

立法會
Legislative Council

LC Paper No. LS 29/99-00

**Paper for the House Committee Meeting
of the Legislative Council
on 19 November 1999**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 12 November 1999**

Date of Tabling in LegCo : 17 November 1999

Amendment to be made by : 15 December 1999 (or 5 January 2000 if extended by resolution)

Immigration Ordinance (Cap. 115)
Immigration (Amendment) Regulation 1999 (L.N. 273)

This Amendment Regulation amends the Immigration Regulations (Cap. 115 sub.leg.) to provide for the practice and procedure to be followed in appeals to the Immigration Tribunal under section 2AD(1) or (2) of the Immigration Ordinance (Cap. 115) against the decisions of the Director of Immigration not to issue certificates of entitlement or certified duplicates thereof.

The amendments are consequential upon the introduction of the scheme of certificate of entitlement by the enactment of the Immigration (Amendment) (No. 3) Ordinance 1997 (124 of 1997). The Amendment Ordinance is deemed to have come into operation on 1 July 1997. Although section 2AD(1) and (2) of the Immigration Ordinance prescribes a time limit for lodging an appeal, under section 2AD(4), the Immigration Tribunal may accept an appeal that is not lodged within that time limit.

The new Regulation 9B and Schedule 4 made by the Amendment Regulation are drafted along the same lines as Regulation 9A and Schedule 3 which relate to appeals against removal orders made by the Director of Immigration. Changes have been made to take into account the different circumstances of appeal under section 2AD. The Legal Service Division is seeking clarification from the Administration on certain drafting aspects.

Members may refer to LegCo Brief File Reference SBCR 14/2091/97 issued by the Security Bureau on 10 November 1999 for background information.

***Estate Agents Ordinance (Cap. 511)**
Estate Agents (Licensing) (Amendment) Regulation 1999 (L.N. 274)

The purpose of the Amendment Regulation, made by the Estate Agents Authority with the approval of the Secretary for Housing, is to reduce the fees payable in respect of the grant or renewal of an estate agent's licence by 20%. The existing licence fees have been prescribed in the Estate Agents (Licensing) Regulation (Cap. 511 sub. leg.) since November 1998 and the Amendment Regulation would come into operation on 1 January 2000. A comparison of the existing and proposed fees are set out in Annex A.

The LegCo Panel on Housing has discussed the proposed reduction of licence fees with the Administration, the Authority and the trade at its meeting on 20 October 1999. A copy of the information paper prepared by the Estate Agents Authority for that meeting is at Annex B and an extract of the minutes of that meeting (English version only) is at Annex C.

Public Health and Municipal Services Ordinance (Cap. 132)
Designation of Museums (Amendment) (No. 2) Order 1999 (L.N. 275)

This Order designates the Hong Kong Heritage Museum at 1 Man Lam Road, Sha Tin as a museum. The effect of the Order is to vest the management and control of the museum and the right to provide therein facilities of any kind in the Provisional Regional Council.

#Legal Practitioners Ordinance (Cap. 159)
Legal Practitioners (Fees) (Amendment) Rules 1999 (L.N. 276)

These Amendment Rules have been made by the Chief Justice to increase the fee payable to the Hong Kong Bar Association for the issue of a practising certificate as a barrister from \$1,300 to \$1,400.

The fee has been last revised in November 1998. On that occasion, the Legal Service Division has sought clarification as to whether such rules should be made by the Chief Justice under section 72 or by the Bar Council under section 30(4) of the Legal Practitioners Ordinance.

* denotes fee decrease
denotes fee increase

As a result of the discussion, the Administration has introduced the Legal Practitioners (Amendment) Bill 1999 in June 1999. The Administration intends to preserve the existing powers of the Chief Justice to make subsidiary legislation, but proposes to add a new section 72AA to the effect that the Bar Council shall have the power to make rules prescribing for such fees subject to the prior approval of the Chief Justice. A Bills Committee has been set up to study the Bill in detail.

Prepared by

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15 November 1999

LS/S/8/99-00

**Comparison of existing and proposed fees
for grant or renewal of an Estate Agent's Licence**

Grant or renewal of a licence	Existing Fee (\$ per year)	Proposed Fee (\$ per year)
Salesperson's licence	2,300	1,840
Estate agent's licence (individual)		
- for individual estate agent	3,600	2,880
<u>plus</u> - for operation of a sole proprietorship/ partnership under each business name at one place of business	3,800	3,040
<u>plus</u> - for operation of each additional place of business under each business name	3,800	3,040
Estate agent's licence (company)		
- for operating under one business name—		
(i) at one place of business	5,000	4,000
(ii) at each additional place of business	3,800	3,040
<u>plus</u> - for operating under each additional business name—		
(i) at one place of business	5,000	4,000
(ii) at each additional place of business	3,800	3,040

For information
on 20th October 1999

**Legislative Council Panel on Housing
Estate Agents Authority**

Introduction

This paper purports to provide the Panel on Housing of the Legislative Council with an information update on the Estate Agents Authority (“EAA”). In the first part of this paper the role, functions and work of the Authority are delineated, while the second part is concerned with the Authority’s proposal for a reduction in licence fees.

Part One: The Role and the Work of the Estate Agents Authority

The Role of the Estate Agents Authority

2. According to the EAO, the EAA is tasked with the regulation of the trade, the raising of service and professional standards, and the provision of training opportunities. Since its inception the Estate Agents Authority has exercised great care in keeping these three major functions in good balance.
3. The Estate Agency Authority is a self-financing statutory body. It is financed mainly by the trade itself in the form of licence fees. The Authority has an appointed membership which is highly representative. In recent months, when business opportunities are scarce owing to the downturn in the property market, together with the implementation of the Estate Agents (General Duties and Hong Kong Residential Properties) Regulation (“Practice Regulation”) close at hand, estates agents are worried about the future.
4. The Estate Agents Authority plays a number of roles. On the one hand, it provides practical support and assistance to the estate agency trade. On the other hand, it handles consumers’ complaints on estate agents and regulates their practice, providing consumer protection.

5. In apportioning task and resources, the EAA has taken into consideration the expectations of both the trade and the community, and has worked hard to achieve a well-balanced workplan that takes care of the needs of both sides. It provides training to enhance the trade's professional standard and, at the same time, incorporates educational elements in its enforcement and complaint handling activities. The ultimate goal is, of course, to assist practitioners to practise according to law. The Authority is also mindful of its responsibility to the general public, and the importance of community education. The Authority is convinced that, when consumers have become conversant with their rights and responsibilities, and when estate agents conduct their business in accordance with the legal requirements, then there will certainly be much fewer cases of complaint.

The Work of the Estate Agents Authority

Regulations and Practice Directions

6. Preparation of regulations and its concomitant consultative works continued throughout the year, resulting in the passing by the Legislative Council of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation and the Estate Agents (Determination of Commission Disputes) Regulation in June 1999. Both Regulations will come into operation from 1st November 1999. In the meantime the EAA has organised series of training activities for the trade, and an extensive range of training aids have also been produced for in-house training at various estate agency firms.

7. The first set of Practice Directions was issued upon the coming into effect of the Licensing Regulation to facilitate practitioners' understanding and observance of the statutory requirements. In anticipation of the implementation of the Practice Regulation, a new set of Practice Directions has been prepared incorporating regulations regarding practice for the easy reference of the practitioners.

Training and Examination

8. Since inception, the EAA has organized numerous seminars/ workshops on topics including the Practice Regulation and the standard forms, property information search, and the sale and purchase of flats under the schemes of the Hong Kong Housing Authority. There were over 9,000 attendees from the trade at these events. EAA members and staff also attended a number of seminars organized by the trade associations and estate agency establishments on practice matters, which attracted an estimated audience of over 7,000. Most of the seminars and talks have been recorded on videotape and regularly re-run at the EAA Resource Centre, so that trade practitioners who missed the live sessions may still access these training opportunities.

9. Various training materials have been prepared for use by members of the trade, including manuals for trainers, a reference guide on estate agency law and practice, and a self-study guide to help candidates prepare for the qualifying examinations. In addition to printed materials, audio-visual and digital training aids are also available to meet the needs of estate agents, trainers, and the general public.

10. Over 6,000 candidates sat for the second qualifying examinations held in July 1999. About a third of the candidates were not practising the estate agency trade at the time of the examination and the average pass rate was 55%.

Complaints

11. It is only through a mechanism whereby complaints are effectively handled that consumer rights can be properly protected. From January to September 1999, over 600 complaints comprising more than 900 allegations were received. Of these cases most were self-referrals from the complainants, while others were referred by the Consumer Council, members of the Legislative Council and Provisional District Boards, and the media. After careful study or investigation, disciplinary action will be meted out where cases so warranted. Letters of advice will also be served on the agents concerned for educational purpose. During the same period, the Authority was in receipt of close

to 2,000 enquiries concerning the conduct and standard of service of estate agents.

Compliance

12. In the first nine months of 1999, over 500 places of estate agency business were visited as well as the sales sites of a number of new developments. EAA staff members also took occasion of these inspections to explain the new legislation to trade practitioners, and to answer their queries. Where compliance with EAO's requirements are found not in order, admonition or warning is issued and re-visits are made to ensure compliance. During the course of inspection, it has been found that some care-takers of buildings were engaged in estate agency work without licence. The Authority has issued warning to such persons and referred some of the cases to the Police. In an effort to bring the message of the new licensing requirement home to caretakers, letters enclosing EAA's pamphlets and posters were sent to over a hundred property management companies and over 3,000 owners' corporations.

13. In an effort to facilitate the trade's compliance with the property information requirement, the Land Registry has extended its computer search hours. The Buildings Department has also significantly shortened the time for obtaining copies of Occupation Permits. The Rating and Valuation Department has cooperated with the EAA in the production of a CD-ROM which facilitates agents' access to its Info-Hotline.

14. Foreseeing a sharp increase in the demand for practical advice upon the implementation of the Practice Regulation, the EAA has established, in addition to the existing telephone enquiry lines, a hotline dedicated to answering enquiries on the new Regulation. From October 1999, a series of community talks will be given in large housing estates to introduce the new regulations to the community.

Determination of Commission Disputes

15. From November 1999, the EAA will provide a mechanism for the determination of commission disputes as an alternative to legal

action. A leaflet and a brochure outlining the determination mechanism are now being distributed to the trade and the public, and rules for the registration of determinations and the appeal mechanism have been proposed for submission to the Department of Justice for the drafting of the necessary subsidiary legislation.

Publicity and Community Education

16. The EAA has made extensive efforts to promote the EAO and its subsidiary legislation to the trade and the community at large. It has run series of articles explaining the new regulations to the public in major newspapers and, to further raise public awareness, the EAA has, through the Information Services Department, broadcast Announcements in the Public Interest on various radio channels. In addition the Authority will, in conjunction with the Consumer Council, organise a quiz show on the essentials of the Practice Regulation on Radio 2 of Radio Television Hong Kong in the first two weeks of November.

17. The pamphlet *Guide to Property Transactions* and the poster *Practice According to Law, Protection to All* have been produced to help citizens learn about estate agents' new practice regulations and caution them to matters that merit special attention in a property transaction. Outreach work forms another important aspect of the Authority's effort in community education. EAA personnel visit District Offices and advisory centres of the Consumer Council from time to time to answer citizens' questions on the Practice Regulation, and on other subjects related to the service of estate agents.

18. Since its opening in August 1999, the Resource Centre has had about 2,500 users for various purposes, including the search of the computerised register of licensees, the use of reference books and other publications on the estate agency trade, and the viewing of the video recordings of the EAA's public lectures on the Practice Regulation. Self-study guides are available in the Centre to facilitate agents who wish to enhance their professional knowledge.

Part Two: Licence Fees

Background

19. The existing licence fee schedule was devised by the EAA during mid-1998 in preparation for the First Licensing Exercise and was based on manpower projection prepared with the assistance of the trade. The actual number of applicants for the licence exceeded projection and this explains why there is a cumulative surplus in the Authority's accounts.

20. The policy of the EAA is to budget for a break-even in each financial year and in the long term. In formulating its budget the most difficult thing is the estimate of income as the number of licensees cannot be predetermined with accuracy. The EAA has primarily relied on information provided by the trade. In the event the number of licence-holders is either over-or under-estimated, it will give rise to either a deficit or a surplus. As the estimated number of licence-holders in respect of the 1999/2000 year has been over-conservative, there is a surplus of approximately \$40 million which is booked in the accounts of the EAA at the end of the financial year. Taking into account the unamortised portion of the pre-operational expenditure of the EAA, the real surplus would be in the order of \$25 million. It is established that, from a prudent point of view, the EAA would need 25% of the annual expenditure of the next year as its target reserve, and this will approximate to \$15 million. Accordingly, in considering any reduction of licence fees, the EAA will need to agree to run down its cumulative surplus over a number of year.

21. As the EAA has only started its operation for one year and its expenditure may increase, its Licensing Committee decided on 31 August not to change the fee levels. Strong reactions from the trade ensued. The EAA subsequently considered a proposal at a full board meeting on 9 September to reduce licence fees by 10 per cent. The recommendation was voted and passed by the meeting. In mid-September, the EAA sought the approval of the Secretary for Housing to its decision before the revised fee levels were submitted to the Legislative Council for negative vetting.

A Proposal to Reduce Licence Fees for 20%

22. On 27 September, the Secretary for Housing received direct representations from the office-bearers of five estate agency trade associations and two LegCo Members. They expressed strong views on various issues including licence fees which should be reduced by 50%. The Secretary for Housing undertook to pass their views to the EAA through the Chairman. The Secretary for Housing wrote in the letter, “In view of the very strong reaction from these LegCo Members and the trade, I am sure that the EAA will wish to meet the five trade associations at an early date. The EAA may also wish to examine the whole issue of the operations of the EAA again, in particular, how the accumulated surplus is to be used, the level of licence fees for the coming year, communication between the trade and the EAA, progress on the Central Information Data Bank and other issues.” The EAA held a special meeting on 14 October during which a majority of Members voted to reduce licence fees by 20 per cent.

23. The income of the EAA, as noted before, is chiefly dependent on the number of licensees. However, the trade is well known for the high mobility of its members. In the circumstances the general view is that there will be considerable manpower attrition in the trade due to poor business and increase in operation costs after November, and the EAA has offset it with the projected inflow of new entrants to give a net attrition of 20% by the beginning of 2000. This figure may be subject to further attrition by about 10% at the end of the three-year grace period (i.e., 31st December 2001), by which time some practitioners may leave the trade owing to failure at the qualifying examinations.

24. In preparing its budget, the EAA exercised great restraint and made appropriate provisions for financial stringency including the freezing of staff establishment at the 1999/2000 level, employment contracts of specified duration, from two to three years, to provide for greater flexibility in headcount control, and the general application of the “added value” principle.

25. Financial projections have been prepared for five years and are at the Annex. On the basis of these projections, the reduction in fees

will cause a depletion of the cumulative surplus. With a 20% reduction in licence fees, it is expected that this surplus will be depleted by about 50% in two years' time, and the Authority's cumulative surplus can still be kept at about 25% of the following year's expenditure. According to these projections, the cumulative surplus will deplete in its entirety by the 2004/05 financial year.

26. In order that the Authority will have the resources to discharge its various statutory duties and that it will not be unduly affected by the decrease in income caused by licence fee reduction, the EAA will review the allocation of its resources from time to time to ensure a high standard of cost effectiveness. It will continue to pursue training for the trade and community education, the handling of complaints, and to prepare for the establishment of the Central Property Databank. In addition, provision will be made for possible litigation expenses arising from enforcement activities.

27. When the large-scale licence renewal exercise completes in January 2000, the EAA will be able to have more definite figures with regard to the number of practitioners of the estate agency trade. Review will then be made as the stability of fees will depend very much on the stability in the size of the trade population. If necessary, the Authority may consider applying to the Housing Bureau and the LegCo for adjustment of licence fees in order to keep its accounts balanced.

Estate Agents Authority

October 1999

Amex Agents Authority					
Summary of Income and Expenditure for 5 years if licence fees were to be reduced by 5% to 30% and number of licensees decreased by 20% w.e.f. Y2000					
Further decrease of number of individual licensees w.e.f. Y2002 by 10%					
(\$M)	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005
5%					
rent year surplus/(deficit)	5.170	2.981	(1.515)	0.109	2.317
accumulated surplus/(deficit)	40.882	46.052	49.033	47.518	47.627
accumulated surplus/(deficit) balance	46.052	49.033	47.518	47.627	49.944
balance of pre-operating exp	8.255	4.745	1.235	0.000	0.000
net surplus/(deficit) net of cum pre-oper exp	37.797	44.288	46.283	47.627	49.944
10%					
rent year surplus/(deficit)	1.651	(0.578)	(4.974)	(3.452)	(1.347)
accumulated surplus/(deficit) balance	41.695	41.118	36.144	32.692	31.345
balance of pre-operating exp	8.255	4.745	1.235	0.000	0.000
net surplus/(deficit) net of cum pre-oper exp	33.440	36.373	34.909	32.692	31.345
15%					
rent year surplus/(deficit)	(1.867)	(4.135)	(8.431)	(7.012)	(5.010)
accumulated surplus/(deficit) balance	39.207	37.340	33.205	24.773	17.761
accumulated surplus/(deficit) balance	37.340	33.205	24.773	17.761	12.752
balance of pre-operating exp	8.255	4.745	1.235	0.000	0.000
net surplus/(deficit) net of cum pre-oper exp	29.085	28.460	23.538	17.761	12.752
20%					
rent year surplus/(deficit)	(5.386)	(7.693)	(11.889)	(10.572)	(8.673)
accumulated surplus/(deficit) balance	32.983	25.290	13.402	2.830	(5.843)
balance of pre-operating exp	8.255	4.745	1.235	0.000	0.000
net surplus/(deficit) net of cum pre-oper exp	24.728	20.545	12.167	2.830	(5.843)
25%					
rent year surplus/(deficit)	(8.904)	(11.252)	(15.347)	(14.133)	(12.336)
accumulated surplus/(deficit) balance	37.531	28.627	17.375	2.028	(12.105)
accumulated surplus/(deficit) balance	28.627	17.375	2.028	(12.105)	(24.442)
balance of pre-operating exp	8.255	4.745	1.235	0.000	0.000
net surplus/(deficit) net of cum pre-oper exp	20.372	12.630	0.793	(12.105)	(24.442)
30%					
rent year surplus/(deficit)	(12.424)	(14.810)	(18.805)	(17.693)	(15.999)
accumulated surplus/(deficit) balance	24.269	9.460	(9.345)	(27.038)	(43.037)
balance of pre-operating exp	8.255	4.745	1.235	0.000	0.000
net surplus/(deficit) net of cum pre-oper exp	16.014	4.715	(10.580)	(27.038)	(43.037)

Notes:

- 1) Licence fee income for 2000/2001 = 9/12 of licence fees for 2000 and 3/12 licence fees of 2001
- 2) Other income includes examination fees and interest income
- 3) 2000/2001 - Total Expenditure includes full-year cost at 1999/2000 price level 2001/2002 onwards - Total Expenditure includes depreciation of capital cost of Databank
- 4) Interest on government loan is calculated
- 5) No provision for inflation has been made for all years
- 6) Staff establishment is assumed at the same level as approved for 1999/2000
- 7) Pre-operating expenses are amortised over 5 years

Extract

Annex C
附件 C

立法會 **Legislative Council**

Draft

LC Paper No. CB(1) /99-00
(These minutes have been seen
by the Administration)

Ref: CB1/PL/HG/1

Panel on Housing

Minutes of meeting
held on Wednesday, 20 October 1999, at 8:30 am
in the Chamber of the Legislative Council Building

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V Estate Agents Authority

Meeting with the Society of Hong Kong Real Estate Agents Ltd, the Hong Kong Real Estate Agencies Association, the Hong Kong Chamber of Professional Property Consultants Ltd, the Property Agencies Association Ltd and the New Territories Estate Agency Association
(LC Paper No. CB(1) 132/99-00(02))

10. Ms Louisa SUM explained to members the difficult situation which property agents would face upon the implementation of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (Practice Regulation) on 1 November 1999. She said that there would be substantial increase in the operating cost since they had to pay charges to different departments in order to obtain the information required under the Practice Regulation. She commented that the consultation period of the Practice Regulation was too short for the trade participants to digest the complicated regulation and to express their views. Furthermore, she highlighted major proposals in their submission for members' information as follows:

- (i) to reduce the licence fee by 50% taking into account the considerable surplus of the EAA;
- (ii) to suspend the implementation of the Practice Regulation until a

centralized property databank was established under the joint effort of the Housing Bureau and the EAA;

- (iii) to speed up the establishment of the databank;
- (iv) EAA to provide more assistance to members of the trade such as training, enquiry hotlines and increasing the frequency of qualifying examinations;
- (v) to appoint more representatives of the trade to the EAA; and
- (vi) to strengthen publicity on the work of EAA and the Practice Regulation.

11. Mr Fred LI Wah-ming and Mr Gary CHENG Kai-nam declared interest as members of the EAA.

12. On *the determination of level of licence fee*, Mr CHU Yu-lin opined that there appeared to be insufficient communication between the EAA and trade members. Chief Executive Officer/Estate Agents Authority (CEO/EAA) responded that EAA was a self-financing statutory body and its major source of income was from the licence fee paid by the trade members. There was a Licensing Committee under EAA responsible for determining the level of licence fee. She explained that the policy of the EAA was to budget for a break-even in each financial year and in the long term. However, in formulating its budget, it was difficult to estimate the income as the number of licensees could not be predetermined with accuracy in view of the high mobility of the trade members. Taking into account the cumulated surplus of the EAA and the strong views of the trade members, EAA had decided to reduce the licence fee by 20% at a meeting on 14 October 1999. She remarked that the level of licence fee would be subject to review once there were signs showing that the surplus might be exhausted.

13. On *measures to reduce operating cost of the EAA*, Mr CHU Yu-lin proposed that in view of the anticipated drop in number of licensees in the coming year, the EAA could reduce its expenditure on staff cost by cutting its manpower instead of just freezing the growth in the establishment. He said that by cutting cost, EAA could offer further reduction to the licence fee so that the economic burden on trade participants could be alleviated. Mr LUN Chi-yim added that a 50% cut in the licence fee as proposed by the trade members should be acceptable to the EAA taking into account its \$40 million surplus. He urged the Administration to appreciate the difficulties of the trade under the existing economic depression and make further reduction in the licence fee.

14. While fully understanding the difficulties of the trade, CEO/EAA explained that EAA had given due consideration in drafting its budget and establishment. Reduction in manpower would be unlikely in the near future for technical reasons of employment terms of contract staff as well as the anticipated increase in workload for handling complaints and providing assistance to trade members when the Practice Regulation came into effect. She added that with a 20% cut in the licence fee, EAA would be facing a very stringent budget. Upon members' request, she undertook to provide the breakdown on income

and expenditure of the EAA for members' information.

(*Post-meeting note:* The forecast on income and expenditure of the EAA was circulated to members vide LC Paper No. CB(1)253/99-00 on 4 November 1999.)

15. Mrs Selina CHOW LIANG Shuk-ye expressed appreciation of the open attitude of the Administration in achieving solution to the disagreement on licence fee. She opined that the core of the problem was the user-pays and self-financing principles adopted by the EAA. The trade members were not convinced that further reduction in the licence fee was impossible taking into account the \$40 million surplus EAA had in hand. In addition, she was concerned about the transparency of EAA as a self-financing regulatory body and enquired whether there was any kind of publications on EAA's work and expenditure available for public information.

16. CEO/EAA reiterated that EAA had been exercising very strict control on its expenditure. She quoted the example of the pay scale of EAA staff which was set according to that of the private sector and there would be no increment within the 2 years' contract. On the issue of transparency, the Deputy Secretary for Housing (DS for H) informed members that the annual report of EAA had been presented to the Legislative Council on 13 October 1999.

17. On *facilitating provision of property information*, the Assistant Director/Legal & Management/Building Department informed members that the Buildings Department had recently streamlined its information access system on certified copies of Occupation Permit. The retrieval time had been significantly reduced from 14 days to about three days and there was now a plan on further reducing the retrieval time to one working day. It was also proposed, subject to the approval of the relevant authorities, to reduce the charge for providing a certified true copy of an occupation permit from \$190 to the region of \$50. The Assistant Commissioner (Admin. & Staff Development)/Rating and Valuation Department said that 24 hour Info-Hotline Service was provided for enquiry of property information with the Rating and Valuation Department. The service could handle up to 2000 enquiries per day and it would take about two minutes with a cost of \$12 - 15 to make enquiry on one property. The Registry Manager/Land Registry said that the Land Registry had been providing Direct Access Service since 1994 for subscribed users to gain access to the land register through computers in their offices. The service hours had been extended since 1 September 1999 and the Registry was considering the provision of service on public holidays.

18. On the *establishment of a centralized property databank*, Mr NG Leung-sing asked whether the Administration had set a schedule for the establishment and whether the trade members' proposal of deferring the implementation of the Practice Regulation until the establishment of the databank could be considered.

19. DS for H responded that property agents had the responsibility to provide accurate property information to purchasers even before the implementation of the Practice Regulation. Although the Practice Regulation would inevitably involve a change to the workflow and the culture of the trade, many of the elements that made

up the cost per listing on the part of the estate agent had been part and parcel of the nature of estate agency work. She said that the Housing Bureau (HB) was of the view that the setting up of a databank should not be a prerequisite for the implementation of the Practice Regulation. Nevertheless, the HB had pursued the idea actively and had explored the feasibility of setting up the databank with relevant departments i.e. the Land Registry, the Buildings Department and the Rating and Valuation Department.

20. Mr Fred LI asked whether the Housing Bureau or the EAA would be responsible for the establishment of the centralized databank. He commented that if EAA would be in charge of the set up as well as the provision of fundings for the databank, the source of funding would come from the trade instead of from the Government. DS for H replied that as the statutory body for regulation of the trade and for raising service and professional standards, the EAA should be the most appropriate body to assume responsibility of the establishment of a centralized property databank. She added that the HB would provide support in liaising with relevant Government departments for compilation of information required and to facilitate the project where appropriate.

21. CEO/EAA said that the EAA had been informed of the responsibility of setting up the databank only recently. She explained that although relevant departments were supportive to the idea in principle, there were a number of technical problems to be resolved, such as the integration of incompatible data being stored in different forms in different departments and the possible infringement of copyrights. Therefore, a schedule for the establishment of the databank was not yet available and the EAA would set up a special working group on this in due course.

22. Mr Fred LI said that he had received information about a private organisation establishing a property databank for users to access to required information through internet. He wished to know the reason behind the Administration's slow progress on this issue whilst a private organization could achieve this much in advance. The Chairman shared Mr LI's views and commented that the Panel should be provided with more information on this issue.

Admin

23. In response to Mr Gary CHENG's concern over the possible role conflict of the Secretary for Housing (S for H) on officiating an opening ceremony of a property databank set up by a private organisation, Principal Assistant Secretary for Housing clarified that the Housing Bureau was gathering more information on the function before S for H would decide on whether or not to attend.

24. Mr Gary CHENG expressed dissatisfaction on the recent incidents where HB referred trade members' request to EAA for reduction in licence fee and assigning the responsibility of setting up a centralized databank to the EAA. He opined that as a self-financing statutory body, the EAA should be given more autonomy in decision making. DS for H stressed that HB respected EAA's legal status. However, upon the receipt of strong protests over EAA's decision, it was fit and proper for HB to convey such protests to the relevant organization concerned i.e. the EAA in this case. Concerning the assignment of the responsibility of setting up a centralized databank, DS for H reiterated that the EAA was the appropriate body for this task. She added that the HB and EAA shared a common objective of

improving supporting services to trade members.

25. Mrs Selina CHOW agreed with DS for H that referring the request of trade members to EAA did not mean that HB was intervening in EAA's work. She appreciated the efforts of the Buildings Department, the Rating and Valuation Department and the Land Registry in improving the efficiency of information retrieval for the benefit of the estate agency trade. She commented that with further enhancement by the three departments, the urgency of setting up a centralized databank should be reassessed taking into account its costs and benefits. In addition, she opined that it would be more cost effective for EAA to allocate more resources on the education and publicity for improvement of the services and professional standard of property agents, than to use the resources for taking legal proceedings against misconduct agents. CEO/EAA expressed support to this suggestion for allocation of resources.

26. In concluding, Mr Mike KOO expressed trade members' concern over the transparency of EAA. He said that at present, they had no information on the income and expenditure of the EAA though they were required to pay for its operation cost. He reiterated trade members' request for the setting up of the centralized databank before the implementation of the Practice Regulation. Mr LUN Chi-yim informed members that he would provide the Panel with a supplementary submission on the impact of the implementation of the Practice Regulation on the trade after the meeting.

(Post-meeting note: the supplementary submission was circulated to members vide LC Paper No. CB(1)154/99-00 on 21 October 1999.)