

立法會
Legislative Council

LC Paper No. LS89/06-07

**Paper for the House Committee Meeting
on 15 June 2007**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 8 June 2007**

Date of tabling in LegCo : 13 June 2007

Amendment to be made by : 11 July 2007 (or the 1st meeting of the next session if extended by resolution)

PART I FEE REVISION

Building Management Ordinance (Cap. 344)
Building Management (Fee Revision) Regulation 2007 (L.N. 106)

Hotel and Guesthouse Accommodation Ordinance (Cap. 349)
Hotel and Guesthouse Accommodation (Revision of Licence Fees) Regulation 2007 (L.N. 107)

Building Management (Fee Revision) Regulation 2007

The Building Management (Fee Revision) Regulation 2007 (the Amendment Regulation) is 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 41 of the Building Management Ordinance (Cap. 344) (the Ordinance) to achieve a 20% increase for all the eight fees items prescribed in the Schedule to the Building Management (Fees) Regulations (Cap. 344 sub. leg. A) (the Principal Regulations) payable to the Land Registrar by repealing the old Schedule and substituting a new Schedule.

2. Members may refer to the LegCo Brief issued by the Home Affairs Department in June 2007 (File Ref: HAD HQ CR/20/1/1/(C)) for background information. The LegCo Brief contains a summary of the existing and proposed fees and their cost computation payable to the Land Registrar under the Ordinance. According to the LegCo Brief, after the last revision on 1 January 2006, the cost recovery rates for most of the fee items are 35% or below.

Hotel and Guesthouse Accommodation (Revision of Licence Fees) Regulation 2007

3. The Hotel and Guesthouse Accommodation (Revision of Licence Fees) Regulation 2007 (the Amendment Regulation) is 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 Hotel and Guesthouse Accommodation Ordinance (Cap. 349) (the Ordinance) to revise the fees (by between -14% to +20%) for the issue and renewal of licences in respect of hotels or guesthouses as set out in Schedules 1 and 2 to the Hotel and Guesthouse Accommodation (Fees) Regulations (Cap. 349 sub. leg. B) (the Principal Regulations) by repealing the old Schedules and substituting the new ones.

4. Members may refer to the LegCo Brief issued by the Home Affairs Department in June 2007 (File Ref: HAD HQ CR/15/3/1/(C)) for background information. The LegCo Brief contains a summary of the existing and proposed fees and their cost computation. According to the LegCo Brief, the current fee levels cover 38% to 117% of the full cost of new licences, and 90% to 104% of renewal of licences.

5. Following the fee revisions in 2006, the Home Affairs Bureau issued an information paper on the “Revision of Fees and Charges for items under the (A) Building Management Ordinance (Cap. 344) and (B) Hotel and Guesthouse Accommodation Ordinance (Cap. 349)” to the Legislative Council Panel on Home Affairs (the Panel) on 25 April 2007 (Ref: LC Paper No. CB(2)1690/06-07(01)). No request for discussion or any comments were received from members of the Panel.

6. Both items will come into operation on 1 November 2007. No difficulties in relation to the legal and drafting aspects of both items have been identified.

PART II OTHERS

Unsolicited Electronic Messages Ordinance (9 of 2007)

Unsolicited Electronic Messages Regulation (L.N. 108)

7. The Unsolicited Electronic Messages Ordinance (9 of 2007) (the Ordinance), which was published in the Gazette on 1 June 2007, provides for the regulation of the sending of unsolicited electronic messages of a commercial nature. Sections 8 to 13 of the Ordinance (the relevant provisions) specify the rules for the sending of commercial electronic messages under an opt-out regime. Under section 8(1)(c) of the Ordinance, a person shall not send a commercial electronic message that has a Hong Kong link unless the message includes such information and complies with such conditions as is or are specified in the regulations. Section 9 prescribes the general requirements for a commercial electronic message which must provide an unsubscribe facility to enable the recipient to send an unsubscribe request to the

individual or organisation who authorized the sending of the message. Section 9(1)(c) and (d) provide that the statement on the unsubscribe facility and the unsubscribe facility itself should comply with such conditions as are specified in the regulations. The relevant provisions have not been brought into operation pending the making of relevant regulations.

8. This Regulation is made for the purposes of section 8(1)(c) and section 9(1)(c) and (d) of the Ordinance and supplements the rules for the sending of commercial electronic messages set out in those sections. These supplementary rules relate to the requirement to include in a commercial electronic message information relating to the name, address and contact information of the sender of the message; the language requirement for sender information and the unsubscribe facility statement; the manner in which sender information and the unsubscribe facility statement is presented; and the conditions relating to the unsubscribe facility specified in a commercial electronic message.

9. Members may refer to the information paper issued by the Administration to the Panel on Information Technology and Broadcasting (ITB Panel) on 7 May 2007 for background information (LC Paper No. CB(1)1552/06-07(04)).

10. The ITB Panel was consulted on the proposed Unsolicited Electronic Messages Regulation at its meeting held on 14 May 2007. At the meeting, the Administration informed members that it intended to bring into operation the provisions of the Ordinance that relate to the opt-out regime by the end of 2007 or early 2008. To allow sufficient time for the Administration to publicize the requirements under the opt-out regime, to promulgate the necessary code of practice to provide guidance for the industry on compliance with the Regulation, and to set up the do-not-call registers, the Administration requested members to complete scrutiny of the Regulation before the end of the current LegCo session in July 2007. While the Panel supported in principle the proposed Regulation, some members raised concern on whether there would be sufficient time for the Subcommittee, if formed, to study the Regulation to complete its scrutiny within the above time limit.

11. This Regulation will come into operation on a day to be appointed by the Secretary for Commerce, Industry and Technology by notice published in the Gazette.

12. The Legal Service Division is seeking clarification from the Administration on certain technical matters. We will make a further report upon receipt of the Administration's reply.

**The Chinese University of Hong Kong Ordinance (Cap. 1109)
Statutes of the Chinese University of Hong Kong (Amendment) (No. 2) Statute
2007 (L.N. 109)**

13. The Statutes of the Chinese University of Hong Kong (Amendment) (No. 2) Statute 2007 (Amendment Statute) is made by the Council of The Chinese University of Hong Kong (the Council) under section 13 of The Chinese University of Hong Kong Ordinance (Cap. 1109) (the Ordinance) to amend Statute 15 of the Statutes of The Chinese University of Hong Kong in Schedule 1 to the Ordinance to provide for the appointment, instead of election, of Deans of Faculties.

14. According to a background paper provided by the University upon our enquiries, the Amendment Statute implements a system of search for and appointment of Faculty Deans that is recommended by the University Grants Committee (UGC) and accepted by Government as the policy for the entire higher education sector. The Dean of each Faculty shall be appointed by the Council on the recommendation of the Vice-Chancellor after he has received the advice of a search committee.

15. The Panel on Education has not discussed the Amendment Statute.

16. No difficulties in relation to the legal and drafting aspects of the Amendment Statute have been identified.

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