

LEGISLATIVE COUNCIL BRIEF

Land (Miscellaneous Provisions) Ordinance (Cap. 28)

LAND (MISCELLANEOUS PROVISIONS) (AMENDMENT) REGULATION 2015

INTRODUCTION

At the meeting of the Executive Council on 6 January 2015, the Council ADVISED and the Chief Executive ORDERED that, under section 19 of the Land (Miscellaneous Provisions) Ordinance, the Land (Miscellaneous Provisions) (Amendment) Regulation 2015 (the Amendment Regulation) should be made.

BACKGROUND AND JUSTIFICATIONS

2. The Land (Miscellaneous Provisions) Ordinance (LMPO) was amended in 2003 to introduce a new excavation permit (XP) system for the management of excavations in unleased government land including streets maintained by the Highways Department (HyD). The new system became effective on 1 April 2004. A review of the fees relating to the administration of the XP system currently prescribed in the legislation shows that they are unable to recover the operating cost of the system at the 2014-15 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 fees as listed in **Annex 1** along with the existing fees, cost recovery rates and proposed percentage increase.

3. In addition, the amended LMPO in 2003 introduced economic costs to be charged for extensions of XP for excavations in streets maintained by HyD based on the assessment of the economic loss due to traffic delay caused by the excavations. A review of the economic costs shows that they are below the 2014-15 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 2014-15 price level as listed in **Annex 1** along with the existing economic costs and proposed percentage increase.

THE REGULATION

4. Section 19 of the LMPO empowers the Chief Executive-in-Council to make

regulations to prescribe fees and economic costs under the Ordinance.

5. The Amendment Regulation at **Annex 2** revises the fees and economic costs relating to excavations in unleased land (including streets maintained by HyD) by amending the items in Schedule 3 to the Land (Miscellaneous Provisions) Regulations (Cap 28A) (LMPR). It is proposed that the new fees and economic costs will come into effect on 27 March 2015.

LEGAL IMPLICATIONS

6. The proposed amendments do not affect the current binding effect of the LMPO and LMPR. 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 \$20.1 million from XP issued by HyD, and about \$1.1 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 Legislative Council Panel on Development on 25 November 2014 regarding the revision of fees and economic costs as outlined in paragraphs 2 to 3. No adverse comments were received.

PUBLICITY

11. The Amendment Regulation will be published in the Gazette on 16 January 2015 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 WONG Chung-leung, Principal Assistant Secretary (Works)3 of the Development Bureau at 3509 8277.

**Development Bureau
January 2015**

**Proposed Revision of Fees and Economic Costs
under the Land (Miscellaneous Provisions) Regulations (Cap 28A)**

Item	Fee Description	Existing Fee (\$) (a)	Cost Recovery Rate as at 2014-15	Proposed Fee (\$) (b)	Proposed Amount of Increase (\$) (b)-(a)	Proposed Percentage Increase [Note 1] [(b)-(a)]/(a)	Cost Recovery Rate after Fee Adjustment
A) Fees (for excavations in unleased land which is a street maintained by the Highways Department)							
1.	Issue or deemed issue of an excavation permit (per permit)	1,860	76.2%	2,050	190	10.2%	83.9%
2.	Issue or deemed issue of an excavation permit – daily fee for whole duration (per day)	32	82.5%	35	3	9.4%	90.2%
3.	Extension of an excavation permit (per extension)	590	78.1%	650	60	10.2%	86.1%
4.	Extension of an excavation permit – daily fee for whole extended period (per day)	32	82.5%	35	3	9.4%	90.2%
5.	Emergency excavation during the initial period (per emergency excavation)	1,860	76.2%	2,050	190	10.2%	83.9%
6.	Emergency excavation during the initial period – daily fee for whole duration (per day)	32	82.5%	35	3	9.4%	90.2%
B) Fees (for excavations in unleased land other than streets maintained by the Highways Department)							
7.	Issue of an excavation permit (per permit)	3,060	78.0%	3,370	310	10.1%	85.9%
8.	Extension of an excavation permit (per extension)	400	83.0%	440	40	10.0%	91.3%

(Note 1) In order to achieve full cost recovery gradually and avoid a steep fee increase, we propose an increase of about 10% for the fee revision.

Item	Fee Description	Existing Economic Cost (\$) (a)	% of the Economic Cost as at 2014-15	Proposed Economic Cost (\$) (b)	Proposed Amount of Increase (\$) (b)-(a)	Proposed Percentage Increase [Note 2] [(b)-(a)]/(a)	% of the Economic Cost as at 2014-15 after Adjustment
C) Economic Costs (for excavations in unleased land which is a street maintained by the Highways Department)							
9.	Extension of an excavation permit – economic cost for a strategic street – for the whole duration of the extended period (per day)	18,000	82.6%	21,800	3,800	21.1%	100.0%
10.	Extension of an excavation permit – economic cost for a sensitive street – for the whole duration of the extended period (per day)	7,000	82.0%	8,540	1,540	22.0%	100.0%
11.	Extension of an excavation permit – economic cost for a remaining street – for the whole duration of the extended period (per day)	1,500	87.7%	1,710	210	14.0%	100.0%

(Note 2) In order to reflect the updated economic loss due to traffic delay in a carriageway caused by an excavation on a street and to maintain sufficient incentive to the excavation permittees to complete their works as soon as possible, we propose to increase the three economic costs to the 2014-15 price level in one go.

Land (Miscellaneous Provisions) (Amendment) Regulation 2015

(Made by the Chief Executive in Council under section 19 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28))

1. **Commencement**
This Regulation comes into operation on 27 March 2015.
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
“\$1,860 plus a daily fee of \$32”
Substitute
“\$2,050 plus a daily fee of \$35”.
 - (2) Schedule 3, Part I, item 2(a)—
Repeal
“\$590 plus a daily fee of \$32”
Substitute
“\$650 plus a daily fee of \$35”.
 - (3) Schedule 3, Chinese text, Part I, item 2(b), after “每一日”—
Add a comma.
 - (4) Schedule 3, Part I, item 2(b)(i)—
Repeal

- “\$18,000”
Substitute
“\$21,800”.
- (5) Schedule 3, Part I, item 2(b)(ii)—
Repeal
“\$7,000”
Substitute
“\$8,540”.
- (6) Schedule 3, Part I, item 2(b)(iii)—
Repeal
“\$1,500”
Substitute
“\$1,710”.
- (7) Schedule 3, Part II, item 1—
Repeal
“\$3,060”
Substitute
“\$3,370”.
- (8) Schedule 3, Part II, item 2—
Repeal
“\$400”
Substitute
“\$440”.
- (9) Schedule 3, Part III, item 1—
Repeal everything in column 3
Substitute

Land (Miscellaneous Provisions) (Amendment) Regulation 2015

Section 3

3

“\$2,050 plus a daily fee of \$35 per day for the whole duration of the emergency excavation determined in accordance with section 10C(5) of the Ordinance”.



Clerk to the Executive Council

COUNCIL CHAMBER

6th January, 2015

Land (Miscellaneous Provisions) (Amendment) Regulation 2015

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 excavations in unleased land, including the fees payable for the issue and extension of excavation permits and for emergency excavations.