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for advice

Environmental Impact Assessment (Appeal Board) Regulation **Environmental Impact Assessment (Fees) Regulation**

Introduction

This paper seeks Members' endorsement of the Environmental Impact Assessment (Appeal Board) Regulation and the Environmental Impact Assessment (Fees) Regulation for regulating appeals and the practice and procedure of the Appeal Board, and for prescribing fees to be charged according to different circumstances.

Background

2. The Environmental Impact Assessment (EIA) Ordinance was enacted in January 1997. The Council was consulted on the Technical Memorandum on Environmental Impact Assessment Process on 21 April 1997 and supported the document. The Technical Memorandum was approved by the Legislative Council in June 1997.

3. The EIA Ordinance would improve and strengthen the EIA system in Hong Kong, while providing a clear, transparent and consistent framework for private sector proponents and the Government to follow. The Ordinance is scheduled for implementation in early 1998.

4. Under section 17 of the EIA Ordinance, there are provisions for lodging appeals to the Appeal Board. The setting up and the constitution of the Appeal Board are prescribed in Sections 18 and 19 of the EIA Ordinance.

5. There are also provisions in various sections of the Ordinance for prescribed fees to be paid for various applications.

6. To bring the EIA Ordinance into operation, regulations on fees and Appeal Board procedures are necessary.

The Regulations

7. As set out in section 32 of the EIA Ordinance, the Secretary may, after consultation with the Council, by regulation,

- (a) regulate appeals and the practice and procedure of the Appeal Board [section 32(1)(c)]; and
- (b) prescribe the different fees to be charged according to different circumstances [section 32(2)].

The Appeal Board Regulation

8. The proposed Environmental Impact Assessment (Appeal Board) Regulation is in Annex A. The main provisions of the Regulation are highlighted below.

9. Clauses 3 - 5 of the Regulation provide for the procedure of lodging an appeal by serving a form of notice and the related documents. Clause 7 describes how the date, time and place of a hearing are to be fixed. Clause 8 sets out the procedure to summon witnesses.

10. Clauses 9 - 13 concern the proceedings of an appeal. Clause 12 deals with the situation where the appellant or the respondent fails to attend a hearing. Clause 13 provides for the procedure to deal with the case where the appellant or the respondent fails to serve notice of appeal or to furnish particulars. Clause 14 deals with the records of proceedings.

The Fees Regulation

11. The proposed Environmental Impact Assessment (Fees) Regulation is in Annex B. The Regulation will enable the collection of prescribed application fees. Each of the following six types of applications will attract a different application fee, according to the levels of costs incurred by the Government in processing the applications:

<u>Types of Applications</u>	<u>Application Fees</u>
(c) EIA study brief	\$15,400
(d) Permission to directly apply for an environmental permit	\$17,700
(e) Approval of an EIA report	\$39,800
(f) Environmental permit	\$15,600
(g) Further environmental permit	\$5,690
(h) Variation of the conditions of an environmental permit	\$7,780

13. It is Government policy that fees should in general be set at levels sufficient to recover the full cost of providing the services. Like the fees under the existing pollution control ordinances, the principle of full cost recovery set out in government circulars is adopted to compute the above prescribed fees for each type of applications in the EIA Ordinance. The waiver of fees for government departments are in accordance with the government financial circular, and similar practice also exists under other pollution control ordinances.

Public Consultation

14. Relevant parties and organisations were consulted on the EIA Ordinance before its enactment. The requirements that an Appeal Board be set up and different applications be accompanied by a prescribed fee are stipulated in the EIA Ordinance.

Advice Sought

15. Members are invited to endorse the proposed Environmental Impact Assessment (Appeal Board) Regulation and the proposed Environmental Impact Assessment (Fees) Regulation at Annexes A and B, respectively for introduction to the Provisional Legislative Council.

Environmental Protection Department
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