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Paper for the House Committee

**Report of Subcommittee on
Building (Administration) (Amendment) Regulation 2015 and
Building (Minor Works) (Fees) (Amendment) Regulation 2015**

Purpose

This paper reports on the deliberations of the Subcommittee on Building (Administration) (Amendment) Regulation 2015 and Building (Minor Works) (Fees) (Amendment) Regulation 2015 ("the Subcommittee").

Background

2. Under section 38(1A) of the Buildings Ordinance ("BO") (Cap. 123), the Chief Executive ("CE") in Council may by regulation provide for the imposition of fees in respect of any matter with regard to which provision is made in BO or regulations made under BO. The Building (Administration) Regulations (Cap. 123A) prescribe fees relating to the registration of (a) authorized persons, structural engineers, geotechnical engineers, general building contractors and specialist contractors, and (b) inspectors; while the Building (Minor Works) (Fees) Regulation (Cap. 123O) specifies fees relating to the registration of registered minor works contractors ("RMWCs"). The fee levels for the items under (a) and (b) were set in 2005 and 2011 respectively, while the fee levels for the registration of RMWCs were set in 2009.

Building (Administration) (Amendment) Regulation 2015

3. The Building (Administration) (Amendment) Regulation 2015 (L.N. 93 of 2015) ("B(A)(A)R") is made by the Secretary for Financial Services and the Treasury ("SFST") under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1)¹ by virtue of section 38(1A) of BO to increase by 5.1% to 68% the fees prescribed in Cap. 123A relating to the registration of authorized persons, structural engineers, geotechnical engineers, general building contractors, specialist contractors and inspectors.

Building (Minor Works) (Fees) (Amendment) Regulation 2015

4. The Building (Minor Works) (Fees) (Amendment) Regulation 2015 (L.N. 94 of 2015) ("B(MW)(F)(A)R") is similarly made by SFST to revise the fees specified in Cap. 123O relating to the registration of RMWCs. The fee revisions range from -4.9% to +45.1%.

5. The above two Amendment Regulations, i.e. B(A)(A)R and B(MW)(F)(A)R, were gazetted on 15 May 2015 and tabled before the Legislative Council ("LegCo") at its meeting of 20 May 2015 for scrutiny. Subject to amendments (if any) by LegCo, they will come into operation on 20 July 2015.

The Subcommittee

6. At the meeting of the House Committee on 22 May 2015, Members agreed that a subcommittee should be formed to study the two Amendment Regulations. Under the chairmanship of Hon Tony TSE Wai-chuen, the Subcommittee held one meeting on 1 June 2015 to examine the two Amendment Regulations in detail. The membership list of the Subcommittee is in the **Appendix**.

¹ Under section 29A(1) of Cap. 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 CE in Council, the Financial Secretary ("FS") (which means FS and SFST under section 3 of Cap. 1) may by similar subsidiary legislation increase or decrease, or otherwise vary, the amount of the fee or charge.

Deliberations of the Subcommittee

7. In the course of examination of the two Amendment Regulations, members have expressed concerns and views on the costing of the registration services, the efforts made by the Administration to contain the costs of the services, and the impact of the fee revisions on the general public.

Costing of the registration services

8. Members note that it is the policy of the Administration that fees charged for government services are in general set at levels sufficient to recover the full cost of providing the services (the "user pays" principle), and the fees covered by the two Amendment Regulations are proposed to be revised to achieve full cost recovery. However, in view of the large magnitude of increases for some of the fee items, (e.g. the fee for "application for inclusion of name in each list of the authorized person's/structural engineer's/geotechnical engineer's register" will be revised from \$4,150 to \$6,200 (+49.4%); the fee for "application for registration as a general building contractor" will be adjusted upward from \$5,020 to \$7,030 (+40.0%)), members including Hon IP Kwok-him, Ir Dr LO Wai-kwok and Hon CHAN Han-pan have enquired how the costs for the relevant registration services were worked out.

9. The Administration has explained that some of the fees under B(A)(A)R have not been reviewed for 10 years and therefore those fees do not reflect the costs of the relevant services at the 2015-2016 price level. Each item of fees under the Amendment Regulations was calculated based on the empirical staff costs incurred in processing the applications, departmental expenses as well as other associated costs for convening the registration committee meetings. An application for registration as a building professional involves not only the processing of submitted documents, but also an interview to examine the applicant's knowledge about the statutory requirements under BO by the Registration Committee which is formed by representatives of the Buildings Department ("BD") and the relevant professional bodies, as well as an arrangement to publish the successful applicant's name in the Gazette. If the applicant fails in the interview, in general a re-take in 6 months will be arranged free of charge. As for an application for registration as a general building contractor, an interview with the Contractors Registration Committee is required.

Containing the costs of the services

10. While supporting in principle the "user pays" principle, members have enquired about the efforts made by the Administration in streamlining work procedures and enhancing work efficiency for the purpose of reducing or containing the costs of providing the services.

11. According to the Administration, it strives to contain the costs of delivery of government services and reviews its work procedures from time to time. By way of illustration, BD has adopted a practice that each interview conducted by the Registration Committee should normally last not more than 40 minutes so as to control staff and meeting costs. For the renewal of an RMWC registration, upon streamlining the procedures in consultation with stakeholders, BD only requires the applicant to provide the changes, if any, to the information submitted for the last registration, instead of providing all information afresh. The benefits derived from the streamlined procedures have been factored into the costing of individual fee items. As a result, the increases of the fees under B(MW)(F)(A)R are mild and the fees for six items are adjusted downward.

Impact of the revisions of the fees on the general public

12. Hon IP Kwok-him has expressed concern on whether the increased registration fees for general building contractor (from \$5,020 to \$7,030) would be transferred to building service users. He considers that the "user pays" and "full cost recovery" principles should not be applied across the board for all government services regardless of the nature and purposes of individual services, as well as the impact of cost increases on the general public. Hon CHAN Han-pan opines that, although most of the fee increases for RMWCs are moderate under B(MW)(F)(A)R, the increases may have an impact on the users of minor works services.

13. The Administration has explained that for general building contractors, the registration fee is a one-off fee, and in comparison with the contract value of their works projects, the registration fee is a small amount with little impact on their operations. As for the fees for registration of RMWCs under B(MW)(F)(A)R, the Administration has reduced the fees and in any case they are not related to the individual works items that the RMWCs carry out. While BD requires RMWCs to report each works project that they undertake for record and spot-checks, BD does not charge RMWCs on such reports. The Administration has stressed that the fee revisions under the two Amendment Regulations are

only related to registration matters of building professionals and RMWCs, but not the individual works projects that they undertake. Hence, the fee revisions should have no impact on the general public.

Recommendation

14. The Subcommittee supports the two Amendment Regulations and will not propose any amendment.

Advice sought

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

Council Business Division 1
Legislative Council Secretariat
8 June 2015

**Subcommittee on
Building (Administration) (Amendment) Regulation 2015 and
Building (Minor Works) (Fees) (Amendment) Regulation 2015**

Membership list

Chairman Hon Tony TSE Wai-chuen, BBS

Members Hon Abraham SHEK Lai-him, GBS, JP
Hon Cyd HO Sau-lan, JP
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon CHAN Han-pan, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP

(Total : 7 members)

Clerk Ms Sharon CHUNG

Legal Adviser Miss Carrie WONG