

## LEGISLATIVE COUNCIL BRIEF

### Land (Miscellaneous Provisions) Ordinance (Cap. 28)

#### LAND (MISCELLANEOUS PROVISIONS) (AMENDMENT) REGULATION 2018

#### INTRODUCTION

The Land (Miscellaneous Provisions) (Amendment) Regulation 2018 (the Amendment Regulation) is proposed to be made for revision of the excavation permit (XP) fees and economic costs specified in Schedule 3 of the Land (Miscellaneous Provisions) Regulations (Cap. 28A) (the Regulations).

#### BACKGROUND AND JUSTIFICATIONS

2. The Land (Miscellaneous Provisions) Ordinance (the Ordinance) was amended in 2003 to introduce a XP system for the management of excavations in unleased government land including streets maintained by the Highways Department (HyD) and those other than streets maintained by HyD. The XP system came into operation on 1 April 2004. A review of the existing fees relating to the administration of the XP system currently in Schedule 3 of the Regulations shows that they are unable to recover the operating cost of the XP system at 2018-19 price level. In order to achieve full-cost recovery gradually in accordance with the “user-pays” principle and to avoid steep fee increase, we propose to revise the XP fees as listed in **Annex 1**.

3. In addition, the Ordinance after amendment in 2003 also introduced economic costs to be charged for extensions of XP for excavations in streets maintained by HyD based on an assessment of the economic loss due to traffic delay caused by the excavations. A review of the existing economic costs shows that they are below the 2018-19 price level. In order to reflect the updated economic loss due to traffic delay caused by the excavations and to maintain sufficient incentive to the excavation permittees to complete their works as soon as possible, we propose to revise the economic costs to the 2018-19 price level as listed in **Annex 1**.

## **THE AMENDMENT REGULATION**

4. The current XP fees and economic costs prescribed in Schedule 3 of the Regulations were last revised by regulations made by the Chief Executive in Council under section 19 of the Ordinance in March 2015. Pursuant to section 29A(1) of the Interpretation and General Clauses Ordinance (Cap. 1), the Financial Secretary (which means also the Secretary for Financial Services and the Treasury by virtue of section 3 of Cap. 1) may by similar subsidiary legislation increase or decrease, or otherwise vary, the amount of the fee or charge under the Regulations.

5. The Amendment Regulation at **Annex 2** revises the XP fees and economic costs relating to excavations in unleased Government land including streets maintained by HyD and those other than streets maintained by HyD by amending the items in the Schedule 3 to the Regulations. It is proposed that the new XP fees and economic costs will come into effect on 28 December 2018.

## **LEGAL IMPLICATIONS**

6. The proposed amendments do not affect the current binding effect of the Ordinance and the Regulations. They are in conformity with the Basic Law, including the provisions concerning human rights.

## **FINANCIAL AND STAFFING IMPLICATIONS**

7. With the proposed increases of fees and economic costs, there will be an estimated increase in revenue of about \$20.2 million from XP issued by HyD, and about \$1.2 million from XP issued by Lands Department each year. There are no staffing implications.

## **ECONOMIC IMPLICATIONS**

8. The XP fees and economic costs should represent a minute portion of the total operating cost of the construction and utility industries, and thus the proposed increases should have limited impact on their operations.

## **EFFICIENCY INITIATIVES**

9. The Administration will continue to enhance efficiency and streamline procedures so as to contain the costs of providing these public services.

## **PUBLIC CONSULTATION**

10. We consulted the Panel on Development of the Legislative Council regarding the revision of XP fees and economic costs as outlined in paragraphs 2 to 3 via an information paper issued on 18 April 2018 (reference: LC Paper No. CB(1)829/17-18(02)). Members noted the proposal and raised no objection at the Panel meeting on 24 April 2018.

## **PUBLICITY**

11. The Amendment Regulation will be published in the Gazette on 26 October 2018 and a press release will be issued. A spokesperson will be available to answer enquiries on the subject.

## **ENQUIRIES**

12. For enquires on this brief, please contact Mr. Vitus NG, Principal Assistant Secretary (Works)<sup>3</sup> of the Development Bureau at 3509 8277.

**Development Bureau**  
**October 2018**

**Revision of Fees and Economic Costs for Excavations in Unleased Land under Land  
(Miscellaneous Provisions) Regulations (Cap. 28A)**

<b>Item</b>	<b>Fee Description</b>	<b>Existing Fee (\$)  (a)</b>	<b>Existing Cost Recovery Rate at 2018-19 Price Level</b>	<b>Proposed Fee (\$)  (b)</b>	<b>Proposed Amount of Increase (\$)  (b)-(a)</b>	<b>Proposed Percentage Increase  [(b)-(a)]/(a)</b>	<b>Cost Recovery Rate after Fee Adjustment</b>
<b>A) Fees</b>							
1.	Issue or deemed issue of an excavation permit (per permit) for streets maintained by HyD	2,050	55%	2,360	<b>310</b>	15%	64%
2.	Issue or deemed issue of an excavation permit – daily fee for whole duration (per day) for streets maintained by HyD	35	68%	40	<b>5</b>	14%	78%
3.	Extension of an excavation permit (per extension) for streets maintained by HyD	650	56%	750	<b>100</b>	15%	65%
4.	Extension of an excavation permit – daily fee for whole extended period (per day) for streets maintained by HyD	35	68%	40	<b>5</b>	14%	78%
5.	Emergency excavation during the initial period (per emergency excavation) for streets maintained by HyD	2,050	55%	2,360	<b>310</b>	15%	64%
6.	Emergency excavation during the initial period – daily fee for whole duration (per day) for streets maintained by HyD	35	68%	40	<b>5</b>	14%	78%
7.	Issue or deemed issue of an excavation permit (per permit) for other than streets maintained by HyD	3,370	91%	3,700	<b>330</b>	10%	100%
8.	Extension of an excavation permit (per extension) for other than streets maintained by HyD	440	87%	485	<b>45</b>	10%	96%

Item	Fee Description	Existing Economic Cost (\$)  (a)	Existing Percentage of the Economic Cost at 2018-19 Price Level	Proposed Economic Cost (\$)  (b)	Proposed Amount of Increase (\$)  (b)-(a)	Proposed Percentage Increase  [(b)-(a)]/(a)	Percentage of the Economic Cost after Adjustment
<b>B) Economic Costs</b>							
9.	Extension of an excavation permit – economic cost for a strategic street – for the whole duration of the extended period (per day) for streets maintained by HyD	21,800	92%	23,600	<b>1,800</b>	8%	100%
10.	Extension of an excavation permit – economic cost for a sensitive street – for the whole duration of the extended period (per day) for streets maintained by HyD	8,540	94%	9,120	<b>580</b>	7%	100%
11.	Extension of an excavation permit – economic cost for a remaining street – for the whole duration of the extended period (per day) for streets maintained by HyD	1,710	92%	1,850	<b>140</b>	8%	100%

## Land (Miscellaneous Provisions) (Amendment) Regulation 2018

(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 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28))

### 1. Commencement

This Regulation comes into operation on 28 December 2018.

### 2. Land (Miscellaneous Provisions) Regulations amended

The Land (Miscellaneous Provisions) Regulations (Cap. 28 sub. leg. A) are amended as set out in section 3.

### 3. Schedule 3 amended (fees)

(1) Schedule 3, Part I, item 1—

#### Repeal

“\$2,050 plus a daily fee of \$35”

#### Substitute

“\$2,360 plus a daily fee of \$40”.

(2) Schedule 3, Part I, item 2(a)—

#### Repeal

“\$650 plus a daily fee of \$35”

#### Substitute

“\$750 plus a daily fee of \$40”.

(3) Schedule 3, Part I, item 2(b)(i)—

#### Repeal

“\$21,800”

#### Substitute

“\$23,600”.

(4) Schedule 3, Part I, item 2(b)(ii)—

#### Repeal

“\$8,540”

#### Substitute

“\$9,120”.

(5) Schedule 3, Part I, item 2(b)(iii)—

#### Repeal

“\$1,710”

#### Substitute

“\$1,850”.

(6) Schedule 3, Part II, item 1—

#### Repeal

“\$3,370”

#### Substitute

“\$3,700”.

(7) Schedule 3, Part II, item 2—

#### Repeal

“\$440”

#### Substitute

“\$485”.

(8) Schedule 3, Part III, item 1—

#### Repeal

“\$2,050 plus a daily fee of \$35”

Land (Miscellaneous Provisions) (Amendment) Regulation 2018

Section 3

3

**Substitute**

“\$2,360 plus a daily fee of \$40”.

Secretary for Financial Services and  
the Treasury

2018

---

Land (Miscellaneous Provisions) (Amendment) Regulation 2018

Explanatory Note

Paragraph 1

4

**Explanatory Note**

This Regulation amends Schedule 3 to the Land (Miscellaneous Provisions) Regulations (Cap. 28 sub. leg. A) to revise the fees relating to the excavations in unleased land, including the fees payable for the issue and extension of excavation permits and for emergency excavations.