

**For information on
13 July 2005**

Legislative Council Panel on Planning, Lands and Works
**Effects of the Amended Land (Miscellaneous Provisions) Ordinance
on Street Excavations**

PURPOSE

As the amended Land (Miscellaneous Provisions) Ordinance (LMPO) has now been implemented for over a year, it is opportune to review the results of its implementation. This Paper reports to the LegCo the results of such review with reference to certain key performance indicators in the 12-month periods before and after its commencement date.

BACKGROUND

2. The Administration submitted a Bill to amend the LMPO to the LegCo on 24 April 2002 with the objectives of tightening control on street excavations, and recovering the administrative costs incurred in processing and enforcement of Excavation Permits (XP) and economic costs of unreasonable delays. The Bill was enacted on 22 May 2003 and the amended LMPO came into effect on 1 April 2004.

3. According to the amended LMPO, the Director of Highways is the authority for issuing XPs for excavations on unleased land that is a street maintained by the Highways Department (HyD) and the Director of Lands is the authority for issuing XPs for excavations on other unleased land. This paper is related only to streets maintained by HyD.

LATEST SITUATION

Number and Duration of XP

4. After the effective date of the amended LMPO, we saw a decrease both in the number of street excavations (31% with government departments, 37% with the private sector, and 33% overall as shown in Table 1) and the average approved XP duration (by 32% from 50.7 days in financial year 03-04 to 34.5 days in 04-05).

Table 1

	XP issued (no.)		Percentage change (%)
	03-04	04-05	
Government	42,095 ⁽¹⁾	29,011	-31.1
Private Sector	18,787	11,782	-37.3
Total	60,882	40,793	-33.0

Note (1) This includes 10,172 XP and 31,923 HyD works orders for a like to like comparison, for works orders issued to HyD contractors before the commencement of the amended LMPO could serve as XP.

5. It is noteworthy that notwithstanding the decrease both in the number of XP issued and their average duration, there was also a drastic decrease in the number of extensions issued and their average duration. Table 2 below compares these aspects between the 12 month periods before and after the commencement date. This was attributable to the standardized assessment methods customized for each trade, which were developed by HyD with the industry in tandem with the LMPO amendment. These assessment methods proved to be very effective, whilst maintaining shorter approved XP durations, they result in a drastic 92% decrease in the XP extensions required. The average approved XP extension period is also reduced by 35% from 58.2 days to 37.6 days.

Table 2

	XP extension issued (no.)		Percentage change (%)	Average approved XP extension duration (day)		Percentage change (%)
	03-04	04-05		03-04	04-05	
Government	3,157	411	-87.0	69.8	29.5	-57.7
Private Sector	6,383	386	-94.0	52.4	46.2	-11.8
Total	9,540	797	-91.6	58.2	37.6	-35.4

6. The number of XP issued will vary depending on the level of economic activities, the demand for utility services in the society, and the state of deterioration of the road network and various utility apparatus beneath the road surface. HyD will continue to closely control the number of XP issued and XP period approved to minimize the disturbance of street excavation works to the public.

XP Fees and Economic Costs

7. The amount of XP fees collected and economic costs recovered for the financial year 04-05 are broken down in Tables 3 and 4 below. So far there was no request for review or appeal on economic costs lodged with the Review Board under Section 10M of the amended LMPO or the Administrative Appeals Board. 2,733 Days of delay or about 0.2% of the total approved XP duration were subject to economic costs. We consider the overall delay situation is well controlled and the recovery of economic costs is an effective deterrent to encourage permittees to improve their management of street excavations.

Table 3

	XP fees (\$M)
Government	79.73
Private Sector	43.67
Total	123.40

Table 4

	Economic costs (\$M)
Government	2.02
Private Sector	2.83
Total	4.85

Performance

8. There was also a significant improvement in compliance with permit conditions and reduction in damages to utilities services, as shown in Tables 5 and 6, but a slight increase in the number of unattended sites (Table 7). The increase in number of 'unattended sites' was attributable to higher figures in the first two quarters. In the later quarters, the number of unattended sites dropped to around 0.3% again, similar to the level of previous year.

Table 5

	Non-compliance with permit conditions (%)	
	03-04	04-05
Government	11.9	1.8
Private Sector	13.2	2.4
Overall	12.4	2.1

Table 6

	Damage to utility services (no.)		Percentage change (%)
	03-04	04-05	
Government	307	184	-40.1
Private Sector	222	183	-17.6
Unidentified party	43	9	-79.1
Total	572	376	-34.3

Table 7

	Unattended sites (%)	
	03-04	04-05
Government	0.3	0.5
Private Sector	0.2	0.5
Overall	0.3	0.5

9. There was a 21% increase in the number of audit inspection carried out: 89,129 in 04-05 as compared with 73,875 in 03-04 (before the LMPO amendment). We expect that the number of audit inspections can be decreased when the management culture brought about by the amended LMPO takes root and becomes the norm of practice in street excavations.

Sanctions

10. Table 8 below shows the number of summons issued and convictions in the first year after the amended LMPO became effective. Some of the cases are still being dealt with by the Court.

Table 8

	Summons [Convictions] (no.)			
	Permittee	Nominated permittee	Contractor	Total
Government works	1*	0	1[1]	1[1]
Private Sector works	12[4]	2[1]	12[3]	26[8]
Total	12[4]	2[1]	13[4]	27[9]

* Note: The case was reported to SETW in accordance with Section 2A of the amended LMPO.

OBSERVATION

11. As there are improvements in all the performance indicators, it can be concluded that the amended LMPO has been very successful.

**Environment, Transport and Works Bureau
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