

立法會
Legislative Council

LC Paper No. CB(1)1070/18-19(02)

Ref. : CB1/SS/14/18

**Subcommittee on Entertainment Special Effects (Fees) (Amendment)
Regulation 2019**

Background brief

Purpose

This paper provides background information on the entertainment special effects fees imposed by the Administration. It also summarizes the views and concerns expressed by Members in previous discussions on the subject.

Background

2. The Entertainment Special Effects Ordinance (Cap. 560) provides for the regulation of the supply, use, conveyance and storage of special effects materials for and incidental to the production of special effects in film productions, entertainment programmes and performances, and other related matters. The Head of Create Hong Kong (CreateHK) is the Entertainment Special Effects Licensing Authority (the Authority) by virtue of section 3 of Cap. 560.

3. According to Cap. 560, the supply, use, conveyance and storage of special effects materials (especially pyrotechnic special effects materials) require valid licences and permits issued under Cap. 560. Those who operate special effects materials also need to pass assessments and be licensed before becoming qualified special effects operators.

4. Section 26(1)(n) and (o) of Cap. 560 stipulates that the Authority may, with the approval of the Secretary for Commerce and Economic Development, by regulation provide for fees payable in respect of –

- (a) any examination or assessment that may be required for the issue or alteration of a special effects operator licence; and
- (b) the issue, renewal, certification, replacement or alteration of any licence and permit and the exemption thereof.

The existing fees prescribed in the Entertainment Special Effects (Fees) Regulation (Cap. 560B) have been in force since May 2013.

5. In accordance with the "user pays" principle, it is the Government's policy that fees charged by the Government for various services should in general be set at levels sufficient to recover the full cost of providing the services. CreateHK conducted a costing exercise in 2018 to review the fees prescribed in Cap. 560B. The outcome of the review reveals that 26 fee items under Cap. 560B are unable to achieve full cost recovery. The Government has proposed to increase the relevant fee items by 11.1% to 14.4% so as to achieve full cost recovery.

Previous discussions

6. The Administration briefed the Panel on Information Technology and Broadcasting ("the Panel") on 14 January 2019 regarding the proposed fees revision.

7. The Panel had no objection to the proposed fees revision. Members queried the cost recovery rate that could be achieved if the proposed fees adjustment was implemented and whether the rates of fees adjustment far exceeded the increase in operating cost of the department. The Administration explained that, with an increase of the relevant fee items by 11.1% to 14.4%, full cost recovery could be achieved. This was in line with the Administration's principles of prudent management of public finance and the "user pays principle". The proposed rates of fees adjustment reflected the cumulative cost escalation due to inflation and the increase in staff cost since the last fees adjustment exercise in 2013-2014.

8. Some Panel members queried how many pyrotechnic special effects materials supplier licences and non-movable pyrotechnic special effects materials store licences had been issued or renewed in the past few years. The Administration informed the Panel that applications for these two types of licence, and their renewal, were few and far between, with only four applications received and approved in the past five years.

9. Panel members asked if the Administration would consider lowering the licence fees rather than proposing an increase in fee levels, as a measure to support the development of creative industries in Hong Kong and encourage young people to pursue a career in film production. Some other members suggested that the Administration should freeze the licence fees as a gesture of its support to the film sector.

10. The Administration responded that there was a clear policy in supporting the local film and other creative industries. Over the years, the Administration had provided funding support to the trade through the CreateSmart Initiatives as well as the Film Development Fund ("FDF"). It was necessary for the Administration to maintain financial discipline in handling public funds and it was the Administration's policy and fiscal principle that fees charged by the Administration for a service should in general be set at levels sufficient to recover the full cost of providing that service. The Administration added that the proposed fees adjustment would unlikely disincentivize film producers from employing special effects or deter someone from pursuing a career in the film industry, as the costs of obtaining permits and licences (and their renewal) were insignificant compared to a film's production budget, and the fees were adjusted once every few years. For film projects supported by FDF, these costs might be absorbed into the production budget which could be covered by FDF subsidies.

11. In response to members' queries on whether the Administration would consider using FDF to finance the costs of issuing and renewing permits and licences, the Administration informed the Panel that many of the applications for permits and licences under Cap. 560B were not related to film production but rather activities and live performances involving the use of special effects in theme parks or concerts. It would not be appropriate to use FDF to subsidize the costs of issuing and renewing permits and licences.

12. Members also asked if there was scope to reduce the levels of increase in respect of the applications for renewal of licences. The Administration explained that processing of applications for new licences and renewal of licences required the same procedures of collecting applicants' criminal records, if any, from the Hong Kong Police Force, conducting interviews, gathering and updating personal information and producing new licence documentations. The costs of the two services were therefore the same.

Latest development

13. At the House Committee meeting on 26 April 2019, Members agreed that a subcommittee should be formed to examine the Entertainment Special Effects (Fees) (Amendment) Regulation 2019.

Relevant papers

14. A list of the relevant papers is set out in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
17 May 2019

List of relevant papers

Issued by	Meeting Date	Paper
Panel on Information Technology and Broadcasting	14 January 2019	<p>Administration's paper on revision of fees under Entertainment Special Effects (Fees) Regulation (Cap. 560B) (LC Paper No. CB(1)426/18-19(05))</p> <p>Administration's response to issues raised at the meeting on 14 January 2019 (LC Paper No. CB(1)625/18-19(01))</p> <p>Minutes of meeting (LC Paper No. CB(1)668/18-19)</p>
Council / House Committee	April 2019	<p>The Order</p> <p>Legislative Council Brief - Entertainment Special Effects (Fees) (Amendment) Regulation 2019</p> <p>Legal Service Division Report (LC Paper No. LS68/18-19)</p>