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Subcommittee on Building Management (Fee Revision) Regulation 2007

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper provides background information on the fee revision to be effected by the Building Management (Fee Revision) Regulation 2007 (the Amendment Regulation).

Building Management (Fee Revision) Regulation 2007

2. The Building Management Ordinance (Cap. 344) 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)).

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 Cap. 344 to achieve a 20%

increase for all the eight fees items prescribed in the Schedule to the Principal Regulations payable to LR by repealing the old Schedule and substituting a new Schedule. The existing and proposed fees are set out in Annex B to the Legislative Council Brief issued by the Home Affairs Department in June 2007 [File Ref: HAD HQ CR/20/1/1/(C)].

5. According to the Administration, the fee revision in respect of the Principal Regulations is intended to be an annual exercise. Following the last fee revision on 1 January 2006, a fresh costing exercise has been carried out to review the fee items under the Principal Regulations. The cost recovery rates for most of the fee items under the Regulations are 35% or below. The Administration proposes to increase all the fee items under the Regulations at a rate of 20% in 2007 in accordance with the following guidelines advised by the Financial Services and the Treasury Bureau -

- (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.

6. The Panel on Home Affairs was informed of the fee revision to be effected by the Amendment Regulation vide an information paper provided by the Administration entitled "Revision of fees and charges for items under (A) Building Management Ordinance (Cap. 344) and (B) Hotel and Guesthouse Accommodation Ordinance (Cap. 349)" [LC Paper No. CB(2)1690/06-07(01)] on 25 April 2007. Panel members were also consulted on whether they wished to discuss the paper at a meeting but no request was received.

Consultation with the Panel on Home Affairs on the last fee revision under the Principal Regulations

7. 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. According to the Administration, most fees and charges have been frozen since 1998 as an exceptional measure to alleviate the financial burden on

the public in times of economic difficulty. In the 2004-2005 Budget Speech, the Financial Secretary indicated the need to resume the revision of government fees and charges, starting with those that did not directly affect people's livelihood or general business activities, including the fee items relating to registration of OCs under the Principal Regulations.

8. Based on the outcome of the costing review conducted at 2004-2005 price level, the Administration proposed in January 2005 to revise 234 fee items, with 199 increases and 35 reductions. For fee reductions, the fees would be reduced to the full cost level in one go.

9. At its meeting on 21 March 2005, the Panel was consulted on proposals to revise the fees and charges for services under the purview of the Home Affairs Bureau, including the fee items under the Principal Regulations. Some members expressed concern about the high full cost level for the issue of a certificate of registration of an OC, i.e. \$5,881 at 2004-2005 price level.

10. The Administration explained that, according to LR which was responsible for the issue of a registration certificate of an OC, 60% of the full cost was staff cost whereas the rest was office expenditure. LR had explained that the work of checking all the relevant documents submitted in connection with an application for registration was manpower and time-consuming. LR had implemented cost reduction initiatives such as computerisation to reduce costs. The Administration also informed the Panel that the Hong Kong Housing Society since early 2005 had launched a comprehensive scheme for building management and maintenance which would last for 10 years. Under the scheme, the Hong Kong Housing Society would subsidise each OC \$3,000 to make up for the fee for the issue of a registration certificate.

11. The fees were subsequently revised on 1 January 2006.

Relevant papers

12. Members are invited to access Legislative Council's (LegCo's) website (<http://www.legco.gov.hk>) for the LegCo Brief on the Amendment Regulation, the report on the Amendment Regulation prepared by the Legal Service Division of LegCo Secretariat, and details of the paper and minutes of the meeting of the Panel on Home Affairs on 21 March 2005.

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