

## **LEGISLATIVE COUNCIL BRIEF**

### **Antiquities and Monuments Ordinance (Cap. 53) Antiquities (Excavation and Search) (Amendment) Regulation 2016**

#### **INTRODUCTION**

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 by virtue of section 3 of Cap. 1) to vary fees which have previously been fixed by subsidiary legislation made by the Chief Executive in Council.

2. In exercise of this power, the Secretary for Financial Services and the Treasury has made the Antiquities (Excavation and Search) (Amendment) Regulation 2016 (the “Regulation”) to revise the fee for granting or renewal of licence to excavate and search for antiquities specified in the Antiquities (Excavation and Search) Regulations (Cap. 53A) (the “Regulations”) made pursuant to the Antiquities and Monuments Ordinance (Cap. 53) (the “Ordinance”).

#### **BACKGROUND AND JUSTIFICATIONS**

3. Under section 13 of the Ordinance, a licence to excavate and search for antiquities may be granted to a person if the Antiquities Authority (i.e. the Secretary for Development) is satisfied that the applicant has had sufficient scientific training or experience to enable him to carry out the excavation and search satisfactorily. Besides, the applicant should have at his disposal sufficient staff and financial or other resources to enable him to carry out the excavation and search satisfactorily; and he is able to conduct or arrange for a proper scientific study of any antiquities discovered as a result of the excavation and search. In accordance with the Regulations, which set out the procedures through which an application for a licence to excavate and search for antiquities should be lodged, a fee shall be payable upon the grant or renewal of the licence. The licence fee was first introduced in 1976 and was last revised to \$320 in 1995.

4. The Antiquities and Monuments Office of the Leisure and Cultural Services Department, as the executive arm of the Antiquities Authority, recently conducted a review on the licence fee at the 2015-16 price level. The review shows that the cost recovery rate at the existing fee level is only 12.7%. In line with the Government's "user pays" principle under which fees charged by the Government should in general be set at levels sufficient to recover the full cost of providing the services, it is proposed to increase the licence fee from \$320 to \$2,520. When the proposed fee revision is implemented, the cost recovery rate will become 99.9%.

5. Since the enactment of the Environmental Impact Assessment Ordinance (Cap. 499) ("EIAO") in 1997, a total of 288 licences have been issued (as at December 2015) with the average growing to 16 licences per year. A great majority of the licences were issued to archaeologists engaged by private developers or government departments for the purpose of conducting specific archaeological investigation/excavation to act in accordance with the EIAO or to facilitate preservation of archaeological resources arising from development projects.

## **THE REGULATION**

6. The Regulation at the **Annex** revises the fee concerned. It is proposed that the new fee will come into effect on 31 March 2016.

## **IMPLICATIONS OF THE PROPOSAL**

7. The proposed fee increase does not have a direct impact on people's livelihood or general business activities, and is not expected to entail any significant economic implication. As regards financial implications, if the proposed fee revision is implemented, the estimated increase in revenue is about \$35,200 per annum.

8. The proposed amendment does not affect the current binding effect of the Ordinance and the subsidiary legislation. It is in conformity with the Basic Law, including the provisions concerning human rights. It has no civil service, productivity, family, environment, gender or sustainability implications.

## **EFFICIENCY INITIATIVES**

9. The Administration will continue to enhance efficiency and streamline procedures so as to contain the costs of providing this service.

## **PUBLIC CONSULTATION**

10. With the support of the Antiquities Advisory Board, we consulted the Legislative Council Panel on Development on 22 December 2015 regarding the revision of fee as set out in paragraphs 3 to 5 above. Panel members supported the proposal.

## **PUBLICITY**

11. The Regulation will be published in the Gazette on [22 January 2016] and a press release will be issued. A spokesman will be available to answer enquiries on the subject.

## **ENQUIRIES**

12. For enquiries on this brief, please contact Mr José YAM Ho-san, Commissioner for Heritage of the Development Bureau, at 3509 8270.

**Development Bureau**  
**January 2016**

**Antiquities (Excavation and Search) (Amendment)  
Regulation 2016**

(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 22 of the Antiquities and Monuments Ordinance (Cap. 53))



Secretary for Financial Services and  
the Treasury

**1. Commencement**

This Regulation comes into operation on 31 March 2016.

14 January 2016

**2. Antiquities (Excavation and Search) Regulations amended**

The Antiquities (Excavation and Search) Regulations (Cap. 53 sub. leg. A) are amended as set out in section 3.

**3. Regulation 6 amended (fees)**

Regulation 6—

**Repeal**

“\$320”

**Substitute**

“\$2,520”.

### **Explanatory Note**

This Regulation increases, with effect from 31 March 2016, the fee payable on the grant or renewal of a licence to excavate and search for antiquities from \$320 to \$2,520.