

LEGISLATIVE COUNCIL BRIEF

Building Management Ordinance (Chapter 344)

Building Management (Fee Revision) Regulation 2007

INTRODUCTION

In exercise of his power under section 29A of the Interpretation and General Clauses Ordinance (Chapter 1)¹ by virtue of section 41 of the Building Management Ordinance (Chapter 344) (the Ordinance)², the Secretary for Financial Services and the Treasury has made the Building Management (Fee Revision) Regulation 2007 (Annex A) to increase the fees payable to the Land Registrar for eight of its service items contained therein.

BACKGROUND AND JUSTIFICATIONS

2. The Ordinance aims to provide a legal framework for the incorporation of owners to facilitate effective building management. The Building Management (Fees) Regulations (Cap.344A) (the Regulations) set out the respective fees to be paid by the public to the Land Registry for its services provided under the Ordinance (e.g. issue of

¹ Section 29A of Chapter 1 provides -
"(1) Where the amount of any fee or charge is for the time being specified in, or otherwise fixed or determined by, subsidiary legislation made by the Chief Executive in Council, subject to subsection (2), the Financial Secretary may by similar subsidiary legislation increase or decrease, or otherwise vary, the amount of the fee or charge." According to section 3 of Chapter 1, "Financial Secretary" means the Financial Secretary of the Hong Kong Special Administrative Region and the Secretary for Financial Services and the Treasury.

² Section 41 of Chapter 344 provides –
“the Chief Executive in Council may make regulations for –
(a) the fees payable in respect of the registration or filing of any documents submitted to the Land Registrar under this Ordinance;
(b) the fees payable for the inspection or copying any document so registered or filed; and
(c) the fees payable for the issue of any certificate under this Ordinance.”

a certificate of registration to a newly formed owners' corporation). The existing and proposed fees are tabled at Annex B.

B

3. The Government has frozen most fees and charges since 1998 as an exceptional measure to alleviate the financial burden on the public in times of economic difficulty. In 2005, with the economy gradually picking up, and the intended adherence to the "user pays" principle, the Government started to revise the fees and charges for services not directly affecting people's livelihood.

4. In March 2005, the Home Affairs Bureau (HAB) consulted the Legislative Council Panel on Home Affairs (the Panel) on proposals to revise the fees and charges for services under the purview of HAB that had relatively little impact on the daily life of the general public or the running costs of business operators. Fee items under the Regulations were included in the paper. The fees under the Regulations were subsequently revised on 1 January 2006.

5. The fee revision in respect of the Regulations is intended to be an annual exercise to gradually achieve full-cost recovery. Following the fee revision in 2006, HAB 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 on 25 April 2007. The paper informed Members, inter alia, of the proposals to revise the fees payable to the Land Registry under the Ordinance in 2007. The Panel did not make any comment on the fee revision proposals.

6. Under the "user pays" principle, it is important that users of Government services pay the full costs incurred in the provision of services. As explained to the Panel in April 2007, the level of fee increase should be determined generally in accordance with the following guidelines –

- (a) achieve full-cost recovery within seven years for those fees with existing cost recovery rate of less than 40% below target, through a 20% increase;

- (b) achieve full-cost recovery within three to seven years for those fees with existing cost recovery rate of between 40% and 70% of target, through a 15% increase; and
- (c) achieve full-cost recovery within one to three years for those fees with existing cost recovery rate of over 70% of target, through a 10% or lower increase.

For fee reductions, the fees will be reduced to the full cost level in one go.

**BUILDING MANAGEMENT (FEE REVISION)
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7. Following the last revision on 1 January 2006, a fresh costing exercise was carried out to review the fee items under the Regulations. The cost recovery rates for most of the fee items under the Regulations are 35% or below. In accordance with the guidelines in paragraph 6 above, we have decided to increase all the fee items under the Regulations at a rate of 20% in 2007.

8. The Building Management (Fee Revision) Regulation 2007 (Annex A), made by the Secretary for Financial Services and the Treasury, seeks to achieve a 20% increase for all the fees items prescribed in the Schedule to the Regulations by repealing the old schedule and substituting the new one.

LEGISLATIVE TIMETABLE

9. The legislative timetable will be –

| | |
|---|--------------|
| Publication in the Gazette | 8 June 2007 |
| Tabling in the Legislative Council for negative vetting | 13 June 2007 |

10. We propose that the new fees shall take effect on 1 November 2007.

EFFICIENCY INITIATIVES

11. We have been taking measures to reduce or contain costs through implementing efficiency measures and exploring various initiatives such as computerization and streamlining of procedures. Such efficiency savings and improvement measures have been factored into the calculation of costs for individual fee items.

FINANCIAL IMPLICATIONS

12. It is estimated that the proposed fee revisions will bring about a net increase of about \$138,000 in revenue per annum.

CONSULTATION WITH LEGCO PANEL

13. We 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 on 25 April 2007. The Panel did not make any comment on the fee revision proposals (as described in paragraph 5 above).

PUBLICITY

14. A press release will be issued to tie in with the publication of the Building Management (Fee Revision) Regulation in the Gazette on 8 June 2007.

ENQUIRY

15. For enquiries on this brief, please contact Miss Joyce KOK, Administrative Officer of the HAD, on telephone number 2123 8395.

Home Affairs Department
June 2007

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ANNEXES

- Annex A Building Management (Fee Revision) Regulation
2007
- Annex B Existing fees and costs payable to the Land
Registrar under the Building Management
Ordinance (Cap.344)

**BUILDING MANAGEMENT (FEE REVISION)
REGULATION 2007**

(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))

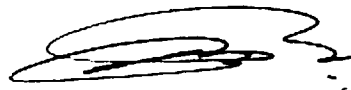
1. Commencement

This Regulation shall come into operation on 1 November 2007.

2. Schedule amended

The Schedule to the Building Management (Fees) Regulations (Cap. 344 sub. leg. A) is amended –

- (a) in item 1, by repealing “\$1,080” and substituting “\$1,300”;
- (b) in item 2, by repealing “\$66” and substituting “\$79”;
- (c) in item 3, by repealing “\$155” and substituting “\$185”;
- (d) in item 4, by repealing “\$66” and substituting “\$79”;
- (e) in item 5, by repealing “\$48” and substituting “\$58”;
- (f) in item 6, by repealing “\$12” and substituting “\$14”;
- (g) in item 7, by repealing “\$12” and substituting “\$14”;
- (h) in item 8, by repealing “\$36” and substituting “\$43”.



Secretary for Financial Services
and the Treasury

22 May 2007

Explanatory Note

This Regulation increases the fees payable in respect of the following matters under the Building Management (Fees) Regulations (Cap. 344 sub. leg.

A) –

- (a) issuing a certificate of registration of an owners' corporation (section 2(a));
- (b) issuing a duplicate certificate of registration of an owners' corporation (section 2(b));
- (c) issuing an amended certificate of registration on change of name of an owners' corporation (section 2(c));
- (d) issuing a duplicate amended certificate of registration on change of name of an owners' corporation (section 2(d));
- (e) registering or filing of any document required to be submitted to the Land Registrar under the Building Management Ordinance (Cap. 344) (section 2(e));
- (f) inspecting the register of owners' corporations maintained by the Land Registrar and any document relating to an owners' corporation required to be submitted to the Land Registrar under the Building Management Ordinance (Cap. 344) (section 2(f));
- (g) supplying a copy or extract of any register or document referred to in paragraph (f) (section 2(g)); and
- (h) issuing a certificate of the Land Registrar in relation to any copy or extract referred to in paragraph (g) (section 2(h)).

Existing fees and costs payable to the Land Registrar under the Building Management Ordinance (Cap. 344)

| Building Management (Fees) Regulations (Cap. 344A) | Full cost (at 2006-07 price level) | Existing fee level | Proposed fee level | Amount increase | Percentage Increase | Estimated number of cases for 2006-07 | Annual increase in revenue | Number of years for full-cost recovery |
|---|---|-------------------------------|-------------------------------|----------------------------|--------------------------------|--|---|---|
| 1. For the issue of a certificate of registration of corporation | \$5,738 | \$1,080 | \$1,300 | \$220 | 20% | 323 | \$71,060 | 9 |
| 2. For the issue of a duplicate certificate | \$124 | \$66 | \$79 | \$13 | 20% (Note 1) | 350 | \$4,550 | 4 |
| 3. For the issue of an amended certificate of registration on change of name of a corporation | \$922 | \$155 | \$185 | \$30 | 20% | 6 | \$180 | 10 |
| 4. For the issue of a duplicate amended certificate of registration on change of name of a corporation | \$85 | \$66 | \$79 | \$13 | 20% (Note 1) | 8 | \$104 | 2 |
| 5. For the registration or filing of any document required to be submitted to the Land Registrar under the Ordinance | \$228 | \$48 | \$58 | \$10 | 20% | 3,669 | \$36,690 | 9 |
| 6. For inspecting the register of corporations maintained by the Land Registrar and any document relating to a corporation required to be submitted to the Land Registrar under the Ordinance | \$34 | \$12 | \$14 | \$2 | 20% | 1,757 | \$3,514 | 6 |
| 7. For supplying a copy or extract of any register or document referred to in item 6, per folio or part thereof | \$74 | \$12 | \$14 | \$2 | 20% | 9,956 | \$19,912 | 10 |
| 8. For the certificate of the Land Registrar in relation to any copy or extract referred to in item 7 | \$129 | \$36 | \$43 | \$7 | 20% | 290 | \$2,030 | 7 |

Note 1 : It is noted that the current cost recovery rate for items 2 and 4 are 53% and 78% respectively. According to the FSTB guidelines, a 15% and 10% increase should be proposed for these items respectively. However, since the nominal values of the fee items are minimal, it would not make a big difference to have either a 10% / 15% increase or a 20% increase (the difference in nominal values ranges from \$3 to \$6). Thus, a 20% increase across the board is proposed.