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Paper for the House Committee meeting on 6 July 2007

**Report of the Subcommittee on
Building Management (Fee Revision) Regulation 2007**

Purpose

This paper reports on the deliberations of the Subcommittee on Building Management (Fee Revision) Regulation 2007 (the Amendment Regulation).

Background

2. The Building Management Ordinance (Cap. 344) (BMO) aims to provide a legal framework for the incorporation of owners to facilitate effective building management. Section 41 of Cap. 344 provides that "the Chief Executive in Council may make regulations for -

- (a) the fees payable in respect of the registration or filing of any documents submitted to the Land Registrar under this Ordinance;
- (b) the fees payable for the inspection or copying any document so registered or filed; and
- (c) the fees payable for the issue of any certificate under this Ordinance."

3. The Building Management (Fees) Regulations (Cap. 344 sub.leg. A) (the Principal Regulations) set out the respective fees to be paid by the public to the Land Registry (LR) for its services provided under the Ordinance (e.g. issue of a certificate of registration to a newly formed owners' corporation (OC)).

Building Management (Fees Revision) Regulation 2007

4. The Amendment Regulation is 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 BMO to achieve a 20% increase for all the eight fees items prescribed in the Schedule to the Principal Regulations payable to the Land Registrar by repealing the old Schedule and substituting a new Schedule. The existing and proposed fees are set out in **Appendix I**.

5. According to the Administration, the fee revision in respect of the Principal Regulations is intended to be an annual exercise to achieve gradually full-cost recovery. The level of fee increase is determined generally in accordance with the following guidelines advised by the Financial Services and the Treasury Bureau (FSTB) -

- (a) achieve full-cost recovery within seven years for those fees with existing cost recovery rate of less than 40% below target, through a 20% increase;
- (b) achieve full-cost recovery within three to seven years for those fees with existing cost recovery rate of between 40% and 70% of target, through a 15% increase; and
- (c) achieve full-cost recovery within one to three years for those fees with existing cost recovery rate of over 70% of target, through a 10% or lower increase.

For fee reductions, the fees will be reduced to the full cost level in one go.

6. The Amendment Regulation will come into operation on 1 November 2007.

The Subcommittee

7. At the House Committee meeting on 15 June 2007, members formed a subcommittee to study the Amendment Regulation. Under the chairmanship of Hon Mrs Selina CHOW LIANG Shuk-yee, the Subcommittee has held a meeting with the Administration. The membership list of the Subcommittee is in **Appendix II**.

Deliberations of the Subcommittee

Position of the Subcommittee

8. Members in general support the Amendment Regulation on the consideration that the fee revision is proposed in accordance with the "user pays" principle and the proposed amounts are not large and carry no implication on the livelihood of the public. The issues raised by members are summarised in the following paragraphs.

Basis of the fee revision

9. The Administration has informed the Subcommittee that it is Government policy that fees charged by the Government should in general be set at levels adequate to recover the full cost of providing the goods or services. Members note that the full cost for the issue of a certificate of registration of corporation is \$5,738 at 2006-2007 price level whereas the proposed fee level for this service is only \$1,300. Hon TAM Heung-man has asked about the rationale for determining the level of fee increase.

10. The Administration has explained that as the fees had been frozen since 1998 as a measure to alleviate the financial burden on the public in times of economic difficulty, there is a substantial difference between the full cost and the fee level. Taking into account the affordability and acceptability of the general public, the Administration does not propose to increase the fees to the full cost level in one go. Following the last fee revision in January 2006, a fresh costing exercise has been carried out to review the fee items under the Principal Regulations. The review has shown that the cost recovery rates for most of the fee items under the Regulations are 35% or below. In accordance with the FSTB's guidelines in paragraph 5 above, the Administration has proposed to increase all the fee items under the Principal Regulations at a rate of 20% in 2007. The Administration expects that it would take nine to 10 years to achieve full-cost recovery.

Impact of the fee revision on the general public

11. In response to members' enquiry about the Administration's consultation work on the proposed fee revision, the Administration has explained that, of the eight fee items under the Principal Regulation, the only major item is the fee for the issue of a certificate of registration of corporation, which would only require to be paid once upon the establishment of an OC. Hence, the existing OCs would not be affected by the proposed fee increase. The impact of the fee increase on the owners of buildings which have not formed an OC would be minimal because the Hong Kong Housing Society since 2005 has been subsidising each OC \$3,000 under a scheme for building management and maintenance to cover the fee for the issue of a registration certificate and other

related administrative costs incurred by the OC in relation to its formation. The subsidy would be more than enough to cover the proposed fee increase.

12. The Administration has also pointed out that the fee increase for the issue of an amended certificate of registration on change of a name of a corporation would have little impact on the public as it is rare for an OC to change its name. The amounts involved for the remaining fee items which are relating to land search in connection with property transactions are also small.

Implementation of efficiency initiatives

13. Members are of the view that the Administration should implement efficiency initiatives such as making use of modern technology and streamlining work procedures with a view to reducing the cost involved as far as possible.

14. The Administration has informed members that LR has implemented efficiency measures and various initiatives over the years such as centralizing registration service at the office at Queensway Government Offices, publishing FAQs and pamphlets to facilitate the application process, and streamlining of work procedures. Such efficiency savings have been factored into the calculation of costs. For example, the full cost for the issue of a certificate of registration of corporation has been reduced from over \$9,000 in 1997 to the present level of \$5,738.

Recommendation

15. The Subcommittee recommends that the Amendment Regulation be supported.

Advice sought

16. Members are invited to note the deliberations of the Subcommittee.

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 2006-07 price level)	Existing fee level	Proposed fee level	Amount increase	Percentage Increase	Estimated number of cases for 2006-07	Annual increase in revenue	Number of years for full-cost recovery
1. For the issue of a certificate of registration of corporation	\$5,738	\$1,080	\$1,300	\$220	20%	323	\$71,060	9
2. For the issue of a duplicate certificate	\$124	\$66	\$79	\$13	20% (Note 1)	350	\$4,550	4
3. For the issue of an amended certificate of registration on change of name of a corporation	\$922	\$155	\$185	\$30	20%	6	\$180	10
4. For the issue of a duplicate amended certificate of registration on change of name of a corporation	\$85	\$66	\$79	\$13	20% (Note 1)	8	\$104	2
5. For the registration or filing of any document required to be submitted to the Land Registrar under the Ordinance	\$228	\$48	\$58	\$10	20%	3,669	\$36,690	9
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	\$34	\$12	\$14	\$2	20%	1,757	\$3,514	6
7. For supplying a copy or extract of any register or document referred to in item 6, per folio or part thereof	\$74	\$12	\$14	\$2	20%	9,956	\$19,912	10
8. For the certificate of the Land Registrar in relation to any copy or extract referred to in item 7	\$129	\$36	\$43	\$7	20%	290	\$2,030	7

Note 1 : It is noted that the current cost recovery rate for items 2 and 4 are 53% and 78% respectively. According to the FSTB guidelines, a 15% and 10% increase should be proposed for these items respectively. However, since the nominal values of the fee items are minimal, it would not make a big difference to have either a 10% / 15% increase or a 20% increase (the difference in nominal values ranges from \$3 to \$6). Thus, a 20% increase across the board is proposed.

**Subcommittee on
Building Management (Fee Revision) Regulation 2007**

Membership list

Chairman Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP

Members Hon CHOY So-yuk, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon WONG Ting-kwong, BBS
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon TAM Heung-man

(Total : 9 Members)

Clerk Miss Flora TAI

Legal Adviser Miss Monna LAI

Date July 2007