“HAB”) issued a paper on the “Revision of fees and charges for services not directly affecting people's livelihood under the purview of HAB” to the Legislative Council Panel on Home Affairs on 4 February 2005. The paper sought Members’ views on the proposal to revise a total of 234 fees that have relatively little impact on the daily life of the general public or the running cost of business operators. Fee items under the Building Management (Fees) Regulations (“the Regulations”) (Cap. 344A) were included in the paper. The Panel endorsed the paper at its meeting on 21 March 2005.

5. In accordance with the guidelines provided by the Financial Services and the Treasury Bureau, we have decided to increase the fees under the Regulations at an annual rate of 20%². This will be an annual exercise to gradually achieve full cost recovery for all of the fee items under the Regulations.

THE FEE REVISION REGULATION

6. The Fee Revision Regulation at Annex A seeks to achieve an initial 20% increase for all the fees items prescribed in the Schedule to the Regulations.

² The Financial Services and Treasury Bureau advised in its guidelines that for those fees with existing cost recovery rate of less than 40% below target, full-cost recovery should be achieved within seven years through a 20% increase.

LEGISLATIVE TIMETABLE

7. The legislative timetable will be –

Publication in the Gazette	28 October 2005
Tabling in the Legislative Council for negative vetting	2 November 2005

8. The new fees shall take effect on 1 January 2006.

FINANCIAL IMPLICATIONS

9. The proposed revision of fees will bring about a net increase of about \$120,000 in revenue per annum.

EFFICIENCY INITIATIVES

10. The Land Registry processes applications for the incorporation of owners under the Ordinance. It monitors the cost-effectiveness of its operations under the Ordinance closely. Positive steps have been taken to provide sufficient guidelines to members of the public on procedural details of applications for the registration of owners' corporations. Guidance notes and frequently asked questions are available on the Land Registry's homepage. Recently, an up-to-date Index of owners' corporations has also been posted to the Land Registry's homepage for the public's easy reference. It is envisaged that these measures will enhance the quality of applications and thus reduce the effort and cost required in processing them.

11. We will continue to review our working arrangement with the Land Registry to identify opportunities, in particular those offered by information technology, to further enhance operation efficiency.

CONSULTATION WITH LEGCO PANEL

12. We have consulted the Legislative Council Panel on Home Affairs on 21 March 2005 (as described in paragraph 4 above).

PUBLICITY

13. A press release will be issued when the Fee Revision Regulation is published in the Gazette on 28 October 2005.

ENQUIRY

14. For enquiry on this brief, please contact Miss Daisy LO, Administrative Officer of the Home Affairs Department, on telephone number 2123 8395.

Home Affairs Department
October 2005

Building Management (Fee Revision) Regulation 2005

ANNEXES

- Annex A – Building Management (Fee Revision) Regulation 2005
- Annex B – Table of existing fees and costs payable to the Land Registrar under the Building Management Ordinance

L.N. 187 of 2005**BUILDING MANAGEMENT (FEE REVISION)
REGULATION 2005**

(Made by the Secretary for Financial Services and the Treasury under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) by virtue of section 41 of the Building Management Ordinance (Cap. 344))

1. Commencement

This Regulation shall come into operation on 1 January 2006.

2. Schedule amended

The Schedule to the Building Management (Fees) Regulations (Cap. 344 sub. leg. A) is amended—

- (a) in item 1, by repealing “\$900” and substituting “\$1,080”;
- (b) in item 2, by repealing “\$55” and substituting “\$66”;
- (c) in item 3, by repealing “\$130” and substituting “\$155”;
- (d) in item 4, by repealing “\$55” and substituting “\$66”;
- (e) in item 5, by repealing “\$40” and substituting “\$48”;
- (f) in item 6, by repealing “\$10” and substituting “\$12”;
- (g) in item 7, by repealing “\$10” and substituting “\$12”;
- (h) in item 8, by repealing “\$30” and substituting “\$36”.

Frederick S. MA
Secretary for Financial Services
and the Treasury

17 October 2005

Explanatory Note

This Regulation increases the fees payable in respect of the following matters under the Building Management (Fees) Regulations (Cap. 344 sub. leg. A)—

- (a) issuing a certificate of registration of an owners' corporation (section 2(a));
- (b) issuing a duplicate certificate of registration of an owners' corporation (section 2(b));
- (c) issuing an amended certificate of registration on change of name of an owners' corporation (section 2(c));
- (d) issuing a duplicate amended certificate of registration on change of name of an owners' corporation (section 2(d));
- (e) registering or filing of any document required to be submitted to the Land Registrar under the Building Management Ordinance (Cap. 344) (section 2(e));
- (f) inspecting the register of owners' corporations maintained by the Land Registrar and any document relating to an owners' corporation required to be submitted to the Land Registrar under the Building Management Ordinance (Cap. 344) (section 2(f));
- (g) supplying a copy or extract of any register or document referred to in paragraph (f) (section 2(g)); and
- (h) issuing a certificate of the Land Registrar in relation to any copy or extract referred to in paragraph (g) (section 2(h)).

Existing fees and costs payable to the Land Registrar under the Building Management Ordinance (Cap. 344)

Building Management (Fees) Regulations (Cap. 344A)	Full cost (at 2004-05 price level)	Existing fee level	Proposed fee level	Amount increase	Percentage increase	Estimated number of cases for 2004-05	Annual increase in revenue	Number of years for full-cost recovery
1. For the issue of a certificate of registration of corporation	\$5,881	\$900	\$1,080	\$180	20%	305	\$54,900	11
2. For the issue of a duplicate certificate	\$135	\$55	\$66	\$11	20%*	362	\$3,982	5
3. For the issue of an amended certificate of registration on change of name of a corporation	\$968	\$130	\$155	\$25	20%	8	\$200	12
4. For the issue of a duplicate amended certificate of registration on change of name of a corporation	\$90	\$55	\$66	\$11	20%*	8	\$88	3
5. For the registration or filing of any document required to be submitted to the Land Registrar under the Ordinance	\$247	\$40	\$48	\$8	20%	3,467	\$27,736	10
6. For inspecting the register of corporations maintained by the Land Registrar and any document relating to a corporation required to be submitted to the Land Registrar under the Ordinance	\$36	\$10	\$12	\$2	20%	4,934	\$9,868	8
7. For supplying a copy or extract of any register or document referred to in item 6, per folio or part thereof	\$79	\$10	\$12	\$2	20%	11,602	\$23,204	12
8. For the certificate of the Land Registrar in relation to any copy or extract referred to in item 7	\$142	\$30	\$36	\$6	20%	200	\$1,200	9

* Although the current recovery rates for these items fall between 40% to 70%, since the difference between a 15% or 20% increase is not significant, a 20% increase across the board is proposed.