

LEGISLATIVE COUNCIL BRIEF

Pesticides Ordinance (Cap. 133)

PESTICIDES (AMENDMENT) REGULATION 2014

Public Health (Animals and Birds) Ordinance (Cap. 139)

PUBLIC HEALTH (ANIMALS AND BIRDS) (EXHIBITIONS) (AMENDMENT) REGULATION 2014

PUBLIC HEALTH (ANIMALS) (RIDING ESTABLISHMENT) (AMENDMENT) REGULATION 2014

INTRODUCTION

Section 19(1A)(a) of the Pesticides Ordinance (Cap. 133) provides that the Chief Executive in Council (CE-in-Council) may by regulation provide for fees and charges.

2. Section 3(1) of the Public Health (Animals and Birds) Ordinance (Cap. 139) provides that CE-in-Council may by regulation provide for matters as set out in sub-sections (a) to (t). Section 3(4)(e) further provides that regulations made under section 3 may prescribe the fees to be paid in respect of, inter alia, any licence or permit.

3. Section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) empowers the Financial Secretary (which means also the Secretary for Financial Services and the Treasury (SFST) by virtue of section 3 of Cap. 1) to vary fees which are specified in subsidiary legislation made by CE-in-Council.

4. In exercise of these powers, SFST has made the following subsidiary legislation –

- (a) Pesticides (Amendment) Regulation 2014 at **Annex A**;

- (b) Public Health (Animals and Birds) (Exhibitions) (Amendment) Regulation 2014 at **Annex B**; and
- (c) Public Health (Animals) (Riding Establishment) (Amendment) Regulation 2014 at **Annex C**,

to revise the fees specified in the Pesticides Regulations (Cap. 133A) made under the Pesticides Ordinance, as well as the Public Health (Animals and Birds) (Exhibitions) Regulations (Cap. 139F) and the Public Health (Animals) (Riding Establishment) Regulations (Cap. 139J) made under the Public Health (Animals and Birds) Ordinance.

JUSTIFICATIONS

5. In line with the “user pays” principle, it is government policy that fees charged by the Government for various services should in general be set at levels sufficient to recover the full costs of providing the services. The Agriculture, Fisheries and Conservation Department (AFCD) has reviewed a total of 18 fee items prescribed in the Pesticides Regulations, the Public Health (Animals and Birds) (Exhibitions) Regulations and the Public Health (Animals) (Riding Establishment) Regulations. Among these fee items, 16 were last revised in 1997 and two in 2006. The result of costing review showed that the current cost recovery levels of these 18 fee items range from 31.4% to 83.9% which are not adequate to recover the full costs of providing the relevant services. In order to achieve full cost recovery gradually and avoid a steep fee increase, we have adopted the following guidelines for the fee revision in our proposal –

- (a) for items with an existing cost recovery rate of less than 40%, adopt an increase of about 20%;
- (b) for items with an existing cost recovery rate of 40% to 70%, adopt an increase of about 15%; and
- (c) for items with an existing cost recovery rate of over 70%, adopt an increase of about 10% or less.

6. Accordingly, the 18 fee items have to be adjusted with increases ranging from about 9% to 20%. With the increased fee levels, the cost

recovery rates will be improved to the range of 37.6% to 92.6%. Details of the fee adjustments are set out at **Annex D**.

THE AMENDMENT REGULATIONS

7. The Amendment Regulations at **Annexes A to C** revise the 18 fee items concerned and will come into effect on 31 October 2014.

LEGISLATIVE TIMETABLE

8. The legislative timetable is as follows –

Publication in the Gazette	6 June 2014
Laying on the table of the Legislative Council	11 June 2014
Commencement of the Amendment Regulations	31 October 2014

EFFICIENCY IMPROVEMENT MEASURES

9. AFCD will continue to enhance efficiency and streamline procedures so as to contain the costs of providing such services to the public.

IMPLICATIONS OF THE FEE ADJUSTMENTS

10. If the adjustments to the 18 fee items are implemented, the estimated increase in revenue is about \$0.1 million per annum. Given that the fee adjustments are not significant, we expect that impact of the fee adjustments to the affected parties should be minimal. The Amendment Regulations do not affect the current binding effect of the respective principal Ordinances and Regulations referred to in paragraph 4 above.

PUBLIC CONSULTATION

11. The existing licensees and permittees under the three Regulations have been informed of the fee revision proposal. So far,

AFCD has received feedback from two persons. One of them indicated support for the proposed fee revision while the other one considered that the Administration should continue to freeze the fees at their present level.

12. We consulted the Panel on Food Safety and Environmental Hygiene of the Legislative Council on 11 February 2014 on the proposal to adjust the relevant fees. The Panel expressed no objection to the fee revision proposal.

PUBLICITY

13. The Amendment Regulations will be published in the Gazette on 6 June 2014. A spokesperson will be available to answer media enquiries.

ENQUIRIES

14. Enquiries on this brief can be addressed to Miss Jeanne CHENG, Assistant Secretary for Food and Health (Food), at 3509 8700.

Food and Health Bureau
Agriculture, Fisheries and Conservation Department
4 June 2014

Pesticides (Amendment) Regulation 2014

(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 19(1A) of the Pesticides Ordinance (Cap. 133))

1. Commencement

This Regulation comes into operation on 31 October 2014.

2. Pesticides Regulations amended

The Pesticides Regulations (Cap. 133 sub. leg. A) are amended as set out in section 3.

3. Schedule amended (fees)

(1) The Schedule, item 1—

Repeal

“2,500”

Substitute

“2,880”.

(2) The Schedule, item 2—

Repeal

“125”

Substitute

“140”.

(3) The Schedule, item 3—

Repeal

“155”

Substitute

“180”.

(4) The Schedule, item 4—

Repeal

“395”

Substitute

“435”.

(5) The Schedule, item 5—

Repeal

“800”

Substitute

“880”.

(6) The Schedule, item 6—

Repeal

“520”

Substitute

“570”.

(7) The Schedule, item 7—

Repeal

“700”

Substitute

“805”.

(8) The Schedule, item 8—

Repeal

“1,280”

Substitute

“1,470”.

(9) The Schedule, item 9—

Repeal

“825”

Substitute

“910”.

(10) The Schedule, item 10—

Repeal

“200”

Substitute

“220”.

(11) The Schedule, item 11—

Repeal

“580”

Substitute

“640”.

(12) The Schedule, item 12—

Repeal

“160”

Substitute

“175”.

(13) The Schedule, item 13—

Repeal

“395”

Substitute

“435”.

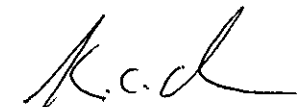
(14) The Schedule, item 14—

Repeal

“910”

Substitute

“1,050”.



Secretary for Financial Services and
the Treasury

30 May 2014

Explanatory Note

This Regulation varies the fees specified in the Schedule to the Pesticides Regulations (Cap. 133 sub. leg. A).

2. The Regulation comes into operation on 31 October 2014.

**Public Health (Animals and Birds) (Exhibitions)
(Amendment) Regulation 2014**

(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 3 of the Public Health (Animals and Birds) Ordinance (Cap. 139))

1. Commencement

This Regulation comes into operation on 31 October 2014.

2. Public Health (Animals and Birds) (Exhibitions) Regulations amended

The Public Health (Animals and Birds) (Exhibitions) Regulations (Cap. 139 sub. leg. F) are amended as set out in sections 3 and 4.

3. Regulation 4 amended (power of Director to grant licence)

(1) Regulation 4(5)(a)—

Repeal

“2,190”

Substitute

“2,410”.

(2) Regulation 4(5)(b)—

Repeal

“7,790”

Substitute

“8,570”.

4. Regulation 8 amended (power of Director to issue permit)

Regulation 8(4)—

Repeal

“1,380”

Substitute

“1,660”.



Secretary for Financial Services and
the Treasury

30 May 2014

Explanatory Note

This Regulation amends the Public Health (Animals and Birds) (Exhibitions) Regulations (Cap. 139 sub. leg. F)—

- (a) to adjust the fee for a licence to hold a permanent exhibition of animals or birds to—
 - (i) \$2,410 if the total number of animals or birds to be exhibited (the animals and birds to be counted together where there is a combination of both) does not exceed 20; or
 - (ii) \$8,570 if the total number of animals or birds to be exhibited (the animals and birds to be counted together where there is a combination of both) exceeds 20; and
- (b) to adjust the fee for a permit to hold a temporary exhibition of animals or birds to \$1,660.

- 2. The Regulation comes into operation on 31 October 2014.

**Public Health (Animals) (Riding Establishment)
(Amendment) Regulation 2014**

(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 3 of the Public Health (Animals and Birds) Ordinance (Cap. 139))

1. Commencement

This Regulation comes into operation on 31 October 2014.

2. Public Health (Animals) (Riding Establishment) Regulations amended

The Public Health (Animals) (Riding Establishment) Regulations (Cap. 139 sub. leg. J) are amended as set out in section 3.

3. Regulation 5 amended (power of Director to grant licence)


Regulation 5(5)—

Repeal

“3,810”

Substitute

“4,570”.



Secretary for Financial Services and
the Treasury

30 May 2014

Explanatory Note

This Regulation amends the Public Health (Animals) (Riding Establishment) Regulations (Cap. 139 sub. leg. J) to adjust the fee for a licence to keep a riding establishment to \$4,570.

2. The Regulation comes into operation on 31 October 2014.

Adjustment to the 18 fee items under Cap. 133A, Cap. 139F and Cap. 139J

Item nos.	Fee description	Last revision date to the fee level	Existing fee level (\$)	Existing cost recovery rate at 2014-15 prices	Proposed fee level (\$)	Change in amount (\$) & percentage	Cost recovery rate after fee adjustment
Pesticides Regulations (Cap. 133A)							
1	For application for registration of a pesticide	28.11.1997	2,500	67.1%	2,880	+380 (+15%)	77.3%
2	For lodging an application for a licence	28.11.1997	125	73.1%	140	+15 (+12%)	81.9%
3	For lodging an application for a permit	28.11.1997	155	55.8%	180	+25 (+16%)	64.7%
4	For issue of a licence in respect of pesticides registered in Part I only of the register	28.11.1997	395	73.8%	435	+40 (+10%)	81.3%
5	For issue of a licence in respect of pesticides registered in Part II or both Parts I and II of the register	28.11.1997	800	81.2%	880	+80 (+10%)	89.3%
6	For issue of a new licence at the request of a licensee	28.11.1997	520	83.2%	570	+50 (+10%)	91.2%
7	For issue of a permit for the purpose of importing or possessing a scheduled pesticide or any other unregistered pesticide only for re-export without re-packaging (including transshipment of a scheduled pesticide in Hong Kong) #	28.11.1997	700	69.9%	805	+105 (+15%)	80.3%

The fee description was last revised on 27.1.2014.

Item nos.	Fee description	Last revision date to the fee level	Existing fee level (\$)	Existing cost recovery rate at 2014-15 prices	Proposed fee level (\$)	Change in amount (\$) & percentage	Cost recovery rate after fee adjustment
8	For issue of a permit in respect of a scheduled pesticide or any other unregistered pesticide – (a) for any purposes not specified in item 7 above; or (b) for the purpose specified in item 7 above and for any other purpose [#]	28.11.1997	1,280	65.5%	1,470	+190 (+15%)	75.2%
9	For issue of a new permit at the request of a permittee	28.11.1997	825	71.6%	910	+85 (+10%)	79.0%
10	For renewal of a licence in respect of pesticides registered in Part I of the register	28.11.1997	200	71.7%	220	+20 (+10%)	78.9%
11	For renewal of a licence in respect of pesticides registered in Part II or both Parts I and II of the register	28.11.1997	580	83.9%	640	+60 (+10%)	92.6%
12	For issue of a duplicate licence or permit	28.11.1997	160	72.1%	175	+15 (+9%)	78.8%
13	For extension of a permit for the purpose of importing or possessing a scheduled pesticide or any other unregistered pesticide only for re-export without re-packaging (including transshipment of a scheduled pesticide in Hong Kong) [#]	28.11.1997	395	72.7%	435	+40 (+10%)	80.1%
14	For extension of a permit in respect of a scheduled pesticide or any other unregistered pesticide – (a) for any other purposes not specified in item 13 above; or (b) for	28.11.1997	910	53.8%	1,050	+140 (+15%)	62.1%

Item nos.	Fee description	Last revision date to the fee level	Existing fee level (\$)	Existing cost recovery rate at 2014-15 prices	Proposed fee level (\$)	Change in amount (\$) & percentage	Cost recovery rate after fee adjustment
	the purpose specified in item 13 above and for any other purpose [#]						
Public Health (Animals and Birds) (Exhibitions) Regulations (Cap. 139F)							
15	For issue of a licence to any person to hold a permanent exhibition of animals or birds if the total number of animals or birds to be exhibited does not exceed 20	10.11.2006	2,190	80.3%	2,410	+220 (+10%)	88.4%
16	For issue of a licence to any person to hold a permanent exhibition of animals or birds if the total number of animals or birds to be exhibited exceeds 20	10.11.2006	7,790	75.9%	8,570	+780 (+10%)	83.5%
17	For issue of a permit to any person to hold a temporary exhibition of animals or birds	19.12.1997	1,380	33.1%	1,660	+280 (+20%)	39.9%
Public Health (Animals) (Riding Establishment) Regulations (Cap. 139J)							
18	For issue of a licence to any person to keep a riding establishment	19.12.1997	3,810	31.4%	4,570	+760 (+20%)	37.6%