

**立法會**  
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**Paper for the House Committee meeting on 14 June 2019**

**Report of Subcommittee on Entertainment Special Effects (Fees)  
(Amendment) Regulation 2019**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Entertainment Special Effects (Fees) (Amendment) Regulation 2019 (L.N. 58 of 2019) ("the Subcommittee").

**Background**

Entertainment Special Effects Ordinance

2. The Entertainment Special Effects Ordinance (Cap. 560) provides for the regulation of the supply, use, conveyance and storage of special effects materials for and incidental to the production of special effects in film productions, entertainment programmes and performances, and other related matters. The Head of Create Hong Kong ("CreateHK") is the Entertainment Special Effects Licensing Authority ("the Authority") by virtue of section 3 of Cap. 560.

3. According to Cap. 560, the supply, use, conveyance and storage of special effects materials require valid licences and permits issued under Cap. 560. Those who operate special effects materials also need to be assessed and licensed before becoming qualified special effects operators.

4. Section 26(1)(n) and (o) of Cap. 560 stipulates that the Authority may, with the approval of the Secretary for Commerce and Economic Development ("SCED"), by regulation provide for fees payable in respect of –

- (a) any examination or assessment that may be required for the issue or alteration of a special effects operator licence; and
- (b) the issue, renewal, certification, replacement or alteration of any licence and permit and the exemption thereof.

The existing fees prescribed in the Entertainment Special Effects (Fees) Regulation (Cap. 560B) have been in force since May 2013.

5. In accordance with the "user pays" principle, it is the Administration's policy that fees charged by the Administration for various services should in general be set at levels sufficient to recover the full cost of providing the services. CreateHK conducted a costing exercise in 2018 to review the fees prescribed in Cap. 560B. The outcome of the review shows that 26 fee items under Cap. 560B are unable to achieve full-cost recovery. The Administration has proposed to increase the relevant fee items by 11.1% to 14.4% so as to achieve full-cost recovery.

#### The subsidiary legislation

6. The Entertainment Special Effects (Fees) (Amendment) Regulation 2019 (L.N. 58 of 2019) ("the Regulation") is made by the Authority under section 26 of Cap. 560 with the approval of the SCED. It amends the Schedule to Cap. 560B to increase by 11.1% to 14.4% 26 items of fees payable in respect of the:

- (a) issue, renewal, replacement, alteration or certification of various licences or permits under Cap. 560 or the Entertainment Special Effects (General) Regulation (Cap. 560A); and
- (b) assessment required for the issue or alteration of various licences under Cap. 560 or Cap. 560A.

#### **Commencement**

7. The Regulation was gazetted on 12 April 2019 and tabled in the Legislative Council on 17 April 2019. The Regulation will come into operation on 1 July 2019.

## **The Subcommittee**

8. At the House Committee meeting held on 26 April 2019, Members agreed that a subcommittee should be formed to examine the subsidiary legislation in detail. The membership list of the Subcommittee is in the **Appendix**.

9. Under the chairmanship of Hon MA Fung-kwok, the Subcommittee held one meeting with the Administration on 20 May 2019.

## **Deliberations of the Subcommittee**

### General support for the proposed fees revision

10. Members have commented that, on the whole, the entertainment sectors concerned have found the proposed revised fee levels moderate and acceptable. Members, however, understand that the sectors consider that the fees in respect of the issue or renewal of pyrotechnic special effects materials supplier licences, and issue or renewal of non-movable pyrotechnic special effects materials store licences are relatively higher, although such applications are few and far between.

### Whether the proposed licence fees should be reduced

11. Given the Government's policy to promote the development of the local film industry with resource support, members expect that, as the film industry grows, the demand for special effects operators may increase and therefore the number of applications for special effects operator licences would increase. Some members have enquired that given the increase in the number of applications, whether the licence fees could be reduced as the applicants could share out the fixed cost of processing licence applications. In particular, members have asked whether the fees for a pyrotechnic special effects materials supplier licence and a non-movable pyrotechnic special effects materials store licence could be reduced.

12. The Administration has stated that the "user pays" principle should be observed so that licensees should bear the cost of handling the licensing applications. The Administration has further advised that the majority of the applications for special effects operator licences under Cap. 560 are related to stage performances or similar productions rather than films. The growth in the film industry would have little impact on the licensing authority's workload and the fee levels of licences prescribed in Cap. 560B is considered appropriate to reflect costs.

13. As regards the fee for pyrotechnic special effects materials supplier licences, the Administration has explained that, in determining the fee level, considerations are given to the time and efforts taken to carry out assessment of materials used and their sources of supply, to review test reports, and to examine whether the materials supplied have met the specifications and requirements of the relevant authorities in their respective manufacturing countries. For the non-movable pyrotechnic special effects materials store licences, the fee to be charged by the Government covers the cost of assessing the security, fire-prevention facilities, the amount of materials stored and the likely impact on the neighbouring areas. Given the considerable amount of staff and administrative efforts involved in the licensing process, the scope for reduction in the fee levels of these two types of licence is limited. The Administration has advised the Subcommittee that there are only two suppliers of pyrotechnic special effects materials in Hong Kong and their licences are subject to renewal every two years, and that there has been no application for non-movable store licence so far.

Whether the proposed licence fees could be fully covered by Government subsidies

14. Some members have queried whether film producers may use the Government's subsidies to offset the licence fees, or whether they could set up a trade association to apply for Government funding to cover the licence fees. The Administration has advised that, for films which are fully subsidized under the Film Development Fund, it would be acceptable for producers to use part of the subsidy to fully cover the licence fees which are part of the production costs. For productions which are only partially subsidized, the Administration considers that investors should bear part of the overall production cost.

Whether full-cost recovery could be achieved with the proposed fees revision

15. Some members have queried whether the amount of revenue generated from the collection of licence fees is sufficient to cover all the staff and administrative costs of handling the applications, given that CreateHK, which supports the licensing authority under Cap. 560, has to maintain a team of specialists to process the applications but the number of licence applications handled each year is small.

16. The Administration explains that the licensing team handles a caseload of 2 000 each year for applications for licences and permits under Cap. 560. The said licensing team, comprising six specialist explosives officers, processes such applications and conducts inspections on operations relating to pyrotechnics special effects materials. The licences and permits fees levels are calculated in

accordance with the Costing Manual issued by the Treasury to recover the actual staff and administrative costs spent on handling the applications concerned.

Arrangements for issuing permits for staging performances with pyrotechnic special effects

17. Members have noted that, for pyrotechnic special effects staged in certain venues such as local theme parks, a permit is required for each day's performances. The licensing authority would usually issue a batch of around 30 permits each month subject to the actual number of permits requested by the venue operators; and each permit is valid for 24 hours in accordance with the current statutory provisions. Members have suggested that the Administration should review and streamline the arrangements so that only one permit would need to be issued for the same performances in the same venue for a longer period, say one month or one year.

18. The Administration explains that local theme parks venue operators may not have performances using pyrotechnic special effects every day during the year. It is considered that the current system is appropriate, i.e. issuing the number of permits required each month, to avoid over-charging the operators for the days when no permit is needed.

19. The Subcommittee has completed the scrutiny of the Notice and has no objection to the amendments contained therein.

**Advice sought**

20. Members are invited to note the deliberations of the Subcommittee.

**Subcommittee on Entertainment Special Effects (Fees)  
(Amendment) Regulation 2019**

**Membership list**

**Chairman** Hon MA Fung-kwok, SBS, JP

**Members** Dr Hon KWOK Ka-ki  
Hon Alvin YEUNG

(Total : 3 members)

**Clerk** Mr Daniel SIN

**Legal Adviser** Miss Joyce CHAN